

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

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

DOCKET TV-180798

ORDER 04

PRO MOVERS LLC d/b/a GROOVIN  
MOVIN

INITIAL ORDER CLASSIFYING  
RESPONDENT AS HOUSEHOLD  
GOODS CARRIER; IMPOSING AND  
SUSPENDING PENALTIES ON  
CONDITION OF FUTURE  
COMPLIANCE

**BACKGROUND**

**Synopsis.** *This is an Administrative Law Judge's Initial Order that is not effective unless approved or allowed to become effective as described in the notice at the end of this Order. If this Initial Order becomes final, Pro Movers LLC d/b/a Groovin Movin (Pro Movers or Company) will be assessed a financial penalty in the amount of \$5,000 for two (2) violations of RCW 81.80.075(1); however, the entire penalty will be suspended for a period of two years from the date of this order, and then waived, subject to the condition that Pro Movers maintains its household goods carrier permit or refrains from further operations as a household goods carrier without first obtaining the required permit from the Washington Utilities and Transportation Commission (Commission).*

- 1 **Nature of Proceeding.** Commission initiated this special proceeding to determine if Pro Movers has engaged in business as a common carrier for transportation of household goods for compensation within the state of Washington without possessing the permit required for such operations.
  
- 2 **Procedural History.** On October 22, 2018, the Commission entered Order 01, Order Instituting Special Proceeding; Complaint Seeking to Impose Penalties; and Notice of Mandatory Appearance at Hearing, pursuant to RCW 81.04.510, initiating this docket on its own motion. The Complaint alleges that Pro Movers violated RCW 81.80.075(1) by:
  - (1) offering on at least one occasion to transport household goods within the state of Washington;

**Pursuant to RCW 80.01.060(3)  
This packet is the final  
Order in this docket.**

- (2) advertising household goods moving services within the state of Washington on at least one occasion;

without the necessary permit required for such operations. On the same date, the Commission issued a *Subpoena and Subpoena Duces Tecum For Production of Documents* (Subpoenas) to the Company commanding Andrey Goncharuk, Company owner, to appear before the Commission at a special proceeding scheduled to convene at 9 a.m. on November 13, 2018, in the Commission's offices at 1300 S. Evergreen Park Drive S.W., Olympia, Washington, and to bring the documents specified in the *Subpoenas*.

3 On October 22, 2018, the Commission personally served (via electronic mail) the Complaint and Order Initiating Special Proceeding and Subpoenas on Andrey Goncharuk at [andreygoncharuk@hotmail.com](mailto:andreygoncharuk@hotmail.com).

4 On November 13, 2018, the hearing convened as Scheduled in Olympia, Washington, before Administrative Law Judge Laura Chartoff. Commission Staff was the only party appearing at the hearing. Commission Staff moved for default.

5 On November 13, 2018, following the hearing, The Commission entered Order 02, finding the Company in default.

6 On November 14, 2018, Staff received an email from Mr. Goncharuck. In the email, Mr. Goncharuk claimed he received his permit on October 22, 2018, which is the same day he received the notice of the classification proceeding. Mr. Goncharuck explained he was confused as to whether he still needed to attend the classification hearing, and requested the order be vacated.

7 On November 21, 2018, The Commission entered Order 03, which vacated Order 02 and rescheduled the classification proceeding set by Order 01 for 9 a.m. on February 12, 2019. Due to inclement weather, the Commission rescheduled the classification proceeding to February 25, 2019, at 9 a.m.

8 **Hearing.** On February 25, 2019, the hearing convened as scheduled in Olympia, Washington, before Administrative Law Judge Laura Chartoff.

9 **Appearances.** Brian Braun, Compliance Investigator, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff).<sup>1</sup> Andrey Goncharuk, Vancouver, Washington, represents the Company, *pro se*.

### DISCUSSION

10 **Applicable Law.** RCW 81.80.010(5) defines "household goods carrier" as

a person who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods.

RCW 81.80.075 prohibits household goods carriers from operating for compensation in Washington without first obtaining the required permit from the Commission. Upon proof of unauthorized operations, RCW 81.04.510 authorizes the Commission to order the unpermitted company to cease and desist its activities. Additionally, RCW 81.04.110 authorizes the Commission to file a complaint on its own motion setting forth any act or omission by a company that violates any law, or any order or rule of the Commission.

11 RCW 81.80.075(4) subjects persons who engage in business as a household goods carrier in the state of Washington without the required permit to a penalty of up to \$5,000 for each violation. In deciding the penalty amount to be imposed per violation, RCW 81.80.075(4)(b) requires the Commission to consider two factors: (1) willingness to comply with the provisions of RCW 81.80.070 and the rules governing household goods carriers contained in WAC 480-15 and (2) compliance history.

12 **Stipulation Presented by Parties.** At hearing, Andrey Goncharuk agreed that Pro Movers had operated as a household goods carrier in the state of Washington without the required permit. The Company offered to transport household goods on at least one occasion and also advertised to transport household goods on at least one occasion when it did not possess a valid permit.

