

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of	DOCKET TV-180213
CAMERON BREWER d/b/a RELIANCE MOVING	ORDER 01
For a permit to operate as a motor carrier of household goods.	DENYING REQUEST FOR EXEMPTION; DENYING APPLICATION FOR HOUSEHOLD GOODS PERMIT

**BACKGROUND**

- 1 On March 9, 2018, Cameron Brewer d/b/a Reliance Moving (Mr. Brewer or Applicant) filed with the Washington Utilities and Transportation Commission (Commission) an application for authority to operate as a household goods carrier in the state of Washington (Application). Mr. Brewer signed the Application and included with it a business license number, USDOT number, registration with the Department of Labor and Industries, registration with the Employment Security Department, and proof of insurance.
- 2 On March 20, 2018, the Commission issued a Notice of Intent to Deny Application for Permanent Authority; Notice of Opportunity for Hearing (Notice) based on Commission staff's (Staff) review and investigation of the Application. The Notice included the following factual allegations:
  - After receiving the Application, Staff generated a "LexisNexis" comprehensive background check report for Mr. Brewer, which listed twelve criminal offenses that took place in Riverside County, California;
  - Staff searched the Riverside County Superior Court public access case website and learned that, Mr. Brewer pled guilty to one charge of Petty Theft on August 1, 2017;
  - The Application signed by Mr. Brewer did not list the California Petty Theft conviction;
  - Staff then contacted Mr. Brewer about the omission, and Mr. Brewer explained he had forgotten about the conviction; and
  - Staff allowed Mr. Brewer to amend his Application to list the conviction.

Staff recommended that the Commission deny the Application because Mr. Brewer was convicted of Petty Theft within five years of the date of the Application. The Notice provided Mr. Brewer an opportunity to request a hearing to contest the allegations set out in the notice by April 9, 2018.

3 On April 5, 2018, Mr. Brewer filed with the Commission a Request for Hearing. The Commission noticed the matter as a brief adjudicative proceeding and convened a hearing before Administrative Law Judge Laura Chartoff on May 15, 2018, at 9:30 a.m.

4 At the hearing, Mr. Brewer testified that he moved from Corona, California, to Bellingham, Washington about two years ago. After relocating, he received a letter in the mail from Riverside Court stating that he was charged with petty theft and that a warrant had been issued for his arrest. Mr. Brewer testified he had no knowledge of the alleged crime, but that he needed to quash the warrant in order to obtain his Washington Driver's license. Because financial and family constraints prevented him from returning to California to contest the charge, he retained an attorney to quash the warrant and pled guilty to the charge.

5 Mr. Mike Dotson, transportation specialist, testified for Staff. After hearing Mr. Brewer's testimony, Staff departed from its original recommendation. Staff characterized Mr. Brewer's testimony as a request for an exemption from WAC 480-15-302(8)(a),<sup>1</sup> which provides that the Commission will not grant provisional household goods authority if the applicant has been convicted of any crime involving theft within the past five years. Staff recommended the Commission grant the exemption because the charge was "minimal" and therefore should not prevent Mr. Brewer from obtaining a household goods permit.

6 Following the hearing, the Commission issued a bench request asking the parties to explain in detail how the facts in this case satisfy the standard set out in Washington Administrative Code (WAC) 480-07-110 and WAC 480-15-035 for granting an exemption to Commission rules WAC 480-15-302(2) and (8)(a). Both parties filed responses to the bench request.

7 Staff explained in its response that it originally recommended at hearing that the Commission grant Mr. Brewer's request for exemption based on Mr. Brewer's testimony regarding the crime, the conviction, and the effects of that conviction. However, upon further review, Staff now recommends the Commission deny the Application. Staff

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<sup>1</sup> WAC 480-15-302 and WAC 480-15-305 contain identical language related to the criteria the Commission considers when evaluating applications for provisional and permanent household goods carrier authority, respectively. For ease of reference, we refer only to WAC 480-15-302 and its subsections.

argues that Mr. Brewer was convicted of a theft offense within five years of the date of Application and that he appears to have testified inaccurately about several matters related to that conviction. For example, Mr. Brewer failed to disclose that the Riverside County Superior Court sentenced him to a three-year term of summary probation on August 1, 2017, which will remain in place until July 31, 2020.

8 In Mr. Brewer's response to the bench request, he argues that WAC 480-15-302(8)(a) imposes an undue hardship on him because he and his wife have already invested significant sums in the Company, and that he needs this business in order to provide for his family. Mr. Brewer argues that he meets all of the other criteria for a household goods carrier permit. In addition, Mr. Brewer argues that granting him a permit is in the public interest because he intends to operate the business lawfully and to follow all Commission regulations. Mr. Brewer feels that a minor theft charge should not bar him from receiving a permit.

9 Finally, Mr. Brewer responded to Staff's assertion that he testified inaccurately about several matters related to the conviction. Mr. Brewer stated that any inaccuracies in his testimony were unintentional. Mr. Brewer explained that he had little direct contact with his attorney during the proceedings, and did not fully understand the forms that he received from his attorney. He claims he was confused about the definition of "summary probation."

10 Jeff Roberson, Assistant Attorney General, Olympia, Washington, represents Commission Staff. Cameron Brewer, Owner, Bellingham, Washington, represents Cameron Brewer d/b/a Reliance Moving.

### DISCUSSION

11 We deny Mr. Brewer's request for an exemption from WAC 480-15-302, and thus deny the Application, for the reasons discussed below.

12 WAC 480-15-302 lists the Commission's criteria for granting authority to engage in business as a household goods carrier. As relevant here, WAC 480-15-302(8) explains that Staff will complete a criminal background check on each person named in an application for a household goods company permit. WAC 480-15-302(8) further states:

(a) The commission will not grant provisional authority if any named person has, within the past five years, been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance.

