

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the
Proper Carrier Classification of, and
Complaint for Penalties Against:

LUGG, INC.

DOCKET TV-200029

ORDER 01

ORDER INSTITUTING SPECIAL
PROCEEDING; COMPLAINT
SEEKING TO IMPOSE PENALTIES

and

NOTICE OF PREHEARING
CONFERENCE

(Set for August 5, 2020, at 9:30 a.m.)

1 The Washington Utilities and Transportation Commission (Commission) on its own
motion, and through its regulatory staff (Staff), alleges as follows:

I. PARTIES

2 The Commission is an agency of the state of Washington authorized by statute to regulate
the rates, services, facilities, and practices of public service companies, including
common carriers, household goods carriers, and solid waste collection companies.

3 Lugg, Inc., (Lugg or Company) is a Delaware corporation conducting business in the
State of Washington. Lugg has not registered with the Washington Secretary of State as a
foreign entity as required by law. Nor has Lugg registered with the Washington State
Department of Revenue.

II. BACKGROUND

4 In 2019, Staff began investigating Lugg’s activities after discovering evidence of its
operations.

5 On September 12, 2019, Staff sent Lugg’s compliance department a letter stating that
Staff had information that the Company was “conducting household goods moves within
the state of Washington” and advertising to provide those moves on its website. Staff
informed Lugg that such moves required a permit. Staff warned Lugg that operating as a
household goods carrier, including advertising household goods moving services, without
first obtaining the requisite permit would subject the Company to penalties. Staff notified
Lugg that the Commission could initiate enforcement action unless the Company brought

itself into compliance, invited Lugg to apply for a permit, provided a link for the Company to obtain a permit application, and provided Staff's contact information so that the Company could obtain technical assistance if needed.

6 Staff received no reply to its letter, and Lugg did not apply for a household goods carrier permit.

7 On December 4, 2019, Staff sent Lugg a second letter addressed directly to Jordan Brown, one of the Company's co-founders and its current Chief Executive Officer. Staff summarized for Jordan Brown the information set out in the September letter, including that Staff had determined that; (1) Lugg was operating as a household goods carrier in Washington without a permit, (2) such operations were illegal and subject to penalties, and (3) the Commission could initiate enforcement action unless Lugg complied with the relevant laws. The letter again provided a link for Lugg to obtain the application for a household goods carrier permit and Staff's contact information to allow Lugg to receive technical assistance.

8 Staff again received no reply to its letter, and, to date, Lugg has not applied for a household goods carrier permit.

9 Lugg's customers procure its transportation services using its software application (app). To do so, customers choose the type of moving service they need, enter the pick-up and delivery locations, choose a date and time for the transport, and provide any special instructions for the move. Lugg then provides a price quote for the transport. Customers provide Lugg with their debit or credit card information when scheduling the move; Lugg charges the card after the delivery is complete. If a customer cancels the transport, the company does not charge them.

10 On December 23, 2019, Staff obtained from Lugg an offer to transport household goods between two points in Washington on January 6, 2020. Specifically, Staff obtained from Lugg a quote for "[m]oving [a] 2 bedroom, 2 bath[room] apartment to another apartment." The quote included the transport of a "[c]ouch," a "55[-inch] TV," and a "queen mattress with headboard," along with other "standard stuff." Lugg quoted a price of \$194 plus \$2 per minute of labor. The quote included an image showing two men in Lugg shirts standing in front of a van with a cargo hold that was marked with specified dimensions.

11 On January 17, 2020, Staff emailed Jordan Brown. In the email, Staff summarized its two previous letters to Lugg, again stating that the Company was operating as a household goods carrier without a permit, subjecting the Company to enforcement action. Staff explained that Lugg was also advertising to haul solid waste and to transport property other than household goods and that these operations also required authority from the Commission. Staff informed Jordan Brown that the email was its "final attempt to make

contact before the [C]ommission pursues enforcement action” and, as before, provided Staff’s contact information.

12 Jordan Brown provided the following response to Staff’s email on February 4, 2020:

When we first received your notice, we stopped accepting any household goods/waste removal/common carrier requests from customers in the state of Washington. We have stopped advertising it on the Seattle webpage.

We are currently in the process to become compliant with the proper permits as we have in place in other states where we service.

