

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of)	DOCKET TV-143891
)	
MICHAEL GARY POWERS d/b/a)	NOTICE OF INTENT TO DENY
MIKE’S MOVING AND HAULING)	APPLICATION FOR PERMANENT
)	AUTHORITY;
for a permit to operate as a motor)	
carrier of household goods.)	NOTICE OF OPPORTUNITY FOR
)	HEARING
.....)	

I. INTRODUCTION

1 **Nature of Proceeding.** The Washington Utilities and Transportation Commission (“Commission”) hereby provides notice of its intention to deny Michael Gary Powers d/b/a Mike’s Moving and Hauling’s (“Mr. Powers” or “Applicant”) application for permanent authority for failure to meet the application requirements in RCW 81.80 and WAC 480-15.

2 **Procedural Background.** On November 14, 2014, Michael Gary Powers filed with the Commission an application requesting permanent authority to operate as a household goods carrier in the state of Washington under RCW 81.80 and WAC 480-15. Mr. Powers, the company’s owner, signed the application.

3 Commission staff (“Staff”) has reviewed the application, as well as a criminal history report, issued by the Washington State Patrol Identification and Criminal History Section. Staff has recommended that the Commission deny Applicant’s permit, for reasons set out below.

II. APPLICABLE LAW

4 Pursuant to RCW 81.80.075(1), no person shall engage in business as a household goods carrier without first obtaining a household goods carrier permit from the Commission.

5 RCW 81.80.075(3) requires the Commission to issue a household goods carrier permit to a qualified applicant if it is found that: the applicant is fit, willing, and able to perform the services proposed and conform to the requirements, rules, and

regulations of the Commission; the operations are consistent with the public interest; and they are required by present or future public convenience and necessity. Otherwise, the application must be denied.

6 The Commission's rules further provide that to receive new authority to operate as a household goods carrier, an applicant must meet the criteria for a provisional permit and, after the provisional period has passed, meet the criteria for a permanent permit.¹

7 WAC 480-15-302 sets out the criteria an applicant must meet to receive a grant of provisional authority from the Commission. The criteria include, in relevant part:

- 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(s) will likely interfere with the proper operation of a household goods moving company, the Commission will deny operating authority to the applicant.²
- No other circumstances exist that cause the commission to deny the application.³

8 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.⁴

III. FACTUAL ALLEGATIONS

9 Staff makes the following factual allegations based on its review and investigation of the application.

¹ WAC 480-15-186.

² WAC 480-15-302(8)(b).

³ WAC 480-15-302(13).

⁴ WAC 480-15-350.

- 10 A criminal background check of Mr. Powers indicates that he has a criminal history spanning at least 12 years (1998 – 2010). Mr. Powers has 16 convictions for crimes, including theft, assault, domestic violence, obstructing a law enforcement officer, making false or misleading statements, as well as multiple driving violations for both driving with a license suspended or revoked and driving under the influence.
- 11 Mr. Powers' only conviction in the last five years is in 2010 for driving with a license suspended or revoked. Nevertheless, the nature and extent of Mr. Powers' criminal history is troubling in a moving company applicant. A moving company takes possession of and transports a customer's worldly goods. Mr. Powers would be entrusted with entering homes, transporting and caring for others' personal belongings, and be accountable for complying with all laws and regulations governing the household goods industry. Staff finds that the nature and extent of Mr. Powers' criminal history could potentially interfere with the proper operation of a household goods company, and so Staff does not believe it to be in the public interest to entrust Mr. Powers with these responsibilities.
- 12 Further, Staff learned that Mr. Powers was advertising and offering to transport household goods without authority from the Commission. Mr. Powers moreover continued to do so after being advised on several occasions by Staff that he could not operate until granted a temporary permit. Staff believes Mr. Powers' actions constitute deliberate disregard for Commission rules. The following describes recent investigative activities by Staff:
- October 1, 2014: Staff sent Mr. Powers a compliance letter regarding his engagement in business as a household goods carrier without proper authority from the Commission.
 - November 13, 2014: Kim Kaye, Mr. Powers' sister and bookkeeper, contacted Staff to communicate that she mailed Mr. Powers' application for a permit to the Commission, and to ask when Mr. Powers could start operating again. Staff responded that he cannot operate until he receives a temporary permit.
 - November 19, 2014: Staff found three advertisements on craigslist.org for Mike's Moving and Hauling. The advertisements were posted between November 17 and 18, 2014. Staff emailed Ms. Kaye to reiterate that Mr. Powers cannot operate until he receives a permit. Ms. Kaye called Staff to explain that Mr. Powers had posted advertisements because he received his USDOT number the prior week and thought it was his permit from the Commission.
 - November 20, 2014: Staff called Mr. Powers and informed him that he cannot advertise or transport household goods until he receives his permit from the

Commission. Staff also informed Mr. Powers that he had to take his Craigslist advertisements down immediately. The advertisements were taken down within 2 hours. Later that day, Staff called Mr. Powers under an assumed name and requested a move from Port Orchard to Bremerton on November 29, 2014. In response, Mr. Powers offered to provide two men and a 14 foot truck for \$70 an hour, and that if there were stairs, it would be an additional \$50. Mr. Powers also told Staff that he was licensed, bonded, and had the necessary insurance.

- 13 These allegations, if not satisfactorily rebutted, support findings that the extent and nature of Mr. Powers' criminal history and his disregard of Commission rules renders him unfit to operate as a household goods carrier. Such findings, in turn, support the conclusion that issuing the permit is not in the public interest and that the application should be denied.
- 14 **NOTICE OF OPPORTUNITY FOR HEARING.** Michael Gary Powers, d/b/a Mike's Moving and Hauling, may request a hearing to contest the factual allegations set out in this notice. Mr. Powers may request such a hearing by filing a written request for a hearing with the Commission by **December 30, 2014**. An original and five (5) paper copies of the request must be directed to the attention of Steven V. King, Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, and must reference Docket TV-143891.
- 15 If Michael Gary Powers requests a hearing by December 30, 2014, the Commission will schedule a brief adjudicative proceeding under RCW 34.05.482 and WAC 480-07-610. If Michael Gary Powers does not request a hearing by that date, the Commission will enter an order rejecting the application for permanent authority.

DATED at Olympia, Washington, and effective December 10, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Executive Director and Secretary