



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • www.utc.wa.gov

April 10, 2014

Carol Miller
Kevin Lee Miller, d/b/a KLM Movers
1013 NE Coco Court
Bremerton, WA 98311

RE: Cancellation of permit HG63577 in docket TV-140447

Dear Ms. Miller:

I am responding to your April 3, 2014, letter. You requested me to reconsider the cancellation of Kevin Lee Miller, d/b/a KLM Mover's (KLM) household goods permit, and, that the permit be reinstated.

On February 10, 2014, the Washington Utilities and Transportation Commission (commission) received notice from your insurance company that policy number CA 06271125 would be cancelled effective March 17, 2014. We sent a notice advising you that if proof of insurance was not filed by March 17, 2014, we would suspend your operating authority.

Your letter indicates you contacted your insurance agent to ensure that proof of insurance was filed with the commission. On February 26, 2014, staff accepted, in error, a binder from Prime Syndicate for automobile liability coverage. Staff did not notice the error until March 17, 2014, when Prime Insurance Company followed up with a Form E certificate of insurance, policy number SC1401365-0. Staff rejected the insurance filing from Prime Insurance Company.

On March 20, 2014, Ms. Stillwell, Licensing Services Manager, advised both you and your local agent that the commission rejected the filing because of a commission rule specific to insurance requirements for household goods carriers. And, that you needed to provide proof of insurance with an authorized/admitted carrier in Washington.

Washington Administrative Code, WAC 480-15-530(1)(a), requires that the "policy must be written by an insurance company authorized to write insurance in Washington state." Because Prime Insurance Company, a surplus line carrier, is not authorized to write insurance in Washington state, the commission cannot accept the insurance that was filed. The application of the commission's rule, WAC 480-15-530(1)(a), was confirmed with an Assistant Attorney General assigned to represent the commission.

The commission suspended the company's authority effective March 17, 2014, because the insurance on file with this commission was cancelled effective March 17 (see attached Form K). The order suspending KLM's household goods permit was for lack of valid proof of insurance. The order details that you must provide valid proof of insurance within 30 days (April 16) or your permit will be cancelled.

KLM Movers' (KLM) options at this point, include, obtaining insurance coverage with a company authorized to write insurance in Washington; or, requesting that the commission exempt KLM from complying with WAC 480-15-530(1)(a) by purchasing surplus line insurance consistent with the requirements in RCW 48.15. If KLM chooses the second option, it will need to send a letter to the Secretary of the Commission formally requesting this exemption, and explaining the reasons why the Commission should allow an exemption in these circumstances.

I hope that this information has been informative. If you have any further questions, please contact me at Ms. Stillwell at 360-664-1224.

Sincerely,

David Pratt
Assistant Director, Transportation Safety
Utilities and Transportation Commission
dpratt@utc.wa.gov
360-664-1100 office

Enclosures:

WAC 480-07-110 Exemption from Rules
WAC 480-15-530 Public liability and property damage insurance
Chapter 48.15 RCW: Unauthorized Insurers

WAC 480-07-110

Exemptions from and modifications to commission rules; conflicts involving rules.

(1) **Exceptions and modifications.** The commission may grant an exemption from or modify the application of its rules in individual cases if consistent with the public interest, the purposes underlying regulation, and applicable statutes. The commission may modify the application of procedural rules in this chapter during a particular adjudication consistent with other adjudicative decisions, without following the process identified in subsection (2) of this section.

(2) **Process.**

(a) **How to request an exemption to or modification of a rule.** To request a rule exemption or modification, a person must file with the commission a written petition identifying the rule for which an exemption is sought, and provide a full explanation of the reason for requesting the exemption. Telecommunications companies, gas companies or electric companies filing petitions for exemption under this section shall provide a copy of the request with the public counsel section of the attorney general's office by mail or e-mail, within one business day of the day the request is filed with the commission.

