

[Service Date September 7, 2013]

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper	)	DOCKET TV-131606
Carrier Classification of, and Complaint)	
for Penalties against:	)	ORDER 01
)	
	)	ORDER INSTITUTING SPECIAL
LOMEDICO, RICARDO ERNESTO, d/b/a	)	PROCEEDING; COMPLAINT
PHOENIX MOVING AND LOGISTICS	)	SEEKING TO IMPOSE
aka MAJOR MOVERS	)	PENALTIES; NOTICE OF
	)	MANDATORY APPEARANCE AT
	)	HEARING
	)	(Set for October 8, 2013, at 9:30
	)	am)
)	
.....)	

INTRODUCTION

- 1 The Washington Utilities and Transportation Commission (Commission), pursuant to RCW 81.04.510, institutes this special proceeding on its own motion to determine whether Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers, has engaged, and is engaging, in business as a household goods carrier within the state of Washington without the authority required by RCW 81.80.

- 2 The Commission has information from which it believes and therefore alleges that Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers has advertised, solicited, offered, or entered into one or more agreements to transport household goods within the state of Washington without first having obtained a household goods carrier permit from the Commission.

- 3 Pursuant to RCW 81.04.510, upon proof of these allegations, the Commission is authorized to issue an order requiring Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers to cease and desist activities subject to regulation under Title 81 RCW. In addition, RCW 81.04.110 authorizes the Commission to file a complaint on its own motion setting forth any act or omission by Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers that violates any law, or any order or rule of the Commission. The Commission may impose financial penalties of up to \$5,000 for each violation shown.

4 At the hearing in this special proceeding that will be conducted pursuant to Part IV of the Administrative Procedure Act (APA), RCW 34.05, of which notice is given here, the Commission will also consider its Complaint against Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers alleging various violations of law as specified below and decide whether Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers should be penalized.

ORDER AND NOTICE OF HEARING

5 The Commission has jurisdiction to institute a special proceeding to determine whether Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers is conducting business requiring operating authority, or has performed or is performing any act requiring Commission approval without securing such approval pursuant to RCW 80.01.040, RCW 81.01.010, and RCW 81.04.510. In addition to the foregoing statutes, this matter involves Title 81 RCW, including but not limited to RCW 81.01.010; RCW 81.04.020; RCW 81.80.010, RCW 81.80.070, and RCW 81.80.075. This matter also involves the administrative rules set forth in WAC 480-15 and WAC 480-07.

6 **IT IS HEREBY ORDERED That Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers appear before the Commission in this special proceeding conducted under the authority of RCW 81.04.510 at 9:30 am on October 8, 2013, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, to give testimony and evidence under oath as to its operations. Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers shall appear at the time and place set forth above unless the Executive Director and Secretary of the Commission, by notice of hearing, specifies a different time and place. This is ordered pursuant to the subpoena powers granted in RCW 34.05.446, RCW 80.01.060(1), and RCW 81.04.510.**

7 **IT IS FURTHER ORDERED** that at the hearing in this special proceeding the burden of proving that the alleged operations are not subject to the provisions of Title 81 RCW shall be upon Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers, as provided by RCW 81.04.510.

8 **NOTICE IS FURTHER GIVEN THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC 480-07-450.**

- 9 If a limited English-speaking or hearing-impaired party needs an interpreter, a form is attached to this notice to be filled out and returned as indicated, so that a qualified interpreter may be appointed at no cost to the party or witness.
- 10 The names and mailing addresses of all parties and their known representatives are shown as follows:

Carrier: Ricardo Ernesto Lomedico
d/b/a Phoenix Moving and Logistics
aka Major Movers
14009-49th Pl. W
Edmonds, WA 98026

Representative: Unknown

Commission: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Lauren McCloy
Compliance Investigator
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1108

COMPLAINT SEEKING PENALTIES

PARTIES

- 11 Complainant, the Washington Utilities and Transportation Commission, is an agency of the State of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including household goods carriers, under the provisions of Title 81 RCW.

12 Respondent, Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers, is a household goods carrier that does business in the state of Washington.

JURISDICTION

13 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 81.04.110, RCW 81.01.010, RCW 81.04.160, RCW 81.04.460, and RCW 81.80.