13 Staff responded to Jordan Brown’s email three days later. Staff noted that, despite the Company’s representations, Lugg continued to advertise that it provided service in the greater-Seattle area. Staff also apprised the Company that Lugg’s website continued to offer estimates for the transport of household goods between points in Washington. Staff again reiterated that it was unlawful to operate as a household goods carrier, common carrier, or solid waste hauler without first obtaining authority to do so from the Commission, and that companies operating without such authority were subject to penalties. Staff informed Lugg that it would take enforcement action if Lugg did not offer evidence that it had cease advertising and offering to perform services in Washington as a household goods carrier, a common carrier, and a solid waste hauler.

14 Staff received no response to its second email to Jordan Brown.

15 Lugg has not applied for operating authority as a result of Staff’s technical assistance. As such, Lugg does not hold, nor has it ever held, a household goods carrier permit, a common carrier permit, or a certificate of convenience and public necessity that would allow it to operate for the hauling of solid waste.

16 In March 2020, Staff used Lugg’s app to book the transport of household goods between points in Federal Way, Washington, and Tacoma, Washington, on April 7, 2020. Specifically, Staff requested that Lugg transport the contents of a “1 bedroom apartment,” namely a “[c]ouch, [d]resser, nightstand, coffee table” and “approx. 12 medium boxes,” as well as a “[q]ueen bed (mattress, frame, and headboard).” Lugg quoted a price of \$190 plus \$2.30 per minute of labor by its crew for the transport.

17 Lugg, on its website, identifies itself as providing transportation services. The “home” tab, for example, shows two men in t-shirts emblazoned with the word “LUGG.” Text adjacent to that picture states that “[e]very Lugg comes with 2 strong professional luggers who are vetted for a 5-star experience. They will do the impossible to load, haul and deliver your items safely.” On its “FAQ” tab, Lugg answers the question “[w]hat is Lugg” by stating that “Lugg connects you to a truck and two movers, ready to move your

stuff within the hour or up to 30 days from now. We'll move anything for you as long as it fits in a truck." On its "FAQ" tab, Lugg also explains that "our Luggers have moving dollies, moving blankets, stretch wrap, and other moving materials to ensure the safety of your items."

- 18 Lugg's "services" tab provides more specificity about the types of transport the Company will provide.
- 19 One of the pages under Lugg's "services" tab advertises "small moves," which allow customers to use Lugg's services to "[m]ove into your apartment with a tap." Lugg explains that it "move[s] it all" and offers suggestions on the size of the vehicle customers should request based on the types of items they seek to move: a pickup truck for a "sofa or just some boxes;" a van for "[a] room full of stuff such as a living room, dining room, or bedroom;" or an extra-large van for "moving your whole apartment." A link on the page allows customers to request a quote for these services.
- 20 Another page under the services tab advertises "storage moves." That service allows customers to engage Lugg for "[p]ick up and delivery to and from storage." Lugg specifies that it will "haul . . . and deliver anything" from a "storage unit" to any point of the customer's choice. A link on the page allows customers to obtain a quote from Lugg for the provision of this service.
- 21 A third page under Lugg's services tab advertises "store delivery." That service allows customers to hire Lugg for "[s]tore delivery in under an hour." Lugg states that it will deliver "[a]nything," and provides a non-exclusive list of 24 major retailers whose products it will deliver. In describing its service, Lugg announces "[w]e pickup your items" and also "[w]e deliver [those items] into your home." Indeed, Lugg explains "[w]e place your items right where you want them." The page contains a link allowing customers to request a quote for the provision of this service from Lugg.
- 22 A fourth page under the "services" tab offers "[j]unk removal with a tap." On that page, Lugg advertises that it will "send a truck and movers that same day to remove and haul away your junk to the nearest transfer station" and also that it is "happy to clear out" certain recyclables for customers. Lugg makes similar statements on its FAQ page. Lugg advises potential customers to take the closing time of nearby dumps or recycling stations into "account when . . . select[ing] a pick up time" and explains that Lugg will add the transfer station's tipping fee or the recycling center's fee to the customer's bill. Again, Lugg makes similar statements on its FAQ page. The page includes a tool allowing customers to obtain a quote for this particular service.
- 23 Lugg states that it will provide transport services in the state of Washington in two places on its website. First, on its "cities" tab, Lugg shows a picture of downtown Seattle, including the Space Needle, with text explaining that it serves "Seattle" and other nearby

communities, including “Bellevue, Tacoma, Downtown, [and] Lynnwood.” Clicking on that link allows customers to view a list of more than 60 Washington cities and Seattle neighborhoods served by Lugg. Second, on its “FAQ” tab, Lugg answers the question “[w]hat area does Lugg cover” by including Seattle. That answer includes a link to the “cities” tab on Lugg’s website.