(b) **Commission process.** The commission will assign the petition a docket number, if it does not arise in an existing docket, and will schedule the petition for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date of the open meeting or hearing when the commission will consider the petition.

(c) **Standard for consideration.** The standard for consideration is the public interest standard. Factors the commission may consider include whether application of the rule would impose undue hardship on the requesting person, of a degree or a kind different from hardships imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the underlying purposes of the rule.

(d) **Disposition.** The commission will enter an order granting or denying the petition, or setting it for hearing.

(3) **Conflicts involving rules.** In the event of conflict between these rules and statutes, or rules in other chapters of Title 480 of the Washington Administrative Code, applicable to specific types of companies regulated by the commission or to others who may conduct business with the commission, or to particular proceedings, those statutes or special rules govern.

(4) **Emergency situations.** In the event of a state of emergency, and for good cause shown, the commission may enter an order on its own motion, or upon the motion of any person or public service company affected by the rule, exempting public service companies, the commission and all affected persons, from complying with the requirements of specific rules in this title.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 08-18-012 (Docket A-072162, General Order R-550), § 480-07-110, filed 8/22/08, effective 9/22/08; WSR 06-16-053 (Docket A-050802, General Order R-536), § 480-07-110, filed 7/27/06, effective 8/27/06; WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-110, filed 11/24/03, effective 1/1/04.]

WAC 480-15-530

Public liability and property damage insurance.

(1) Before operating under a household goods permit, carriers must have public liability and property damage insurance covering every motor vehicle used in its operations. The commission will not issue a permit for authority to operate without acceptable proof of required insurance coverage. Carriers must maintain the required public liability and property damage insurance at all times for every motor vehicle used in Washington intrastate operations.

(a) The policy must be written by an insurance company authorized to write insurance in Washington state.

(b) The policy must include the Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance (Form E) or Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond (Form G).

(c) The commission may suspend or cancel the permit of any carrier operating without proof of required insurance coverage.

(2) The minimum limits of required public liability and property damage insurance for motor vehicles operated by household goods carriers are as follows:

(a) At least three hundred thousand dollars in combined single limit coverage for motor vehicles with a gross vehicle weight rating of less than ten thousand pounds.

(b) At least seven hundred fifty thousand dollars in combined single limit coverage for motor vehicles with a gross vehicle weight rating of ten thousand pounds or more.

(3) Carriers must file a Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance (Form E) or Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond (Form G) as a condition of maintaining a household goods permit.

(a) The Form E or Form G filing must be issued in exactly the same name as the carrier's permit.

(b) The Form E or Form G filing must be continuous, until canceled by a Notice of Cancellation (Form K) filed with the commission no less than thirty days before the cancellation effective date.

(4)(a) The commission will accept an insurance certificate or binder for up to sixty days. A certificate or binder may be canceled by filing written notice with the commission at least ten days before the cancellation effective date. A certificate or binder must be replaced by a Form E or Form G within sixty days of filing, or before the expiration date, whichever occurs first.

(b) Certificates or binders must include all of the following:

(i) The commission as the named certificate holder.

(ii) The carrier's name, exactly as it appears on the permit or application, as the insured.

(iii) The insurance company name.

(iv) The insurance policy number.

(v) The effective and expiration dates.

(vi) The insurance limits of coverage.

[Statutory Authority: RCW 80.01.040, 81.01.010, 81.04.160, and 81.80.130. WSR 13-23-048 (Docket TV-130079, General Order R-573), § 480-15-530, filed 11/15/13, effective 12/16/13. Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.250, 81.28.040, 81.80.120, 81.80.130 and 81.80.290. WSR 08-02-049 (Docket TV-070466, General Order R-547), § 480-15-530, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 81.04.160 and 80.01.040. WSR 99-01-077 (Order R-454, Docket No. TV-971477), § 480-15-530, filed 12/15/98, effective 1/15/99.]

