

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

GERTRAUDE M. TAUT,	)	DOCKET NO. TV-021248
	)	
Complainant,	)	FIRST SUPPLEMENTAL ORDER
v.	)	
	)	
ALL MY SONS MOVING AND	)	ORDER DENYING
STORAGE,	)	RECONSIDERATION
	)	
Respondent.	)	
.....	)	

1     **Synopsis:** *The Commission resolved the issues in this docket by final order dated January 15, 2003. The complainant filed a document titled Petition for Rehearing. The Commission accepts the petition as seeking reconsideration, considers the matters raised, and denies the petition, reaffirming the final order, with modification extending the due date for payment, recognizing the suspension of obligations during further review.*

2     **Nature of the proceeding:** This is a brief adjudication brought on to resolve the issues in a formal complaint lodged by Gertraude M. Taut, complainant, against All My Sons Moving and Storage ("All My Sons"), respondent. The complaint alleges that All My Sons failed to follow pertinent regulations when it transported Ms. Taut's possessions and billed for its services.

3     **Procedural history.** This matter was heard as a brief adjudication before Administrative Law Judge Lawrence J. Berg on November 8, 2002. Commission Staff appeared as a party to the proceeding. The Judge entered an initial order on November 18, 2002. All My Sons and Ms. Taut both commented on the decision pursuant to WAC 480-09-500(6); Commission Staff responded to the parties' comments. The Commission entered a final order on January 15, 2003,

resolving the issues raised on review in which it affirmed and adopted the result of the initial order.

- 4     **Petition for Rehearing:** Complainant asks for rehearing, contending that the respondent failed to comply with terms of the final order; that the respondent erred in calculating the amount due it for moving; that the final order erred in allowing relief for matters not within the estimate provided to Ms. Taut; and that Ms. Taut is entitled to compensation for costs incurred as a result of respondent's negligence .
- 5     **Comments on the petition:** No party answered the petition. The Commission by letter of January 29, 2003, asked the Commission Staff to offer its view on whether charges billed to Ms. Taut were properly calculated, and offering other parties the opportunity to respond to the comment. It submitted its comment on January 31, verifying the source and the accuracy of the calculations. No party responded.
- 6     **Commission decision:** The Commission finds that the petition is not properly deemed a petition for rehearing. It appears to be, and will be treated as, a petition for reconsideration. The Commission considers the petition, finds that the errors alleged in the petition relate to matters that are outside the Commission's jurisdiction; that the matters raised do not constitute errors; or that the matters are not timely raised. The Commission therefore denies the petition, reaffirms the result of the final order, and clarifies the time for compliance by payment of amounts due pursuant to the order.
- 7     **Appearances:** Complainant Gertraude M. Taut, Tacoma, Washington, appeared on her own behalf. Respondent All My Sons appeared by James Bergstrom, its Operations Manager, Kent, Washington. Commission Staff appeared by Lisa Watson, Asst. Attorney General, Olympia, Washington.

**MEMORANDUM**

- 8 This proceeding stems from a shipment of personal household belongings undertaken by respondent at complainant's request during March, 2002. The facts underlying the shipment are set out in the initial and final orders in this docket, dated November 18, 2002, and January 15, 2003, respectively, and will not be repeated.
- 9 The final order determined the responsibilities of the complainant and respondent, and directed the respondent to bill for its services according to the directions of the final order. It did so, and although the unavailability of a residence address for complainant prevented respondent from delivering its statement immediately, it made a good faith effort to comply.
- 10 **Status of the Petition.** Complainant disagrees with the charges in the statement for moving and for storage, and believes that the final order failed to address some of her concerns. She filed a document entitled "petition for rehearing," citing RCW 81.04.200, governing rehearing before the Commission.
- 11 Rehearing, as the name implies, involves a new "hearing." The statute, RCW 81.04.200, directs that petitions for rehearing may be filed two years after the date of the order and may address changed conditions since the order, matters injuriously affecting the petitioner that weren't anticipated at the time of the order, or that the effect of the order was not contemplated at the time of the order. None of those conditions are shown. The statute also allows rehearing at any time and for any sufficient cause. Here, the matters cited in the petition do not support granting a new hearing, as they were considered during the adjudication on the complaint or in post-hearing process.
- 12 The petition appears to ask for reconsideration of elements of the decision, pursuant to RCW 34.05.470 and WAC 480-09-810. It was filed in time to meet the

ten-day requirement for filing. Consequently, the Commission will consider it to be a petition for reconsideration. As such, no answer may be filed unless requested or authorized by the Commission. No party asked leave to answer the petition, and we will deal with the points that it raises based on the transcript, the evidence, and the post-hearing filings of the parties.

