

**WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION**

**STAFF AUDIT REPORT  
OF THE BUSINESS PRACTICES OF**

**Boots, Inc.  
d/b/a  
Brooks A & A Moving**

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November 2005

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## **PURPOSE, SCOPE and AUTHORITY**

### **Purpose**

Boots, Inc. d/b/a Brooks A&A Moving (Brooks Moving or Brooks), holds common carrier authority, including transportation of household goods, within the state of Washington. The purpose of this audit is to determine the company's compliance with Washington State statutes and the Washington Utilities and Transportation Commission (WUTC or Commission) rules.

### **Scope**

The scope of the audit focuses on transportation of household goods in Washington intrastate commerce by Brooks Moving and the company's compliance with Washington State statutes and Commission economic and consumer protection rules.

### **Authority**

Staff conducts this investigation under the authority of the Revised Code of Washington (RCW) 81.04.070, RCW 81.80.130, and RCW 81.80.330; and Washington Administrative Code (WAC) 480-15-010, which gives the Washington Utilities and Transportation Commission regulatory authority over companies that transport household goods within the state of Washington.

Copies of the laws and rules are included in Appendix A.

### **Staff**

M. Carlene Hughes, Compliance Program Coordinator, Business Practices Investigations

## EXECUTIVE SUMMARY

In April 2005, Business Practices Investigations Staff began an audit of Brooks Moving business practices. Staff initiated the audit when, during the investigation of a consumer complaint, Staff issued violations against Brooks Moving for charging its customers improper taxes and fees.

While Staff began this audit to determine the type of additional assistance Brooks Moving needed to more effectively address its economic compliance and consumer complaint issues, Staff found that Brooks Moving has been given sufficient direction in the past to correct its conduct. Staff finds that Brooks Moving continues to make business decisions that indicate the company is either unwilling to comply with the household goods laws and rules.

This audit of Brooks Moving economic records and business practices finds the company in violation of the following state statutes, Commission rules, and Household Goods Tariff 15-A Items:

1. RCW 81.80.357 and WAC 480-15-610, which requires household goods carriers to list their permit numbers in every means of advertisement and correspondence showing the carrier's name and address.
2. WAC 480-15-490(5), which requires that household goods carriers charge the rates and charges contained in Tariff 15-A unless the Commission has approved deviations from the tariff.
3. WAC 480-15-650(2)(b), which requires the name, company affiliation, title, and telephone number of the person preparing a written estimate.
4. WAC 480-15-650(2)(d), which requires the complete physical address of the origin, destination, and any intermediate stops of the proposed shipment be listed on the written estimate.
5. WAC 480-15-660, which requires a supplemental estimate be issued if the circumstances surrounding the move changes to cause the estimated charges to increase.
6. WAC 480-15-670(1)(b), which, if the actual charges exceed the estimated charges, requires the household goods carrier to release the shipment of goods upon payment of one hundred and ten percent of the estimated charges.

7. WAC 480-15-670(2), which, if the actual charges exceed the estimated charges and the shipper pays one hundred and ten percent of the estimated charges, requires the household goods carrier to allow the shipper at least thirty days to pay the remaining balance.
8. WAC 480-15-680, which requires household goods carriers to provide an accurate estimate.
9. WAC 480-15-690, which states household goods carriers may not charge more than twenty-five percent above the written non-binding estimate for an hourly-rated move, nor more than fifteen percent above the non-binding estimate for a mileage-rated move.
10. WAC 480-15-730, which requires household goods carriers to use the bill of lading format shown in the published tariff.
11. WAC 480-15-740, which requires household goods carriers to list specific information on the bills of lading.
12. Tariff 15-A, Item 80, Payment of Charges, which requires a household goods company to release a shipment upon payment of one hundred and ten percent of the original estimate.
13. Tariff 15-A, Item 80, Payment of Charges, which limits the amount the customer may be billed above the amount shown on the non-binding estimate.
14. Tariff 15-A, Item 80, Payment of Charges, which requires the household goods carrier to allow a customer 30 additional days to pay any amounts in excess of the original estimate.
15. Tariff 15-A, Item 85, Estimates, which requires that a supplemental estimate be issued if the cost of the move increased from the original estimate.
16. Tariff 15-A, Item 85, Estimates, which requires specific information on the estimate and supplemental estimate forms.
17. Tariff 15-A, Item 90(5), which requires that a carrier not load the customer's goods until the customer selects a valuation option and makes the appropriate notation on the bill of lading.
18. Tariff 15-A, Item 95(1)(b), which requires that carriers use a bill of lading that contains all of the information required in Item 95.
19. Tariff 15-A, Item 95(1)(o), which requires a notation that the customer was provided a copy of the Rights and Responsibilities brochure or that the customer refused a copy when it was offered.
20. Tariff 15-A, Item 95(2)(c), which requires the exact name, address, and telephone number of the consignee.

21. Tariff 15-A, Item 95(2)(d), which requires the exact location of the origin pickup point, any split pickups, stops to partially load or unload, and the final destination point of the shipment, be listed on the bill of lading.
22. Tariff 15-A, Item 95(2)(g), which requires a declaration of the type of estimate (binding or non-binding) under which the shipment is moving on the bill of lading.
23. Tariff 15-A, Item 95(2)(h), which requires a section on the bill of lading where a customer must select the type of valuation coverage under which the shipment is moving.
24. Tariff 15-A, Item 95(3), which requires that specific terms and conditions that govern the transportation of household goods be printed on the back of the bill of lading.

While this audit gives Brooks Moving clear and comprehensive technical assistance to comply with state law and Commission rules, Staff recommends that where Brooks Moving has previously been given technical assistance and the company has continued to violate that same law or rule, a penalty for continuing non-compliance be issued.

Staff finds that the following penalties could be assessed against Brooks Moving for the following violations:

1. Staff finds one hundred and ten violations of WAC 480-15-550 for failure of Brooks Moving to obtain cargo insurance coverage for its moving operations for one hundred and ten days after it received operating authority, subject to a penalty of \$11,000.00.
2. Staff finds seventy violations of WAC 480-15-730 and Tariff 15-A, Item 95, for failure to use a bill of lading format in compliance with WAC 480-15-730 and Tariff 15-A, subject to a penalty of \$7,000.00.
3. Staff finds seventy violations of WAC 480-15-740 and Tariff 15-A, Item 95, for failure to properly complete the bill of lading to ensure that it shows all information necessary to determine the proper tariff rates and charges in compliance with WAC 480-15-740 and Tariff 15-A, subject to a penalty of \$7,000.00.

4. Staff finds sixty-nine violations of WAC 480-15-490, for charging sales tax in violation of Tariff 15-A, subject to a penalty of \$6,900.00.
5. Staff finds five violations of WAC 480-15-490, charging a credit card processing fee in violation of Tariff 15-A, subject to a penalty of \$500.00.

<b>Total Possible Penalty = \$32,400.00</b>
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### **Refunds**

Staff also finds that in a number of instances, Brooks Moving knowingly billed its customers improper charges. Staff recommends the following customer refunds:

1. Brooks Moving refunds all credit card processing fees charged to moving company customers for all moves after May 1, 2005, where the fee was charged in violation of WAC 480-15-490. All refunds must be sent to customers by no later than March 31, 2006.
2. Brooks Moving refunds all sales taxes charged to moving company customers for all moves after May 1, 2005, where sales tax was charged in violation of WAC 480-15-490. All refunds must be sent to customers by no later than March 31, 2006.

In addition to the rule and statute violations, Staff finds the following recommendations for changes to Brooks Moving general business practices, for which previous technical assistance has not been given:

1. Brooks Moving should consider conducting all operations under both names shown on its household goods permit in compliance with WAC 480-15-390.
2. Brooks Moving must file its annual report and pay its regulatory fee by no later than May 1 of the year following the calendar year for which it is reporting in compliance with WAC 480-15-480.



3. Brooks Moving must include its permit number on vehicles, equipment, and in telephone books, internet, contracts, correspondence, cards, signs, posters, newspapers, and any documents which show the company's name and address in compliance with WAC 480-15-610.
4. Brooks Moving must visually inspect the household goods on which the estimate of the costs of moving is based, and complete a list of the articles upon which the estimate is based (inventory) prior to estimating the cost of services.
5. Brooks Moving must change the format of its estimate forms to comply with WAC 480-15-650.
6. Brooks Moving must complete all the required information on its estimate forms in compliance with WAC 480-15-650.
7. Brooks Moving must provide a supplemental estimate when its customer has been given a written estimate and the circumstances surrounding the move change in any way to cause the rate for service or the estimated charges to increase in compliance with WAC 480-15-660.
8. Brooks Moving must, if the actual charges exceed the estimated charges, inform the shipper of WAC 480-15-670 as soon as possible, and release the shipment upon payment of one hundred ten percent of the estimated charges. The company must allow the shipper at least thirty days to pay the remaining balance in compliance with WAC 480-15-670.
9. Brooks Moving must comply with WAC 480-15-680, by ensuring that it provides accurate estimates to its potential customers.
10. Brooks Moving must charge for all materials listed in Tariff 15-A, Item 225, if they are used in a move. All materials or container items and charges must be listed on the bill of lading.

## **BACKGROUND**

### **Company Information**

Boots, Inc. d/b/a Brooks A&A Moving is a Washington corporation located at 14931 22<sup>nd</sup> Avenue West, Lynnwood, Washington, 98037. Hong Brooks is the corporation president, and Michelle Brooks serves as the vice-president. The company's original application for authority indicated each owned 40% of the shares. The remaining 20% of shares are distributed equally among board members Boyd Ballard, Chris Gardner, Nick Sanchez, and Eric Miles. The company's Household Goods Carriers Annual Report, filed on May 11, 2005, showed that Hong Brooks and Michelle Brooks each now owns 50% of the corporate shares.

Brooks Moving was granted provisional operating authority (household goods permit) on June 21, 2004, under Docket TV-040671. On January 13, 2005, Brooks Moving was granted permanent authority under HG-61386.

Brooks Moving Washington intrastate revenue for the year 2004 was \$313,748.30. Brooks Moving has only one terminal located in Lynnwood, Washington.

### **Background**

Brooks Moving was identified as a possible audit candidate when Business Practices Investigations Section reviewed the consumer complaints for 2004 and found that a complaint filed against Brooks Moving in December 2004 indicated the company was not completing the bill of lading in accordance with WAC 480-15 and the Commission's Tariff 15-A, and was charging customers rates and charges not allowed by the tariff.

## AUDIT

### **Compliance Contacts with Company**

The Commission's Consumer Affairs Section Staff contacted Brooks Moving during the investigation of consumer complaint 91857, and provided technical assistance for each violation of the Commission rules Staff found in the investigation of the complaint.

In addition, the company had already received two technical assistance visits from the Commission's Motor Carrier Safety Staff Investigator Leon Macomber on August 5, 2004, and on October 14, 2004, during the time the company was operating under its provisional permit authority. During those two technical assistance visits both the President, Hong Brooks, and Vice President/Secretary Michelle Brooks were given comprehensive educational assistance regarding the laws and rules for household goods carriers.

In his Technical Assistance Summary Memorandum for the August 5, 2004, visit at Brooks Moving, Investigator Macomber noted he found the following violations:

- 550<sup>1</sup> – Cargo insurance in the amount of \$20,000 is in the process of being obtained.
- 610 – Carrier is currently advertising in the yellow pages, on vehicles and on business cards without posting the appropriate household goods permit number, HG-61386.
- 720 – Carrier is not currently using a Uniform Household Goods Bill of Lading but will be in the future. Appropriate handouts were given.
- 740 – Bills of Lading being used do not contain required information.
- 620 – Carrier is handing out "Rights and Responsibilities Guide" to each customer, but signatures of receipt are not being signed as required.
- 690 – Carrier does issue written non-binding estimates. Written estimates do not include all required information. Appropriate non-binding estimates and non-binding supplemental estimate forms were handed out.
- 800-870 – Carrier does not currently maintain a claims register and/or handout claim forms. Appropriate forms were handed out.

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<sup>1</sup> These numbers refer to the WAC extension, e.g. WAC 480-15-550 is shown as 550.

- 560 – Carrier’s equipment is not currently properly identified with permit name and permit number, HG-61386, on both sides of power unit doors.

Investigator Macomber also noted in his technical assistance memorandum:

“All violations were discussed with Mr. Hong Brooks and Ms. Michelle Brooks and considerable technical, education assistance was given. In addition, I handed them the appropriate forms and both an economic manual and a safety manual containing all necessary forms.”

