



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

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June 27, 2017

Steven V. King, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive Southwest  
P.O. Box 47250  
Olympia, WA 98504-7250

Re: *Washington Utilities and Transportation Commission v. Pettinger Family Movers Company*  
*4304 East 41<sup>st</sup> Street*  
*Spokane, WA 99223*  
Commission Staff's Response to Application for Mitigation of Penalties  
Docket TV-170679

Dear Mr. King:

In April 2017, Commission Motor Carrier Safety Investigator Sandi Yeomans conducted a compliance review investigation of Pettinger Family Movers Company (Pettinger Movers). A compliance review is an in-depth examination of the motor carrier's compliance with regulations that the Federal Motor Carrier Safety Administration has identified as "acute" or "critical."<sup>1</sup> Acute regulations are identified where non-compliance is so serious as to require immediate corrective actions regardless of the overall safety posture of the 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 management controls and unusually higher than average accident rates.<sup>2</sup> Ms. Yeomans found 116 violations, all of which were first-time violations.

The Commission's enforcement policy provides that some 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.<sup>3</sup> Of the 116 violations found, 113 were of a critical regulation.

On June 6, 2017, the Commission issued a penalty assessment under docket TV-170679 against Pettinger Movers in the amount of \$11,300 for violations of Washington Administrative Code

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<sup>1</sup> Title 49 CFR Part 385, Appendix B – Explanation of Safety Rating Process

<sup>2</sup> *Id.*

<sup>3</sup> Docket A-120061 – Enforcement Policy of the Washington Utilities and Transportation Commission, Section V.

(WAC) 480-15-570 Driver Safety Requirements, which requires household goods carriers to comply with Title 49 Code of Federal Regulations (CFR) Part 391, as follows:

1. **One hundred thirteen violations of CFR Part 391.45(a) – Using a driver not medically examined and certified.** Company owner Phillip Pettinger drove a commercial motor vehicle five times in October, twenty-three times in November, and twenty-two times in December, 2016, and twenty-one times in January, fourteen times in February, twenty-seven times in March, and one time in April, 2017. Mr. Pettinger was not medically examined and certified during the period in which he drove.

On June 16, 2017, Pettinger Movers filed with the Commission an application for mitigation. In the application, owner Phillip E. Pettinger admitted the violations, provided supporting documentation of corrections, and requested the penalty be reduced by an unspecified amount. The company's explanation for each violation and staff response follows.

1. **Mitigation request: CFR Part 391.45(a) – Using a driver not medically examined and certified.** Upon learning that his medical certificate was expired, Mr. Pettinger immediately scheduled an appointment for an examination and became medically certified. Mr. Pettinger provided a copy of his current medical certification. Mr. Pettinger has also made arrangements with an experienced family member to oversee the company's future compliance with state and federal regulations.

Staff response: The company has admitted and corrected the violations, and taken steps to prevent future occurrences. Staff recommends mitigation of this penalty from \$11,300 to \$6,300.

**Staff recommendation:** Staff appreciates Pettinger Moving's positive attitude toward safety compliance and willingness to take responsibility for and correct safety violations. Pettinger Movers is a small company, with one driver and two commercial vehicles. In 2016 the company reported 66,000 miles traveled and \$134,000 in gross revenue.

Staff recommends mitigation of the total penalty from \$11,300 to \$6,300. Of the remaining \$6,300 penalty, staff further recommends suspension of a portion, \$3,300, for a period of two years on the condition that company has no additional violations of the regulations cited in the penalty assessment. Staff also recommends that the company be required to immediately pay the remaining penalty amount of \$3,000 or establish a mutually acceptable payment schedule.

If you have any questions, please contact Mike Turcott, Compliance Investigator, Transportation Safety, at (360) 664-1174 or by e-mail at [miturcot@utc.wa.gov](mailto:miturcot@utc.wa.gov).

Sincerely,



David Pratt  
Assistant Director, Transportation Safety