

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of  MVP MOVING AND STORAGE LLC  For Compliance with WAC 480-15-560 and WAC 480-15-570	DOCKET TV-170039 <i>(Consolidated)</i>  ORDER 04
In the Matter of the Penalty Assessment Against  MVP MOVING AND STORAGE LLC  In the amount of \$6,100	DOCKET TV-170038 <i>(Consolidated)</i>  ORDER 04  DENYING STAFF'S MOTION FOR CANCELLATION OF HOUSEHOLD GOODS PERMIT SUBJECT TO CONDITIONS

**BACKGROUND**

- 1 On April 4, 2017, the Washington Utilities and Transportation Commission (Commission) conducted a brief adjudicative proceeding in consolidated Dockets TV-170038 and TV-170039. On April 6, 2017, the Commission entered Order 01, Order of Consolidation; Order Upgrading Safety Rating; Order Imposing and Suspending Penalties (Order 01). Order 01, among other things, assessed a penalty of \$6,100 against MVP Moving and Storage LLC (MVP Moving or Company) for 61 violations of Commission safety rules.
- 2 On May 31, 2017, the Commission entered Order 02, Order Imposing Suspended Penalty because MVP Moving neither paid the \$3,000 portion of the penalty that was not suspended nor filed jointly with Commission staff (Staff) a proposed payment arrangement before the May 8 deadline set by Order 01.
- 3 On June 27, 2017, MVP Moving made a \$3,100 payment. Three days later, the Company contacted Staff to request the remaining balance be mitigated.
- 4 On July 12, 2017, the Commission entered Order 03, Order Granting Payment Arrangement (Order 03). The Commission declined to mitigate the remaining \$3,000 balance, but approved an installment agreement proposed jointly by Staff and the Company that required the Company to make 10 monthly payments of \$300 each, with a

final payment due May 1, 2018. Order 03 further specified that if MVP Moving failed to pay the penalty by the date it became due in full – either immediately upon a missed installment, or May 1, 2018, whichever applies – the Commission may cancel the Company’s household goods permit.

5 On April 26, 2018, Staff filed with the Commission a letter requesting enforcement of Order 03. Staff noted that MVP Moving made \$300 payments on August 2, 2017, September 18, 2017, and March 15, 2018. In total, MVP Moving made only three of nine required payments. Staff requested that the remaining balance become immediately due and payable and that the Commission cancel MVP Moving’s household goods carrier permit for failing to comply with the terms of Order 03.

6 On May 9, 2018, Staff filed a Motion for Cancellation of MVP Moving’s Household Goods Carrier Permit (Motion). Staff’s Motion is based on the Company’s non-payment of penalties as described in Staff’s April 26, 2018, letter.

7 On May 10, 2018, MVP Moving paid its \$1,900 remaining balance in full. That same day, Staff filed with the Commission a letter acknowledging that payment was received but maintaining its position that the Company’s permit should be cancelled.

8 On June 5, 2018, the Commission conducted a hearing on Staff’s Motion before Administrative Law Judge Rayne Pearson.

9 Mathew Perkinson, motor carrier safety manager, testified for Staff. Mr. Perkinson explained Staff’s position that MVP Moving is unfit to operate based on its poor payment history, and that this pattern of behavior indicates that the Company may pose a safety risk to the public. Staff recommends the Commission cancel the Company’s household goods carrier permit or, in the alternative, require additional compliance monitoring as follows:

- MVP Moving must pay any outstanding penalties.
- MVP Moving must not incur any repeat violations when Staff performs a follow-up non-rated inspection in 6 months focused on driver qualification requirements.
- MVP Moving must attend the Commission’s next two household goods training sessions in Olympia on August 15, 2018, and November 7, 2018.
- MVP Moving’s provisional status would remain in effect until the Company achieves a satisfactory safety rating.

10 Jason Garcia, owner, testified for MVP Moving. According to Mr. Garcia, his former business partner, Erik Hawkins, left the Company without notice in November 2017. Mr. Hawkins performed the Company’s accounting and regulatory operations, while Mr.

Garcia focused on sales and scheduling. Once Mr. Hawkins departed, Mr. Garcia discovered that Mr. Hawkins misrepresented that he was paying taxes and keeping up with other regulatory obligations. Since Mr. Hawkins's sudden departure six months ago, Mr. Garcia claims he has been attempting to get his affairs in order and ensure the Company runs smoothly. Mr. Garcia denied any knowledge of the payment arrangement prior to being notified by Commission staff during a non-rated compliance review in January 2018 that payments were overdue. Mr. Garcia represented that he has removed Mr. Hawkins from his business license and has hired two operations managers to oversee compliance. Mr. Garcia acknowledged that he has not yet filed the Company's 2017 annual report, which was due on May 1, 2018.

