

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

BEST MOVING AND DELIVERY, LLC,

Respondent.

DOCKET TV-132030

COMMISSION STAFF'S ANSWER
TO PETITION FOR
ADMINISTRATIVE REVIEW

I. INTRODUCTION AND BACKGROUND

1 In 2012, Washington Utilities and Transportation Commission Staff (“Staff”) began an investigation into the business practices of Best Moving and Delivery, LLC (“Best Moving” or “Company”). Upon review of Staff’s Investigation Report and associated documents, the Washington Utilities and Transportation Commission (“Commission”) found probable cause to issue a complaint against Best Moving.¹ The Company contested the complaint and the Commission conducted an evidentiary hearing involving both Staff and the Company (collectively “the Parties”) on March 9, 2015. Staff submitted a brief to the Commission on March 16, 2015.² The Company did not file a brief.

¹ *WUTC v. Best Moving and Delivery, LLC*, Docket TV-132030, Complaint and Notice of Prehearing Conference (Sept. 11, 2014).

² Initial Brief on Behalf of Commission Staff (March 16, 2015).

2 On April 10, 2015, Administrative Law Judge Marguerite Friedlander issued an initial order in Docket TV-132030.³ Judge Friedlander's order imposed \$13,700 in penalties and revoked Best Moving's permit.⁴ Best Moving filed a document labeled "Petition for Administrative Review" on April 29, 2015.⁵

II. BEST MOVING'S PETITION FAILS TO MEET THE REQUIREMENTS IN WAC 480-07-825 AND SHOULD NOT BE CONSIDERED.

3 Under WAC 480-07-825(2), any party to a proceeding may file a petition for administrative review of an initial order within twenty days after the initial order is served. A petition for administrative review must identify the nature of each challenge to the initial order and specifically state the factual and legal bases in support of the petition.⁶ If a petitioner challenges a finding of fact, the party must cite the pertinent page or part of the record or otherwise expressly state the evidence relied on to support such a petition.⁷

4 Best Moving's petition for review does not cite any specific factual or legal bases to support administrative review.⁸ The petition relies solely on a short list of declarative statements that neither identify nor supplement defects in the record. There is no reference to any specific evidence in the record or even a clear indication that the Company intends to challenge the Administrative Law Judge's findings of fact or conclusions of law. Best Moving's petition thus fails to meet minimum procedural requirements and should not be considered.

³ Order 02 ("Initial Order Imposing Penalties and Revoking Household Goods Permit") (April 10, 2015).

⁴ Order 02 at pp. 13-14 ¶¶36-38 and pp. 14-15 ¶¶39-49.

⁵ Petition for Administrative Review (April 29, 2015)

⁶ See WAC 480-07-825(3).

⁷ *Id.*

⁸ See Petition for Administrative Review.

5 The Company did not file an adequate petition for review within the required
timeframe under WAC 480-07-825, and the Administrative Law Judge's initial order should
become final by operation of law.

**III. EVEN ACCEPTING THE COMPANY'S INADEQUATE PETITION, BEST
MOVING HAS NOT PRESENTED ADEQUATE REASONS FOR
ADMINISTRATIVE REVIEW OR MODIFYING THE INITIAL ORDER.**

6 Best Moving's petition provided a seven-point list of declarative statements. Staff
addresses each of the Company's points in order:

**A. "1. No continuing violations of the Commission's advertising and household
goods rules are [sic] been committed."**

7 Staff presented 64 exhibits documenting the Company's failure to adhere to various
Commission household goods rules.⁹ Sixty-three of Staff's exhibits were primary
documents provided by the Company.¹⁰ Staff also presented oral testimony from Ms. Rayne
Pearson further explaining the Company's failure to adhere to Commission rules.¹¹

8 Notably, Exhibits RP-1 through RP-7 support Staff's charge that the Company
falsified estimate forms and did not provide estimate forms to at least seven customers.¹²
None of the forms were signed or dated, all have similar handwriting and ink, and indicate
that the Company provided estimates hours or minutes before conducting the moves. And
Staff's witness testified to direct conversations with those seven customers who
categorically denied ever receiving any form of written estimate from Best Moving.¹³

9 Exhibits RP-1 through RP-31 document that the Company's estimate forms did not
comply with Commission-published Tariff 15-C.¹⁴ Best Moving acknowledged that it did

⁹ Pearson, Exhibits No. ____ (RP-1) through No. ____ (RP-64).

¹⁰ See Pearson, Exhibits RP-1, RP-63.

¹¹ Pearson, TR 18:14-92:15.

¹² Pearson, Exhibits RP-1, RP-7 and RP-64 (supporting the first and second causes of action in the complaint).

¹³ Pearson, TR 29:22-30:11.

¹⁴ See Pearson, Exhibits RP-1 through RP-31 and RP-64 (supporting the third cause of action in the complaint).

not complete estimate forms for customers and that its estimate forms did not comply with Commission rules.¹⁵ The Company's officer also admitted at hearing that Best Moving did not provide cube sheets to customers, which is another violation of Commission rules.¹⁶

10 Exhibits RP-32 through RP-62 show that the Company's bill of lading forms did not comply with Commission-published Tariff 15-C.¹⁷ The Company also admitted failure to issue a properly formatted bill of lading on 31 occasions.¹⁸ Exhibit RP-63 documents that the Company's website did not include a physical address, which violated Commission advertising rules.¹⁹ The Company's officer also admitted to charging customers in less than 15-minute time increments and violating the four-hour minimum charge for weekend moves.²⁰

11 As the initial order documents, the record in this proceeding conclusively supports the Administrative Law Judge's findings that Best Moving violated several household goods and advertising rules.