In the October 14, 2004, technical assistance summary memorandum, Investigator Macomber found the following violations:

- 550 – Cargo Insurance still has not been obtained although insurance broker is still shopping.
- 620 – Carrier does handout “Rights and Responsibilities Guide” to each customer, but the drivers are not always obtaining the required signature on the bill of lading.

Again, Investigator Macomber noted on his summary memorandum:

“All violations were discussed with Ms. Michelle Brooks, Secretary/Vice-President, and several items were corrected before I left and she had a drivers meeting regarding entries to be signed and initialed on bills of lading.”

Copies of Investigator Macomber’s Compliance Review Memorandums and Economic Checklists are included in Appendix B.

### **Data Requests**

On May 18, 2005, Staff sent Brooks Moving a data request asking for company records and information about the company’s policies or processes.

The data request stated, in part:

“Under Washington State law (RCW 81.04.070), the Commission has the right to inspect the accounts, books, papers, and documents of any household goods moving company doing business in this state.

Accordingly, please provide the following information and/or documents:

1. The number of intrastate residential moves performed within Washington State during the last twelve months.
2. For every intrastate residential move performed between January 1, 2005, and April 30, 2005, please provide all supporting documents related to each customer's move. This includes, but is not limited to, the bill of lading, estimate, supplemental estimate, certified scale weight slips, any record that documents the constructive weight of the shipment, inventory records, commercial ferry receipts, all documents related to storage-in-transit of the goods, etc.
3. A copy of the company's cargo certificate of insurance.
4. A copy of the company's payroll records for the period of February 1, 2005 through February 28, 2005.
5. A complete list of all company vehicles including vehicle type, license plate number or vehicle identification number, and gross weight.
6. A detailed description of the company's policy on releasing goods when the actual charges exceed the estimated charges.
7. A description of the company's policy on collecting deposits or prepayment for services.
8. A detailed description of the company's policy on responding to customers' complaints and claims, including complaints and claims that cannot be settled. Include examples of correspondence or other documentation related to complaint or claim policies.
9. A copy of the company's complaint and claims registers, listing all complaints and claims recorded from January 1, 2005, through April 30, 2005, including all documents related to each complaint and claim.

10. A detailed description of the company's policy on responding to Commission-referred customer complaints.
11. Copies of the company's advertising (i.e., yellow page ad, newspaper ad, "Little Nickel" ad, Internet advertisements).
12. The name of the mileage guide used for mileage-rated moves.

Please respond with the requested documents, papers, and information no later than June 16, 2005. The documents should be sent to Betty Young, Compliance Specialist, Business Practices Investigations Section. Ms. Young can be reached at 360-664-1202, or by e-mail at [byoung@wutc.wa.gov](mailto:byoung@wutc.wa.gov)."

A copy of Staff's Data Request is included in Appendix C.

After the company requested an extension of time to produce the records, Staff received the requested documents and information on June 30, 2005.

On August 1, 2005, Staff also asked Brooks Moving to send copies of its bills of lading for the month of June 2005. Staff received those copies on August 12, 2005.

Staff used the documents and information furnished from this data request and the consumer complaint filed against Brooks Moving to conduct this audit of the company's operations.

## **GENERAL BUSINESS RULES**

- Use of Permitted Name
- Annual Report and Regulatory Fees
- Permit Number in Advertising
- Cargo Insurance

## USE OF PERMITTED NAME

*WAC 480-15-390 requires a company to conduct operations under the name shown on its household goods permit. If the company does business under a trade or assumed name, that name must also appear on the permit.*

### **Audit**

Brooks Moving is registered under the corporate name of Boots, Inc. d/b/a Brooks A&A Moving. These are the names that must be used when conducting all household goods moving operations.

The company's website, advertising, letterhead and bills of lading use the name "Brooks A&A Moving". None of the documents or other evidence refer to the entire name of Boots, Inc. d/b/a Brooks A&A Moving

Copies of Brooks Moving bill of lading, letterhead, advertisement, website page, and a complete version of WAC 480-15-390 are included in Appendix D.

### **Findings**

Staff finds that Brooks Moving conducts its operations under its doing-business-as name of Brooks A&A Moving only. While this is not in violation of the rule, Staff recommends Brooks use both names to ensure the public can identify the company as being registered with the Commission and other sources under either name.

### **Recommendation**

Brooks Moving should consider conducting operations under both names shown on its household goods permit in compliance with WAC 480-15-390.



## **ANNUAL REPORT AND REGULATORY FEES**

*WAC 480-15-480 requires a household goods company to file its annual report and pay its regulatory fee by May 1<sup>st</sup> of the year following the calendar year on which the company is reporting.*

A complete version of WAC 480-15-480 is included in Appendix E.

### **Audit**

Brooks Moving filed its 2004 Annual Report on May 11, 2005.

### **Findings**

Staff finds that Brooks Moving failed to file its annual report by the required due date of May 1 in violation of WAC 480-15-480. Staff considers this audit as the company's technical assistance for WAC 480-15-480. If future violations are found, penalties or other sanctions may be imposed.

### **Recommendation**

Brooks Moving must file its annual report and pay its regulatory fee by no later than May 1 of the year following the calendar year for which it is reporting in compliance with WAC 480-15-480.

## PERMIT NUMBER IN ADVERTISING

*WAC 480-15-610 requires a household goods company include its permit number in any advertising of its moving services. Advertising includes, but is not limited to, reference to services on vehicles, equipment, and in telephone books, internet, contracts, correspondence, cards, signs, posters, newspapers, and documents which show the name and address of the company.*

A complete version of WAC 480-15-610 is included in Appendix F.

### **Audit**

Staff finds the company includes its permit number on its bill of lading, website, and in its telephone directory advertising, however, it does not show its permit number on its correspondence forms such as its letterhead or damage claim forms.

### **Findings**

Staff finds Brooks Moving is not in compliance with WAC 480-15-610. Brooks Moving must include its permit number on its correspondence. Staff considers this audit as the company's technical assistance for WAC 480-15-610. If future violations are found, penalties or other sanctions may be imposed.

### **Recommendation**

Brooks Moving must include its permit number on vehicles, equipment, and in telephone books, internet, contracts, correspondence, cards, signs, posters, newspapers, and any documents which show the company's name and address in compliance with WAC 480-15-610.

## CARGO INSURANCE

**WAC 480-15-550** states, in part:

*You must have cargo insurance coverage sufficient to protect all household goods that you transport under your permit. If you transport household goods under your permit without the required cargo insurance coverage you will be subject to immediate compliance action as described in WAC 480-15-430<sup>2</sup>.*

### **Technical Assist**

On April 9, 2004, Michelle Brooks completed the Household Goods Carrier Permit Application which requires the applicant to name the person and position responsible for a number of safety and economic responsibilities. Michelle Brooks named herself and her position as Vice President of Brooks Moving as the person responsible for the cargo insurance requirements.

On August 5, 2004, Motor Carrier Safety Investigator Leon Macomber met with Hong Brooks, President, and Michelle Brooks, Vice President, to conduct an economic technical and educational assistance visit during the company's provisional permit period.

As part of the technical assistance, Investigator Macomber noted in his Household Goods Technical Assistance and Records Review Checklist, in answer to the question "Does the carrier have adequate cargo insurance?" Investigator Macomber state "None Yet". The records review checklist was signed by Michelle Brooks.

On October 14, 2005, Investigator Macomber again provided technical assistance to Brooks Moving. During this visit Investigator Macomber again noted that cargo insurance had not yet been obtained and noted on the review checklist form "Attempting to purchase" in response to the same question. This second records review checklist was again signed by Michelle Brooks.

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<sup>2</sup> WAC 480-15-430, states, in part: Why would the commission suspend my permit? (1) The commission may suspend your permit under the provision of WAC 480-15-410, or for good cause. Good cause includes, but is not limited to: (a) Failure to maintain evidence of required cargo and/or liability insurance coverage for all areas of your operations.

### **Findings**

Brooks Moving did not obtain Cargo Insurance from Federal Insurance Company until November 9, 2004. Brooks Moving received its authority to operate as a household goods carrier on June 21, 2004, and knowingly operated without cargo insurance until November 9, 2004. Staff finds that Brooks Moving was aware of the cargo insurance requirement and considers each day the company operated as a household goods carrier without proper cargo insurance as a violation of WAC 480-15-550.

### **Results**

Staff finds one hundred and ten violations of WAC 480-15-550 for failure of Brooks Moving to obtain cargo insurance coverage for its moving operations for one hundred and ten days after it received operating authority, subject to a penalty of \$11,000.00.

## **ESTIMATES**

- Estimates – Verbal Estimates
- Estimates – Visual Inspection Required
- Estimates – Format Requirements
- Estimates – Completion of Form
- Supplemental Estimates
- Cost Exceeds Estimate – Release of Goods
- Accurate Estimates

## ESTIMATES

**WAC 480-15-630** - *An estimate is a written approximation of the probable cost of a move prepared in compliance with the provisions of the household goods tariff. Estimates are based on factors such as the van space required, the weight of the household goods, the amount of time needed to complete the move, and the type of special services provided. A household goods company may provide its customer with either of two basic types of estimates, binding or non-binding.*

## VERBAL ESTIMATES

**WAC 480-15-640** *states that verbal estimates are not allowed. Household goods companies must provide all estimates to prospective shippers in writing.*

Complete versions of WAC 480-15-630 and WAC 480-15-640 are included in Appendix G.

### **Audit**

Staff did not find that Brooks Moving proved verbal estimates. When asked about the use of the company "Estimate Sheet" which is an internal document used for scheduling moves, Michelle Brooks stated:

"We always tell phone customers that we can not give an estimate over the phone and suggest an in home estimate if they are requesting one. We give them the rate, take down the info about addresses, phone numbers, access notes, type of move, name, second stops and check list of furniture just to give the movers an idea of what they are doing before we get there.

### **Findings**

Staff finds that Brooks Moving is aware that it may not give verbal estimates for the cost of a move. Staff found no violations of this rule during this audit.

## **ESTIMATE – VISUAL INSPECTION and INVENTORY REQUIRED**

**WAC 480-15-650**, Section 1 of this rule requires that a household goods carrier provide a written estimate only after the carrier or its representative has visually inspected the goods to be shipped. Section 2 of the rule lists what a household goods carrier must include on a written estimate. Section (2)(g) of the rule states “A list of the articles upon which the estimate is based (inventory)”.

Brooks Moving states in its data request response:

“If an estimate is requested the address/phone numbers are taken from this form<sup>3</sup> and put on a non-binding estimate form and after a in home visual is done the nonbinding estimate form only is given to the customer.”

There is no indication that when Brooks Moving completes the visual inspection it completes an inventory of the goods to be moved. While a visual inspection may give a general idea of the size of the move, the estimate must also include a list of the articles on which the actual estimate is based.

### **Findings**

While Brooks Moving states it visually inspects the goods to be moved, Staff finds that without a completed inventory of the goods on which the estimate must be based, Brooks is in violation of this rule. Staff considers this audit as the company’s technical assistance for WAC 480-15-650. If future violations are found, penalties or other sanctions may be imposed.

### **Recommendation**

Brooks Moving must visually inspect the household goods on which the estimate of the costs of moving is based, and complete a list of the articles upon which the estimate is based (inventory) prior to estimating the cost of services.

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<sup>3</sup> Brooks Moving has two forms. One “Estimate Sheet” is an internal estimate of the time the move will take, the second “Non-binding Estimate” form is given to the customer.