13 The rule establishes a bright line test: if any person named in the application has been convicted within the past five years of any of the specified offenses, the Commission will not approve a permit application. In this case, Mr. Brewer was convicted of petty theft in 2017, which is a “crime involving theft.” Therefore, the Commission may not approve Mr. Brewer’s Application unless the Commission grants an exemption from the rule.

14 WAC 480-07-110 provides that the Commission “may grant an exemption from, or modify the application of, any of its rules in individual circumstances if the exemption or modification is consistent with the public interest, the purposes underlying regulation, and applicable statutes.”<sup>2</sup> The Commission applies the following standard in determining whether to grant an exemption from Commission rules:

The commission uses the public interest standard to determine whether to grant an exemption from, or modification to, a commission rule. Factors the commission may consider in making this determination include whether the rule imposes an undue hardship on the requesting person of a degree or a kind different from hardships imposed on other similarly situated persons, and whether the effect of applying the rule to the requesting person would be contrary to the underlying purposes of the rule and the public interest.

15 Mr. Brewer argues that application of the rule would impose an undue hardship on him because he invested his savings in the Company, and he needs the income from the business to support his family. As stated above, our analysis considers whether the rule imposes an undue hardship on Mr. Brewer to a degree “different from the hardships imposed on other similarly situated persons.” Under the rule, all persons with convictions involving theft are equally affected. Like Mr. Brewer, each is barred from the industry until five years has passed from the date of their most recent conviction. Although it is unfortunate that Mr. Brewer chose to invest in his business before researching the criteria that must be met to obtain a permit for operation, any applicant who similarly failed to perform their due diligence would face the same consequences. We find, therefore, that the hardship imposed by the application of the rule to Mr. Brewer is no different than that imposed on similarly situated persons.

16 Under WAC 480-17-110, we also consider whether the effect of applying the rule to the requesting person is contrary to the underlying purposes of the rule and the public interest. Prior to 2012, Commission household goods rules provided a discretionary standard with regard to an applicant’s criminal history. In 2012, the Commission adopted a bright line test for specific convictions that occurred within five years prior to the date

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<sup>2</sup> See also WAC 480-15-035.

of an application. The purpose of WAC 480-15-302(8) is “to allow qualified companies to operate, and at the same time, protect the public from unscrupulous, unsafe, or unfit household goods moving companies.”<sup>3</sup> Enacting the bright line rule was one of many changes made to the household goods entry standards to ensure public safety. We conclude that granting an exception to the bright line rule in WAC 480-15-302(8) would be inconsistent with the Commission’s decision to move away from the discretionary standard and create an absolute bar for certain crimes, and thus would be inconsistent with the underlying purposes of the rule. For these reasons, we conclude that granting an exemption is not in the public interest and deny Mr. Brewer’s request to waive the application of WAC 480-15-302. Accordingly, we deny the Application.

### FINDINGS AND CONCLUSIONS

- 17 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts and affiliated interests of public service companies, including household goods companies.
- 18 (2) On August 1, 2017, Mr. Brewer pled guilty to the charge of petty theft in Riverside County Superior Court in California. Mr. Brewer remains on summary probation until 2020 stemming from that charge.
- 19 (3) On March 9, 2018, Mr. Brewer filed an Application with the Commission for authority to operate as a household goods carrier in the state of Washington.
- 20 (4) On March 20, 2018, the Commission issued a Notice of Intent to Deny Application for Certificate and Notice of Opportunity for Hearing (Notice) resulting from Commission staff’s (Staff) review and investigation of the Application.
- 21 (5) On April 5, 2018, Mr. Brewer filed with the Commission a Request for Hearing. The Commission noticed the matter as a brief adjudicative proceeding, and convened the hearing before Administrative Law Judge Laura Chartoff on May 15, 2018.
- 22 (6) Under WAC 480-15-302, “the Commission will not grant provisional authority if any named person has, within the past five years, been convicted of any crime involving theft . . . .”

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<sup>3</sup> Docket TV-111493, Preproposal statement of inquiry.

- 23 (7) Mr. Brewer was convicted of petty theft in 2017, which is a “crime involving theft.” Therefore, the Commission may not grant the Applicant provisional authority under WAC 480-15-302, unless the Commission grants an exemption from the rule.
- 24 (8) Under WAC 480-07-110, the Commission may grant an exemption from the provisions of any rule in WAC 480-15, if consistent with the public interest, the purposes underlying regulation and applicable statutes. See also WAC 480-15-035.
- 25 (9) Mr. Brewer failed to demonstrate that WAC 480-15-302 imposes on him an undue hardship of a degree or a kind different from hardships imposed on other similarly situated persons.
- 26 (10) The Commission finds that the Applicant’s request for an exemption from WAC 480-15-302 is not in the public interest and should be denied.
- 27 (11) The Commission should deny the Mr. Brewer’s Application for authority to operate as a household goods carrier.

**ORDER**

**THE COMMISSION ORDERS:**

- 28 (1) The request by Cameron Brewer d/b/a Reliance Moving for an exemption from WAC 480-15-302 is denied.
- 29 (2) The Application of Cameron Brewer d/b/a Reliance Moving for authority to operate as a household goods carrier is denied.

DATED at Olympia, Washington, and effective June 15, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

LAURA CHARTOFF  
Administrative Law Judge

### NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-610(7) provides that any party to this proceeding has twenty-one (21) days after the entry of this Initial Order to file a *Petition for Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-610(7)(b). WAC 480-07-610(7)(c) states that any party may file a *Response* to a Petition for review within seven (7) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

Any Petition or Response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5). Any Petition or Response filed must also be electronically served on each party of record as required by WAC 480-07-140(1)(b).