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<sup>1</sup> In adjudications the Commission's regulatory staff participates like any other party, while an administrative law judge or the Commissioners make the decision. To assure fairness, the Commissioners and the presiding administrative law judge do not discuss the merits of the proceeding with regulatory staff or any other party without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

- 13 Pro Movers was previously granted temporary authority to operate as a household goods carrier (THG-066237) on January 13, 2016. The permit was cancelled on October 26, 2016, due to insufficient proof of insurance.
- 14 On August 30, 2018, Pro Movers filed with the Commission an application requesting authority to reinstate its household goods carrier permit. On October 16, 2018, Pro Movers was granted temporary authority to operate as a household goods carrier (THG-066237) in Docket TV-180730.
- 15 At the hearing, Andrey Goncharuk admitted the Company operated as a household goods carrier after his household goods carrier permit was cancelled and prior to his household goods permit being reinstated.
- 16 **Penalties.** Under RCW 81.04.075(4), Commission Staff is authorized to seek a penalty of up to \$10,000 against the Company. Based upon the above-noted stipulation, Staff now seeks a lesser penalty of \$5,000 and, on the condition that the Company honors its pledge of compliance by maintaining a permit from the Commission, seeks to have \$4,000 of the penalty suspended for two years, then waived.
- 17 At the hearing, Mr. Goncharuk testified that he is unable to pay the fine recommended by Staff. Mr. Goncharuk testified that he originally lost his permit, and is experiencing financial hardship, due to a major accident that occurred in April 2016, which left him hospitalized and unable to work. Mr. Goncharuk testified he had multiple surgeries and has only recently completed his treatment this past January. His permit was recently reinstated and he is working to get back on his feet and make his moving business profitable.
- 18 The parties agree that the Company's willingness to attain a permit is a positive factor, mitigating in favor of a lowered penalty amount to be paid now. The parties also agree that the Company's compliance history is a negative factor, making a suspended penalty appropriate as a tool to ensure Pro Movers remains compliant with Commission regulations.
- 19 We agree with Staff's recommendation that the Commission should impose a \$5,000 penalty for two violations, which is consistent with how the Commission treats similarly situated companies. We also agree with Staff that the Company's compliance history is a negative factor, making a suspended penalty appropriate as a tool to ensure Mr. Goncharuk maintains his household goods carrier permit, or ceases operating should he

fail to maintain the permit. We find, however, that the serious injuries Mr. Gonchruk sustained and the resulting financial hardship sufficiently supports his request to suspend the penalty in full. The Commission's ultimate goal in this enforcement proceeding is to obtain compliance, not create an insurmountable financial burden for the Company. We find that imposing and suspending the penalty is sufficient under these circumstances to provide the Company with a strong incentive to comply with Commission rules in the future.

### FINDINGS AND CONCLUSIONS

- 20 (1) The Commission is an agency of the State of Washington vested by statute with authority to regulate persons engaged in the business of transporting household goods for compensation over public roads in Washington.
- 21 (2) The Commission has jurisdiction over the subject matter of this proceeding and over Pro Movers.
- 22 (3) On October 26, 2016, the Commission cancelled Pro Movers' temporary authority to operate as a household goods carrier in Docket TV-161161.
- 23 (4) On at least one occasion, Pro Movers offered to transport household goods within the state of Washington without first having obtained a household goods carrier permit from the Commission in violation of RCW 81.80.075.
- 24 (5) On at least one occasion, Pro Movers advertised to transport household goods without first having obtained a household goods carrier permit from the Commission in violation of RCW 81.80.075.
- 25 (6) Pro Movers should be assessed a penalty of \$5,000 for two violations of RCW 81.80.075. The penalty should be suspended for a period of two years from the date of this Order, and then waived, provided Pro Movers either maintains its permit or refrains permanently from further operations as a household goods carrier in the state of Washington without first obtaining the required permit from the Commission.

**ORDER**

THE COMMISSION ORDERS:

- 26 (1) Pro Movers d/b/a Groovin Movin is classified as a common carrier of household goods within the state of Washington.
- 27 (2) Pro Movers d/b/a Groovin Movin is assessed a penalty of \$5,000. The penalty is suspended for a period of two years from the date of this Order, and waived thereafter, provided Pro Movers d/b/a Groovin Movin either maintains its permit or refrains permanently from further operations as a household goods carrier in the state of Washington.
- 28 (4) The Commission retains jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective March 7, 2019.

LAURA CHARTOFF  
Administrative Law Judge

### NOTICE TO THE 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 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this initial order to file a *Petition for Administrative Review*. Section (3) of the rule identifies what you must include in any petition as well as other requirements for a petition. WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the petition.

WAC 480-07-830 provides that before the Commission enters 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. The Commission will not accept answers to a petition to reopen unless the Commission requests answers by written notice.

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).