

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

3RD GENERATION MOVERS AND  
HAULING, A+ ALWAYS MOVING, INC.,  
A A STAR TRANSFER CO. INC.,  
ALWAYS ABLE MOVING SERVICE,  
LLC, ARAYS MOVING SERVICE LLC,  
GRAYPORT TRANSFER & STORAGE  
CO., INC., THUNDER MOVERS LLC,

Respondents.

DOCKET TV-121722

PETITION OF COMMISSION  
STAFF FOR ADMINISTRATIVE  
REVIEW OF ORDER 01

**I. INTRODUCTION**

1 Pursuant to WAC 480-07-825, Staff of the Washington Utilities and Transportation Commission (Commission) files this petition for administrative review of Order 01, Initial Order Dismissing Certain Complaints, Dismissing Other Complaints Subject to Condition, and Cancelling Permits (Order 01). Specifically, Commission Staff (Staff) challenges the Commission's decision declining to reopen the record to admit and consider additional evidence pertaining to 3rd Generation Movers and Hauling (3rd Generation) and the Commission's decision to cancel this carrier's permit.

**II. FACTS**

2 On February 4, 2013, the Commission held a hearing to determine whether to cancel the permits of certain household goods carriers, including 3rd Generation, that had failed to comply with laws and rules requiring household goods carriers to file annual reports and submit regulatory fees each year by May 1st. 3rd Generation received household goods

carrier authority from the Commission in April of 2011.<sup>1</sup> At hearing, Staff testified that 3rd Generation had not filed an annual report for 2011 nor paid its 2012 regulatory fee.<sup>2</sup>

3 On March 1, 2013, 3rd Generation filed a letter requesting that the Commission not cancel the company's permit. 3rd Generation filed a complete 2011 annual report and paid its 2012 regulatory fee on March 1, 2012.<sup>3</sup> 3rd Generation has not paid the \$2,100 penalty assessed to it in Docket TV-120900 by the Commission on July 23, 2012, for failure to file an annual report and remit its regulatory fee.<sup>4</sup>

4 On March 12, 2013, the Commission filed and served Order 01. In Order 01, the Commission construed 3rd Generation's letter as a motion to reopen the record, which the Commission then declined to do.<sup>5</sup> In addition, the Commission dismissed the complaint against one company as moot; dismissed the complaint against two companies<sup>6</sup> that had come into compliance by the time of the hearing; dismissed the complaint against two further companies on the condition that they pay the statutory late fee and interest as required by RCW 81.80.321,<sup>7</sup> within 20 days; and cancelled the household goods carrier permits of two companies, including 3rd Generation.<sup>8</sup>

### III. ARGUMENT

5 3rd Generation has come into compliance, and Staff accordingly advocates dismissing the company from this proceeding instead of cancelling the company's permit.

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<sup>1</sup> Docket TV-110530.

<sup>2</sup> TR. 13:17-19.

<sup>3</sup> Declaration of Mathew Perkinson, ¶ 9.

<sup>4</sup> *Id.* at ¶ 12.

<sup>5</sup> Order 01, ¶¶ 17-18, p. 5.

<sup>6</sup> Note that one of these companies, A+ Always Moving, Inc., like 3rd Generation, has not paid penalties, issued July 23, 2012, for failure to file an annual report and remit the regulatory fee (Docket TV-120902). *See* TR. 24:16-19.

<sup>7</sup> These companies each had submitted an annual report and regulatory fee before the hearing but had not paid the statutory late-remission penalty under RCW 81.80.321.

<sup>8</sup> Order 01, ¶ 35, p. 7.

The proceeding in this docket is an enforcement proceeding. With this proceeding, Staff is seeking to enforce compliance with annual report and regulatory fee submission requirements. In the case of 3rd Generation, compliance with these requirements has been the ultimate result of the proceeding.

6           While Staff appreciates and agrees with the language in Order 01 recognizing that the companies in this docket should have been aware of their annual report and regulatory fee obligations,<sup>9</sup> Staff requests that, in this case, the record be re-opened to admit evidence of 3rd Generation's compliance. 3rd Generation is a newly permitted company and was able to achieve compliance before the conclusion of this proceeding by filing its annual report and remitting its regulatory fee before the Commission issued Order 01. In Staff's view, these facts support leniency.

7           Accordingly, Staff respectfully requests that the Commission re-open the record to admit the Declaration of Mathew Perkinson, which contains evidence of 3rd Generation's compliance. Mr. Perkinson's declaration is attached to this petition. In addition, Staff respectfully requests that the Commission revise its decision in Order 01 with respect to 3rd Generation and dismiss the complaint against that company.

DATED this 1st day of April, 2013.

Respectfully submitted,

ROBERT W. FERGUSON  
Attorney General



JENNIFER CAMERON-RULKOWSKI  
Assistant Attorney General  
Counsel for Washington Utilities and  
Transportation Commission Staff

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<sup>9</sup> Order 01, ¶ 18.