## ESTIMATES - FORMAT REQUIREMENTS

**WAC 480-15-650** requires that a written estimate must contain the following information: (a) The name, address and telephone number of the household goods carrier who will perform the service;

(b) The name, company affiliation, title and telephone number of the person preparing the estimate;

(c) The name of the customer and the receiver of the goods;

(d) The complete physical address of the origin, destination and any intermediate stops of the proposed movement;

(e) The total mileage between the origin and destination, including any intermediate stops;

(f) The rates on which the estimated charges will be based;

(g) A list of the articles upon which the estimate is based (inventory);

(h) The estimated cubic footage for each article;

(i) The estimated total weight of the shipment, based upon a formula of not less than seven pounds per cubic foot (example: A box one foot by one foot by one foot = seven pounds);

(j) An itemized statement of all known accessorial services to be performed, articles supplied, and their charges;

(k) An estimate of the total charges, including transportation and accessorial charges;

(l) A printed statement on the first page of a nonbinding estimate, in contrasting lettering, and not less than eight-point bold or full-faced type, as follows:

### IMPORTANT NOTICE

*This nonbinding estimate covers only the articles and services listed. It is not a warranty or representation that the actual charges will not exceed the amount of the estimate. If you request additional services to complete the move or add articles to the inventory attached to this estimate, the household goods mover must prepare a supplemental estimate which will change the amount of the original estimate and may change the rate on which these new charges are based.*



*Household goods carriers are required by law to collect transportation and other incidental charges computed on the basis of rates shown in their lawfully published tariffs, except as provided below:*

*(1) A household goods carrier may not charge more than twenty-five percent more than its written nonbinding estimate for time charges for a local hourly rated move nor can the household goods carrier charge more than fifteen percent more than the written nonbinding estimate for accessorial and other services not related to time, unless the household goods carrier prepares and the shipper signs a supplemental estimate.*

*(2) A household goods carrier may not charge more than fifteen percent above your written nonbinding estimate for a long-distance-rated move, unless the household goods carrier prepares and the customer signs a supplemental estimate.*

### **Technical Assistance**

In August of 2004, Investigator Macomber provided technical assistance to Brooks Moving and noted the following in his audit memorandum:

“WAC480.15.630-690

Carrier does issue written non-binding estimates. Written estimates do not include all required information. Appropriate non-binding estimates and non-binding supplemental estimate forms were handed out.”

In October of 2004, Investigator Macomber again checked the records of Brooks Moving and again reviewed the estimates provided by Brooks Moving. In the October report Investigator Macomber stated he found no violations of the estimate rules.

### **Audit**

WAC 480-15-650 states that estimates and supplemental estimates must include specific information. Staff found that Brooks used two different estimate formats (and a supplemental estimate form as an estimate) for the estimates that were submitted as part of the Commission’s data request. For purposes of this audit, Staff reviewed the nine estimate forms submitted with the June 2005 bills of lading.

Brooks used a "Non-Binding Estimate" form and an "Estimate of Cost of Services" form<sup>4</sup>. Brooks does not explain why it uses two different forms, or why it would use a Supplemental Estimate<sup>5</sup> form to complete an estimate. The nine estimate forms used by Brooks Moving in June 2005 are included in Appendix H.

WAC 480-15-650 requires specific elements be shown on the estimate form. The following show Brooks Moving compliance or non-compliance with the format requirements:

- (a) The name, address and telephone number of the household goods carrier who will perform the service.

### **Findings**

Both estimate forms (and the supplemental estimate form) show the name, address and telephone number of Brooks Moving. The estimate is in compliance with this section.

- (b) The name, company affiliation, title and telephone number of the person preparing the estimate.

### **Findings**

The estimate format of both forms only include a blank line for the "Estimator's Signature". The format does not include a line for the company affiliation, title, or telephone number of the person preparing the estimate.

- (c) The name of the customer and the receiver of the goods.

### **Findings**

The Non-Binding Estimate form only includes the name of the customer, not the name of the receiver of the goods. The Estimated Cost of Services form has the name of the shipper and a "contact" blank. Neither form is in compliance.

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<sup>4</sup> On May 28, 2005, and on May 31, 2005, the company also used a Supplemental Non-Binding Estimates for two moves.

<sup>5</sup> All references to compliance or non-compliance that refer to Brooks Moving Non-Binding Estimate form also apply to Brooks Moving Supplemental Non-binding Estimate form as they are exactly the same format.

- (d) The complete physical address of the origin, destination, and any intermediate stops of the proposed movement.

### Findings

The Non-Binding Estimate form includes the pick up address and the delivery address, including blank lines for "Drops at" which Staff understands to include intermediate stops. The Estimated Cost of Service form has "Pick---Up:" and three blank lines, and "Delivery" and three blank lines. There are no blanks for the company to include addresses for stops in transit or intermediate stops.

- (e) The total mileage between the origin and destination, including any intermediate stops.

### Findings

Neither of the estimate forms have a blank to include the total mileage. Neither is in compliance.

- (f) The rates on which the estimated charges will be based.

### Findings

Both of the Brooks Moving estimate forms include blanks for the hourly rates and other accessorial charges and are in compliance with the rule.

- (g)(h)(i) A list of the articles upon which the estimate is based (inventory); (h) The estimated cubic footage for each article; and, (i) The estimated total weight of the shipment, based upon a formula of not less than seven pounds per cubic foot (example: A box one foot by one foot by one foot = seven pounds).

### Findings

None of the estimates for the month of June included an inventory of the goods to be moved. Brooks is not in compliance with this requirement.

- (j) An itemized statement of all known accessorial services to be performed, articles supplied, and their charges.

### **Findings**

Brooks Moving estimate form includes a space for Bridge or Ferry Tolls and Packing, Unpacking, and Container prices which are the standard accessorial services for hourly-rated moves.

However, in the preprinted list of packing material prices on the estimate form, Staff found items and their prices for which a company may not charge its customers.

The items listed are:

- Newsprint
- Tape
- Shrink Wrap
- Bubble Rap [sic]
- Packers

Companies may not charge for packing materials unless those materials are specifically listed in Tariff 15-A.

- (k) An estimate of the total charges, including transportation and accessorial charges.

### **Findings**

The format of the form includes a space for the “Estimated Total” amount of the move and is in compliance.

- A printed statement on the first page of a nonbinding estimate, in contrasting lettering, and not less than eight-point bold or full-faced type, as follows:

**IMPORTANT NOTICE**

*This nonbinding estimate covers only the articles and services listed. It is not a warranty or representation that the actual charges will not exceed the amount of the estimate. If you request additional services to complete the move or add articles to the inventory attached to this estimate, the household goods mover must prepare a supplemental estimate which will change the amount of the original estimate and may change the rate on which these new charges are based.*

*Household goods carriers are required by law to collect transportation and other incidental charges computed on the basis of rates shown in their lawfully published tariffs, except as provided below:*

*(1) A household goods carrier may not charge more than twenty-five percent more than its written nonbinding estimate for time charges for a local hourly rated move nor can the household goods carrier charge more than fifteen percent more than the written nonbinding estimate for accessorial and other services not related to time, unless the household goods carrier prepares and the shipper signs a supplemental estimate.*

*(2) A household goods carrier may not charge more than fifteen percent above your written nonbinding estimate for a long-distance-rated move, unless the household goods carrier prepares and the customer signs a supplemental estimate.*

**Findings**

Brooks Moving is using the correct important notice language on its Non-Binding Estimate and is in compliance with this rule.

However, the Estimate of Cost of Services format that Brooks Moving also uses states:

*“This is an estimate based on the information you supply to us and our experience. The actual time can vary due to preparedness, access at the job site or additional items to be moved not originally brought to our attention. An invoice will be provided to you at the completion of the move with actual time. This estimate includes portal to portal travel time. This estimate is guaranteed with in 25% of the total estimate.”*

This language is not in compliance with the Important Notice declaration in WAC 480-15-650.

**Other Estimate Language**

Staff found that Brooks Moving includes on its Estimate of Cost of Service form and its Supplemental Non-Binding Estimate form the following statement:

CANCELLATION FEE OF \$100 WILL BE CHARGED FOR CANCELATIONS THAT ARE NOT RESCHEDULED WITHIN 30 DAYS.

Credit Card # \_\_\_\_\_

Exp Date: \_\_\_\_\_

Brooks Moving cannot include charges that are not authorized in Tariff 15-A. A one hundred dollar charge to the customer for not rescheduling a move is not in the Tariff and is in violation of Tariff 15-A.

Staff found that Investigator Macomber during his technical assist visit in August 2004, instructed Brooks Moving that it could not state on its estimate form that a \$100 cancellation charge may be imposed. Brooks Moving failed to remove the cancellation language from its form.

**Findings**

Staff considers this audit as the company's technical assistance for WAC 480-15-650 and Tariff 15-A. None of the estimate forms used by Brooks Moving contain the proper format language. If future violations are found, penalties or other sanctions may be imposed.

**Recommendation**

Brooks Moving must change the format of its estimate forms to comply with WAC 480-15-650.

## ESTIMATES - COMPLETION OF FORM

**WAC 480-15-650** requires that in addition to the format of the estimate form be in compliance, but also the written estimate must contain the following information:

- (2) (a) *The name, address and telephone number of the household goods carrier who will perform the service;*
- (b) *The name, company affiliation, title and telephone number of the person preparing the estimate;*
- (c) *The name of the customer and the receiver of the goods;*
- (d) *The complete physical address of the origin, destination and any intermediate stops of the proposed movement;*
- (e) *The total mileage between the origin and destination, including any intermediate stops;*
- (f) *The rates on which the estimated charges will be based;*
- (g) *A list of the articles upon which the estimate is based (inventory);*
- (h) *The estimated cubic footage for each article;*
- (i) *The estimated total weight of the shipment, based upon a formula of not less than seven pounds per cubic foot (example: A box one foot by one foot by one foot = seven pounds);*
- (j) *An itemized statement of all known accessorial services to be performed, articles supplied, and their charges;*
- (k) *An estimate of the total charges, including transportation and accessorial charges;*

### Technical Assistance

In August of 2004, Investigator Macomber provided technical assistance to Brooks Moving and noted the following in his audit memorandum:

“WAC480.15.630-690

Carrier does issue written non-binding estimates. Written estimates do not include all required information. Appropriate non-binding estimates and non-binding supplemental estimate forms were handed out.”

In October of 2004, Investigator Macomber again checked the records of Brooks Moving and again reviewed the estimates provided by Brooks Moving. In the October report, Investigator Macomber stated he found no violations of the estimate rules.

### **Audit**

WAC 480-15-650 states that estimates must include specific information. Staff found that Brooks does not complete the estimate forms in compliance with this rule.

The following show Brooks Moving compliance or non-compliance with the requirements that must be completed by the company on the estimate form:

- (b) The name, company affiliation, title and telephone number of the person preparing the estimate.

### **Findings**

Brooks Moving is not in compliance with this rule. The company does not include the company affiliation, title, or telephone number of the person completing the form. The estimate forms that Brooks Moving uses only include a line for the estimator's signature.

- (c) The name of the customer and the receiver of the goods.

### **Findings**

Brooks Moving is not in compliance with this rule. All nine of the estimate forms include the name of the shipper/customer. None have the name of the consignee or receiver of the goods.

- (d) The complete physical address of the origin, destination, and any intermediate stops of the proposed movement.

### **Findings**

Brooks Moving is not in compliance with this rule. A company can not provide an estimate where no destination address is listed as it would be difficult to correctly estimate the cost of the move. Six of the nine estimates for moves in June 2005 show incomplete destination addresses (city name only).

- (e) The total mileage between the origin and destination, including any intermediate stops.



### **Findings**

Brooks Moving is not in compliance with this rule. None of the estimates Staff reviewed included the total mileage or stops. While Brooks Moving states it only conducts hourly-rated moves, it still must calculate the mileage between origin and destination of a potential move in order to show that the move is actually under 35 miles and correctly rated as an hourly-rated move.

- (f) The rates on which the estimated charges will be based.

### **Findings**

All of the estimates include the hourly rate which is in compliance with the rule. None of the estimates included any container charges, fuel surcharge, valuation, storage, or miscellaneous charges, which is in compliance if none of these charges were applicable to the moves.

- (g)(h)(i) A list of the articles upon which the estimate is based (inventory); (h) The estimated cubic footage for each article; and, (i) The estimated total weight of the shipment, based upon a formula of not less than seven pounds per cubic foot (example: A box one foot by one foot by one foot = seven pounds).

### **Findings**

Brooks Moving is not in compliance with these rules. None of the estimates for the month of June 2005 included an inventory of the goods to be moved.

- (j) An itemized statement of all known accessorial services to be performed, articles supplied, and their charges.

### **Findings**

None of the nine estimates reviewed by staff included any bridge or ferry tolls or packing charges. This is in compliance only if none of those articles or services were applied to the moves.

- (k) An estimate of the total charges, including transportation and accessorial charges.

### **Findings**

Brooks Moving estimate provides for the total estimated charges for the move. The estimated charges, however, include tax, which is not allowed. The estimate of the total charges is not in compliance with the rule.

*WAC 480-15-650(3) requires the customer to sign the written estimate.*

### **Findings**

Brooks Moving is not in compliance with this rule. In spite of having a space on both forms designated as the "Shipper's Signature", none of the nine completed estimate forms had the shipper's signature.

*WAC 480-15-650 requires a household goods company keep its written estimates on file for at least two years after the move is conducted.*

### **Findings**

Staff has no evidence to believe Brooks Moving is not in compliance with this rule.