BACKGROUND

14 According to the Compliance Investigator's Declaration, presented to the undersigned administrative law judge¹ under penalty of perjury, the following facts establish probable cause for the Commission to complain against the activities of Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers and to seek penalties in accordance with applicable law.

15 According to Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers' own advertisements found on www.craigslist.org, www.angieslist.com, www.facebook.com, www.phoenixmovingandlogistics.net, www.yelp.com, www.livingsocial.com, and www.local.amazon.com, the company has been operating as a household goods carrier within the state of Washington without a permit.

APPLICABLE LAW AND REGULATION

16 Under state law, the definition of "household goods carrier" includes a person who "advertises, solicits, offers, or enters into an agreement to transport household goods" within the state of Washington. RCW 81.80.010(5).

17 The term "person" can mean a firm as well as an individual. RCW 81.04.010(6). Specifically included in this term are companies, corporations, and partnerships. WAC 480-15-020.

18 The Commission defines household goods as "the personal effects and property used, or to be used, in a residence" in the context of transportation from one residence to another, or to a storage facility. WAC 480-15-020.

¹ Administrative law judges appointed by the Commission are empowered, among other things, to "make findings of probable cause and issue complaints in the name of the commission." RCW 80.01.060(1).

19 Household goods carriers are common carriers. RCW 81.04.010(11). For the purposes
of Title 81 RCW, every common carrier is a public service company. RCW 81.04.010.

20 It is illegal to engage in business as a household goods carrier within the state of
Washington without first obtaining a household goods carrier permit from the
Commission. RCW 81.80.075(1).

21 Any person who engages in business as a household goods carrier in the state of
Washington without the required permit is subject to a penalty of up to five thousand
dollars per violation. RCW 81.80.075(4). If the basis for the violation is advertising,
each advertisement reproduced, broadcast, or displayed via a particular medium
constitutes a separate violation. RCW 81.80.075(4)(a).

22 When deciding the amount of the penalty to be ordered for engaging in business as a
household goods carrier without a household goods carrier permit, the Commission must
consider (1) the carrier's willingness to comply with the requirements of RCW 81.80.070
and the Commission's household goods carrier rules; and (2) the carrier's history of
compliance with the provisions of RCW 81.80.075. RCW 81.80.075(4)(b).

23 The Commission is authorized to file a complaint on its own motion setting forth any act
or omission by any public service company that violates any law or any order or rule of
the Commission. RCW 81.04.110.

COMPLAINT

24 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 11
through 23 above.

25 Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers has
violated RCW 81.80.075(1) at least once by offering to transport household goods
without first having obtained a household goods carrier permit from the Commission.

26 Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers has
violated RCW 81.80.075(1) at least once by advertising to transport household goods
without first having obtained a household goods carrier permit from the Commission.

REQUEST FOR RELIEF

27 Staff requests that the Commission, pursuant to its authority under RCW 81.80.075(4),
assess penalties of \$2,500 per violation against Ricardo Ernesto Lomedico d/b/a Phoenix

Moving and Logistics aka Major Movers. Staff will present testimonial evidence at hearing to address the above-referenced statutory factors for determining an appropriate penalty amount. Further, Staff may request that some portion of any penalty actually imposed be suspended for a period of time sufficient to demonstrate Ricardo Ernesto Lomedico d/b/a Phoenix Moving and Logistics aka Major Movers' intent to comply with all applicable laws and rules governing the household goods industry.

PROBABLE CAUSE

- 28 Based on a review of the Declaration of the Commission Compliance Investigator assigned to this matter, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this Complaint.

NOTICE OF HEARING

- 29 **THE COMMISSION GIVES NOTICE THAT it will conduct a hearing concerning this Complaint concurrently with the special proceeding noticed above, which will commence at 9:30 am on October 8, 2013, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**
- 30 Administrative Law Judge Adam E. Torem, from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, is designated to preside at the hearing of these matters.

DATED at Olympia, Washington, and effective September 3, 2013.

GREGORY J. KOPTA
Administrative Law Judge
Director, Administrative Law Division

Inquiries should be addressed to:
Executive Director and Secretary
Washington Utilities and Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes)_____ (No)_____

Do you need a certified sign language interpreter?

Visual_____ Tactile_____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____)_____