October 7, 2014

Steven V. King, Executive Director and Secretary

Washington Utilities and Transportation Commission

1300 S. Evergreen Park Dr. SW

P. O. Box 47250

Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. All Ready Moving, LLC*

Commission Staff’s Response to Application for Mitigation of Penalties

Docket TV-143299

Dear Mr. King:

On September 29, 2014, the Washington Utilities and Transportation Commission (commission) issued Penalty Assessment TV-143299 against All Ready Moving, LLC (All Ready Moving) in the amount of $200, for two violations of Washington Administrative Code (WAC) 480-15-570, which requires household goods carriers to comply with parts of Title 49, Code of Federal Regulations (CFR), including Part 391 - Qualification of drivers and Part 395 – Hours of service of drivers as follows:

* + **$100 for one violation of CFR Part 391.51(b)(2)** – Failing to maintain inquiries into driver’s driving record in driver’s qualification file. Three company drivers’ files did not contain copies of driver abstracts. This is a critical regulation but these are first-time violations, so the commission assessed a penalty of $100 for one violation of this type. Future violations will result in penalties assessed for each violation.
  + **$100 for one violation of** **CFR 395.8(a)** – Failing to require driver to make a record of duty status. Three company drivers drove a total of 47 days without making a record of duty status. This is a critical regulation but these are first-time

violations, so the commission assessed a penalty of $100 for one violation of this type. Future violations will result in penalties assessed for each violation.

On October 3, 2014, All Ready Moving filed with the commission its application for mitigation of penalties (Mitigation Request). Matt Collins, owner of All Ready Moving, admitted the violations but asked that the penalty amount be reduced for the reasons set out in the response.

All Ready Moving operates as a household goods carrier under permit number THG-64314. On August 6, 2014, Motor Carrier Safety Inspector John Foster conducted a compliance review inspection at the carrier’s terminal. Compliance reviews are an in-depth examination of the motor carrier's compliance with regulations that the FMCSA has identified as “acute” or “critical.”[[1]](#footnote-1) Acute regulations are identified where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier. Violations of critical regulations are generally indicative of breakdowns in a carrier's management controls. Non-compliance with acute regulations and patterns of non-compliance with critical regulations are quantitatively linked to inadequate safety management controls and usually higher than average accident rates.[[2]](#footnote-2)

Mr. Foster found 66 total violations, all of which were first-time violations. The commission’s Enforcement Policy, however, provides that some commission requirements are so critical to safe operations that the commission may issue penalties for a first-time violation, even if staff has not previously provided technical assistance on specific issues.[[3]](#footnote-3) Of the 66 violations, 50 were of critical regulations. The compliance review resulted in an unsatisfactory safety rating for All Ready Moving. Staff will re-inspect within the next few months to determine if the company has improved its operating practices.

As stated in the penalty assessment, the commission could have assessed up to $5,000 in penalties against All Ready Moving for the violations found in the compliance review. Instead, based on the specific factors outlined in the penalty assessment, the commission only assessed $200 in penalties. In its Mitigation Request, All Ready Moving did not provide any information which supports further mitigation of the penalty; therefore, staff recommends the request be denied.

If you have any questions, please contact Betty Young, Compliance Investigator, Transportation Safety, at 360-664-1202, or by e-mail at [byoung@utc.wa.gov](mailto:byoung@utc.wa.gov).

Sincerely,

David Pratt

Assistant Director, Transportation Safety

Enclosure

1. Code of Federal Regulations, [Appendix B to Part 385—Explanation of safety rating process](http://www.fmcsa.dot.gov/regulations/title49/section/385.Appendix%20B%20to%20Part%20385), copy enclosed. [↑](#footnote-ref-1)
2. *Id.* [↑](#footnote-ref-2)
3. Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V. [↑](#footnote-ref-3)