B. "2. I have continued to provide written estimates, including cube sheets, to customers prior to the move."

12 As described above, Staff documented through exhibits and oral testimony that Best Moving did not provide written estimates on at least seven occasions. The Company also admitted in the evidentiary hearing that it did not provide cube sheets to customers.²¹ The Company's petition for review thus contradicts the existing record in this proceeding and

¹⁵ Ratko, TR 99:2-4.

¹⁶ Ratko, 82:20-84:18 (discussing the company's practice of asking for photographs rather than completing a cube sheet); Ratko, TR 99:10-100:5 (Mr. Ratko stating that he believed a cube sheet was only necessary for moves greater than 50 miles); Ratko TR 118:11-20 (admitting that the Company did not provide cube sheets); (supporting the fourth cause of action in the complaint).

¹⁷ Pearson, Exhibits RP-32 through RP-62 and RP-64 (supporting the fifth cause of action in the complaint)

¹⁸ Ratko, TR 101:2-8; Ratko TR 118:21-119:14.

¹⁹ Pearson, Exhibit RP-63 (supporting the seventh cause of action in the complaint).

²⁰ Ratko, TR 112:7-113:17 (supporting the eighth cause of action in the complaint).

²¹ Ratko, TR 99:10-100:5; Ratko TR 118:11-20.

does not provide any legitimate reason to grant administrative review or disturb the ALJ's findings.

C. "3. Bill of lading format, including required language regarding contract terms and conditions has been corrected."

13 Staff documented in Exhibits RP-32 through RP-62 that the Company's bill of lading did not comply with Commission rules. The Company acknowledged the violations during the proceeding.²²

14 The Administrative Law Judge also allowed the Company an opportunity to present updated bill of lading forms.²³ Best Moving filed new bill of lading forms that retained several of the deficiencies documented by Staff in exhibits and testimony.²⁴ Although the Company may be commended for its efforts to correct the deficiencies in its customer forms, supplementing the record after an initial order is not a legitimate bases to challenge a finding of fact or conclusion of law.

D. "4. Our Company's has business address on the website and forms."

15 Staff documented in Exhibit RP-63 and through oral testimony that the Company's website did not contain a physical address.²⁵ The Company's officer stated at the hearing that he did not know whether the website contained an address or not.²⁶ A subsequent claim of correction after the record is closed is not a legitimate bases for challenging a finding of fact or conclusion of law.

²² Ratko, TR 101:2-8; Ratko TR 118:21-119:14.

²³ The ALJ allowed Mr. Ratko to supplement the record with updated bills of lading after the hearing. *See* TR, 101:2-103:2.

²⁴ Order 02 (Initial Order), at 9 ¶25.

²⁵ Pearson, Exhibit RP-63 and Pearson, TR 43:18-44:16; 45:24-46:6.

²⁶ Ratko, TR 120:20-121:9.

E. “5. Estimate Form has been corrected and with [sic] compliance (with) UTC Rules. (Please see attachment below.”

16 Staff documented in Exhibits RP-1 through RP-32 that the Company’s estimate forms were not in compliance with Commission-published Tariff 15-C.²⁷ The Company acknowledged the violations during the proceeding.²⁸ After the evidentiary hearing, Best Moving filed new estimate forms that retained several of the deficiencies documented by Staff in exhibits and testimony.²⁹ Although the Company’s latest attachments to its petition may represent an effort at belated compliance, attempts at supplementing the record after an initial order are not a legitimate bases to challenge a finding of fact or conclusion of law. Best Moving’s argument is particularly ineffectual because the Judge expressly granted the Company an additional opportunity to provide updated forms after the evidentiary hearing.

F. “6. Consumer Guide Moving in Washington State link & brochure has been added to website forms and email attachment.”

17 Staff is unaware of how the above statement challenges any of the ALJ’s findings in the initial order. The Company’s statement thus does not support its petition for review.

G. “7. Estimate Forms are not falsified (I prepared an estimate for every of 31 customers mentioned in the docket, prior move date based on job description client provided over the phone or/and email. Customer has not requested a copy written estimate for that reason forms were not signed nor presented to customer. Estimate forms are kept for our record.)”

18 Staff documented through Exhibits RP-1 through RP-7 and oral testimony that at least seven estimate forms had been falsified.³⁰ None of the forms in RP-1 through RP-7 were signed or dated, all were completed in nearly identical handwriting and ink, and all

²⁷ Pearson, Exhibits RP-1 through RP-32.

²⁸ Ratko; TR 117:17-118:3.

²⁹ Order 02 (Initial Order) at 7 ¶18.

³⁰ Pearson, Exhibits RP-1 through RP-7; Pearson, TR 29:13-39:11 and 54:9-22

were noted as being completed within hours or minutes of the actual move.³¹ Staff's witness testified that the Company stated the forms had been provided to customers at the time of the move.³² Staff also testified to direct phone conversations with all seven customers listed on Exhibits RP-1 through RP-7 where each customer specifically denied ever receiving any estimate from Best Moving.³³ The evidence presented sufficiently supports Staff's charge and the ALJ's finding that Best Moving falsified the estimate forms.

IV. CONCLUSION

19 The Commission should refuse to consider the Company's petition for administrative review because the document fails to meet the relevant rules outlined in WAC 480-07-825 and fails to provide any bases to challenge the Administrative Law Judge's findings of fact and conclusions of law.

DATED this 7th day of May 2015.

Respectfully submitted,



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³¹ See Pearson, Exhibits RP-1 through RP-7 and RP-64.

³² Pearson, TR 29:13-18.

³³ Pearson, TR 30:7-11.