

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against  AMERICAM MOVERS LLC,  in the amount of \$5,400	DOCKET TV-230696  ORDER 01  GRANTING MITIGATION TO \$4,850
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**BACKGROUND**

1 On October 3, 2023, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Americam Movers LLC (Americam Movers or Company) in the amount of \$5,400 for violations of Washington Administrative Code (WAC) 480-15-530, Public Liability and Property Damage Insurance, WAC 480-15-550, Cargo Insurance, and WAC 480-15-560, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) 49 C.F.R. Part 391 – Qualification of Drivers, and 49 C.F.R. Part 396 – Inspection, Repair, and Maintenance as follows:

- **Five violations of WAC 480-15-530 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.** Americam Movers failed to maintain the required public liability and property damage insurance. The Company allowed its drivers to operate a commercial motor vehicle (CMV) without the required insurance on five occasions between April 21 and June 29, 2023.
- **Five violations of WAC 480-15-550 – Operating a commercial motor vehicle without having adequate cargo insurance coverage.** The Company failed to maintain the required cargo insurance coverage. The Company allowed its drivers to operate a CMV without the required cargo insurance on five occasions between April 21 and June 29, 2023.
- **Forty-two violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified.** The Company allowed driver Camano Gahagan to operate a CMV without a valid medical certificate on 42 occasions between February 16 and August 1, 2023.
- **One violation of 49 C.F.R. § 396.21(b)(1) – Failing to retain periodic inspection report for 14 months from date of inspection.** The Company failed to maintain a periodic inspection report for 14 months from date of inspection for one CMV.

- **One violation of 49 C.F.R. § 396.3(a)(1) – Parts and accessories shall be in safe and proper operating condition at all times.** Commission staff (Staff) discovered a CMV that failed the air loss rate test. This CMV was placed out-of-service.

- 2 On December 22, 2023, Americam Movers filed with the Commission its application for mitigation of penalties. In the request for mitigation, Camano Gahagan, owner of Americam Movers, admitted the violations and asked that the penalties be reduced based on the Company’s corrective actions.
- 3 Previously, on October 17, 2023, Americam Movers submitted evidence of corrective actions to the docket, detailing how the Company had remedied the violations and how it will prevent recurrence. Americam Movers’ corrective action plan demonstrated that the Company: (1) will only rent replacement trucks with complete financial responsibility or refer business to other regulated movers; (2) implemented a tracking system to maintain medical certification of drivers; (3) will request previous maintenance records when purchasing CMVs; and (4) repaired the brake system that led to the out-of-service violation.
- 4 On January 3, 2024, Staff filed a response recommending the Commission grant the Company’s request for mitigation, in part. Staff recommends the assessed \$5,400 penalty be mitigated to \$4,850. The bases for Staff’s recommendations are discussed in further detail below.

### DISCUSSION AND DECISION

- 5 Washington law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Violations discovered during safety inspections are subject to penalties of \$100 per violation.<sup>1</sup> In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.<sup>2</sup> Violations defined by federal law as “critical” or “acute” meet this standard.<sup>3</sup>
- 6 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that

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<sup>1</sup> See RCW 81.04.405.

<sup>2</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12, 15 (Jan. 7, 2013) (Enforcement Policy).

<sup>3</sup> 49 C.F.R. § 385, Appendix B.

convince the Commission that a lesser penalty will be equally or more effective in ensuring the company's compliance.<sup>4</sup> We address each violation category below.

