



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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December 20, 2022

Amanda Maxwell, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Wise Choice Movers, LLC*  
Commission Staff's Response to Application for Mitigation of Penalties  
Dockets TV-180287, TV-200711, and TV-220773

Dear Ms. Maxwell:

On April 24, 2018, the Washington Utilities and Transportation Commission (Commission) assessed a \$22,900 penalty against Wise Choice Movers, LLC (Wise Choice or Company), in Docket TV-180287 for safety violations of Washington Administrative Code (WAC) 480-15-555, WAC 480-15-560, and WAC 480-15-570.

On July 6, 2018, the Commission entered Order 01 in Docket TV-180287 (Order 01), which granted the Company's request for mitigation, in part, reducing the \$22,900 penalty to \$11,950. In addition, Order 01 suspended a \$6,700 portion of the reduced penalty for a period of two years, and waived thereafter, subject to the conditions that Wise Choice paid the non-suspended portion of the penalty and the Company not incur any repeat violations of critical regulations upon re-inspection.

On August 18, 2020, the Commission assessed a \$5,000 penalty against Wise Choice in Docket TV-200711 for safety violations of WAC 480-15-560 and WAC 480-15-570.<sup>1</sup>

On September 11, 2020, the Commission entered Order 03/01 in consolidated Dockets TV-180287 and TV-200711 (Order 03/01). Order 03/01 granted, in part, the Company's request for mitigation in Docket TV-200711, reducing the \$5,000 penalty to \$2,650. In addition, Order 03/01 suspended a \$1,450 portion of the reduced penalty from Docket TV-200711 and extended the \$6,700 suspended penalty from Docket TV-180287 for a period of two years, and waived

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<sup>1</sup> Including penalties for repeat violations of critical regulations.

thereafter, subject to the conditions that Wise Choice paid the non-suspended portion of the penalty and the Company not incur any repeat violations of critical regulations.

On November 9, 2022, the Commission issued a penalty assessment<sup>2</sup> in Docket TV-220773 against Wise Choice in the amount of \$9,000 for safety violations of WAC 480-15-570, Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 395 – Hours of Service of Drivers, as follows:

- **Ninety violations of 49 C.F.R. § 395.8(a)(1) – Failing to require driver to make a record of duty status.** Wise Choice failed to require drivers Tyler Conrad, Marco Tovar, and Danny Plotner to complete a record of duty status on 90 occasions between August 1 and August 30, 2022.

On November 23, 2022, the Commission imposed the \$8,150 suspended penalties from consolidated Dockets TV-180287 and TV-200711 due to the Company's failure to comply with the terms of Order 03/01.

On December 8, 2022, Wise Choice filed with the Commission its application for mitigation of penalties in Docket TV-200711. In the request for mitigation, Shane Wise, owner of Wise Choice, admits the violations, states the Company corrected the violations and implemented new procedures, and asks that the imposed suspended penalties be reduced and further suspended.

Commission staff (Staff) interprets the Company's filing as a request for mitigation of the \$8,150 imposed suspended penalties in consolidated Dockets TV-180287 and TV-200711, as well as a request for mitigation of the \$9,000 penalty assessed in Docket TV-220773.

In response to the Company's application for mitigation of penalties in consolidated Dockets TV-180287 and TV-200711, Staff recommends no mitigation or suspension since Wise Choice already had these penalties reduced and suspended. The Company failed to comply with Order 01 and Order 03/01, and the Commission imposed the suspended penalties on November 23, 2022. Staff is willing to work with Wise Choice on jointly filing a proposed payment arrangement for the \$8,150 imposed penalty.

In response to the Company's application for mitigation of penalties in Docket TV-220773, Staff recommends no mitigation for the repeat violations of 49 C.F.R. § 395.8(a)(1). Had Wise Choice followed Staff's prior technical assistance or the procedures the Company implemented in response to the penalty assessment in Docket TV-200711, these repeat violations should not have occurred.

However, Staff is sensitive to the Company's financial situation and understands the impact significant penalties have on a small business. For this reason, Staff further recommends that the entire \$9,000 penalty be suspended for a period of two years, and waived thereafter, subject to the conditions that: (1) Staff conducts a follow-up safety investigation in two years or as soon

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<sup>2</sup> *Id.*

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thereafter as practicable to review the Company's compliance with 49 C.F.R. § 395.8(a)(1), (2) the Company not incur any repeat violations of 49 C.F.R. § 395.8(a)(1), and (3) Wise Choice pays the \$8,150 imposed penalty from consolidated Dockets TV-180287 and TV-200711.

If you have any questions, please contact Jason Hoxit, Compliance Investigator, Transportation Safety, at (360) 867-8305, or by email at [Jason.Hoxit@utc.wa.gov](mailto:Jason.Hoxit@utc.wa.gov).

Sincerely,

Jason Sharp  
Motor Carrier Safety Supervisor, Transportation Safety