

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,</p> <p style="text-align: center;">Complainant,</p> <p>v.</p> <p>SAFE-TO-GO-MOVERS, LLC,</p> <p style="text-align: center;">Respondent.</p>	<p>DOCKET TV-200161</p>
<hr/> <p>In the Matter of the Investigation of</p> <p>SAFE-TO-GO-MOVERS, LLC</p> <p>For Compliance with WAC 480-15-560 and WAC 480-15-570</p>	<p>DOCKET TV-190515</p>
<hr/> <p>In the Matter of the Penalty Assessment Against</p> <p>SAFE-TO-GO-MOVERS, LLC</p> <p>In the Amount of \$8,600</p>	<p>DOCKET TV-190514</p> <p>JOINT NARRATIVE IN SUPPORT OF SETTLEMENT AGREEMENT</p>

I. INTRODUCTION

1 The regulatory staff (Staff) of the Washington Utilities and Transportation Commission (Commission) and Safe-To-Go Movers, LLC (Safe-To-Go) (collectively the settling parties) submit this Joint Narrative In Support of Settlement Agreement (narrative) pursuant to WAC 480-07-740(3)(a) to describe the disputed issues in this docket and their proposed resolution of those issues. That resolution is memorialized in the Settlement

Agreement (settlement) filed concurrently with this narrative. This narrative summarizes the settlement; it does not replace or modify any of the settlement's terms.

II. PROPOSAL FOR REVIEW PROCEDURE

2 The settling parties contend that this is a "less complex matter" under WAC 480-07-740(2)(b). Accordingly, the parties do not believe that conducting a hearing will assist the Commission decide whether to approve and adopt the settlement.¹

3 If the Commission conducts a hearing, however, the parties will each present one or more witnesses to testify in support of the settlement and to answer questions concerning the settlement's details, costs, and benefits.² In addition, counsel for each party will be available to address any legal matters associated with the settlement. If the Commission requires supporting documents beyond the settlement, narrative, and the other documents on file in this docket, the parties will provide any documentation needed.

III. APPLICABLE LAW

4 The Commission regulates, among other things, the safe operation of household goods carriers.³ To do so, it has promulgated rules governing vehicle and driver safety.⁴ Those rules incorporate regulations promulgated by the Federal Motor Carrier Safety Administration.⁵ Household goods carriers are subject to a penalty of up to \$1,000 per violation of the Commission's rules.⁶

5 The Commission may, after imposing a penalty, suspend some or all of it.⁷ If it does suspend a portion of a penalty, the Commission may impose conditions on the suspension. In

¹ See WAC 480-07-740(2)(e).

² See WAC 480-07-740(3)(b).

³ RCW 81.80.130.

⁴ WAC 480-15-560, -570.

⁵ WAC 480-15-560, -570.

⁶ RCW 81.04.380.

⁷ *In re Enforcement Policy of the Wash. Utils. & Transp. Comm'n*, Docket A-120061, Enforcement Policy of the

Dockets TV-190514 and TV-190515, the Commission suspended \$5,000 of the penalty it imposed, and provided for the waiver of the suspended portion of the penalty after two years, subject to several conditions.⁸ One of these required Safe-To-Go to refrain from incurring repeat critical or acute violations in a follow-up review.⁹

IV. SCOPE OF THE UNDERLYING DISPUTE

6 In August 2019, the Commission entered Order 01 in Dockets TV-190514 and TV-190515.¹⁰ In doing so, the Commission imposed a penalty of \$8,600 on Safe-To-Go for violations of federal regulations incorporated into Washington law through the Commission's rules.¹¹ The Commission, however, suspended \$5,000 of that penalty, conditioned on Safe-To-Go's compliance with several conditions,¹² including one that required Safe-To-Go to refrain from incurring repeat acute or critical violations in a follow-up review.¹³

7 In February and March 2020, Staff performed that follow up review.¹⁴ Staff found repeat critical and acute violations, among others.¹⁵ As a result, Staff moved to impose the suspended penalty in Dockets TV-190514 and TV-190515 because Safe-To-Go had violated the conditions of the penalty suspension.

8 Staff also complained for new penalties based on the February and March 2020 review, alleging violations of state law and federal regulations incorporated into state law by the Commission's rules. Specifically, Staff alleged one violation of 49 C.F.R. § 390.35(a),

Wash. Utils. & Transp. Comm'n, 11 ¶ 20 (Jan 7, 2013).

⁸ *In re the Investigation of Safe To Go Movers, LLC*, Dockets TV-190515 & TV-190514, Order 01, 5 ¶ 17 & 6 ¶ 26 (Aug. 12, 2019).

⁹ *Id.*

¹⁰ *See generally in re the Investigation of Safe To Go Movers, LLC*, Dockets TV-190515 & TV-190514, Order 01 (Aug. 12, 2019).

¹¹ *Id.* at 6 ¶¶ 23, 26.

¹² *Id.* at 5 ¶ 17, 6 ¶ 26.

¹³ *Id.* at 5 ¶ 17.

¹⁴ *Wash. Utils. & Transp. Comm'n v. Safe To Go Movers, LLC*, Docket TV-200161, Order 01, 2 ¶ 7 (Mar. 26, 2020).

¹⁵ *Id.* at 3 ¶¶ 10-11.

two violations of WAC 480-15-555 and 49 C.F.R. § 392.2, 27 violations of 49 C.F.R. § 391.15(a), one violation of 49 C.F.R. § 391.23(c), six violations of 49 C.F.R. § 391.45(a), one violation of 49 C.F.R. § 396.3(a)(1), and one violation of 49 C.F.R. § 396.21(b).

