

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of

ACHILLES PRO MOVERS INC.

For a Permit to Operate as a Household
Goods Carrier

DOCKET TV-200549

ORDER 01

GRANTING EXEMPTION;
GRANTING APPLICATION
FOR HOUSEHOLD GOODS
PERMIT

BACKGROUND

- 1 On October 30, 2019, the Washington Utilities and Transportation Commission (Commission) cancelled the household goods permit held by Achilles Pro Movers Inc. (Achilles Pro Movers or Company) for failure to submit acceptable proof of cargo insurance.
- 2 On June 15, 2020, Achilles Pro Movers filed with the Commission an application for the reinstatement of its household goods carrier permit (Application).
- 3 On June 15, 2020, Commission staff (Staff) advised Achilles Pro Movers that because the Company had failed to contest the cancellation or seek reinstatement of its permit within 30 days, the Company is prohibited by the terms of WAC 480-15-302(11) from reapplying for operating authority for 12 months from the date its permit was cancelled.
- 4 On June 19, 2020, Achilles Pro Movers filed with the Commission a petition for exemption from WAC 480-15-302(11) (Petition).
- 5 The Company explains in its Petition that the Company's owner, Valerian Nimirencu, was not aware of the terms of WAC 480-15-302(11). The Company further explains that it deliberately allowed its cargo insurance to expire due to the Company's restructuring and possible change of ownership. The Company's restructuring and sale never occurred. Nimirencu owns a second household goods company, KERB Inc., with active permit THG-069110.
- 6 Staff does not oppose the Company's request for an exemption. The Company operated successfully from August 2016 through October 2019, during which time it maintained

a satisfactory safety record. Staff does not have any concerns about the Company's fitness to operate and supports the Company's request to reinstate its household goods permit.

DISCUSSION

7 We grant the Company's request for an exemption from WAC 480-15-302(11), and thus grant the Application, for the reasons discussed below.

8 WAC 480-15-302 lists the Commission's criteria for granting authority to engage in business as a household goods carrier. Specifically, WAC 480-15-302(11) provides that the Commission will not grant provisional authority if it has cancelled, for cause, a permit held by the applicant within the previous 12 months. Therefore, the Commission may not approve the Company's Application unless the Commission grants an exemption from the rule.

9 WAC 480-07-110 provides that the Commission "in response to a request or on its own initiative, 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."

10 Under WAC 480-07-110(2)(c), the Commission applies the public interest standard to determine whether to grant a requested exemption. Factors we may consider 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.

11 First, the Commission finds that the rule imposes an undue hardship on Achilles Pro Movers to a degree "different from the hardships imposed on other similarly situated persons." At the time the Company's permit was cancelled, Staff failed to inform carriers of the 12-month waiting period in WAC 480-15-302(11), so the Company was not aware that it would need to apply within 30 days to reinstate its permit. This oversight has since been corrected and all cancellation letters now reference WAC 480-15-302(11). Accordingly, the Commission believes that it would impose a different kind of hardship on the Company to deny the Application because the Company was unaware of WAC 480-15-302(11) and relied on Staff for assistance and procedural advice.

12 We also find that it would be contrary to the public interest to deny the Application when the Company owner already operates a separate, successful permitted household goods

company. Healthy small businesses are essential to economic recovery, particularly during the COVID-19 pandemic. Staff has no concerns with the Company's fitness to operate and recommends approving the Application. Penalizing a small business for a relatively minor defect in its Application would be contrary to the stated public goal of creating "sound economic conditions" for household goods carriers.

13 For the reasons explained above, the Commission finds that granting the Application is consistent with the purposes underlying regulation, applicable statutes, and the public interest. Accordingly, we conclude that the exemption should be granted, and that the Company's Application should be approved.

FINDINGS AND CONCLUSIONS

14 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rules, regulations, and practices, accounts, and affiliated interests of public service companies, including household goods companies.

15 (2) On October 30, 2019, the Commission cancelled the household goods carrier permit held by Achilles Pro Movers for failure to submit acceptable proof of insurance.

16 (3) The Company did not contest the cancellation or seek reinstatement of its permit within 30 days, as required by WAC 480-15-450(4). On June 15, 2020, Achilles Pro Movers filed with the Commission its Application for the reinstatement of its household goods carrier permit, more than six months after the 30-day deadline.

17 (4) On June 15, 2020, Staff advised Achilles Pro Movers that because the Company had failed to contest the cancellation or seek reinstatement of its permit within 30 days, the Company is prohibited by the terms of WAC 480-15-302(11) from reapplying for authority for 12 months from the date its permit was cancelled.

18 (5) On June 19, 2020, Achilles Pro Movers filed with the Commission a petition for exemption from WAC 480-15-302(11).

19 (6) Staff supports the Company's request for exemption and recommends the

Company's permit be reinstated.

- 20 (7) WAC 480-07-110 provides that the Commission "in response to a request or
on its own initiative, 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."
- 21 (8) At the time of the Company's permit cancellation, Staff was not informing
carriers of the 12 month waiting period in WAC 480-15-302(11), so the
Company did not know that it would need to apply within 30 days to reinstate
its permit.
- 22 (9) Applying WAC 480-15-302(11) and denying the Application would impose a
different kind of hardship on Achilles Pro Movers compared to other, similarly
situated companies.
- 23 (10) Staff has no concerns with the Company's fitness to operate.
- 24 (11) Applying WAC 480-15-302(11) and denying the Application would also be
contrary to the public interest because it would serve only to create hardship
for a small business.
- 25 (12) This matter came before the Commission at its regularly scheduled meeting on
July 9, 2020.
- 26 (13) Granting the Company's petition for exemption from WAC 480-15-302(11) is
consistent with the public interest, the purposes underlying regulation, and
applicable statutes.

ORDER

THE COMMISSION ORDERS:

- 27 (1) Achilles Pro Movers Inc.'s Petition for an exemption from WAC 480-15-
302(11) is granted.
- 28 (2) Achilles Pro Movers Inc.'s Application for authority to operate as a household
goods carrier is approved.

DATED at Lacey, Washington, and effective July 9, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary