

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of	DOCKET TV-200137
LET'S MOVE IT LLC	ORDER 01
For a Permit to Operate as a Household Goods Carrier	GRANTING EXEMPTION; GRANTING APPLICATION FOR HOUSEHOLD GOODS PERMIT

BACKGROUND

1 On January 16, 2020, the Washington Utilities and Transportation Commission (Commission) canceled the household goods carrier permit held by Let's Move It LLC (Let's Move It or Company) for failure to submit acceptable proof of insurance.

2 On February 26, 2020, Let's Move It filed with the Commission an application for the reinstatement of its household goods carrier permit (Application).

3 On March 9, 2020, the Commission issued a Notice of Intent to Deny Application and Notice of Opportunity for Hearing because Let's Move It failed to contest the cancellation or seek reinstatement of its permit within 30 days,¹ and the Company is thus barred by the terms of WAC 480-15-302(11) from reapplying for authority for 12 months from the date its permit was cancelled.

4 On March 17, 2020, Let's Move It filed with the Commission a Request for Hearing, requesting an exemption from WAC 480-15-302(11). The Commission noticed and convened a brief adjudicative proceeding on April 8, 2020, at 9:30 a.m.² Administrative Law Judge Michael Howard presided.

5 Commission staff (Staff) does not oppose the Company's request for an exemption. Transportation specialist Patrick Remfrey testified that Staff did not have any concerns about the Company's fitness to operate and that it supports the Company's request to reinstate its household goods permit.

¹ WAC 480-15-450(4) requires carriers whose permits were involuntarily cancelled to file an application for reinstatement within 30 days of cancellation.

² Due to the social distancing requirements set out in the Governor's Proclamation 20-25 related to the COVID-19 pandemic, the proceeding was conducted telephonically.

6 Ms. Behrends admitted that she submitted the Application 11 days late. She explained
that she was in communication with Staff but was unaware of the 30-day deadline to seek
reinstatement.

7 Jeff Roberson, Assistant Attorney General, Olympia, Washington, represents
Commission Staff. Kimberly Behrends, Owner, Auburn, Washington, represents Let's
Move It, *pro se*.

DISCUSSION

8 We grant the Company's request for an exemption from WAC 480-15-302(11), and thus
grant the Application, for the reasons discussed below.

9 WAC 480-15-302 lists the Commission's criteria for granting authority to engage in
business as a household goods carrier. As relevant to this proceeding, WAC 480-15-
302(11) provides that the Commission will not grant provisional authority if it has
cancelled, for cause, a permit held by the applicant within the previous 12 months.
Therefore, the Commission may not approve Ms. Behrends' Application unless the
Commission grants an exemption from the rule.

10 WAC 480-07-110 provides that the Commission "may grant an exemption from, or
modify the application of, any of its rules in individual circumstances if the exemption or
modification is consistent with the public interest, the purposes underlying regulation,
and applicable statutes."

11 Under WAC 480-07-110(2)(c), the Commission applies the public interest standard to
determine whether to grant a requested exemption. Factors we may consider include
whether the rule imposes an undue hardship on the requesting person of a degree or a
kind different from hardships imposed on other similarly situated persons, and whether
the effect of applying the rule to the requesting person would be contrary to the
underlying purposes of the rule and the public interest. We address each of these factors
in turn.

12 First, we consider whether the rule imposes an undue hardship on Let's Move It to a
degree "different from the hardships imposed on other similarly situated persons." We
conclude that it does. Ms. Behrends testified that she was a first-time business owner and
that she was in communication with four different Staff members. Still, she was unaware
of the need to seek reinstatement of her permit within 30 days of cancellation. Mr.
Remfrey acknowledged that Staff's communications to the Company on this point were
less than clear. He stated that "had we been – made it more clear that she must reapply
within 30 days, or made it clear at all, then it wouldn't have taken 44." Accordingly, we

find that it would impose a different kind of hardship on the Company to deny the Application because Ms. Behrends maintained ongoing communication with Staff and relied on its assistance and representations.

13 Next, we consider whether the effect of applying the rule to the requesting person is contrary to the underlying purposes of the rule and the public interest. Operating as a household goods carrier is a business “affected with the public interest.”³ Here, it would be contrary to the public interest to deny the Application merely because it was filed 11 days late. Staff has no concerns with the Company’s fitness to operate and recommends approving the Application. Penalizing a small business for such a relatively minor defect in its Application would be contrary to the stated public policy goal of creating “sound economic conditions” for motor freight carriers.⁴

14 For the reasons explained above, we find that granting the Application is consistent with the purposes underlying regulation, applicable statutes, and the public interest. Accordingly, we conclude the exemption should be granted, and that the Company’s Application should be approved.

FINDINGS AND CONCLUSIONS

- 15 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts and affiliated interests of public service companies, including household goods companies.
- 16 (2) On January 16, 2020, the Commission canceled the household goods carrier permit held by Let’s Move It for failure to submit acceptable proof of insurance.
- 17 (3) The Company did not contest the cancellation or seek reinstatement of its permit within 30 days, as required by WAC 480-15-450(4). On February 26, 2020, Let’s Move It filed with the Commission its Application for the reinstatement of its household goods carrier permit, 11 days after the 30-day deadline.
- 18 (4) On March 9, 2020, the Commission issued a Notice of Intent to Deny Application and Notice of Opportunity for Hearing.
- 19 (5) On March 17, 2020, Let’s Move It filed with the Commission a Request for Hearing, and also a request for an exemption from WAC 480-15-302(11), which provides that the Commission will not grant provisional authority if it has

³ RCW 81.80.020.

cancelled, for cause, a permit held by the applicant within the previous 12 months.

- 20 (6) At the hearing, Staff supported the Company's request for exemption and recommended the Company's permit be reinstated.
- 21 (7) WAC 480-07-110 provides that the Commission "may grant an exemption from, or modify the application of, any of its rules in individual circumstances if the exemption or modification is consistent with the public interest, the purposes underlying regulation, and applicable statutes."
- 22 (8) The Company relied on Staff's assistance, but Staff admitted that its communications did not stress the importance of the 30-day deadline.
- 23 (9) Applying WAC 480-15-302(11) and denying the Application would impose a different kind of hardship on Let's Move It compared to other, similarly situated companies.
- 24 (10) Staff has no concerns with the Company's fitness to operate.
- 25 (11) Applying WAC 480-15-302(11) and denying the Application would also be contrary to the public interest because it would serve only to create hardship for a small business.
- 26 (12) Granting the Company's petition for exemption from WAC 480-15-302(11) is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

ORDER

THE COMMISSION ORDERS:

- 27 (1) Let's Move It LLC's request for an exemption from WAC 480-15-302(11) is granted.
- 28 (2) Let's Move It LLC's Application for authority to operate as a household goods carrier is granted.

⁴ See *id.*

Dated at Lacey, Washington, and effective April 17, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Michael S. Howard
MICHAEL S. HOWARD
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 480-07-610(7) provides that any party to this proceeding has 21 days after service of this initial order to file a petition for administrative review (Petition). Section (7)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-610(7)(c) states that any party may file a response to a Petition within 7 days after service of the Petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence that is essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will give other parties in the proceeding an opportunity to respond to a motion to reopen the record, unless the Commission determines that it can rule on the motion without hearing from the other parties.

WAC 480-07-610(9) 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 does not exercise administrative review on its own motion.

Any Petition or response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5).