

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty Assessment)	DOCKET TV-091445
Against)	
)	
IRVINGTON TRANSFER AND)	ORDER 01
STORAGE D/B/A ITS GLOBAL)	
RELOCATION SERVICES)	INITIAL ORDER APPROVING
)	SETTLEMENT AGREEMENT;
In the Amount of \$900)	MITIGATING PENALTY TO \$400
)	
.....)	

1 **Synopsis.** *This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. If this Initial Order becomes final, the parties’ proposed Settlement Agreement will be approved and the penalty assessed against Irvington Transfer and Storage d/b/a ITS Global Relocation Services will be mitigated from \$900 to \$400.*

2 **Penalty.** On December 4, 2009, the Washington Utilities and Transportation Commission (Commission) issued Penalty Assessment TV-091445 against Irvington Transfer and Storage d/b/a ITS Global Relocation Services (ITS Global) in the amount of \$900, alleging one violation of WAC 480-15-630, which specifies how household goods moving companies may issue supplemental estimates, and eight violations of provisions of Tariff 15-C, which identifies the rates and charges household goods companies may charge their customers, as well as the items a company must include on its estimate forms and bills of lading.

3 On December 15, 2009, ITS Global filed with the Commission a request for hearing contending that some of the alleged violations did not occur, but also acknowledged that, due to the company’s misunderstanding of the rules, some of the alleged violations did occur. On December 17, 2009, Commission Staff filed a Response stating that it did not oppose ITS Global’s Request for Hearing.

4 **Hearing.** Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determined that a brief adjudicative proceeding (BAP) was appropriate for

determining whether the penalty should be mitigated and what actions might be necessary for ITS Global to maintain future compliance, pursuant to the statutory provisions of RCW 81.04. On December 30, 2009, the Commission issued a Notice of Brief Adjudicative Proceeding and set January 28, 2010, at 1:30 p.m. as the time for the parties to make oral statements concerning their positions.

5 **Settlement.** On January 15, 2010, the parties notified the Commission that they had reached a full settlement in principle and requested that the procedural schedule be suspended. On February 1, 2010, the parties filed their proposed Settlement Agreement and supporting Narrative, agreeing to reduce the penalty imposed on ITS Global from \$900 to \$400.

6 As part of the Settlement, ITS Global admits to four violations of Tariff 15-C for various failures to include information on the estimate form and failure to properly calculate mileage for a distance move on a bill of lading.¹ Further, Commission Staff agrees to dismiss the remaining five violations originally alleged in the Penalty Assessment.² Finally, ITS Global also agrees to pay penalties totaling \$400 to the Commission on or before the first day of the first month after the Commission enters and order approving the Settlement.³

7 **Evaluation of Settlement.** WAC 480-07-750(1) states in part: “The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.” Thus, the Commission considers the individual components of the Settlement Agreement under a three-part inquiry, asking:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.
- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

¹ Settlement Agreement, ¶ 9.

² *Id.*

³ Settlement Agreement, ¶¶ 7 and 8; *see also* Narrative, ¶ 8.

8 The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to conditions.
- Reject the proposed settlement.

9 The Settlement terms proposed by the parties are consistent with law and policy, and reasonably resolve all issues in this proceeding. The parties made concessions relative to their respective litigation positions to arrive at end results that are supported by the evidence in the record. ITS Global admits certain violations of Tariff 15-C, commits to future compliance with all Commission rules and statutes, and receives a reduction in the amount of the original penalty. Commission Staff achieves its goal of bringing a company into compliance without pursuing unduly harsh financial impact to the business.

10 **Commission Decision.** The Settlement Agreement is approved without condition. ITS Global has taken responsibility for ensuring full and accurate completion of estimate sheets and bills of lading. The original penalty of \$900 should be mitigated and reduced to \$400. Upon entry of a Notice of Finality in this matter, ITS Global must pay penalties in the total amount of \$400, due and payable no later than 5:00 p.m. on March 1, 2010.⁴

11 The Commission Secretary is given discretion to ensure compliance with the requirements of this Order, including discretion to implement a payment plan upon request made by ITS Global, prior to the date upon which the assessed penalties become due.

⁴ The Settlement Agreement (¶ 8) calls for the penalty amount to “be ordered due and payable on the first day of the month after the Commission issues its order approving the Settlement Agreement.” The Commission is entering this Initial Order on February 4, 2010. In accordance with WAC 480-07-825, the time period for filing and serving a petition for administrative review is 20 days. In this instance, February 24, 2010, would be the earliest date that this Initial Order could become final by operation of law and the Commission could enter a Notice of Finality. However, if the Commissioners serve notice to review the order on their own motion, a Final Order may not be entered until a later date. In sum, so long as a Notice of Finality is entered later in February 2010, the parties’ desired payment date of March 1, 2010, will be effective.

12 It is so ordered.

DATED at Olympia, Washington, and effective February 4, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and **seven (7)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
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