

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET NO. TV-051608
Against)	
)	ORDER NO. 02
)	
ADVANCE RELOCATION EXPERT, LLC, d/b/a A.R.E.)	FINAL ORDER DENYING ADMINISTRATIVE REVIEW; GRANTING, IN PART, MITIGATION OF PENALTIES; MODIFYING INITIAL ORDER
.....)	

1 **Synopsis:** *This order denies a petition for administrative review seeking further mitigation of penalties assessed against Advance Relocation Expert, LLC. The Commission modifies the initial order to extend the time allowed for payment of penalties.*

2 **Nature of Proceeding.** This matter is a request for mitigation of penalties assessed by the Commission against Advance Relocation Expert, LLC, d/b/a A.R.E. (Advance Relocation) for alleged violations of the Commission’s rules and tariff governing transportation of household goods.

3 **Appearances.** Commission Staff is represented by Assistant Attorney General Jennifer Cameron-Rulkowski. Advance Relocation is represented by its owner, Austine Thompson.

4 **Procedural history.** On November 1, 2005, the Commission assessed penalties against Advance Relocation in the amount of \$2,100.00, including a \$100 penalty for each of 21 alleged violations of the provisions of WAC 480-15, which requires household goods movers to: 1) conduct operations under the name shown on the company’s household goods permit (WAC 480-15-390);¹ 2) revise non-binding estimate forms to include the required section for remarks (WAC 480-15-

¹ The text of the rules and Tariff 15-A is found in Exhibit 3, p. 28 *et seq.*

490(5) and Tariff 15-A);² 3) include on bills of lading the name of the consignee (480-15-490(5) and Tariff 15-A);³ 4) show charges on the bill of lading that accurately reflect the rates contained in the tariff (WAC 480-15-490(5) and Tariff 15-A);⁴ and 5) show on the bill of lading the exact address at which a shipment, or any part of a shipment, was loaded or unloaded (WAC 480-15-740(3) and Tariff 15-A).⁵

5 On November 8, 2005, Advance Relocation filed an Application for Mitigation of Penalties asking that the Commission dismiss or waive the penalties assessed against the company. The request was heard on December 19, 2005, at Olympia, Washington before Administrative Law Judge Theodora M. Mace.

6 On January 26, 2006, the administrative law judge entered an initial order proposing that the penalties be mitigated by \$200 and that the remaining penalties be payable over one year on a schedule to be determined by agreement between the carrier and the Commission Staff.

7 **Petition for Administrative Review.** Advance Relocation filed a timely petition for administrative review, asking that the remaining \$1900 in penalties be mitigated. Advance argues that it is taking steps to cure the violations in question and that its income from regulated activity is so low that payment of the full amount would put it out of business.

8 **Answer to Petition.** Commission Staff responds that the carrier concedes that the violations occurred, and urges that the penalties not be further mitigated. Staff suggests, however, that the payment period for penalties be extended from the twelve months recommended in the initial order to eighteen months.

² *Id.*, pp. 28-29; 32-37.

³ *Id.*

⁴ *Id.*

⁵ *Id.*, pp. 31-37.

- 9 **Discussion and decision.** The record demonstrates that the carrier was audited and that Commission Staff identified violations including use of the proper carrier name, proper tariff rates, and proper consignee names and addresses. The carrier produced a compliance plan to halt violations. On a later audit, Commission Staff found the violations that are the subject of these penalties. The carrier does not challenge the violations, nor that they represent violations of the same requirements identified in the prior audit.
- 10 In its petition for mitigation, the carrier identified steps it has recently taken to make its records and its forms consistent and to come into complete compliance. We agree with Commission Staff's response that this is good news. However, this carrier had an earlier opportunity to make these changes but did not. Therefore, we do not think that mitigation is proper.
- 11 The carrier also argued that it conducts little business and that if required to pay the penalty at once, it would be forced out of business. The carrier asks for an extension of the payment period to 24 months. Commission Staff suggests that the pay period of one year proposed in the initial order be extended for an additional six months. We agree with this suggestion, and modify the initial order to extend the payment period. We are concerned that the 24 months the carrier proposes would unduly extend the payment period and note that the difference in payments would be relatively small – approximately \$26.
- 12 Commission Staff and Advance Relocation Expert must file an agreed proposed payment schedule in this docket within 30 days after the Commission enters this Order.
- 13 **Conclusion.** The Commission modifies the initial order, finding that a payment period of eighteen months is reasonable under the carrier's circumstances and concluding that Commission Staff and the carrier should develop an agreed payment plan of no longer than eighteen months. In all other respects, the

Commission affirms and adopts the initial order, and the findings of fact and conclusions of law contained therein.

ORDER

THE COMMISSION HEREBY ORDERS THAT:

- 14 The Commission modifies the initial order to provide for payment period of eighteen months. In other respects, the Commission affirms and adopts the initial order.
- 15 The Commission mitigates the penalty of \$2,100 assessed against Advance Relocation in the amount of \$200 and thereby reduces the penalty to \$1,900, to be paid according to the terms of a time payment plan over a period not exceeding eighteen months, agreed to between staff and the company and submitted to the Commission within 30 days of the final order in this proceeding.

DATED at Olympia, Washington and effective this 6th day of March, 2006.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Mark H. Sidran, Chairman

Patrick J. Oshie, Commissioner

Philip B. Jones, Commissioner

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