*WAC 480-15-650 requires that if a customer requests a written estimate and the household goods company refuses to provide one, it may not conduct that move by agreeing to meet or beat another company's estimate.*

### **Findings**

Staff has no evidence to believe Brooks Moving is not in compliance with this rule.

### **Summary of Findings**

Brooks Moving is not in compliance with properly completing an estimate form. Staff considers this audit as the company's technical assistance for WAC 480-15-650 and Tariff 15-A. If future violations are found, penalties or other sanctions may be imposed.

### **Recommendation**

Brooks Moving must complete all the required information on its estimate forms in compliance with WAC 480-15-650.

## SUPPLEMENTAL ESTIMATES

*WAC 480-15-660 requires that supplemental estimates be provided if the company has given the customer a written estimate and the circumstances surrounding the move change in any way to cause the rate for service or the estimated charges to increase. The company can apply a new or higher rate to the new services only not services from the original estimate. Customers MUST sign the supplemental estimate or the additional work cannot be performed.*

A complete version of WAC 480-15-660 is included in Appendix I.

### Audit

The Non-Binding Estimate form currently used by Brooks Moving states the following:

“...If you request additional services to complete the move or add articles to be moved, the household goods mover must prepare a supplemental estimate which will change the amount of the original estimate.”

This is not a correct statement, but it does indicate that Brooks Moving is aware of the rule regarding the issuance of a supplemental estimate. The rule states that if the circumstances change in any way to cause the rates or charges for the move to increase (not just an additional service or additional articles added by the customer), a supplemental estimate must be given to the customer.

Of the nine estimates Staff reviewed for moves in June 2005, in two moves the actual costs exceeded the estimates.

Date/BL #	Estimate	Actual Charge	% of change
6-3-05	653.40	796.33	+22
6-3-05	920.00	575.00	-38
6-5-05	408.37	306.28	-25
6-11-05	490.05	467.17	-5
6-16-05	490.05	510.47	+5
6-17-05	751.41	751.41	-----

6-25-05	653.40 <sup>6</sup>	632.98	-4
6-26-05	653.40	428.79	-35
6-30-05	1001.88	800.00	-21

Brooks Moving did not submit any evidence that supplemental estimates were issued for either of the two moves where the actual charges exceeded the estimate.

**Findings**

Staff considers this audit as the company's technical assistance for WAC 480-15-660. If future violations are found, penalties or other sanctions may be imposed.

**Recommendation**

Brooks Moving must provide a supplemental estimate when its customer has been given a written estimate and the circumstances surrounding the move change in any way to cause the rate for service or the estimated charges to increase in compliance with WAC 480-15-660.

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<sup>6</sup> This estimate was completed on a Supplemental Estimate Form.

## **COST EXCEEDS ESTIMATE - RELEASE OF GOODS**

*WAC 480-15-670 requires that if the actual charges exceed the estimated charges, the household goods company must:*

- (a) Inform the shipper of this rule as soon as possible; and*
- (b) Release the shipment when the shipper pays one hundred ten percent of the estimated charges.*

*WAC 480-15-670 also requires the company to allow the shipper at least thirty days to pay the remaining balance when the shipper has paid one hundred ten percent of the estimated charges, you must allow the shipper at least thirty days to pay the remaining balance.*

### **Technical Assist**

Staff finds that Brooks Moving is aware of this rule as its Non-Binding Estimate form states:

*“If the total tariff charges for the listed articles and service exceed this estimate by more than ten percent then, upon request, the carrier must relinquish possession of your shipment upon payment of a maximum amount of 110% of the amount of the estimate (and any supplemental estimates).”*

### **Findings**

In the one estimated move in June 2005 where the final cost exceeded the estimate by at least 110%, there is no evidence that Brooks Moving released the goods to the shipper upon payment of one hundred ten percent of the estimated charges.

Staff considers this audit as the company’s technical assistance for WAC 480-15-670. If future violations are found, penalties or other sanctions may be imposed.

### **Recommendation**

Brooks Moving must, if the actual charges exceed the estimated charges, inform the shipper of this rule as soon as possible, and release the shipment upon payment of one hundred ten percent of the estimated charges. The company must allow the shipper at least thirty days to pay the remaining balance in compliance with WAC 480-15-670.

## ACCURATE ESTIMATES

*WAC 480-15-680 states it is the household goods company's responsibility to issue an accurate estimate to the shipper. Shippers must be able to base their moving decisions on accurate information. This cannot occur unless the company provides an accurate estimate.*

### Audit

Brooks Moving is not in compliance with this rule. Of the nine estimates Staff reviewed for moves that occurred in June 2005, Staff found that Brooks Moving has a difficult time accurately estimating the cost of a move.

Date/BL #	Estimate	Actual Charge	% of change
6-3-05	653.40	796.33	+22
6-3-05	920.00	575.00	-38
6-5-05	408.37	306.28	-25
6-11-05	490.05	467.17	-5
6-16-05	490.05	510.47	+5
6-17-05	751.41	751.41	---
6-25-05	653.40 <sup>7</sup>	632.98	-4
6-26-05	653.40	428.79	-35
6-30-05	1001.88	800.00	-21

To find that more than half of the estimates given to its customers are inaccurate by at least 20% is unacceptable. Companies may not guess at the cost of a move, or provide an estimate based on incomplete or inaccurate information. Clearly, Brooks Moving is not obtaining enough information about the prospective move to accurately estimate the potential cost.

### Findings

Providing accurate estimates for household goods moves is something the Commission takes very seriously. The Washington State Legislature specifically addressed this issue in 1993 when it wrote RCW 81.80.132, which states:

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<sup>7</sup> This estimate was completed on a Supplemental Estimate Form.

***Common carriers – Estimate of charges for household goods – penalty.***

*When a common carrier gives an estimate of charges for services in carrying household goods, the carrier will endeavor to accurately reflect the actual charges. The carrier is subject to a monetary penalty not to exceed one thousand dollars per violation when the actual charges exceed the percentages allowed by the Commission. [1993 c 392 § 1.]*

The Commission's rules also show how seriously the Commission takes the issue of estimating the cost of a move by specifically listing the actions the Commission may take against companies who fail to provide accurate estimates.

WAC 480-15-690(3) states, in part:

*"We [Commission] may take administrative action against household goods carriers who fail to provide accurate estimates. Administrative actions may include, but are not limited to:*

- (a) Assessing penalties of up to one thousand dollars, per incident, under RCW 81.80.132;*
  - (b) Suspending your permit;*
  - (c) Initiating a proceeding to cancel your permit;*
  - (d) Denying permanent authority if you are operating under temporary authority;*
- or*
- (e) Limiting collection of excess charges.*

The complete texts of WAC 480-15-670, WAC 480-15-680, and WAC 480-15-690 are included in Appendix J.

Staff considers this audit as the company's technical assistance for WAC 480-15-680 and WAC 480-15-690. If future violations are found, penalties or other sanctions may be imposed.

**Recommendation**

Staff recommends that Brooks Moving comply with WAC 480-15-680, by ensuring that it provides accurate estimates to its potential customers.

## **BILLS OF LADING**

- Bills of Lading
- Bills of Lading - Format



## **BILLS OF LADING**

**WAC 480-15-710** *A bill of lading is a shipping document issued by the household goods carrier, signed by both the shipper and the household goods carrier, that establishes the legal contract terms and conditions for the shipment of household goods.*

All household goods carriers must use an approved bill of lading format and complete the bill of lading in a manner that shows all information necessary to determine the proper tariff rates and charges. Any element that is used to determine charges must be clearly shown on the bill of lading.

Brooks Moving is neither in compliance with the bill of lading format nor does it complete the bill in a manner that complies with Commission rules.

This report section describes why Brooks Moving bills of lading are not in the correct format and what Brooks must change on its bills to comply with Item 95 of Tariff 15-A and WAC 480-15-710.

A copy of Brooks Moving bill of lading is included in Appendix D. The complete text of Item 95 and WAC 480-15-710 through WAC 480-15-740 is included in Appendix K.

## BILL OF LADING FORMAT

*WAC 480-15-730 and the Commission's Tariff 15-A, Item 95, require a household company to use the bill of lading format shown in the Commission's published tariff.*

The Commission's Tariff 15-A, Item 95, describes the format that must be used and the contract terms and conditions that must be included on the bill of lading.

### **Audit**

The bill of lading used by Brooks Moving is not in compliance with the format requirements shown in Tariff 15-A, Item 95, as required by WAC 480-15-730. It appears that Brooks Moving uses its own format which is neither the commonly used Mover's Conference bill of lading nor the example shown in Tariff 15-A.

### **Technical Assistance**

In August of 2004, Motor Carrier Investigator Leon Macomber provided technical assistance to Michelle Brooks and Hong Brooks regarding the use and format for the company's bills of lading. Investigator Macomber noted in his August 9, 2004, technical assistance memorandum that the "Carrier is not currently using a Uniform Household Goods Bill of Lading but will be in the future. Appropriate handouts were given." He also noted that "Bills of lading being used do not contain required information." The Household Goods Technical Assistance and Records Review Checklist that noted these violations were signed by Michelle Brooks.

On March 25, 2005, the Commission sent a letter to Brooks Moving stating that its bill of lading, namely the section on valuation, was not in compliance with the Tariff 15-A requirements. The company was notified that its bill of lading valuation section incorrectly stated the value of the shipment rather than allowing the customer to place the value on the goods. The company was told to respond to Staff with the actions it intended to take to correct the bill by April 8, 2005.

The company responded on March 28, 2005, with the following:

"...the issues that are being brought up were resolved in our temporary licensing last year by Leon. We drafted new Bills and Estimates last year with the appropriate language and charges."

After again being told that the bill was incorrect, on April 2, 2005, Brooks Moving stated:

“Like I stated before we revised our Bill of Lading [sic] with the help of Leon arond [sic] 09/04 so it has not quite been a year. There should not have been any old one that had gotten out?? The old ones have since been destroyed [sic]. Someone must have grabbed the wrong one for this move prior to the disposal of them.”

After Staff again told Brooks Moving that their bill of lading was still not in compliance, Brooks Moving stated on April 5, 2005:

“Sorry about the discrepancies in our bill of lading. After reviewing it I do see the differences. I don’t how how or why we stated it the way it was...I have modified the bill of lading and will be getting the new one to the printer for any future jobs. I will attach the new one for your review prior to printing the printing process will take approx. 2 weeks.”

Staff finds that after March 28, 2005, Brooks Moving continued to use a bill of lading that was in violation of Tariff 15-A. Staff reviewed a total of seventy bills of lading for June 2005 and found the bills of lading had not been revised and all were in violation of WAC 480-15-730 and Tariff 15-A, Item 95.

**Tariff 15-A, Item 95 (2) (a-e), Names, Addresses, Phone Numbers**

This section of Tariff 15-A lists the information that must be included on the bill of lading. The requirements are:

- a. The name, permit number, address, telephone number, and fax number (if any) of the household goods carrier;
- b. The name, address, and telephone number of the customer;
- c. The name, address, and telephone number of the consignee;
- d. The exact location of the origin pickup point, any split pickups, stops to partially load or unload, and the final destination point of the shipment;
- e. The actual pickup date; and

**Audit**

Brooks Moving bills of lading do not include a complete address and telephone number for both the shipper (customer) and the consignee (receiver of the goods). Brooks Moving bills only show in the “TO” box, a phone number blank, a “contact” blank and a delivery address.

While the bills show an address for the customer (Staff assumes this is the pickup point for the goods) and a “delivery address”, there is no location on the bill to list any stops or split pickup or delivery points.

### Findings

Staff finds Brooks Moving in violation of Tariff 15-A, Item 95(2)(b),(c) and (d).

**Tariff 15-A, Item 95, 2.f – Storage Declaration.** The bill of lading must contain a declaration of the length of time the shipper wishes property to be stored (permanent storage, storage in transit, or storage in a vehicle). The declaration must state:

***STORAGE:** If shipment will be placed into storage, the customer must initial option selected:*

*\_\_\_\_\_ This shipment is to be placed in storage for a period of less than 90 days (storage in transit). I understand that on the 91<sup>st</sup> day of storage the shipment becomes permanent storage.*

*\_\_\_\_\_ This shipment is to be placed in storage for more than 90 days (permanent storage).*

*\_\_\_\_\_ This shipment is to be placed in storage-in-vehicle for a period of not more than \_\_\_\_\_ days.*

### Audit

Brooks Moving bills of lading do not contain the required storage declaration language.

### Findings

Staff finds Brooks Moving in violation of Tariff 15-A, Item 95(2)(f).