9 Staff and Safe-To-Go began settlement discussions and ultimately negotiated an informal resolution to Staff's motion to impose suspended penalties and its complaint. They now present that settlement to the Commission for approval.

V. DESCRIPTION OF SETTLEMENT AGREEMENT

10 The Settlement resolves all of the issues in dispute through the parties' agreement on the following terms:

- Safety Management Plan – Safe-To-Go will submit a safety management plan that addresses the violations alleged in Staff's complaint in Docket TV-200161 in a manner compliant with 49 C.F.R. Part 385.¹⁶
- Suspended Penalty – the Commission will lift its suspension of the \$5,000 portion of the penalty imposed in Docket TV-190514 and order Safe-To-Go to pay that amount.
- New Penalties – the Commission will impose a penalty of \$5,400 in Docket TV-200161. The Commission will suspend this penalty for two years and then waive it after that if the company refrains from incurring repeat critical or acute violations in a follow-up review by Staff. This review will occur at least six months after any order approving the settlement becomes final.

¹⁶ Safe-To-Go submitted the plan on April 16, 2020. Staff has reviewed it and deems it as compliant with 49 C.F.R. Part 385.

- Payment Plan – the Commission will allow Safe-To-Go to pay the unsuspended \$5,000 portion of the penalty in Docket TV-190514 under the payment plan authorized in that docket.

VI. STATEMENT OF IMPACT ON THE PUBLIC INTEREST

11 The Commission supports negotiated resolutions of enforcement actions where the settlement “is lawful and consistent with the public interest.”¹⁷ The parties contend that their Settlement is lawful and consistent with the public interest for three reasons, and that the Commission should therefore approve it without condition under WAC 480-07-750(2)(a).

12 First, the Settlement advances the Commission’s paramount interest in a proceeding like this: compliance. The Settlement requires Safe-To-Go to submit a safety management plan that addresses the violations discovered in Staff’s most recent review, which Safe-To-Go has already done.¹⁸ The Settlement also results in a suspended penalty, which should incent the company’s adherence to its safety management plan. Collectively, the plan and the suspended penalty should prevent recurrence of any violations.

13 Second, the Settlement avoids the costs of a contested hearing. The Settlement allows the parties to avoid the expense, inconvenience, uncertainty, and delay inherent in a litigated outcome.

14 Finally, the Settlement provides for a fair penalty across multiple dockets. Under the Settlement, Safe-To-Go will pay the suspended balance of the penalty imposed in Dockets TV-190514 and TV-190515 and the Commission will impose a new suspended penalty for the violations documented by Staff in Docket TV-200161. The payment of the formerly suspended penalty effectuates the terms of Order 01 in Dockets TV-190514 and TV-190515.

¹⁷ WAC 480-07-700.

¹⁸ Decl. of Jason Sharp at ¶ 4.

The imposition of, but suspension of, a penalty in Docket TV-200161 reflects Safe-To-Go's efforts to improve its compliance, something evidenced by its recent satisfactory safety rating,¹⁹ and the fact that Safe-To-Go provided information after the filing of Staff's complaint that mitigates, although does not excuse, those violations.²⁰

VII. CONCLUSION

15 The Settlement resolves all of the issues in this docket in a manner that complies with applicable legal requirements and also is consistent with the public interest. The parties respectfully request that the Commission issue an order approving the settlement in its entirety without condition.

DATED this 26th day of May 2020.

SAFE TO GO MOVERS, LLC

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

ROBERT W. FERGUSON
Attorney General

James Mwangi
Governor
8012 153rd Street Court SE
Puyallup, WA 98375
safetogomovers@gmail.com

/s/ Jeff Roberson _____
JEFF ROBERSON, WSBA No. 45550
Assistant Attorney General
Office of the Attorney General
Utilities and Transportation Division
P.O. Box 40128
Olympia, WA 98504
(360) 664-1189
jeff.roberson@utc.wa.gov
Attorney for Commission Staff

¹⁹ Decl. of Jason Sharp at ¶ 3.

²⁰ Decl. of Jason Sharp at ¶ 5.

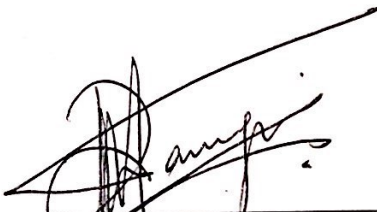
The imposition of, but suspension of, a penalty in Docket TV-200161 reflects Safe-To-Go's efforts to improve its compliance, something evidenced by its recent satisfactory safety rating,¹⁹ and the fact that Safe-To-Go provided information after the filing of Staff's complaint that mitigates, although does not excuse, those violations.²⁰

VII. CONCLUSION

15 The Settlement resolves all of the issues in this docket in a manner that complies with applicable legal requirements and also is consistent with the public interest. The parties respectfully request that the Commission issue an order approving the settlement in its entirety without condition.

DATED this 21st day of May 2020.

1 SAFE TO GO MOVERS, LLC


James Mwangi
Governor
8012 153rd Street Court SE
Puyallup, WA 98375
safetogomovers@gmail.com

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

ROBERT W. FERGUSON
Attorney General

JEFF ROBERSON, WSBA No. 45550
Assistant Attorney General
Office of the Attorney General
Utilities and Transportation Division
P.O. Box 40128
Olympia, WA 98504
(360) 664-1189
jeff.roberson@utc.wa.gov
Attorney for Commission Staff

¹⁹ Decl. of Jason Sharp at ¶ 3.
²⁰ Decl. of Jason Sharp at ¶ 5.