



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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Date: July 12, 2019

To: Rayne Pearson, Director, Administrative Law Division

From: Jason Sharp, Motor Carrier Safety Supervisor, Transportation Safety Division

Re: **TV-190405 and TV-190410 People Movers LLC d/b/a People Movers Seattle**
Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of its household goods operating authority (THG067550)

On May 21, 2019 staff completed a routine safety investigation of People Movers LLC 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, People Movers LLC has until July 21, 2019, 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 five violations of critical regulations – 391.45(a), 391.51(a), 395.8(a)(1), 396.3(b), and WAC 480-15-555. “Critical” regulations identify where non-compliance relates to management and operational controls. The violations 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.

Critical violations discovered during the safety investigation:

1. 99 violations of Title 49 CFR Part 391.45(a) – Using a driver not medically examined and certified.
2. Four violations of Title 49 CFR Part 391.51(a) – Failing to maintain driver qualification file on each driver employed.
3. 120 violations of Title 49 CFR Part 395.8(a)(1) – Failing to require driver to prepare a record of duty status using the appropriate method.
4. Three violations of Title 49 CFR Part 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance.

5. Eight violations of WAC 480-15-555 – Failing to acquire criminal background check of prospective employee.

In a May 28, 2019, Notice of Intent to Cancel Permit, the commission instructed the company to submit its proposed safety management plan no later than July 9, 2019.

On June 18, 2019, the commission issued a penalty assessment against People Movers LLC in the amount of \$11,000 as a result of violations discovered during the routine safety investigation.¹ On June 25, 2019, People Movers LLC filed with the commission its application for mitigation of penalties. In the request for mitigation, Sergey Kogay, owner of People Movers LLC, admitted the violations, stated he believed that the penalty should be reduced, and asked for a commission decision based solely on the information provided.

On July 11, 2019, People Movers LLC 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 People Movers LLC's proposed safety management plan and concludes it is acceptable and meets the requirements of 49 CFR, Part 385. Staff recommends the commission consolidate Docket

¹ TV-190410

TV-190405 and TV-190410 and upgrade the company's safety rating to *conditional* and extend the company's provisional period for good cause.

In response to the request for mitigation, the company immediately corrected each violation and took steps to prevent future occurrences. Therefore, staff recommends the penalty of \$11,000 in half to \$5,500. Staff further recommends that \$4,000 of the reduced 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 critical violations, and 3) People Movers LLC pays the \$1,500 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. People Movers LLC submitted a safety management plan that addresses each violation, identifies how they occurred, describes the steps taken to correct them, and put controls in place to ensure the company maintains compliance.

Documentation of driver medical certification, driver qualifications, a criminal background check of the company's employee, hours of service records and vehicle maintenance files including the annual inspection were included in the plan.

Staff has confirmed with the company that it waives its right to a hearing. Staff recommends that the brief adjudicative proceeding scheduled for July 16, 2019 be cancelled.

