

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of  MVP MOVING AND STORAGE LLC  For Compliance with WAC 480-15-560 and WAC 480-15-570	DOCKET TV-170039 <i>(Consolidated)</i>  ORDER 06
In the Matter of the Penalty Assessment Against  MVP MOVING AND STORAGE LLC  In the amount of \$6,100	DOCKET TV-170038 <i>(Consolidated)</i>  ORDER 06  DENYING APPLICATION FOR REINSTATEMENT OF HOUSEHOLD GOODS CARRIER PERMIT

**BACKGROUND**

- 1 On April 6, 2017, the Washington Utilities and Transportation Commission (Commission) entered Order 01, Order of Consolidation; Order Upgrading Safety Rating; Order Imposing and Suspending Penalties (Order 01) in consolidated Dockets TV-170038 and TV-170039. Order 01, among other things, assessed a penalty of \$6,100 against MVP Moving and Storage LLC (MVP Moving or Company) for 61 violations of Commission safety rules, a \$3,100 portion of which suspended for a period of two years subject to several conditions, including a requirement that the Company pay the \$3,000 portion of the penalty that was not suspended.
- 2 The Commission subsequently entered Order 02, which imposed the suspended penalty for failure to comply with the installment payment requirements set out in Order 01, followed by Order 03, which approved a 10-month payment plan for the remaining balance due.
- 3 On May 9, 2018, Staff filed a Motion for Cancellation of MVP Moving's Household Goods Carrier Permit for failure to comply with the terms of Order 03. On June 5, 2018, the Commission conducted a hearing on Staff's Motion before Administrative Law Judge Rayne Pearson, and on June 7, 2018, the Commission entered Order 04 Denying Staff's Motion (Order 04) subject to seven conditions, including that: 1) the Company must work

with Staff to develop an acceptable safety management plan; 2) the Company may not incur any repeat violations of critical safety regulations; and 3) the Company must send all of its employees to Commission-sponsored household goods training.

4 On April 24, 2019, Staff filed a Renewed Motion for Cancellation of MVP Moving's Household Goods Carrier Permit (Renewed Motion). In its Renewed Motion, Staff alleged that the Company failed to work with Staff to develop an acceptable safety management plan, incurred repeat critical violations,<sup>1</sup> and failed to send all of its employees to Commission-sponsored household goods training as required.

5 On May 16, 2019, the Commission conducted a hearing on Staff's Renewed Motion before Judge Pearson. At the conclusion of the hearing, Judge Pearson orally granted Staff's Renewed Motion and canceled the Company's household goods permit effective immediately based on the Company's failure to comply with the conditions set out in Order 04, the Company's poor compliance history and inability to achieve a satisfactory safety rating, and the Company's demonstrated overall lack of fitness to operate as a household goods carrier.

6 On May 20, 2019, the Commission entered Order 05, Granting Staff's Renewed Motion for Cancellation of Household Goods Permit; Cancelling Provisional Household Goods Permit; Denying Application for Permanent Authority (Order 05). Order 05 both cancelled the Company's provisional permit and denied the Company's application for permanent authority.

7 On June 20, 2019, MVP submitted an application for reinstatement of its household goods permit (Application).

8 On September 23, 2019, the Commission issued a Notice of Intent to Deny Application for Reinstatement and Notice of Opportunity for Hearing (Notice). The Notice explained that MVP filed with its Application several documents intended to correct the conditions that led to the cancellation of its permit. Staff reviewed the documents and determined that they do not constitute an acceptable safety management plan because MVP Moving: 1) failed to accept responsibility for allowing the violations to occur, 2) failed to explain how the violations occurred, and 3) failed to provide proof that the violations were corrected. In addition, the Notice states that MVP Moving failed to send each of its employees to Commission-sponsored household goods training as required by Order 04.

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<sup>1</sup> Specifically, Staff alleged that the Company used a motor vehicle that was not periodically inspected as required, and that the Company failed to obtain criminal background checks for seven of its employees.

- 9 Staff recommends the Commission deny MVP Moving’s Application for two reasons. First, Staff argues the Application is moot because the Commission has already denied MVP Moving’s application for permanent authority. As such, the Company is not eligible to have its permit reinstated. Second, MVP Moving failed to demonstrate that it has corrected the conditions that led to the Commission’s decision to cancel the Company’s provisional permit and deny its application for permanent authority.
- 10 On October 28, 2019, MVP Moving filed a request for hearing, and on November 22, 2019, the Commission conducted a hearing on the Company’s Application before Judge Pearson. MVP Moving presented testimony from Jason Garcia, Company owner. Garcia explained that he has not performed any moves since his permit was cancelled six months ago, and that he currently has only one employee, Carlos Molina. According to Garcia, Molina has attended Commission-sponsored household goods training twice. Garcia testified that he and Molina worked with Molina’s father, who owns a trucking company, to develop a safety management plan. At hearing, Garcia offered two additional documents, “Safety Management Plan” and “Safety Management Plan Violation Review.”
- 11 Staff presented testimony from Jason Sharp, motor carrier safety supervisor. Sharp testified that neither the safety management plan submitted with the Application nor the documents offered at hearing constitute an acceptable safety management plan. According to Sharp, none of the documents the Company has filed thus far address each of the violations as required, explains how the violations occurred, or provides proof that corrective action was taken. Finally, Sharp testified that the Company has not reached out or responded to Staff’s attempts to provide assistance despite receiving direction from the Commission on multiple occasions to work with Staff to develop an acceptable safety management plan.
- 12 Jeff Roberson, Assistant Attorney General, Olympia, Washington, represents Staff. Jason Garcia, Owner, Kent, Washington, represents MVP Moving.