- 11 Jeff Roberson, Assistant Attorney General, Olympia, Washington, represents Commission staff (Staff). Jason Garcia, Owner, Kent, Washington, represents MVP Moving.

### **DISCUSSION AND DECISION**

- 12 We deny Staff's Motion to cancel MVP Moving's household goods carrier permit, subject to several conditions. WAC 480-15-450 provides that the Commission may cancel a permit without the carrier's authorization for good cause. Although not expressly stated, "good cause" includes failure to comply with a Commission order. Here, MVP Moving failed to honor the payment arrangement approved by the Commission, which violated the terms of Order 03. The Company, however, has since come into compliance by paying all of its outstanding penalties in full.
- 13 In any enforcement proceeding, the Commission's ultimate goal is compliance. We will typically only cancel a company's household goods permit following its belated compliance with a Commission order if rare or extreme circumstances require such action. No such circumstances exist here. Although the Company's poor payment history certainly raises concerns, Mr. Garcia testified credibly that he was misled by his former business partner to believe that all of the Company's financial obligations were being met. Prior to taking action that would put the Company out of business, at least temporarily, we find that Mr. Garcia should be given an opportunity to demonstrate that he is fit, willing, and able to run the Company on his own.
- 14 We also find that the public interest is best served by providing a sufficient level of accountability, coupled with technical assistance and oversight, to ensure the Company's operations comply with consumer protection and safety requirements. To that end, we will impose several conditions on MVP Moving that must be met within the required timeframes in order to maintain the Company's permit. In other words, if the conditions

are not met, Staff may again seek cancellation of the Company's permit by motion filed in these Dockets. The Company is cautioned that we will not be inclined to exercise the leniency shown here a second time.

- 15 We also extend the Company's provisional period for its household goods operating authority. WAC 480-15-305(1)(b) provides that, prior to a grant of permanent authority, an applicant must complete a provisional period of not less than six months and not more than 18 months unless the Commission determines for good cause that the provisional period should be extended. Good cause may include, among other things, that a carrier has not yet achieved a satisfactory safety rating. MVP Moving's safety rating was upgraded to conditional in Order 01, and has not yet been upgraded to satisfactory. Accordingly, the Commission finds good cause to extend the Company's provisional period until such time that the Company achieves a satisfactory safety rating.
- 16 Accordingly, we deny Staff's Motion subject to the following conditions:
- a) MVP Moving must work with Staff to develop a safety management plan that is acceptable to Staff. The plan must address each of the violations cited in Order 01 in this docket, and provide specific explanations and documentation demonstrating how each violation has been corrected.
  - b) Commission Staff will conduct a non-rated follow-up compliance review at least six months from the date of this Order.
  - c) MVP Moving may not incur any repeat violations of critical regulations upon review.
  - d) MVP Moving must file its 2017 annual report and pay any required regulatory fee within 10 days of the date of this order.
  - e) MVP Moving must pay the \$500 penalty for failing to timely file its annual report within 15 days of the date of the Penalty Notice.
  - f) MVP Moving and all of its Staff must attend Commission-sponsored household goods carrier training on August 14, 2018, and again on November 7, 2018. Mr. Garcia must be present at both trainings, but may divide his staff's attendance between the two trainings so long as all staff members complete the training on one of those two dates.
  - g) MVP Moving must provide information and original documents to Consumer Protection Staff for all residential moves performed between April 1, 2018, and May 31, 2018, consistent with the data request Staff is hereby directed to issue within 10 days after the date of this Order. The purpose of this audit is to identify any deficiencies in the Company's compliance with consumer protection rules and Tariff 15-C, and to provide technical assistance to help bring the Company into compliance. Violations discovered during this audit will not constitute

grounds to cancel the Company's permit unless fraudulent, unfair, or deceptive practices are discovered.

**ORDER**

THE COMMISSION ORDERS THAT:

- 17 (1) Staff's Motion for Cancellation of MVP Moving and Storage LLC's household goods permit is DENIED, subject to the conditions set out in paragraph 16, above.
- 18 (2) MVP Moving and Storage LLC's provisional period is extended until such time the Company achieves a satisfactory safety rating.

DATED at Olympia, Washington, and effective June 7, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON  
Administrative Law Judge