### **Tariff 15-A, Item 95 2.g. Estimate Declaration**

The tariff requires the bill of lading to show if the customer chose to have an estimate of the cost of the move, and if so, whether it was a binding or non-binding estimate.

The tariff states the following declaration box must be shown on the bill:

**ESTIMATES:** *The customer must initial option selected:*

- I did not request a written estimate on this shipment and understand I will be required to pay charges shown on this contract.*
- I understand this shipment is moving under a binding estimate and that I will be required to pay the amount shown on that estimate.*
- I understand this shipment is moving under a non-binding estimate. NOTE: If the charges shown on this bill exceed the charges on the non-binding estimate given me by the carrier, the carrier must release the shipment to me upon payment of no more than 110 percent of the estimated charges and will extend credit for 30 days in which I must pay the remainder due. In no case will I be required to pay more than 115 percent of the estimate (plus any supplements) for mileage-rated shipments, nor more than 125 percent of the estimate plus supplements for hourly-rated shipments.*

### **Audit**

In Staff's letter to Brooks Moving dated March 25, 2005, Staff informed the company that its Estimate Declaration was incorrect.

Brooks Moving's Declaration does not include the following required notice to the customer in the non-binding estimate paragraph:

*...and will extend credit for 30 days in which I must pay the remainder due. In no case will I be required to pay more than 115 percent of the estimate (plus any supplements) for mileage-rated shipments, nor more than 125 percent of the estimate plus supplements for hourly-rated shipments.*

On April 2, 2005, Brooks Moving sent to Staff a copy of its revised bill of lading stating that the copy attached to the company's email was the electronic file of our "current bill of lading". The bill attached to the email had the correct Estimate Declaration wording on it.

Staff reviewed seventy bills of lading for June 2005. Staff found that the bill of lading used in June was once again incorrect. The format Brooks Moving stated it was using in April was not the format used in June. The Estimate Declaration box on all seventy bills of lading was incorrect.

## Findings

Staff finds Brooks Moving in violation of Tariff 15-A, Item 95(2)(g).

### Tariff 15-A Tariff Item 95 2.h. Valuation Declaration

The bill of lading must contain the following language regarding the shipper's choice of valuation:

**VALUATION:** *The customer must initial option selected:*

\_\_\_\_\_ **Basic value protection.** *I release this shipment to a value of 60 cents per pound per article, with no cost to me for the protection;*

*or,*

\_\_\_\_\_ **Depreciated value protection.** *I release this shipment to a value of \$2.00 per pound times the weight of the total shipment; or*

*I declare a lump sum total dollar valuation on this entire shipment of:*

*\$ \_\_\_\_\_ and select the following option:*

\_\_\_\_\_ **Replacement Cost Coverage with a \$300 Deductible.**

*Declared value must be at least \$3.50 times the weight of this Shipment.*

\_\_\_\_\_ **Replacement Cost Coverage with no deductible.** *Declared value must be at least \$3.50 times the weight of this shipment.*

## Audit

All of the bills of lading Brooks Moving used for the month of June 2005 included incorrect valuation language. The valuation language for Replacement Cost Coverage on the Brooks bills state:

**"Replacement cost Coverage/\$300 Deductible.** I release this shipment to a value of \$3.50 per pound times the Shipment wt. at a rate of \$.76 per \$100 of declared value.

**Replacement cost Coverage/\$0 Deductible.** I release this shipment to a value of \$3.50 per pound times the shipment Wt. at a rate of \$1.07 per \$100 of declared value."

## Findings

Staff finds Brooks Moving in violation of Tariff 15-A, Item 95(2)(h), Valuation Declaration.

**Tariff 15-A, Item 95, (2)(j) Start, Stop and Interruption Times**

Tariff 15-A, states the bill of lading must show the start time, stop time, and any interruption for each person involved in or on the shipment and must show the start time, stop time, and any interruptions for the move as a whole.

**Audit**

Household goods companies must record on the bill of lading the number of hours the company took to move a customer's goods. The time begins when the company leaves its terminal (or previous move location) until the time it returns to its terminal (or is dispatched to another move), excluding all time when there is a break in the service (interruptions). An example of an interruption is an employee's meal break.

The bill of lading must show the start and stop times for the move as a whole, and any interruptions. The bill of lading must also show the start, stop, and interruption times for each employee who worked on the move. However, when it is not practical to record all the employees' times and breaks on the bill of lading, the company may keep the employee time and meal or rest period hours in a separate set of records.

The purpose of this rule is to ensure the customer is accurately billed for the correct number of hours the company worked.

WAC 480-15-740 states, in part:

*"...Any element that you use in determining transportation charges must be shown on the bill of lading. This information includes, but is not limited to:*

*(7) The start time, stop time, and any interruptions for each person involved in or on a shipment rated under hourly rates:*

*(a) In lieu of recording each person's start time, stop time, and interruptions on the bill of lading, a carrier may maintain a separate, but complete, record of each person's activities in sufficient detail to verify the proper rates and charges.*

*(b) A carrier must be able to identify, through payroll records, each person involved in a move and provide that information to commission staff on request.*

*(c) In all cases a carrier must record on the bill of lading the start time and stop time of any hourly rated move, and any interruptions in service;"*

**Technical Assistance**

In October of 2004, Investigator Macomber noted on his Household Goods Technical Assistance and Records Review Checklist that Brooks Moving was not accurately recording start and stop times on the bills of lading for each job and noted on the checklist that 25 of 84 bills of lading were in violation. Staff finds that this checklist, signed by Michelle Brooks, gives the company technical assistance in recording start, stop, and interruptions times on the bill of lading.

**Audit**

Staff reviewed Brooks Moving bill of lading format and found that it does not contain adequate information to determine the number of hours each employee worked on the move, or if the employees had any meal or other break/interruption times.

Brooks Moving bills of lading show billed time and employees that worked on the move as follows:

<p><b>Time Record</b></p> <p>_____ Truck(s) _____ Man @ _____ per hr _____ =</p> <p>_____ Packers @ _____ per hr _____ hours =</p>
<p>Date _____ Start _____ Stop _____ =</p> <p>Date _____ Start _____ Stop _____ =</p>
<p>Mover/Packer Log</p> <p>Driver _____ Mover _____</p> <p>Driver _____ Mover _____</p> <p>Packer _____ Packer _____</p> <p>Packer _____ Packer _____</p>



As stated in WAC 480-15-740(7), a company must record individual employees start and stop times and interruptions on either the bill of lading or in lieu of recording the information on the bill it may maintain a separate, but complete, record of each person's activities in sufficient detail to verify the proper rates and charges.

Brooks Moving payroll records contain enough information to show which employee is involved in each move, however, there still does not appear to be proper meal or break interruptions noted in the payroll records.

### **Start Times, Stop Times, and Interruptions for Move**

WAC 480-15-740(7) states:

*(c) In all cases a carrier must record on the bill of lading the start time and stop time of any hourly rated move, and any interruptions in service.*

Staff found that the start and stop time of the move as a whole can be recorded on the bill of lading, however the form does not have a location to record interruption times.

### **Findings**

Staff finds Brooks Moving in violation of Tariff 15-A, Item 95(2)(j) and WAC 480-15-740, Start times, stop times, and interruptions.

### **Payment Method**

Tariff 15-A, Item 95(p) requires that the method of payment be shown on the bill of lading. The customer must indicate his or her choice of payment type by initialing that choice on the bill of lading. This ensures that both the customer and the company understand how the customer intends to pay for the move prior to the beginning of the move.

The bill of lading example in Tariff 15-A shows what the payment option box on the bill must include:

<p><b>Note: The customer must indicate choices made on the items shown below by initialing the appropriate line.</b></p>
<p><b>PAYMENT:</b> The customer and carrier agree that payment, at time of delivery, will be made by ___ cash ___ money order ___ certified check ___ credit card ___ business check ___ Other: _____</p> <p>If credit arrangements are made, bill to: NAME: _____ ADDRESS: _____</p>

Brooks Moving payment box states:

<p>Payment: The customer and carrier agree that payment, at time of delivery, will be made by: _____ cash _____ check _____ money order _____ credit card (with 4% processing fee)</p>
--

Staff finds that while Brooks Moving may alter the payment language to include only those payment options acceptable to the company, it may not include a processing fee for the customer using a credit card or any other method of payment. (SEE: Rates and Charges)

Staff in its letter to Brooks Moving dated March 25, 2005, stated:

“Credit card processing fees and sales tax are not authorized charges in the tariff and Brooks may not charge for them.”

Brooks Moving continued to use a bill of lading that was in violation of Tariff 15-A in June 2005, after technical assistance was given in March 2005.

### Findings

Staff finds Brooks Moving in violation of Tariff 15-A, Item 95(2)(p).

**Tariff 15-A, Item 95(3) Information That Must be Included on the Back of the Bill of Lading**

The back of the bill of lading must contain the contract terms and conditions for the shipment of the household goods as stated in Item 95(3). A household goods company may not remove wording or include different wording in its contract terms or conditions.

The following is the correct bill of lading format required by Tariff 15-A. The bold or strikethrough indicates changes made to the contract terms by Brooks Moving on its bills of lading.

**CONTRACT TERMS AND CONDITIONS OF  
UNIFORM HOUSEHOLD GOODS BILL OF LADING**

The following terms and conditions apply to all services performed by the carrier under this contract. This contract is also subject to all rules, rates, and charges in the current tariff published by, or on file with, the Washington Utilities and Transportation Commission:

**SECTION 1.**

- (A) THE CARRIER IS LIABLE for physical loss of, or damage to, any article from external cause while being packed, unpacked, loaded, unloaded, carried, or held in storage-in-transit, **(including storage in vehicle)** including breakage, if articles are packed by the carrier and/or if the breakage results from negligence of the carrier. The carrier's liability is subject to the limitations of liability described in Section 2.
- (B) THE CARRIER IS NOT LIABLE for loss of, or damage to, any article from external cause while being carried or held in storage-in-transit, for the following circumstances:
- (1) Breakage, when articles are packed by the customer or the customer's representative **or for cargo damaged on a rental vehicle or container load once the container or vehicle leaves the load site.** ~~unless it can be proven that the breakage resulted from negligence by the carrier in handling the article(s).~~
  - (2) Change in the condition or flavor of perishable articles.
  - ©(3) Loss or damage from insects, moths, or vermin. (TV-001242)

- (4) Loss or damage to documents, bank bills, notes, currency, money, postage stamps, letters, or valuable papers of any kind.
- (5) Loss or damage to jewelry, watches, precious stones, **particle board furniture** or precious metals.
- (6) An act, omission, or order of the customer, or loss or damage resulting from the customer's inclusion in the shipment such articles as explosives, dangerous articles or dangerous goods.
- (7) Defective design of an article, including susceptibility to damage because of atmospheric conditions such as temperature and humidity changes.
- (8) Hostile or warlike action or use of any weapon of war (in time of peace or war); terrorism; insurrection; rebellion; revolution; civil war, usurped power; and action taken in hindering, combating or defending against such occurrences: (a) by any government or sovereign power, or by authority maintaining or using military forces; or (b) by military forces; or (c) by an agent of any such government, power, authority or forces.
- (8) Seizure, confiscation, or destruction under quarantine by order of any government or public authority.
- (9) Strikes, lockouts, labor disturbances, riots, civil commotions or the acts of any person or persons taking part in any such occurrence or disorder.
- (10) Acts of God.

**SECTION 2.** The carrier's maximum liability shall be determined based on the valuation option selected by the customer on the face of this contract.

- (A) If the customer selected Basic Value Protection, the carrier's maximum liability shall be the actual loss or damage not exceeding \$.60 per pound of weight of any lost or damaged article(s).
- (B) If the customer selected Depreciated Value Protection, the carrier's maximum liability shall be the amount of the actual loss or damage not exceeding \$2.00 times the actual weight (in pounds) of the shipment. ☺This option is the default option if customer fails to indicate a choice on the face of this contract. (Customer will be liable for charges applying for this option if customer fails to indicate a choice and the shipment valuation therefore defaults to this protection level.) (TV-001242)
- (C) If the customer selected Replacement Cost Coverage with a deductible, the carrier's maximum liability shall be the amount of the actual loss or damage less a \$300 deductible not exceeding \$3.50 times the weight of the shipment, or the lump sum declared value, whichever is greater.
- (D) If the customer selected Replacement Cost Coverage, the carrier's maximum liability shall be the amount of the actual loss or damage not exceeding \$3.50

times the weight of the shipment, or the lump sum declared value, whichever is greater.

