



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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**Date:** December 2, 2020

**To:** Rayne Pearson, Administrative Law Judge, Administrative Law Division

**From:** Mathew Perkinson, Assistant Director, Transportation Safety Division

**Re: TV-200869 and TV-200870 Queen City Business Movers LLC**  
Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG068619)

On October 14, 2020, Commission staff (staff) completed a routine safety investigation of Queen City Business Movers LLC (Queen City Movers or Company) which resulted in a proposed unsatisfactory safety rating.

Commission rules prohibit motor carriers from operating beginning on the 61st day after the date of the notice of a proposed unsatisfactory rating. A company may request a change in its safety rating based on evidence that it has taken corrective actions to address the identified violations, and that its operations currently meet the safety standard and factors in 49 CFR § 385.5 and 385.7. In this case, Queen City Movers has until December 14, 2020, to come into compliance with applicable laws and rules by obtaining commission approval of a safety management plan.

**The proposed unsatisfactory safety rating was based on six violations of acute and critical regulations – 49 CFR § 382.115(a), 383.37(a), 391.45(a), 391.51(a), 395.8(a)(1), and WAC 480-15-555.**

**“Acute”** regulations are those identified as such where non-compliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier.

**“Critical”** regulations are those identified as such where non-compliance relates to management and operational controls. These are indicative of breakdowns in a company's management controls. Patterns of non-compliance with a critical regulation are linked to inadequate safety management controls and higher than average accident rates.

### **Acute violations discovered during investigation:**

1. One violation of 49 CFR § 382.115(a) – Failing to implement a controlled substance and/or an alcohol testing program.
2. Two hundred twenty violations of 49 CFR § 383.37(a) – Knowingly allowing, requiring, permitting, or authorizing an employee to operate a commercial motor vehicle during any period in which the driver does not have a current CLP or CDL or does not have a CLP or CDL with the proper class or endorsements. An employer may not use a driver to operate a commercial motor vehicle who violates any restriction on the driver’s CLP or CDL.

### **Critical violations discovered during investigation:**

3. Two hundred twenty violations of 49 CFR § 391.45(a) – Using a driver not medically examined and certified.
4. Three violations of 49 CFR § 391.51(a) – Failing to maintain driver qualification file on each driver employed.
5. Ninety violations of 49 CFR § 395.8(a)(1) – Failing to require driver to make a record of duty status.
6. Eight violations of WAC 480-15-555 – Failure to complete a criminal background check for every person the carrier intends to hire.

On October 26, 2020, the commission issued a penalty assessment against Queen City Movers in the amount of \$24,700 as a result of violations discovered during the routine safety investigation.<sup>1</sup> The penalty includes:

1. A \$800 penalty for eight violations of WAC 480-15-555 for failing to complete a criminal background check for every person the carrier intends to hire.
2. A \$1,500 penalty for one violation of 49 CFR § 382.115(a) for failing to implement a controlled substance and/or alcohol testing program.
3. A \$22,000 penalty for 220 violations of 49 CFR § 383.37(a) for knowingly allowing, requiring, permitting, or authorizing an employee to operate a commercial motor vehicle during any period in which the driver does not have a current CLP or CDL or does not have a CLP or CDL with the proper class or endorsements. An employer may not use a driver to operate a commercial motor vehicle who violates any restriction on the driver’s CLP or CDL.
4. A \$100 penalty for three violations of 49 CFR § 391.51(a) for failing to maintain a driver qualification file on each driver employed.

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<sup>1</sup> TV-200869

5. A \$100 penalty for 90 violations of 49 CFR § 395.8(a)(1) for failing to require driver to make a record of duty status.
6. A \$100 penalty for one violation of 49 CFR § 396.3(b) for failing to keep minimum records of inspection and vehicle maintenance.
7. A \$100 penalty for one violation of 49 CFR § 396.17(a) for using a commercial motor vehicle not periodically inspected.

In an October 27, 2020, Notice of Intent to Cancel, the commission instructed Queen City Movers to submit its proposed safety management plan no later than November 24, 2020.

On November 17, 2020, Queen City Movers filed with the commission its application for mitigation of penalties. In the request for mitigation, the Company admitted the violations and believed that the penalty should be reduced. Queen City Movers requested a hearing to present evidence to support the mitigation request.

On November 24, 2020, Queen City Movers submitted a safety management plan addressing each violation noted during the investigation. Staff only recommends approving a safety management plan that addresses the following seven items:

1. The plan must address each acute, critical, or serious violation discovered during the most recent investigation. It must also include corrective actions that address other violations noted during the investigation.
2. Identify why the violations were permitted to occur.
3. Discuss the actions taken to correct the deficiency or deficiencies that allowed the violations to occur. Include actual documentation of this corrective action.
4. Outline actions taken to ensure that similar violations do not reoccur in the future. The plan must demonstrate that the company's operations currently meet the safety standard and factors specified in 49 CFR § 385.5 and 385.7. To do so, the plan must demonstrate the company now has adequate safety management controls in place which function effectively to ensure acceptable compliance with applicable safety requirements.
5. If the request includes actions that will be conducted in the near future, such as training, reorganization of departments, purchasing of computer programs, etc., companies must include a detailed description of the activity or training and a schedule of when that activity will commence and when it will be completed.
6. Include any additional documentation relating to motor carrier safety and the prevention of crashes that the company believes supports its request.

7. Include a written statement certifying the company will operate within federal and state regulations and the company's operation currently meets the safety standard and factors specific in 49 CFR § 385.5 and 385.7. A corporate officer, partner, or the owner of the company must sign the statement.

### **Summary and Recommendations**

Staff reviewed Queen City Movers' safety management plan and concludes it is acceptable and meets the requirements of 49 CFR § 385. Because of the Company's actions, staff recommends the commission upgrade the Company's safety rating to conditional and extend its provisional period until such a time that the Company achieves a satisfactory safety rating. Staff further recommends that Dockets TV-200869 and TV-200870 be consolidated.

Staff confirmed with the Company that it waives its right to a hearing in both dockets and recommends that the brief adjudicative proceeding scheduled for December 8, 2020, be cancelled.

In response to the request for mitigation, the Company corrected each violation and took steps to prevent future occurrences. Staff recommends reducing the assessed penalty of \$24,700 to \$12,450. Staff further recommends that \$8,000 of the penalty be suspended for a period of two years before being waived, on the conditions that: (1) staff conducts a follow-up safety investigation at least six months from the date of an Order, (2) the Company may not incur any repeat violations of acute or critical regulations, and (3) Queen City Movers pays the \$4,450 portion of the penalty that is not suspended.

The Company took all the required steps to bring its safety operations into compliance with commission regulations. Queen City Movers submitted a safety management plan that addresses each violation, identifies how the violations occurred, describes the steps taken to correct them, and put controls in place to ensure the company maintains compliance.

Documentation of driver qualifications, vehicle maintenance, hours of service records, and criminal background check information were included in the plan.