

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of

JNS Movers Inc.,

for a permit to operate as a motor carrier  
of household goods.

DOCKET TV-230373

NOTICE OF INTENT TO DENY  
APPLICATION FOR PERMANENT  
AUTHORITY

NOTICE OF OPPORTUNITY FOR  
HEARING

**BACKGROUND**

- 1 On May 17, 2023, JNS Movers Inc. (JNS Movers) 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). The Application lists Justin M. Higbee as JNS Movers' owner.
- 2 RCW 81.80.075(3) requires the Commission to consider whether an applicant for a household goods carrier permit is fit to perform the services proposed and willing and able to conform to the requirements, rules, and regulations of the Commission. RCW 81.80.075(3) also requires the Commission to consider whether the applicant's proposed operations are consistent with the public interest.
- 3 The Commission will grant or deny an application for permanent authority after it conducts a complete review of the application, including supporting statements, reports, or other information necessary to determine fitness. The Commission's rules provide that the Commission may reject or deny an application for permanent authority if the Commission believes the applicant is unfit, or if issuing the permit is not in the public interest.<sup>1</sup>
- 4 The Commission will not grant provisional or permanent authority if an applicant or any person named in the application has 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 within five years of the date of

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<sup>1</sup> See generally WAC 480-15-302, -305.

the application,<sup>2</sup> or if the applicant or any person named in the application was convicted of any of those same crimes more than five years prior to the date of the application and the Commission determines that the nature or extent of the crime or crimes will likely interfere with the proper operation of a household goods moving company.<sup>3</sup> The Commission may also deny an application if it contains any indication of fraud, misrepresentation, or erroneous information,<sup>4</sup> or if other circumstances indicate that the applicant is unfit.<sup>5</sup>

5 If it is necessary to resolve outstanding issues or concerns related to fitness or the public interest, or any other issue resulting from a complaint or public comment, the Commission may hold a hearing or brief adjudicative proceeding on any application for permanent authority.<sup>6</sup>

6 Commission Staff (Staff) has reviewed the Application and recommends that the Commission deny the Application for reasons set out below.

### FACTUAL ALLEGATIONS

7 On June 6, 2023, Staff examined the criminal histories of persons named in the Application using the TLOxp service offered by TransUnion and the Washington Access to Criminal History service offered by the Washington State Patrol.

8 Those reports disclose multiple criminal convictions for Justin Higbee, including felony convictions for Theft in the Second Degree (in 2018), Burglary in the Second Degree (in 2018),<sup>7</sup> Possession of a Controlled Substance (in 2018), and a gross misdemeanor conviction for Assault in the Fourth Degree (in 2021).

9 JNS Movers' Application lists only a deferred prosecution for Driving under the Influence in the field requesting that the applicant list the criminal offenses of any person named in the application and includes as an attachment to the application a "screen shot"

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<sup>2</sup> WAC 480-15-302(8)(a).

<sup>3</sup> WAC 480-15-302(8)(b).

<sup>4</sup> WAC 480-15-302(2).

<sup>5</sup> WAC 480-15-302(13).

<sup>6</sup> WAC 480-15-350.

<sup>7</sup> The criminal history reports reviewed by staff indicate that Higbee was supervised by the Department of Corrections in Washington for the crimes of Theft in the Second Degree and Burglary in the Second Degree and that the crimes were committed in Idaho where they were named Grand Theft and Burglary.

containing a list of the following six “charges”: Possession of a Controlled Substance, Possession of a Controlled Substance, Drug Paraphernalia – Use or Possession, No Contact Order Violation, Driving Without Privileges, and Probation Violation.

- 10 Under WAC 480-15-302(2), the Commission may deny an application containing any indication of fraud, misrepresentation, or erroneous information. Staff believes that JNS Movers’ Application contains fraud, misrepresentation, or erroneous information because it omits mention of some of Higbee’s criminal convictions.
- 11 Under WAC 480-15-302(8)(a), the Commission will not grant provisional authority if any person named in the application has, within the past five years, been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, false statements, or the manufacture, sale, or distribution of a controlled substance. Staff believes that Higbee is currently ineligible for provisional authority based on his 2021 conviction for Assault in the Fourth Degree.
- 12 Under WAC 480-15-302(8)(b), the Commission will deny operating authority to an applicant if a person named in the application has 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 more than five years prior to the date of the application and the commission determines that the nature or extent of the crime or crimes will likely interfere with the proper operation of a household goods moving company. Staff believes that the nature and extent of Higbee’s criminal history involving the specified offenses, which includes Burglary in the Second Degree and Theft in the Second Degree, will likely interfere with the proper operation of a household goods moving company.
- 13 Under WAC 480-15-302(13), the Commission will deny operating authority when other circumstances justify doing so. Although WAC 480-15-302(8) does not include Possession as a Controlled Substance as a crime that will cause the Commission to deny an application, Staff believes that the violation shows a disregard for the law and provides an additional basis to deny the Application under WAC 480-15-302(13).
- 14 Staff recommends the Commission deny the Application for JNS Movers for failure to meet the requirements of WAC 480-15-302(2), WAC 480-15-302(8)(a), WAC 480-15-302(8)(b) and WAC 480-15-302(13). Staff bases this recommendation on Higbee’s criminal history, which indicates that he poses an unacceptable risk to consumers and their belongings, as well as the omission of some of his convictions in JNS Movers’ Application.

### DISCUSSION

- 15 Based on the information Staff presented, the Commission agrees with Staff's recommendation and intends to deny the Application. Higbee's criminal history renders both him and JNS Movers unfit to operate as a household goods moving company, as does JNS Movers' failure to disclose material information concerning Higbee's criminal history in its application.
- 16 Staff's findings support the conclusion that the Applicant has failed to meet the requirements of WAC 480-15-302(2), WAC 480-15-302(8) and WAC 480-15-302(13), and that the Commission should deny the Application.

### NOTICE

- 17 The Commission hereby provides notice of its intention to deny JNS Movers' Application for provisional and permanent authority for failure to meet the application requirements in RCW 81.80 and WAC 480-15.
- 18 **NOTICE OF OPPORTUNITY FOR HEARING.** JNS Movers may request a hearing to contest the factual allegations set out in this notice. JNS Movers may request such a hearing by filing a written request for a hearing with the Commission by **June 27, 2023**. The request must be directed to the attention of Amanda Maxwell, Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, and must reference Docket TV-230373.
- 19 If JNS Movers requests a hearing by **June 27, 2023**, the Commission will schedule a brief adjudicative proceeding under RCW 34.05.482 and WAC 480-07-610. If JNS Movers does not request a hearing by that date, the Commission will enter an order rejecting the Application.

DATED at Olympia, Washington, and effective June 13, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AMANDA MAXWELL  
Executive Director and Secretary