**SECTION 3.** Unless specific arrangements have been authorized by this contract, the carrier is not required to transport the customer's goods by any particular schedule, means, or vehicle and is not liable for delays resulting from causes other than negligence of the carrier. Further, in case of unforeseen circumstances which prevent the carrier from completing delivery, the carrier has the right to forward the customer's property by another carrier.

**SECTION 4.** (A) The customer must pay all legal charges. (B) If the carrier is required to refer this contract **to an attorney** for collection of charges due ~~to an attorney~~, **the customer shipper** agrees to pay reasonable attorney fees and collection costs. (C) If this contract is referred to a court for resolution, the non-prevailing party shall be responsible for payment of a reasonable attorney fees and court costs. © (D) The customer shall indemnify the carrier against loss or damage caused by inclusion in the shipment of explosives, dangerous articles, or dangerous goods.

**SECTION 5.**

(A) The carrier may place a shipment into storage at the public warehouse nearest the point of destination if the carrier is unable to make delivery because:

(1) The carrier was unable to locate a customer at the address given or the correct address; or

(2) The customer refused or was unable to accept delivery; or

(3) On a shipment moving under a non-binding estimate, the customer was unable or refused to pay up to 110 percent of the amount of the original estimate. The carrier's liability as a common carrier ends with delivery to the warehouse and the shipment becomes subject to the warehouse's liability, terms and conditions. The carrier must mail or deliver a written notice to the destination address advising that it was unable to make delivery.

(B) The carrier may sell the property in a shipment if:

(1) The customer refuses the shipment at destination;

(2) The customer fails to receive or claim the shipment within 15 days after the carrier has mailed a written notice to the customer to the addresses shown on face of this Bill of Lading; or

(3) If the customer fails or has refused to pay the lawful charges in accordance with the carrier's tariff and Commission rules.

(C) The carrier may sell property at its option:

- (1) Upon notice in the manner authorized by law, or
- (2) To the highest bidder at a public auction held at a time and place named by the carrier. The carrier must give the customer at least 30 days' written notice of the sale and must publish a notice containing a description of the property (as described in the Bill of Lading) and the name of the customer at least once a week for two consecutive weeks in a newspaper of general circulation at or near the place of sale. The proceeds of any sale will be applied toward payment of the lawful charges due for the shipment and toward expenses for the notice, advertising and sale, and storing, caring for and maintaining the property before the sale. The balance, if any, shall be paid to the owner of the property. However, the carrier may sell any perishable articles in the shipment at a public or private sale without the notices described above, if, in the opinion of the carrier, the sale is necessary to prevent deterioration or further deterioration.

**SECTION 6.** To receive compensation for a claim for loss, damage, overcharge, injury or delay, the customer must file a written claim with the carrier within nine months after delivery. In the case of failure to make delivery, the claim must be filed within nine months after a reasonable time for delivery has elapsed. Claims must contain sufficient information to identify the property involved. A copy of the original paid transportation bill, bill of lading contract or shipping receipt must accompany the written claim. © (B) A suit against the carrier for loss, damage, overcharge, injury or delay must be instituted within two years and one day from the date the carrier notifies the customer that the carrier has disallowed the customer's claim made under the provisions of paragraph (A). (TV-001242)

### **Summary of Findings**

Staff finds Brooks Moving bills of lading form is not in compliance with Tariff 15-A, Item 95 and WAC 480-15-730 which requires companies to use the bill of lading format shown in the Commission's Tariff 15-A.

### **Results**

Staff finds seventy violations of WAC 480-15-730 and Tariff 15-A, Item 95, for failure to use a bill of lading format in compliance with WAC 480-15-730 and Tariff 15-A, subject to a penalty of \$7,000.00.

## **BILL OF LADING- COMPLETION**

- Bill of Lading Information Required

## **BILL OF LADING – INFORMATION REQUIRED**

A bill of lading must be issued for every household goods move and it must be properly completed to ensure that it shows all information necessary to determine proper tariff rates and charges. Brooks Moving does not complete the bill of lading correctly.

The requirements for what must be shown on the bill of lading are listed in both WAC 480-15-740 and in Tariff 15-A, Item 95. WAC 480-15-740 lists the type of information that must be shown on the bill, e.g. the date of shipment; number and size of packing containers; the start, stop, and interruption times for the move; and, any special services performed during the move.

For purposes of this audit, Staff reviewed the seventy bills of lading issued in June 2005.

Brooks Moving does not complete its bills of lading in compliance with Commission rules or Tariff 15-A. In spite of repeated technical assistance from Commission Staff, Brooks Moving has shown a pattern of failing to accurately complete its bills and continued to bill its customers for charges that it has been told were in violation of the tariff and Commission rule.

### **Technical Assistance**

Commission Investigator Leon Macomber first gave Brooks Moving technical assistance on Commission rules and tariff requirements in August and October 2004.

Staff of the Consumer Affairs Section has given technical assistance to Michelle Brooks on an ongoing basis as part of and subsequent to the investigation of a consumer complaint filed against Brooks Moving. Additionally, in March 2005, Staff sent a letter to Brooks Moving regarding both the format of its bill and the proper completion of the bill.

Brooks chose to continue in violation of the rules and tariff during the moves it conducted in June 2005.



**Estimate Section – Tariff 15-A, Item 95**

A bill of lading must include the following box that requires the customer to indicate (by initialing the form) the type of estimate he or she received prior to the move:

**ESTIMATES:** The customer must initial option selected:

\_\_\_\_\_ I did not request a written estimate on this shipment and understand I will be required to pay charges shown on this contract.

\_\_\_\_\_ I understand this shipment is moving under a binding estimate and that I will be required to pay the amount shown on that estimate.

\_\_\_\_\_ I understand this shipment is moving under a non-binding estimate.

NOTE: If the charges shown on this bill exceed the charges on the non-binding estimate given me by the carrier, the carrier must release the shipment to me upon payment of no more than 110 percent of the estimated charges and will extend credit for 30 days in which I must pay the remainder due. In no case will I be required to pay more than 115 percent of the estimate (plus any supplements) for mileage-rated shipments, nor more than 125 percent of the estimate plus supplements for hourly-rated shipments.

**Audit**

The company must ensure that the bill of lading is complete and accurately shows the type of estimate given to the customer. Staff found that in fourteen instances, Brooks Moving did not require the customer to initial the correct type of estimate (or lack thereof) he or she had actually received. The following shows the differences between what the bills of lading showed and the type of estimate the customer received.

Date	Type of Estimate Shown on Bill	Type of Estimate
6-7 8360	Moving under non-binding estimate	No Estimate <sup>8</sup>
6-11 8388	Moving under non-binding	No estimate
6-11 8392	Binding estimate	Estimate of cost of services (non-binding)

<sup>8</sup> No estimate was submitted as part of the company’s data request.

6-11 8390	Non binding estimate	No estimate
6-13 8397	Cust initialed all 3 types of estimates	No estimate
6-13 8394	Non binding estimate	No estimate
6-16 8405	Non binding estimate	No estimate
6-16 8406	Did not request an estimate and moving under non-binding both signed	Non-binding Estimate
6-20 8422	Non-binding	No estimate
6-22 8425	Non binding	No estimate
6-24 8436	Non binding	No estimate
6-25 8440	Non binding	No estimate
No date 8451	No estimate	Non binding
6-28 8000	Did not request Non binding	No estimate

### Findings

Staff finds Brooks Moving in violation of WAC 480-15-740, Tariff 15-A, Item 95.

### Names, Addresses, Phone Numbers

WAC 480-15-740 and Tariff Item 95 require a household goods moving company to include the customer's name, address, and phone number and the consignee's<sup>9</sup> name, address, and phone number on the bill of lading.

### Names

Staff reviewed all seventy June 2005 bills of lading and found that Brooks Moving did not include the name of the consignee on any of the bills.

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<sup>9</sup> A "consignee" is the person who accepts delivery of the goods at the destination point of the shipment (receiver).

### Addresses

Staff found in reviewing the seventy bills of lading for June 2005, Brooks Moving did not complete the exact destination address on ten bills of lading, as shown in the following chart:

Move Date	Address
6-1	Kirkland
6-5	Woodinville
6-8	Kenmore
6-17	(none)
6-18	Seattle
6-18	none
6-24	Alderwood Mall Parkway (storage)
No date	Marysville
6-29	Alderwood Safe Storage
6-29	Brier

Staff also found that Brooks Moving, on one bill of lading (8375 dated June 2, 2005), did not include the customer's address in addition to the exact location of the pickup point of the goods. The customer's address was listed as "Bull Dog Storage". Clearly this is the origin of the shipment, not the address of the customer.

### Phone Numbers

There is a blank for only one phone number on the Brooks Moving bills of lading. The phone number is in the "TO" column of the form so it is not clear if the phone number is for the shipper or the consignee.

### Findings

Staff finds Brooks Moving in violation of WAC 480-15-740 and Tariff 15-A, Item 95.

**Item 95 (2)(d) Additional Stops, Stops in Transit**

Item 95 of Tariff 15-A states that the bill of lading must show:

“The exact location of the origin pickup point, any split pickups, stops to partially load or unload, and the final destination point of the shipment.”

**Audit**

There is no location on Brook’s bills of lading to record stops in transit or additional stops. There were, however, a few bills of lading that included two “TO” addresses which Staff believed to be an additional stop and the destination.

**Findings**

Staff finds Brooks Moving in violation of WAC 480-15-740 and Tariff 15-A, Item 95 for failure to clearly show on the bill of lading the exact locations of the origin, destination, and any split pickups or deliveries of the household goods move.

**Storage Section**

Brooks Moving does not have a storage section on its bill of lading. Both Item 95 and the sample bill of lading given to Brooks Moving during the August 2004 technical assistance visit by Investigator Macomber inform the company that the storage declaration box is required.

Obviously, if the storage item declaration is not on the form, the company cannot comply with completing the declaration.

**Findings**

Staff finds Brooks Moving in violation of WAC 480-15-740 and Tariff 15-A, Item 95 for failure to show on the bill of lading the customer’s storage choice if required.

### **Rights And Responsibilities Guide**

WAC 480-15-740 states that on any shipment where the customer did not receive a written estimate, the household goods moving company must make a notation on the bill of lading that the customer was given a copy of the brochure *Your Rights and Responsibilities as a Moving Company Customer*<sup>10</sup>. The customer must initial on or near the company's notation on the bill of lading, acknowledging receipt of the information.

### **Technical Assistance**

Investigator Macomber, in both his August 2004 and his October 2004 technical assistance visits to Brooks Moving, noted on his Household Goods Technical Assistance and Records Review Checklist that the company did not require the customer to sign the bill of lading acknowledging that he or she had received the Rights and Responsibilities Guide. The August 2004 checklist noted 100 violations, the October 2004 checklist noted that 20 out of 84 bills of lading did not show the customer's signature and were in violation. Michelle Brooks signed both checklist forms.

### **Audit**

Eleven of the June 2005 bills of lading did not have customer's initials acknowledging they had received or been offered the Rights and Responsibilities Guide.

### **Payment Method**

Tariff 15-A, Item 95(p) requires that the method of payment be shown on the bill of lading. The customer must indicate his or her choice of payment type by initialing that choice on the bill of lading. This ensures that both the customer and the company understand how the customer intends to pay for the move prior to the beginning of the move.

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<sup>10</sup> If the customer received an estimate, the company must give the customer a copy of the Rights and Responsibilities Guide at the time of the estimate.

### **Audit**

Staff finds that Brooks Moving is aware of the requirement for ensuring that the customer indicate a payment choice on the bill of lading by placing his or her initials next to the payment choice, but failed to do so in twenty-six instances during June 2005. Additionally, the company does not require the customer initial their option (proving that the customer actually agrees to the payment option). It appears that in most cases the customer or company employee places a checkmark next to the payment option.

### **Findings**

Staff finds Brooks Moving in violation of WAC 480-15-740 and Tariff 15-A, Item 95, for failure to ensure the customer signs or initials the payment option declaration.

### **Signatures on Bill of Lading**

WAC 480-15-710 states that the bill of lading is a shipping document, signed by both the shipper and the household goods carrier, that establishes the legal contract terms and conditions for a shipment of household goods. For the contract to be binding, both the company representative and the shipper (customer) must sign the form.

### **Audit**

Staff found, in the seventy bills of lading issued in June 2005, that Brooks Moving does not ensure that both the company representative that accepts the goods and the customer that authorizes the company to transport the goods, signs the bill.

Staff found that on seven bills of lading the customer did not sign the form and on eight bills of lading the company representative failed to sign the form.

### **Findings**

Staff finds that Brooks Moving is in violation of WAC 480-15-740 and Tariff 15-A, Item 95, for failure to require both the representative of the company and the customer sign the bill of lading.

### **Tariff 15-A, Item 95, (2)(j) Start, Stop and Interruption Times**

Tariff 15-A states the bill of lading must show the start time, stop time, and any interruption for each person involved in or on the shipment, and must show the start time, stop time, and any interruptions for the move as a whole.

## **Audit**

Household goods companies must record on the bill of lading the number of hours the company took to move a customer's goods. The time begins when the company leaves its terminal (or previous move location) until the time it returns to its terminal (or is dispatched to another move), excluding all time when there is a break in the service (interruptions). An example of an interruption is an employee's meal break.

The bill of lading must show the start and stop times for the move as a whole, and any interruptions. The bill of lading must also show the start, stop, and interruption times for each employee who worked on the move. However, when it is not practical to record all the employees' times and breaks on the bill of lading, the company may keep the employee time and meal or rest period hours in a separate set of records.

The purpose of this rule is to ensure the customer is accurately billed for the correct number of hours the company worked.

WAC 480-15-740 states, in part:

*"...Any element that you use in determining transportation charges must be shown on the bill of lading. This information includes, but is not limited to:*

*(7) The start time, stop time, and any interruptions for each person involved in or on a shipment rated under hourly rates:*

*(a) In lieu of recording each person's start time, stop time, and interruptions on the bill of lading, a carrier may maintain a separate, but complete, record of each person's activities in sufficient detail to verify the proper rates and charges.*

*(b) A carrier must be able to identify, through payroll records, each person involved in a move and provide that information to commission staff on request.*

*(c) In all cases a carrier must record on the bill of lading the start time and stop time of any hourly rated move, and any interruptions in service;"*

Staff finds:

- Brooks Moving' bills of lading do not include start times, stop times, and interruptions for the individual employees involved in a move;
- Brooks Moving does not record on the bill of lading accurate start and stop times and any interruptions of service for the move as a whole.

**Technical Assistance**

In October of 2004, Investigator Macomber noted on his Household Goods Technical Assistance and Records Review Checklist that Brooks Moving was not accurately recording start and stop times on the bills of lading for each job and noted on the checklist that 25 of 84 bills of lading were in violation. Staff finds that this checklist, signed by Michelle Brooks, gives the company technical assistance in recording start, stop, and interruption times on the bill of lading.

**Audit**

Staff reviewed seventy bills of lading for June 2005 moves. Staff found that all but three of the bills of lading include the names of the individual employees that worked on the move, but do not show the start time, stop time, and interruptions for each employee involved in the move.

From this information on the bill Staff could not determine which employees worked what hours or if there were any interruptions due to meal breaks or other times when charges to the customer should have not been charged.

Staff also found that even though on thirty-two moves Brooks employees worked in excess of five hours straight, there were no meal periods or breaks recorded as interruption time on the bills of lading.



Washington State law requires an employer give breaks to employees for any time worked in excess of five hours<sup>11</sup>. Staff assumes that Brooks Moving employees took meal breaks as required by law, but the company did not record the interruption time.

Staff found that only five of the bills of lading showed employees took a break during moves that exceeded five hours.

### **Findings**

As stated in WAC 480-15-740(7), a company must record individual employees start and stop times and interruptions on either the bill of lading or in lieu of recording the information on the bill it may maintain a separate, but complete, record of each person's activities in sufficient detail to verify the proper rates and charges.

Brooks Moving payroll records contain enough information to show which employee is involved in each move, however, there still does not appear to be proper meal or break interruptions noted in the payroll records.

### **Start Times, Stop Times, and Interruptions for Move**

WAC 480-15-740(7) states:

*(c) In all cases a carrier must record on the bill of lading the start time and stop time of any hourly rated move, and any interruptions in service.*

### **Audit**

Again, upon review of the seventy bills of lading for June 2005, Staff found that the start and stop time of the move as a whole appears to be recorded on the bill, but for those moves for which interruption should have taken place, no interruption times were recorded.

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<sup>11</sup> Department of Labor and Industries WAC 296-126-092 Meal periods -- Rest periods. "(1) Employees shall be allowed a meal period of at least 30 minutes which commences no less than two hours nor more than five hours from the beginning of the shift. Meal periods shall be on the employer's time when the employee is required by the employer to remain on duty on the premises or at a prescribed work site in the interest of the employer.

(2) No employee shall be required to work more than five consecutive hours without a meal period..."

[Order 76-15, § 296-126-092, filed 5/17/76.]

While Brooks Moving bill of lading has blanks for start and stop times it does not have any location on the form to record interruptions in service for each person involved in the move.

### **Findings**

Staff finds that Brooks Moving is in violation of WAC 480-15-740, and Tariff 15-A, Item 95 for failure to record start times, stop times and interruptions in service for both each employee involved in the move and for the move as a whole.

### **Summary of Findings**

Staff finds that Brooks Moving fails to properly complete its bills of lading.

### **Results**

Staff finds seventy violations of WAC 480-15-740 and Tariff 15-A, Item 95, for failure to properly complete the bill of lading to ensure that it shows all information necessary to determine the proper tariff rates and charges in compliance with WAC 480-15-740 and Tariff 15-A, subject to a penalty of \$7,000.00.

## **CLAIMS AND COMPLAINTS – CONSUMER**

- Claims and Complaints - Consumer

## CLAIMS AND COMPLAINTS - CONSUMER

Household Goods companies must respond to loss or damage claims and two types of consumer complaints, those filed by consumers directly with the company and those complaints that are filed with the Commission's Consumer Affairs Section and referred to the companies for response. Commission rules have very specific requirements for how consumer complaints or claims must be processed and how companies must respond to Commission-referred complaints.

For purposes of this audit, the consumer complaint rules will be addressed separately from the Commission-referred complaint rules.

WAC 480-15-800 through WAC 480-15-880 specify the rules companies must follow when processing consumer complaints that are sent directly to the company:

*WAC 480-15-800 requires a household goods company to allow a shipper to speak with someone at the company if he or she is not satisfied with the company's service. The company must provide all the information and forms necessary to file a claim or complaint with the company. The company must allow the customer up to nine months to file a claim.*

*WAC 480-15-810 requires the company, upon receipt of a complaint or claim, to notify the customer within ten days that the complaint or claim has been received. The company must investigate the complaints or claims quickly, advise the shipper of the resolution, and pay, refuse the claim, or make a compromise offer within one hundred and twenty days of the date of the claim.*

*WAC 480-15-820 requires the company to inform the shipper every sixty days why the claim hasn't been resolved, if the claim is not resolved within the first one hundred and twenty days.*

*WAC 480-15-830 states that companies must keep all claim records for six years and complaint records for three years after resolution.*

*WAC 480-15-840 informs the company that all complaints and claims must be consecutively numbered and are subject to Commission review.*

**WAC 480-15-860**<sup>12</sup> informs the company what information must be maintained in the complaint or claims records. That information includes: the date the claim or complaint was received; the name, address, and telephone number of the shipper; detailed information about the disputed details of any action you have taken in response to the claim or complaint; and the date the claim or complaint was resolved and a description of the final disposition.

**WAC 480-15-870** tells the company that if it is unable to satisfy the shipper's dispute, it must advise the shipper of the availability of the commission for further review of the complaint or claim.

**WAC 480-15-880** simply tells the company that it must acknowledge all of its customers' correspondence.

Tariff 15-A, the Household Goods Tariff, also lists specific rules regarding the processing of claims in Item 75.

The complete texts of WAC 480-15-800 through WAC 480-15-880, and Tariff 15-A, Item 75, are included in Appendix L.

### **Data Request**

On May 18, 2005, Staff sent Brooks Moving a data request asking for company records and information about the company's policies or processes regarding consumer complaints and damage claims. Staff asked the company to provide:

"A detailed description of the company's policy on responding to customers' complaints and claims, including complaints and claims that cannot be settled. Include examples of correspondence or other documentation related to complaint or claim policies."

In response Brooks Moving stated:

"Brooks A&A Moving acknowledge and consider all written correspondence, complaints and claims

If a customer is not satisfied with our service, we talk with the customer (Hong or Michelle Brooks) and provide the customer with all information and forms necessary to file a complaint or claim.

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<sup>12</sup> WAC 480-15-850 states how to process claims when more than one carrier is involved.

If the customer files a complaint or claim concerning loss or damage or our general service operations, or rates and charges we:

Notify the customer in writing with in ten working days that we have received the complaint.

Investigate the claim quickly

Advise the customer of resolution

If loss or damage claims, we pay the claim, refuse the claim or make a compromise offer within 120 days.

Claims over 120 days old are notified of progress every 60 day period until the claim is settled this is in writing.

Once initial claim is made Michelle Brooks is the responsible officer for complaint resolution, customer relation and documentation on all claims. Michelle Brooks is responsible for maintaining the claims log and coordination of claim between repair representatives and refund coordination. And overseeing that all are done under the time constraints provided by the Washington State Utilities and Transportation Commission noted above.”

### **Audit**

To determine if Brooks Moving complies with WAC rules 480-15-800 through 480-15-880 and Tariff 15-A, Item 75, Staff reviewed Brooks Moving data request responses, the claim files Brooks sent to Staff as part of the data request, and the consumer complaint received in the Commission’s Consumer Affairs Section.

The Commission’s role in consumer complaints or damage claims is not to determine whether a claim is legitimate or justified, but only to ensure companies follow the claim process according to the Commission’s rules. Staff found that Brooks Moving is in compliance with the claim and complaint processing rules.

When a complaint or claim is filed, Brooks Moving appears to make a good faith effort to resolve the complaint.

### **Findings**

Staff finds that Brooks Moving is in compliance with WAC 480-15-800 through WAC 480-15-880.

## **COMMISSION-REFERRED COMPLAINT REQUIREMENTS**

- Commission-REFERRED Complaints

## COMMISSION-REFERRED COMPLAINTS

**WAC 480-15-890** states that if the Commission refers a customer complaint to a household goods company, it must:

(1) Respond with complete investigation results within five business days. However, small businesses, as defined in WAC 480-15-020, must respond within ten business days. In addition, any person may request and commission staff may grant, if warranted, an extension of time for a specific number of days;

(2) Respond to commission staff inquiries regarding the complaint; and

(3) Keep the commission currently informed of any progress made in resolving the complaint.

When a consumer files a complaint with the Commission about a household goods moving company, Staff forwards a summary of the complaint to the company for response. The company is obligated, by rule, to respond to Staff within ten business days<sup>13</sup> and to make a good faith effort to work with Commission Staff to resolve the complaint.

### Audit

In response to the Commission's data request, Brooks Moving responded the Staff's question [give] "a detailed description of the company's policy on responding to Commission-referred customer complaints". The company responded:

"Michelle Brooks is the responsible officer who handles Commission referred customer complaints. I do my best to respond back ASAP. In most cases with a 24-48 hours turn around. We have had one complaint that I remember since we started our company. I understand under the law we have 10 days to respond and must keep the commission informed on progress of the complaint."

The Commission has received one consumer complaint against Brooks Moving. Staff found that the company responded to Commission Staff within the timeframe required by the rule.

### Findings

Brooks Moving is in compliance with WAC 480-15-890.

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<sup>13</sup> A company must respond within 5 days if the company has more than fifty employees.



## **RATES and CHARGES**

- Sales Tax
- Credit Card Processing
- Packing Materials

## **RATES AND CHARGES**

Bills of lading must be complete and list all of the information necessary to determine the proper rates and charges for the move. If the information is incomplete, inaccurate, or not calculated correctly, the company cannot properly bill for the cost of the move.

There are a number of different rates and charges that make up the total bill for a household goods move. The following are specific tariffed rate or charge categories that must be accurately calculated on the bill of lading.

Staff finds Brooks Moving does not complete or properly calculate rates and charges on its bills of lading.

## GENERAL TARIFF RATES AND CHARGES

### **Sales Tax**

WAC 480-15- 490(5), states:

*Who must charge rates contained in the tariff? All household goods carriers must charge the rates and charges, and comply with the rules contained, in the tariff unless the commission has approved, in writing, deviations from the tariff.*

### **Audit**

On December 2, 2004, Commission Staff received a consumer complaint against Brooks Moving for a move that took place in November of 2004. In processing the complaint, Staff noticed that sales tax of 8.9% was charged to the customer.

