

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TV-143199
Against)	
)	ORDER 02
GUS & JACK MOVING COMPANY,)	
LLC)	ORDER ON REVIEW
)	
in the amount of \$1,900)	
.....)	

BACKGROUND

- 1 On September 10, 2014, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of \$1,900 (Penalty Assessment) against Gus & Jack Moving Company, LLC (Gus & Jack Moving or Company) for two violations of Washington Administrative Code (WAC) 480-15-560, which adopts by reference 49 C.F.R. Part 396 related to vehicle inspection, repair, and maintenance, and 17 violations of WAC 480-15-570, which adopts by reference 49 C.F.R. Part 391 related to driver qualifications.
- 2 On September 17, 2014, Gus & Jack Moving filed a request for hearing, contesting the violations and claiming the Company had met all but the paperwork requirements of the rules. The Company also claimed it was unaware certain records must be kept.
- 3 The Commission conducted a brief adjudicative proceeding on November 6, 2014. On November 14, 2014, the Commission issued Order 01 Denying Mitigation based on the evidence and testimony presented by the parties at hearing.
- 4 On December 3, 2014, Gus & Jack Moving timely filed a letter requesting review of Order 01. On December 5, 2014, Commission Staff (Staff) filed an answer, requesting the Commission adopt Order 01 in full because the Company presents no new information and cites no legal authority.

DISCUSSION AND DECISION

5 As discussed in Order 01, the Commission generally does not issue penalties for first-
time violations,¹ but will do so for failure to comply with rules defined by federal law
as “critical.”² The Penalty Assessment cited 35 critical violations in three categories,
two of which received a reduced penalty of \$100 per category because they were first-
time offenses. Full penalties of \$100 each, however, were assessed for each of 17
violations of WAC 480-15-570, 49 C.F.R. Part 391.45(a), which requires drivers to be
medically examined and certified annually by a qualified health professional, a
requirement that is critical to public safety.

6 Both at hearing and in its request for review, the Company acknowledges and admits
each of the violations. The Company argues, however, that the violations were
unintentional and have since been remedied, and that the penalty will jeopardize its
ability to stay in business. The Company claims that the violations occurred because
Commission requirements are unclear and difficult to understand.

7 We are not persuaded by the Company’s arguments. As Staff notes in its response,
the un rebutted evidence at hearing established that the Company received extensive
technical assistance on at least two occasions prior to Staff’s compliance review. The
Company’s owner, Gus Mansour, received an onsite technical assistance visit in
2012, and personally attended the Commission-sponsored household goods carrier
training in 2013. On both occasions, Mr. Mansour received a written guide that
explained recordkeeping requirements in plain language and stressed the importance
of the Commission’s rules governing public safety.

8 We find that Staff provided Mr. Mansour with all necessary technical assistance on
the rules the Company violated, and that he had ample ongoing opportunities to seek
clarification of any requirements he did not understand or believed to be unclear. The
Company is responsible for ensuring it understands and complies with Commission
rules, and Mr. Mansour’s failure to do so is not a basis for mitigating the assessed
penalties.

9 Similarly, we appreciate the Company’s assurances of future compliance and
acknowledge the Company’s concerns about the financial impact of the penalty, but

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12
(Jan. 7, 2013) (Enforcement Policy).

² 49 C.F.R. § 385, Appendix B.

we nevertheless uphold the decision in Order 01. The Company did not introduce any new information in its request for review that was not already considered by the Administrative Law Judge in her initial order. The original penalty assessment already minimized the penalties for two of the three types of violations, and the Company's repeated violation of the medical certification requirement warrants full penalties for a first-time offense because drivers without such certification pose a serious threat to the safety and well-being of the traveling public. The Company, however, may work with Staff to establish mutually agreeable payment arrangements to address the issue of financial hardship.

FINDINGS AND CONCLUSIONS

- 10 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including household goods companies, and has jurisdiction over the parties and subject matter of this proceeding.
- 11 (2) The Commission finds that Gus & Jack Moving has not presented any grounds on which to reverse or modify the decision in Order 01, or to further mitigate the penalty for the Company's violations of Commission rules.
- 12 (3) The Commission concludes that the penalty for those violations should remain \$1,900.
- 13 (4) The Company should be permitted to file jointly with Commission Staff a mutually agreeable arrangement for paying the assessed penalty.

ORDER

THE COMMISSION ORDERS That

- 14 (1) The request of Gus & Jack Moving Company, LLC for mitigation of the \$1,900 penalty is DENIED.
- 15 (2) Gus & Jack Moving Company, LLC must either pay the penalty or file jointly with Staff a proposed payment arrangement no later than December 22, 2014.

- 16 (3) The Executive Secretary is authorized to approve or deny by delegated order any proposed payment arrangement filed jointly by Gus & Jack Moving Company, LLC and Commission Staff.

DATED at Olympia, Washington, and effective December 11, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.