

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty Assessment)	DOCKET TV-120268
Against)	
)	ORDER 01
ERIC STEWART d/b/a IRONMAN)	
MOVING SERVICES,)	INITIAL ORDER APPROVING
)	SETTLEMENT AGREEMENT
In the Amount of \$2,300)	SUBJECT TO CONDITIONS AND
)	CANCELING BRIEF
)	ADJUDICATION
.....)	

- 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 as described in 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 Ironman Moving Services will be mitigated from \$2,300 to \$600 subject to the condition that the difference of \$1,700 is suspended pending the Company’s satisfaction of the requirements in the Settlement Agreement (1) to pay a \$600 mitigated penalty within 30 days of approval of the Settlement Agreement and (2) to send the company’s President and two other employees to a Commission-sponsored household goods industry training session scheduled for October 10, 2012.*

- 2 **Penalty.** On July 26, 2012, the Washington Utilities and Transportation Commission (Commission) issued Penalty Assessment TV-120268 against Eric Stewart d/b/a Ironman Moving Services (Ironman Moving or Company) in the amount of \$2,300. The Commission alleged multiple violations of Washington Administrative Code (WAC) 480-15, which specifies how household goods moving companies may issue estimates and supplemental estimates, and multiple violations of Tariff 15-C, which identifies the rates and fees 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 August 22, 2012, Ironman Moving filed with the Commission an application for mitigation, admitting the violation and seeking a hearing before an administrative law

judge. Ironman Moving requested “a chance to explain how it has come into compliance in a number of areas.” Although Commission Staff (Staff) indicated that the Company’s mitigation request was not timely filed, Staff supported the request for a hearing in order to facilitate settlement discussions and bring the Company into compliance with Commission rules.

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 to ensure that Ironman Moving complies with its regulatory obligations. On September 12, 2012, the Commission issued a Notice of Brief Adjudicative Proceeding and set October 11, 2012, at 10:30 a.m. as the time for the parties to make oral statements concerning their positions.

5 **Settlement.** On September 20, 2012, the parties notified the Commission that they had reached a full settlement in principle and indicated they would be reducing it to writing prior to the scheduled hearing date. On September 25, 2012, the Commission issued a Notice Canceling Brief Adjudication upon Condition that Parties Timely File Settlement Documents, requiring the filing by September 28, 2012.

6 On September 28, 2012, the parties filed their Settlement Agreement and supporting Narrative. As part of the Settlement, Ironman Moving admits that it violated Commission rules and Tariff 15-C and agrees to pay a monetary penalty in the amount of \$600 within 30 days of the Commission approving the proposed settlement.¹ To demonstrate its commitment to future compliance with Commission statutes and rules, Ironman Moving also agrees to send three of its employees (Eric Stewart, Kelly Stewart, and at least one other employee) to a Commission-conducted rule and tariff training to be held in Olympia, Washington, later this month.²

¹ Settlement Agreement, ¶ 6, and Narrative, ¶ 7. Specifically, the company admits to failures to timely respond to Commission Staff’s data requests, failures to properly format and complete estimates, failures to properly format and complete bills of lading, use of an unauthorized trade name, improper advertising, and failures to adhere to the terms, conditions, rates, and other requirements set out in Tariff 15-C.

² Settlement Agreement, ¶¶ 6 and 7; Narrative, ¶ 7.

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.

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 **Commission Decision.** With one exception, the Settlement Agreement reasonably resolves all issues in this proceeding and its terms are consistent with law and public policy. The parties made concessions relative to their respective litigation positions to arrive at end results that are supported by the evidence in the record. Ironman Moving admits certain violations of WAC 480-15 and Tariff 15-C, commits to training in, and future compliance with, Commission rules and statutes, and receives a reduction in the amount of the original penalty. Staff achieves its goal of bringing a company into compliance with its legal obligations, does so without undue financial impact to the business, and ensures proper training for the Company’s leadership and several of its employees.

10 The Settlement Agreement as presented, however, includes no remedy if Ironman Moving fails to comply with its commitments to pay the \$600 mitigated penalty when due and to have three employees attend Commission-conducted rule and tariff training. To ensure that the Company honors these commitments and to reduce the possibility of future proceedings to enforce the Settlement Agreement, the Commission will approve the Settlement Agreement subject to the condition that \$1,700 of the original \$2,300 penalty assessment will be suspended subject to Ironman Moving fulfilling its obligations in the Settlement Agreement (1) to send its President and at least two other employees to the Commission training session as described in the Settlement Agreement; and (2) to pay the \$600 mitigated penalty

within 30 days of final approval of the Settlement Agreement. If Ironman Moving fails to comply with either of these obligations, the entirety of the \$2,300 original penalty assessment will immediately be due and payable. Upon satisfaction of these requirements, the Commission will waive the suspended portion of the original penalty assessment.

ORDER

THE COMMISSION ORDERS:

- 11 (1) The Settlement Agreement between Eric Stewart d/b/a Ironman Moving Services and Commission Staff, attached to this Order and incorporated by reference, is approved as the resolution of all disputed issues in this docket, subject to the condition that \$1,700 of the original \$2,300 penalty assessment is suspended pending satisfaction of the requirements in the Settlement Agreement that (a) the Company's President, Eric Stewart, and two other employees attend the Commission's household goods carrier training session scheduled for October 10, 2012, and (b) payment of the \$600 mitigated penalty within 30 days of the date on which this Order becomes final. Failure to satisfy either of these requirements will result in the entirety of the original penalty assessment of \$2,300 being immediately due and payable. Upon satisfaction of these requirements, the Commission will waive the suspended portion of the original penalty assessment.
- 12 (2) The Brief Adjudicative Hearing scheduled for October 11, 2012, is canceled.
- 13 (3) The Commission retains jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective October 3, 2012.

WASHINGTON 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
Olympia, Washington 98504-7250