- 24 Lugg also states that it insures the loads it moves in multiple places on its website. On its small-moves page, Lugg announces that it provides “[p]eace of mind” for such moves because it is “licensed and insured,” noting its “multi-million dollar insurance policy.” On its storage-moves page, Lugg again references its “multi-million dollar insurance policy,” stating that the policy will protect customers’ goods “from the moment your items are in [Lugg’s] hands.” On its FAQ page, Lugg answers the question “My building requires moving companies to provide a Certificate of Insurance for a specified amount. Can Lugg work with it?” with the statement “Yes! Please send us an email at support@lugg.com for a copy of our insurance certificate that you can provide for your building.”
- 25 Lugg advertises its services on platforms other than its website.
- 26 On the Seattle Craigslist page, Lugg states, “Hey Seattle . . . Our team will move anything on-demand. Anytime + Anywhere!” The Company later announces that “[i]f it fits in a truck, we’ll move it!” The page provides links to obtain Lugg’s app and finishes by listing the services advertised on its webpage, namely “[s]ame-[d]ay [s]tore [d]eliveries[,] . . . [s]torage [m]oves[,] . . . [a]partment [m]oves[, and] . . . [j]unk [r]emoval.”
- 27 Lugg also advertises its transport services on its Facebook page. That page’s “home” tab identifies Lugg as a “[h]ome [m]over – [i]nternet [c]ompany” and provides a link to Lugg’s website. On that same tab, Lugg provides that “[m]oving & [d]elivery in Seattle just got a whole lot easier.” On the page’s “about” tab, Lugg announces that it “instantly connects you to our personal movers and a truck” so that customers “[d]on’t spend [their] Saturday moving.”
- 28 On its Instagram page, Lugg identifies itself as a “[h]ome [m]over.” Another statement on the Instagram page gives a more expansive view of the services Lugg provides: in it Lugg states that it will, in fact, “[m]ove [a]nything.” The Company also specifically states that its services are “[a]vailable in . . . SEA.”
- 29 On its Twitter page, Lugg describes the service it provides by inviting customers to “[m]ove anything, anytime, anywhere.” On the page, Lugg states “[w]e’re now lugging in Seattle and are loving the PNW! Download the app and leave the heavy lifting to us!”

- 30 On its Pinterest Page, Lugg describes itself as “[y]our on-demand mover.” Lugg informs customers that if they “[r]equest Lugg” they will be “instantly connect[ed] to a truck and 2 movers.” The page provides a link to Lugg’s app page in the Apple Store.
- 31 Lugg’s Apple Store page describes the Company as providing “[m]oving & [d]elivery.” The page again advertises the types of transport found on the “services” tab of Lugg’s webpage, including [s]mall [a]partment [m]oves[,] . . . [r]etail [s]tore [d]elivery[,] . . . [j]unk removal[, and] . . . [s]torage [m]oves.” The page notes that those using Lugg’s app get a “instant, guaranteed” price and invites customers to use it to “[s]ay hello to your personal movers ready to load, haul and deliver anything for you.”
- 32 Lugg has claimed its Seattle Yelp Page. That page identifies Lugg as providing “[j]unk [r]emoval & [h]auling, [m]overs, [c]ouriers & [d]elivery [s]ervices.” Under the “[s]ervices [o]ffered tab,” the page lists “[f]urniture removal[,] [l]arge & [h]eavy [i]tem moving[,] [m]attress [r]emoval[,] [f]urniture [m]oving[,] . . . [l]ocal [m]oving[,] [and] [r]esidential [s]ervices.” A map displayed on the page shows Lugg as serving the Seattle-Tacoma area; the page also links to the Seattle page on the “cities” tab on Lugg’s website.

III. JURISDICTION

- 33 The Commission has jurisdiction over the subject matter of this complaint under RCW 80.01.040, RCW 80.01.060, RCW 81.01.010, RCW 81.04.020, RCW 81.04.110, RCW 81.04.160, RCW 81.04.460, RCW 81.04.510, chapter 81.77 RCW, chapter 81.80 RCW, and chapter 34.05 RCW.