- 7 The Commission assessed a \$500 penalty for five violations of WAC 480-15-530. The Company states it will not rent trucks from third parties without the required financial responsibility and if unable to obtain that coverage, refer customers to other moving companies. Staff recommends the \$500 penalty be reduced to \$250 for these first-time violations.
- 8 The Commission assessed a penalty of \$500 for five violations of WAC 480-15-550. The Company states that it will not rent third party trucks without appropriate cargo insurance coverage. If unable to secure appropriate coverage, Americam Movers will refer customers to other moving companies. Staff recommends the \$500 penalty be reduced to \$250 for these first-time violations.
- 9 The Commission assessed a penalty of \$4,200 for 42 violations of 49 C.F.R. § 391.45(a). The Company states that this violation occurred because Gahagan got distracted and forgot to get his medical certificate renewed, despite having an advanced notice calendar reminder in place. The corrective action plan states that the Company has implemented additional measures to ensure future compliance with this regulation. Americam Movers was previously penalized for violations of 49 C.F.R. § 391.45(a) in Docket TV-210275. The Company was aware of its requirement to ensure its drivers are medically certified at all times while operating CMVs. Despite previous technical assistance and penalty, Americam Movers still incurred repeat violations of this critical-type regulation. Staff recommends no mitigation of the \$4,200 penalty.
- 10 The Commission assessed a penalty of \$100 for one violation of 49 C.F.R. § 396.21(b)(1). The Company states that it purchased a vehicle from a dealership and did not understand that it needed to obtain previous annual inspection records. This is a repeat violation from Staff's initial safety investigation of Americam Movers from April 2021. Staff recommends no mitigation of this repeat violation.
- 11 The Commission assessed a penalty of \$100 for one violation of 49 C.F.R. § 396.3(a)(1). The Company provided evidence that its CMV brake system was repaired. Staff recommends the penalty be reduced to \$50.
- 12 Staff recommends the assessed \$5,400 penalty be mitigated to \$4,850. After considering Staff's recommendation with respect to each violation and assessed penalty, the

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<sup>4</sup> Enforcement Policy ¶19.

Commission agrees and accordingly mitigates the total assessed penalty to \$4,850.

### FINDINGS AND CONCLUSIONS

- 13 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including household goods carriers, and has jurisdiction over the parties and subject matter of this proceeding.
- 14 (2) Americam Movers is a household goods carrier subject to Commission regulation.
- 15 (3) Americam Movers violated WAC 480-15-530 when it allowed its drivers to operate a CMV without the required insurance on five occasions between April 21 and June 29, 2023.
- 16 (4) The Commission should assess a total penalty of \$250 against Americam Movers for five violations of WAC 480-15-530.
- 17 (5) Americam Movers violated WAC 480-15-550 when it allowed its drivers to operate a CMV without the required cargo insurance on five occasions between April 21 and June 29, 2023.
- 18 (6) The Commission should assess a total penalty of \$250 against Americam Movers for five violations of WAC 480-15-550.
- 19 (7) Americam Movers violated 49 C.F.R. § 391.45(a) when it allowed driver Camano Gahagan to operate a CMV without a valid medical certificate on 42 occasions between February 16 and August 1, 2023.
- 20 (8) The Commission should assess a total penalty of \$4,200, denying the request for mitigation, against Americam Movers for 42 violations of 49 C.F.R. § 391.45(a).
- 21 (9) Americam Movers violated 49 C.F.R. § 396.21(b)(1) when it failed to maintain a periodic inspection report for 14 months from date of inspection for one CMV.
- 22 (10) The Commission should assess a total penalty of \$100 against Americam Movers for one violation of 49 C.F.R. § 396.21(b)(1).
- 23 (11) Americam Movers violated 49 C.F.R. § 396.3(a)(1) when Staff discovered a CMV that failed the air loss rate test.

- 24 (12) The Commission should assess a total penalty of \$50 against Americam Movers for one violation of 49 C.F.R. § 396.3(a)(1).

**ORDER**

THE COMMISSION ORDERS:

- 25 (1) Americam Movers LLC's request for mitigation of the \$5,400 penalty is GRANTED, in part, and the penalty is reduced to \$4,850.
- 26 (2) Americam Movers LLC must pay the \$4,850 penalty or file a mutually agreeable payment plan with Staff within 10 days of the effective date of this Order.
- 27 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Lacey, Washington, and effective January 19, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KATHY HUNTER  
Acting Executive Director and Secretary

**NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.**