### **DISCUSSION AND DECISION**

- 13 We deny MVP Moving’s Application. As a threshold matter, we find that the Company’s Application for reinstatement was not filed timely. WAC 480-15-450(4) provides that a carrier whose permit has been cancelled for cause may file an application for reinstatement within 30 days of cancellation. If the carrier files an application for reinstatement more than 30 days after cancellation, the application will be considered an

application for new authority, and will be subject to all of the terms and conditions specified in WAC 480-15-302 for new entrants. Here, the Commission entered Order 05 on May 20, 2019, and the Company filed its Application on June 20, 2019. The Application was received 31 days after the date the Company's permit was cancelled. Accordingly, the Commission's bright-line rule requires that the Application be evaluated as an application for new authority.

- 14 WAC 480-15-302(11) bars the Commission from granting an application for new authority to an applicant whose permit has been canceled for cause within the previous 12 months.<sup>2</sup> In Order 05, the Commission found good cause to cancel MVP Moving's provisional permit based on the Company's failure to comply with the requirements of Order 04. Because MVP Moving's provisional household goods carrier permit was cancelled effective May 20, 2019, MVP Moving may not apply for new provisional or permanent authority until at least May 20, 2020.<sup>3</sup>

### FINDINGS AND CONCLUSIONS

- 15 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including common carriers such as household goods carriers, and has jurisdiction over the parties and subject matter of this proceeding.
- 16 (2) MVP Moving is a household goods carrier subject to Commission regulation.
- 17 (3) The Commission cancelled MVP Moving's provisional household goods carrier permit by Order 04 issued in these consolidated dockets on May 20, 2019.
- 18 (4) WAC 480-15-450(4) provides that a carrier whose household goods carrier permit has been cancelled for cause may apply for reinstatement of its permit within 30 days of cancellation. If a carrier files an application after 30 days of cancellation, the application will be considered in all aspects to be an application

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<sup>2</sup> WAC 480-15-302(11).

<sup>3</sup> Even if the Application had been filed timely, MVP Moving failed to demonstrate that that it has corrected all of the conditions that led to the cancellation of its permit, as required by WAC 480-15-450(4). Staff testified that MVP Moving has not attempted to work with Staff to develop an acceptable safety management plan, and that, to date, none of the Company's proposed safety management plans adequately address each violation, explain how the violations occurred, or provide proof that corrective action was taken. As such, MVP would be ineligible for reinstatement of its permit even if the Application were timely filed. In addition, MVP is further ineligible for reinstatement of its permit because, as Staff noted, its application for permanent authority was denied concurrent with its permit cancellation.

for new authority and will be subject to all terms and conditions specified in WAC 480-15-302 for new entrants.

- 19 (5) MVP Moving filed an Application for Reinstatement of its provisional household goods carrier permit on June 20, 2019, 31 days after cancellation. As such, MVP Moving's Application is considered an application for new authority subject to evaluation under WAC 480-15-302.
- 20 (6) WAC 480-15-302(11) provides that the Commission will not grant an application for authority if the Commission has cancelled, for cause, a permit held by the applicant in the previous 12 months.
- 21 (7) Because MVP Moving's household goods carrier permit was cancelled for cause by Order 04 on May 20, 2019, the Company is not eligible to apply for new household goods carrier authority until after May 20, 2020.

**ORDER**

THE COMMISSION ORDERS THAT:

- 22 (1) MVP Moving and Storage LLC's Application for Reinstatement of its Household Goods Carrier Permit is DENIED.
- 23 (2) MVP Moving and Storage LLC is barred by WAC 480-15-302(11) from filing a new application for provisional or permanent authority to operate as a household goods carrier for 12 months from the date Order 05 was issued, or May 20, 2020.

DATED at Lacey, Washington, and effective November 25, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Rayne Pearson*  
RAYNE PEARSON  
Administrative Law Judge

**NOTICE TO PARTIES**

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order and you would like the Order to become final before the time limits expire, you may send a letter to the Commission waiving your right to petition for administrative review.

WAC 480-07-610(7) provides that any party to this proceeding has 21 days after service of this initial order to file a petition for administrative review (Petition). Section (7)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-610(7)(c) states that any party may file a response to a Petition within 7 days after service of the Petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence that is essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will give other parties in the proceeding an opportunity to respond to a motion to reopen the record, unless the Commission determines that it can rule on the motion without hearing from the other parties.

WAC 480-07-610(9) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission does not exercise administrative review on its own motion.

Any Petition or response must be electronically filed through the Commission's web portal, as required by WAC 480-07-140(5).