IV. APPLICABLE LAWS AND REGULATIONS

- 34 Household goods carriers, freight carriers, and solid waste collection companies are common carriers. RCW 81.04.010(11). For the purposes of Title 81 RCW, every common carrier is a public service company, RCW 81.04.010, and therefore subject to Commission regulation. *See* RCW 80.01.040(2); RCW 81.01.010.
- 35 Under state law, the definition of “household goods carrier” includes a person who “advertises, solicits, offers, or enters into an agreement to transport household goods” as defined by the Commission within the state of Washington. RCW 81.80.010(5).
- 36 The term “person” encompasses firms as well as an individuals. RCW 81.04.010(6). Specifically included in this term are companies, corporations, and partnerships. WAC 480-15-020.

- 37 The Commission defines household goods as “the personal effects and property used, or to be used, in a residence” in the context of transportation from one residence to another, or to a storage facility. WAC 480-15-020.
- 38 No person may engage in business as a household goods carrier within the state of Washington without first obtaining a household goods carrier permit from the Commission. RCW 81.80.075(1).
- 39 Any person who engages in business as a household goods carrier in the state of Washington without the required permit is subject to a penalty of up to five thousand dollars per violation. RCW 81.80.075(4). If the basis for the violation is advertising, each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation. RCW 81.80.075(4)(a).
- 40 In the context of motor freight carriers, the term “[c]ommon carrier” means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules.” RCW 81.80.010(1).
- 41 The term “person” includes corporations. RCW 1.16.080(1); *see* RCW 81.04.010(6).
- 42 No motor freight common carrier may operate for the transportation of property for compensation in Washington without first obtaining a permit from the Commission. RCW 81.80.070(1).
- 43 No person may display on any building, vehicle, billboard, or in any manner, any advertisement of, or by circular, letter, newspaper, magazine, poster, card, or telephone directory, advertise the transportation of property for compensation without first having obtained a permit authorizing him or her to operate as a common carrier. RCW 81.80.355.
- 44 The general penalty provisions in chapter 81.04 RCW apply to violations of the provisions of chapter 81.80 RCW unless those provisions specify otherwise. RCW 81.80.360. Chapter 81.04 RCW prescribes penalties of up to \$1,000 for each and every violation of the public service laws by a public service company. RCW 81.04.380.
- 45 No solid waste collection company may operate for the hauling of solid waste for compensation without first obtaining a certificate of public convenience and necessity from the Commission. RCW 81.77.040.
- 46 Under state law, a “[s]olid waste collection company” means every person . . . owning, controlling, operating, or managing vehicles used in the business of transporting solid

waste for collection or disposal, or both, for compensation, except septic tank pumpers, over any public highway in this state as a ‘common carrier’ or as a ‘contract carrier.’” RCW 81.77.010.

47 The term “person” includes corporations. WAC 480-70-041; *see* RCW 81.04.010(6).

48 “Solid waste” includes “all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, [and] abandoned vehicles;” solid waste does not include recyclable materials “except for source separated recyclable materials collected from residences.” RCW 70.95.030(22); RCW 81.77.010(9).

49 “Operating for the hauling of solid waste for compensation includes advertising, soliciting, offering, or entering into an agreement to provide” such services. RCW 81.77.040.

50 Any solid waste collection company operating for the hauling of solid waste for compensation without the necessary certificate is subject to a penalty of up to \$1,000 per violation. RCW 81.04.380. Where the alleged violation concerns advertising, each advertisement reproduced, broadcast, or displayed by a particular medium constitutes a separate violation. RCW 81.77.090(2).

51 The Commission is authorized to file a complaint on its own motion setting forth any act or omission by any public service company that violates any law or any order or rule of the Commission. RCW 81.04.110.

52 Where the Commission believes that a person is engaged in operations without the necessary permit or certificate, it may institute a special proceeding to adjudicate the issue. RCW 81.04.510.

53 If the Commission institutes a special proceeding and determines that a person is operating without the necessary permit or certificate, it is authorized and directed to order the person to cease and desist from such operations. RCW 81.04.510.

V. FIRST CAUSE OF ACTION

54 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 53 above.

55 The Commission alleges that Lugg violated RCW 81.80.075 a total of 10 times by engaging in business as a household goods carrier without first having obtained a permit from the Commission. Specifically, Lugg advertised to transport household goods by

motor vehicle within Washington for compensation on its website, Craigslist, Facebook, Instagram, Twitter, Pinterest, the Apple Store, and its Seattle Yelp page. Lugg also offered to transport household goods over the public highways for compensation by providing Staff with quotes to perform such transport.

VI. SECOND CAUSE OF ACTION

56 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 53 above.

