

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

Regarding Cancellation of Household Goods Permit No. THG-63200 and Dismissal of Application for Permanent Authority filed by V&K DELIVERY SERVICES, LLC,) DOCKET TV-080054)) ORDER 03) INITIAL ORDER CANCELLING) TEMPORARY PERMIT AND) DISMISSING APPLICATION) FOR PERMANENT AUTHORITY)

1 **SYNOPSIS:** *This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. This Order proposes to cancel V&K Delivery Services, LLC’s temporary household goods permit and dismiss the Company’s application for permanent authority, as V&K failed to meet a condition of the Commission’s Final Order, Order 02, requiring the Company to obtain a surety bond within 30 days of the effective date of the Order.*

2 **NATURE OF THE PROCEEDING.** This proceeding involves a request by the Staff of the Washington Utilities and Transportation Commission (Commission) to cancel the temporary household goods moving permit held by V&K Delivery Services, LLC (V&K or Company) and dismiss the Company’s application for permanent authority.

3 **APPEARANCES.** Jeffrey A. Herbster, Winston & Cashatt, Spokane, Washington, represents V&K. Michael Fassio, Assistant Attorney General, Olympia, Washington, represents Commission Staff.¹

4 **PROCEDURAL HISTORY.** On January 8, 2008, V&K filed an application for a permit to operate as a household goods carrier. On March 28, 2008, the Commission issued to V&K temporary household goods permit No. THG-63200.

¹ In formal proceedings, such as this, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an “*ex parte* wall” separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners’ policy and accounting advisors from all parties, including regulatory staff. *RCW 34.05.455.*

- 5 After V&K's temporary permit had been issued, Commission Staff (Staff) discovered that the owner and operator of V&K had a prior criminal conviction, which he reported on his original application. On August 27, 2008, the Commission issued a Notice of Intent to Cancel Temporary Operating Authority and to Deny Application for Permanent Authority, asserting the conviction indicates that V&K was not fit to provide service as a household goods carrier under RCW 81.80.070(1)(a), and that allowing V&K to continue to provide service was not in the public interest.
- 6 Following a brief adjudication held on December 4, 2008, Administrative Law Judge Marguerite E. Friedlander entered an initial order, Order 01, rejecting Staff's request to revoke V&K's temporary permit and to dismiss the application for permanent authority. The order imposed two conditions for a period of six months – that V&K obtain a \$100,000 surety bond and direct customers to fill out customer surveys that all temporary permit holders must provide to customers and return these questionnaires to the Commission. If after six months, the Commission had received no complaints about V&K's service or allegations of improper acts in the customer surveys, the order found that the Commission could consider whether to grant V&K permanent authority.
- 7 On January 5, 2009, Staff filed a petition for administrative review of Order 01. V&K filed an answer opposing the petition on January 8, 2009.
- 8 On January 26, 2009, the Commission entered its Final Order, Order 02, upholding the initial order's decision. The Order also modified the conditions imposed in the initial order by extending to one year the requirements that V&K obtain a \$100,000 surety bond and direct customers to fill out customer surveys before the Commission would consider V&K's application for permanent authority.
- 9 Under the terms of Order 02, V&K was required to obtain a surety bond in the amount of \$100,000 and provide proof of the bond to the Commission within 30 days of the effective date of the Order.² The Order also provided that if V&K did not

² Docket TV-080054, Order 02, ¶ 30.

fulfill either of the conditions, the Commission would cancel the Company's temporary permit and reject the application for permanent authority.³

- 10 The effective date of Order 02 was January 26, 2009, the date the order was served. As of March 2, 2009, 35 days after the effective date of the Order, the Commission has received no notice from V&K that it has obtained a surety bond, nor proof of the bond. V&K has failed to comply with one of the conditions imposed in Order 02. Under the terms of the Order, the Commission must cancel the Company's temporary permit and dismiss its application for permanent authority.

ORDER

THE COMMISSION ORDERS:

- 11 (1) Temporary Household Goods Permit No. THG-63200, held by V&K Delivery Services, LLC, is cancelled.
- 12 (2) The application of V&K Delivery Services, LLC, for a permanent household good carrier permit is dismissed.
- 13 (3) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Olympia, Washington and effective March 3, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge

³ *Id.*, ¶ 32.

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*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). 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 entry of 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. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

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.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and **three (3)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
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