- 13 Ms. Taut first argues that the respondent failed to meet the time requirements of the final order for presenting her with a statement of charges. Respondent filed information and copies of original documents indicating that Ms. Taut's residence address was not on record or available to respondent, and that when it learned of problems in delivery of its first attempt to comply with the order, it immediately undertook a reasonable effort to provide complainant with the statement, consistent with terms of the final order. We find no error.
- 14 Next, Ms. Taut argues that she received the proposal after her compliance was required under terms of the order, implying that she should be excused from payment. We disagree. The order required Ms. Taut's compliance within five days after she actually received the statement, not after the time she should have received it if her address had been available to the parties. We find no error.
- 15 In paragraph 5 of her petition, Ms. Taut objects to inclusion of warehouse handling and value protection charges, contending that they did not appear on her original estimate. These matters were addressed in both the initial and final orders, where the administrative law judge and the Commission adopted Ms. Taut's position that the storage was "storage in transit" rather than permanent storage. With that determination, the carrier is required to comply with the terms of the tariff, which provide for handling and for value protection.
- 16 To verify the accuracy of the charges, the Commission asked Commission Staff to review the statement presented by respondent and allowing other parties the opportunity to respond. Commission Staff filed its review of the charges on January 31, 2003. It affirmed the accuracy of the charges presented in the

respondent's statement. Neither complainant nor respondent responded to the Staff submission. The Commission accepts the charges in the statement as accurate, and as the liquidated amount reflecting the Commission's determinations.<sup>1</sup>

17 Ms. Taut contends in paragraphs 6 and 7 of her petition that the final order erred in failing to consider her costs in dealing with property left at the origin point of her move. She contends that she is entitled to damages for this asserted failure by respondent.

18 The final order addressed the issue of damages, and noted that the Commission has no jurisdiction under any statute or under any court decision to consider issues of civil damages. That is a matter of law, and Ms. Taut provides no citation that would enable the Commission to grant the relief she requests. We again deny her request.

19 **Conclusion.** We have addressed all the issues that Ms. Taut raised in her petition, and find no error in the final order or in the statement presented pursuant to the order.

20 We direct that respondent rebill for its services, consistent with the prior statement and this order, within five business days after the date of this order, sending the statement by receipted mail. Ms. Taut must pay the charge within five business days after delivery of the statement. Ms. Taut then must pay any charges for storage incurred after the date of the billing prior to release of her goods for delivery to their ultimate destination.

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<sup>1</sup> Timing of the obligation for payment and the amount of variable charges, for example, may vary the exact amount due immediately and at retrieval of Ms. Taut's goods.

**ORDER**

THE COMMISSION ORDERS That

- 21 (1) The Commission has jurisdiction over the subject matter of and the parties to this proceeding.
- 22 (2) The Commission has considered complainant's petition for rehearing and the matters raised therein. The Commission treats the petition as one seeking reconsideration of the final order, reviews each of the contentions in the petition, and finds no basis to change its final order or to reject the billing that the respondent tendered to complainant in compliance with the order's terms.
- 23 (3) All My Sons Moving and Storage must present a statement to complainant within five business days after entry of this order on reconsideration, itemizing a) the charges authorized for packing and moving her goods; b) the charges for storage in transit and the per-day pro rata amount to be charged for each day; and the fee for Depreciated Value Protection. The statement should be updated to the date of this order.
- 24 (4) Payment in full of the charges for packing, moving, and Depreciated Value Protection is due within five business days after delivery to the complainant of All My Sons statement of charges as specified herein. Payment of charges for storage in transit and payment for storage and warehouse labor charges authorized by Tariff 15-A must be made in accordance with the carrier's standard practices, and all such charges must be paid.
- 25 (5) Ms. Taut must make arrangements for moving her shipment out of storage and pay the costs of doing so.

26 (6) The Commission retains jurisdiction to effectuate the terms of this order.

Dated at Olympia, Washington and effective this \_\_\_\_ day of February, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

**NOTICE TO THE PARTIES: This is a Commission order on reconsideration. No further petition for reconsideration is allowed. In addition to judicial review, a petition for rehearing may be available to the parties pursuant to RCW 81.04.200 and WAC 480-09-820(1).**