Chapter 48.15 RCW UNAUTHORIZED INSURERS

RCW Sections

- 48.15.010 Definitions.
- 48.15.015 Rules.
- 48.15.020 Solicitation by unauthorized insurer prohibited -- Personal liability.
- 48.15.023 Unauthorized activities -- Acts committed in this state -- Sanctions.
- 48.15.025 Application of other chapters to surplus line brokers.
- 48.15.030 Validity of contracts illegally effectuated.
- 48.15.039 National database -- Surplus line brokers.
- 48.15.040 "Surplus line" coverage.
- 48.15.043 Diligent effort requirement -- Exempt commercial purchaser.
- 48.15.050 Endorsement of contract.
- 48.15.060 Validity of contracts.
- 48.15.070 Surplus line brokers -- Licensing -- Bond -- Renewal.
- 48.15.073 Nonresident surplus line brokers -- Licensing -- Reciprocity -- Service of process.
- 48.15.080 Licensed surplus line broker may accept business.
- 48.15.085 Liability of insurer assuming direct risk.
- 48.15.090 Solvent insurer required -- Rules.
- 48.15.100 Record of surplus line broker.
- 48.15.103 Use of business name -- Place of business -- Duties of surplus line broker.
- 48.15.110 Broker's annual statement.
- 48.15.120 Premium tax -- Surplus lines.
- 48.15.130 Penalty for default.
- 48.15.140 Revocation, suspension, or failure to renew surplus line broker's license -- Civil penalty.
- 48.15.142 Suspension for failure to comply with support order.
- 48.15.150 Legal process against surplus line insurer.
- 48.15.160 Exemptions from surplus line requirements.
- 48.15.170 Records of insureds -- Inspection.
- 48.15.180 Surplus line broker's fiduciary capacity -- Violations.
- 48.15.185 Determination of qualifications and competence by state -- Unlawful use of questions.

RCW 48.15.040**"Surplus line" coverage. (*Effective until December 31, 2016.*)**

If certain insurance coverages cannot be procured from authorized insurers, such coverages, hereinafter designated as "surplus lines," may be procured from unauthorized insurers subject to the following conditions:

(1) The insurance must be procured through a licensed surplus line broker under this chapter. If the insurance is property and casualty insurance, except industrial insurance under Title 51 RCW, then the insurance must be procured under the laws and rules of the insured's home state.

(2) The insurance must not be procurable, after diligent effort has been made to do so from among a majority of the insurers authorized to transact that kind of insurance in this state.

(3) Coverage shall not be procured from an unauthorized insurer for the purpose of securing a lower premium rate than would be accepted by any authorized insurer nor to secure any other competitive advantage.

(4) The commissioner may by regulation establish the degree of effort required to comply with subsections (2) and (3) of this section.

(5) At the time of procuring the insurance the surplus line broker must certify to the accuracy of the facts supporting the surplus line broker's diligent effort required in subsections (2) and (3) of this section.

(a) The certification must set forth the facts supporting the surplus line broker's diligent effort.

(b) The certification must state that under the penalty of suspension or revocation of the surplus line broker's license the facts contained in the certification are true and correct.

(c) The certification may be in electronic, digital, or another format as designated by the commissioner.

(d) The certification must be filed with the commissioner within sixty days after the insurance is procured.

(6) For purposes of chapter 48.164 RCW, a joint underwriting association established or authorized by the legislature is not an authorized insurer.

[2011 c 31 § 2; 2010 c 230 § 17; 1983 1st ex.s. c 32 § 4; 1947 c 79 § .15.04; Rem. Supp. 1947 § 45.15.04.]

Notes:

Expiration date -- 2011 c 31 § 2: "Section 2 of this act expires December 31, 2016." [2011 c 31 § 10.]

Effective date -- 2011 c 31: See note following RCW 48.15.010.

Effective date -- **Expiration date** -- 2010 c 230: See RCW 48.164.900 and 48.164.901.