57 Lugg violated RCW 81.80.355 a total of eight times by advertising for the transportation of property within this state without first having obtained from the Commission a common carrier permit. Specifically, Lugg advertised for the transport of property by motor vehicle within Washington for compensation on its website, Facebook, Instagram, Twitter, Craigslist, Pinterest, the Apple Store, and Lugg's Seattle Yelp page.

VII. THIRD CAUSE OF ACTION

58 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 53 above.

59 Lugg violated RCW 81.77.040 four times by operating for the hauling of solid waste without first having obtained from the Commission a certificate of public convenience and necessity. Specifically, Lugg advertising to haul solid waste by motor vehicle within Washington for compensation on its website, Craigslist, its page in the Apple Store, and its Seattle Yelp page.

VIII. REQUEST FOR RELIEF

60 Staff requests that the Commission, pursuant to its authority under RCW 81.04.380 and RCW 81.80.075, assess penalties of up to \$5,000 against Lugg for each violation of RCW 81.80.075.

61 Staff also requests that the Commission, pursuant to its authority under RCW 81.04.380 and RCW 81.80.360, assess penalties of up to \$1,000 against Lugg for each violation of RCW 81.80.355.

62 In addition, Staff requests that the Commission, pursuant to its authority under RCW 81.04.380 and RCW 81.77.090, assess penalties of up to \$1,000 against Lugg for each violation of RCW 81.77.040.

63 Staff further requests that the Commission order Lugg to cease and desist activities
subject to regulation under Title 81 RCW until it has obtained the necessary authority
from the Commission.

64 Finally, Staff requests that the Commission order such other or additional relief as is
appropriate under the circumstances.

IX. PROBABLE CAUSE

65 Based on a review of the Staff Investigation Report documenting the violations alleged
above, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds
probable cause exists to issue this Complaint.

VIII. NOTICE OF PREHEARING CONFERENCE

66 The Commission will hear this matter under the Administrative Procedure Act (APA),
particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA
that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW
34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The
Commission will also follow its procedural rules in WAC 480-07 in this proceeding.

67 **THE COMMISSION GIVES NOTICE** That it will hold a prehearing conference in this
matter at 9:30 a.m. on August 5, 2020, in the Commission's Hearing Room, located at
621 Woodland Square Loop SE in Lacey, Washington.

68 The purpose of the prehearing conference is to consider requests for intervention, resolve
scheduling matters including establishing dates for distributing evidence, identify the
issues in the proceeding, and determine other matters to assist the Commission in
resolving the matter, as listed in WAC 480-07-430.

69 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in
writing at least three business days before the date of the prehearing conference. *See*
WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the
conference, but strongly prefers written petitions to intervene. Party representatives must
file a notice of appearance with the Commission no later than the business day before the
conference. *See* WAC 480-07-345(2). Parties with more than one representative must
identify one individual as the "lead" for purposes of official service. Any party or witness
in need of an interpreter or other assistance should fill out the form attached to this notice
and return it to the Commission. The Commission will set the time and place for any
evidentiary hearings at the prehearing conference, on the record of a later conference or
hearing session, or by later written notice.

70 **THE COMMISSION GIVES NOTICE** that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.

71 The names and mailing addresses of all known parties and their known representatives are as follows:

Carrier: Lugg, Inc.
487 Bryant St. 3rd Floor
San Francisco, CA 94107

Registered Agent Corporation Service Company
251 Little Falls Drive
Wilmington, DE 19080

Representative Unknown

Complainant: Washington Utilities and Transportation Commission
621 Woodland Park Loop SE
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representatives: Jeff Roberson and Daniel Teimouri
Office of the Attorney General
621 Woodland Park Loop SE
P.O. Box 40128
Olympia, WA 98504-7250
(360) 664-1188
jeff.roberson@utc.wa.gov
(360) 664-1189
daniel.teimouri@utc.wa.gov

72 Administrative Law Judge Michael Howard, from the from the Commission's Administrative Law Division, will preside during this proceeding.¹

¹ Judge Howard can be reached at michael.howard@utc.wa.gov or (360) 664-1139.

73 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Lacey, Washington, and effective April 22, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Rayne Pearson
RAYNE PEARSON
Administrative Law Director

Inquiries may be addressed to:

Mark L. Johnson
Executive Director and Secretary
621 Woodland Square Loop S.E.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out and return this form to:

Washington Utilities and Transportation Commission
Attention: Mark L. Johnson
P.O. Box 47250
Olympia, WA 98504-7250

(PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone (_____) _____