Household goods moving companies may not charge sales tax on the move, as the tariff rates already have the cost of the tax imbedded in the overall rate structure.<sup>14</sup>

On March 25, 2005, the Commission sent Brooks Moving a letter which states, in part:

“Staff of the Washington Utilities and Transportation Commission (Commission) recently reviewed a customer complaint filed against Book, Inc. d/b/a/ Brooks A&A Moving (Brooks). The complaint record contained a copy of Brooks’ bill of lading form. Staff in the Commission’s Business Practices Investigations section reviewed the bill of lading for compliance with the required in Commission rules and Tariff 15-A.

This letter serves a technical assistance to advise Brooks of the requirements in the rule and to advise that the company’s bill of lading format contains errors that must be corrected immediately...

3) Rates and Charges – WAC 480-15-490(5) requires that all household goods carriers charge the rates and charges and comply with the rules contained in the tariff unless the Commission has approved, in writing, deviations from the tariff. Brooks’ bill of lading contains the following:

- 4% CC (credit card processing fee)
- 8.9% Tax (sales tax)

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<sup>14</sup> Sales tax may be charged, however, for packing materials sold as a retail product.

Credit card processing fees and sales tax are not authorized charges in the tariff and Brooks may not charge for them.

Brooks must revise the bill of lading form immediately to include the correct information as required in the tariff regarding non-binding estimates and valuation options. Brooks must also remove the 4% credit card processing fee and the 8.9% tax spaces from the bill of lading and must charge only the authorized charges listed in the tariff."

Michelle Brooks responded to Staff on March 28, 2005:

"We drafted new Bills and Estimates last year with the appropriate language and charges. It sounds very funny to us that someone is complaining about old bills and estimates that were changed over a year ago and maybe used for 10 customers if that...

We would be happy to accommodate any other changes needed however the ones mentioned were done a year ago."

On March 29, 2005, Staff responded to Ms. Brooks:

"In your email, you state that Brooks revised its bill of lading over a year ago, however, the bill of lading in this complaint was issued only four months ago (November 20, 2004). This bill of lading contains all of the errors in the letter."

Again, on April 2, 2005, Michelle Brooks emailed Staff:

"Sorry for the confusion. Like I stated before we revised our Bill of Landing [sic] with the help of Leon around 09/04 so it has not quite been a year. There should not have been any old ones that had gotten out?? The old one have since been destroyed. Someone must have grabbed the wrong one for this move prior to the disposal of them. I am attaching our electronic file of our current Bill of Lading."

The bill of lading attached to the April 2, 2005 email did not include the sales tax or credit card processing fee spaces on the form.

## **Audit**

Staff reviewed seventy bills of lading issued by Brooks Moving for the month of June, 2005. Staff found the bills of lading used for the moves during that month still contained charges for sales tax. Staff found that Brooks Moving did not change its bill of lading as it stated in both its March and April emails to Staff.

On July 29, 2005, as part of this audit, Staff asked Brooks Moving:

“In April of this year you and our Compliance Specialist Betty Young discussed the format of your bill of lading. You and Ms. Young came to an agreement, among other issues, that you could not charge sales tax or a credit card processing fees, as those charges are not allowed by Tariff 15-A.

Ms. Young's letter to you dated March 25, 2005 stated, in part,

"Credit card processing fees and sales tax are not authorized charges in the tariff and Brooks may not charge for them."

You responded that your bill of lading format had been changed in September 2004 to delete these charges.

In reviewing the four months of bills of lading (January through April 2005), it appears that every bill has a charge for sales tax and where appropriate, a charge for credit card processing.

Can you explain why you have continued to charge these fees when Commission staff notified you it is a violation of Tariff 15-A and Commission rules?"

On July 31, 2005, Michelle Brooks responded:

“Let this email be our response to our violation of Tariff 15-A. (Your email is pasted into this document also)

Yes, We were told by Ms. Young we could not longer charge the credit card processing fee and tax. We then appealed the violations noted. I think you should be able to find that in your records. We were misled by the Department of Revenue who charges us the B&O taxes.

I had forwarded documentation's at that time of the appeal sometime in April to your office. We were lead to believe that "all companies" could itemize their expenses. At that time the compliance officer had a clarification sent to the AG's office due to our confusion.<sup>15</sup>

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<sup>15</sup> On April 25, 2005, Consumer Affairs Staff sent an email to Michelle Brooks stating:

"Hi Michelle:

We worked this complaint some time back. It has been brought to my attention that the sales tax should not be added on the account; that the rates for movers includes the tax. Please advise."

On April 25, 2005, Michelle Brooks responded:

"Our Bill of Lading has been revised to exclude taxes, however Department of Revenue states we can itemize state taxes. We have dropped this issue and revised our bill of lading per your other department. Customer was credited her tax. MB"

On April 26, 2005, Consumer Affairs Staff issued a violation of WAC 480-15-490, stating:

"I have to issue a violation WAC 480-15-490(5) which states that all household goods carriers must charge the rates and charges, and comply with the rules contained, in the tariff unless the commission has approved, in writing, deviations from the tariff. Sales tax isn't an approved charge in the tariff. This complaint is closed but i want you to know that I have issued the vio. Let me know if you dispute."

On April 26, 2005, Michelle Brooks again answered:

"I do dispute this since the Department of Revenue allows companies to itemize their expenses and our rates when tax was charged was below the regulated rate. Reference: Tax Facts (Department of Revenue) 3/2003 'The business and occupation (B&O) tax is a tax on business activities, not a tax on the consumer. It is a cost of doing business in Washington, similar to other business costs incurred, such as labor costs, utilities, insurance or cost of goods sold...' "

On April 28, 2005, Consumer Affairs Staff sent Ms. Brooks another email stating:

Hi Michelle:

Thanks for getting back to me with your thoughts regarding the B+O/sales tax issue and the alleged violation. I am having staff take another look at the issue and will be getting back to you as soon as I have more input. My intention is not to make it hard on you; my job is to interpret and apply the rules fairly.

Again on April 28, 2005, Staff sent a final email which stated to Ms. Brooks:

"Hi Michelle:

I have received a response back from the Attorney General section regarding the application of B and O or any other tax to the rates.

" taxes are a legitimate cost of business, and public service companies are entitled to recover them. However, the rates listed in Tariff 15-A have those costs imbedded. In other words, the company is recovering the tax costs in the the tariffed rate. They should not charge extra amounts over their rates to recover the tax as this would be double recovery" .

I hope this information is helpful to you."

Since then we have been still charging the tax we will not hid or deny that and understand that since this has taken time to revise our practices we will be issued violations. It has taken some time to convince the President of this company to drop these expenses from the Bill of Lading and comply. We will need to revise our rate to meet this new company's needs to maintain and still have room in the budget to pay our B&O and other taxes.”

With this being said our board meets again 8/8/05 to revise these practices, balance our budget and revise our bill of lading once again. It was not our intent to blatantly disregard your orders but to give us time to regroup and keep this new company afloat...”

In spite of being told on April 28, 2005, that charging sales tax was in violation of Commission rules, Brooks Moving knowingly continued to charge taxes on each move.

### **Findings**

Staff found that of the seventy bills of lading issued in June 2005, sixty-nine bills showed that Brooks Moving charged sales tax in violation of WAC 480-15-490, even after the company had been given technical assistance that charging sales tax was in violation of Commission rules.

### **Results**

Staff recommends a penalty of \$100.00 each for sixty-nine violations of WAC 480-15-490, for charging sales tax in violation of Tariff 15-A for a total penalty of \$6,900.00.

Staff recommends Brooks Moving refund all sales taxes charged to moving company customers for all moves after May 1, 2005, where sales tax was charged in willful violation of WAC 480-15-490. All refunds must be sent to customers by no later than March 31, 2006.

### **Credit Card Processing Charge**

As with the violation of WAC 480-15-490 for charging sales tax, Brooks Moving also charged a credit card processing fee of four percent of the cost of the move (plus sales tax) for each credit card accepted for payment.

Again Staff informed the company in the letters and emails quoted above that credit card fees are not authorized in Tariff 15-A or the rules.

### **Findings**

Staff finds that Brooks Moving knew it could not charge a credit card processing fee and chose to charge the fee in spite of being given technical assistance that it was in violation of Commission Rules.

In reviewing all of the bills of lading issued during June of 2005, Staff found five instances where Brooks Moving charged credit card processing fees of four percent.

### **Results**

Staff recommends a \$100.00 penalty each for five violations of WAC 480-15-490, charging a credit card processing fee in violation of Tariff 15-A subject to a penalty of \$500.00.

Staff recommends Brooks Moving refund all sales credit card processing fees charged to moving company customers for all moves after May 1, 2005, where the fee was charged in willful violation of WAC 480-15-490. All refunds must be sent to customers by no later than March 31, 2006.



**Packing Materials**

A company must charge tariff rates for any containers, cartons, or packing materials used when moving a customer’s goods. Item 225 of Tariff 15-A lists the prices for containers when used during an hourly-rated move.

**Audit**

Staff reviewed seventy bills of lading for June 2005, for compliance with container, carton, and material charges.

Staff found that Brooks Moving did not charge for any containers, cartons, or materials for any moves conducted in June 2005. As Staff found it unusual that a company would not bill for any cartons or materials during seventy moves, Staff also reviewed Brooks bills of lading for January, March, and April 2005. Staff found that none of those bills had charges for containers or materials either.

**Findings**

Staff found that while the bills of lading do not show that customer were charged for containers, cartons, materials, or other packing items, the internal company documents sent in with the bills of lading referred to as “Estimate Sheet<sup>16</sup>”, contain notes that refer to packing materials.

Date	Bill of Lading #	Statement on Estimate
April 6	7881	Bring 3 wardrobes
June 3	8346	Bring 4-5 wardrobe boxes + bring few boxes
June 23	8429	4-5 wardrobe boxes
June 23	8426	May need some packing, bring 50 boxes misc. sizes, 4-6 wardrobes, bring boxes
June 26	8445	4 wardrobes
June 28	8000	Bring wardrobes

It appears that Brooks Moving is supplying materials to customers during a move and not charging the correct tariff charges for the materials or containers.

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<sup>16</sup> Brooks Moving explains the Estimate Sheet as “There is a booking sheet attached to each bill of lading. This, as my summary sent with those documents states this is not an estimate although it is titled "estimate sheet" it is a telephone question sheet for info on a move. The customer never receives a copy of this it does have "estimated time" on the bottom but it is used only for scheduling purposes not a customer estimate.

A household goods moving company may not supply containers, materials, or packing supplies at a free or reduced rate. If materials are supplied, Brooks must charge the customer in compliance with Item 225 of Tariff 15-A.

**Findings**

Staff considers this audit as the company's technical assistance for material and container charge requirements in Item 225 of Tariff 15-A. If future violations are found, penalties or other sanctions may be imposed.

**Recommendation**

Brooks Moving must charge for all materials listed in Tariff 15-A, Item 225, if they are used in a move. All materials or contain items and charges must be listed on the bill of lading.

## SUMMARY OF RECOMMENDATIONS

The following are Staff recommendations for the issuance of penalties:

One hundred and ten violations of WAC 480-15-550 for failure of Brooks Moving to obtain cargo insurance coverage for its moving operations for one hundred and ten days after it received operating authority, subject to a penalty of \$11,000.00.

Seventy violations of WAC 480-15-730 and Tariff 15-A, Item 95, for failure of Brooks Moving to use a bill of lading format in compliance with WAC 480-15-730 and Tariff 15-A, subject to a penalty of \$7,000.00.

Seventy violations of WAC 480-15-740 and Tariff 15-A, Item 95, for failure of Brooks Moving to properly complete the bill of lading to ensure that it shows all information necessary to determine the proper tariff rates and charges in compliance with WAC 480-15-740 and Tariff 15-A, subject to a penalty of \$7,000.00.

Sixty-nine violations of WAC 480-15-490, for Brooks Moving charging sales tax in violation of Tariff 15-A, subject to a penalty of \$6,900.00.

Five violations of WAC 480-15-490, for Brooks Moving charging a credit card processing fee in violation of Tariff 15-A subject to a penalty of \$500.00.

The following are Staff recommendations for issuance of customer refunds:

Brooks Moving refund all sales credit card processing fees charged to moving company customers for all moves after May 1, 2005, where the fee was charged in willful violation of WAC 480-15-490. All refunds must be sent to customers by no later than March 31, 2006.

Brooks Moving refund all sales taxes charged to moving company customers for all moves after May 1, 2005, where sales tax was charged in willful violation of WAC 480-15-490. All refunds must be sent to customers by no later than March 31, 2006.