

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of  
  
SOUTH SOUND MOVING, LLC,  
d/b/a SOUTH SOUND MOVERS,

For Compliance with Chapter 480-15  
WAC

In the Matter of the Penalty Assessment  
Against

SOUTH SOUND MOVING, LLC,  
d/b/a SOUTH SOUND MOVERS,

in the Amount of \$400

DOCKETS TV-210516 and  
TV-210517 (*Consolidated*)

ORDER 01

CONSOLIDATING DOCKETS;  
APPROVING SAFETY  
MANAGEMENT PLAN;  
MAINTAINING SAFETY RATING;  
EXTENDING PROVISIONAL  
PERIOD; IMPOSING PENALTIES

**BACKGROUND**

- 1 On July 8, 2021, the Washington Utilities and Transportation Commission (Commission) issued a Notice of Intent to Cancel and Notice of Brief Adjudicative Proceeding; Setting Time for Oral Statements in the Matter of the Investigation of South Sound Moving, LLC, d/b/a South Sound Movers (South Sound or Company) for Compliance with Chapter 480-15 Washington Administrative Code (WAC) 480-15 (Notice) in Docket TV-210516.
- 2 The Notice explained that Commission staff (Staff) conducted a compliance review of South Sound's operations in February 2021 and cited the Company for 63 critical violations of federal and state safety regulations. Based on its review, Staff recommends the Commission cancel South Sound's household goods carrier permit unless the Company obtains Commission approval of a safety management plan. The Notice directed South Sound to file a proposed safety management plan by August 10, 2021. The Commission also set a brief adjudicative proceeding for August 24, 2020, at 9:30 a.m. to determine whether the Commission should cancel South Sound's household goods carrier permit.

**Pursuant to RCW 80.01.060(3)  
This packet is the final  
Order in this docket.**

- 3 On July 12, 2021, the Commission assessed a \$400 penalty (Penalty Assessment) in Docket TV-210517 against South Sound for the safety violations discovered during Staff's February 2021 compliance review.<sup>1</sup> The Penalty Assessment includes:
- A \$300 penalty for three violations of WAC 480-15-555 for failing to acquire criminal background checks for prospective employees.
  - A \$100 "per category" penalty for 60 violations of 49 C.F.R. § 396.8(a)(1) for failing to require a driver to prepare a record of duty status using the appropriate method.
- 4 On August 4, 2021, South Sound submitted a proposed safety management plan.
- 5 On August 11, 2021, Staff filed with the Commission in Dockets TV-210516 and TV-210517 its evaluation of the Company's proposed safety management plan. Based on its review, Staff determined that the Company took all of the required steps to bring its safety operations into compliance with Commission regulations and that its plan was acceptable. Staff recommends that the Commission maintain the Company's conditional safety rating but extend the Company's provisional permit period until such time as the Company achieves a satisfactory safety rating. Staff further recommends that Dockets TV-210516 and TV-210517 be consolidated. Staff also indicated that the Company waived its right to a hearing in both dockets and requested the Commission cancel the brief adjudicative proceeding and decide this matter on a paper record.
- 6 On August 17, 2021, the Commission issued a notice canceling the August 24, 2021, hearing and informing the parties that the Commission would enter an order based on the parties' written submissions.

## **DISCUSSION AND DECISION**

### **1. Consolidation**

- 7 Because the violations cited in Staff's February 2021 investigation gave rise to the enforcement actions taken in both dockets, which therefore share related facts and

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<sup>1</sup> The Penalty Assessment cites violations of Washington Administrative Code (WAC) 480-15-555, WAC 480-15-560, and WAC 480-15-570. WAC 480-15-560 and -570 adopt by reference sections of Title 49 Code of Federal Regulations (C.F.R.). Accordingly, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of Title 49 C.F.R.

principles of law, the Commission exercises its discretion to consolidate these proceedings.<sup>2</sup> Accordingly, Docket TV-210516 and Docket TV-210517 are consolidated.

## **2. Safety Rating**

- 8 Washington Law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Staff's February 2021 compliance review of South Sound found 63 violations of critical safety regulations, which resulted in a proposed conditional safety rating. Violations classified as "critical" are indicative of a breakdown in a carrier's management controls. Patterns of noncompliance with a critical regulation are quantitatively linked to inadequate safety management controls and usually higher-than-average accident rates.
- 9 On August 4, 2021, the Company submitted its proposed safety management plan and requested the Commission upgrade its safety rating. Staff determined that South Sound's safety management plan addresses each violation, identifies how each violation occurred, describes the steps taken to correct each violation, and describes the controls put in place to ensure compliance going forward. Staff concludes that South Sound's safety management plan is acceptable and satisfies the legal requirements of 49 C.F.R. Part 385. We agree.
- 10 The Commission finds that the Company has achieved compliance with Chapter 480-15 WAC by correcting the violations that resulted in the Notice and Penalty Assessment. Accordingly, the Commission agrees with Staff's recommendation and grants the Company's request to maintain its permit with a conditional safety rating.
- 11 We likewise agree with Staff's recommendation to extend the Company's provisional period for its household goods carrier permit. WAC 480-15-305(1)(b) provides that, prior to a grant of permanent authority, an applicant must complete a provisional period of not less than six months and not more than 18 months unless the Commission determines for good cause that the provisional period should be extended. Good cause may include, among other things, a carrier that has not yet achieved a satisfactory safety rating but is making substantial progress toward a satisfactory rating. Here, the Company has corrected the violations at issue and demonstrated that it has taken significant steps to ensure its operations comply with applicable safety regulations. Accordingly, the Commission finds good cause to extend the Company's provisional period until such

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<sup>2</sup> WAC 480-07-320.

time as the Company achieves a satisfactory rating.

### 3. Penalty

- 12 Violations discovered during safety inspections are subject to penalties of \$100 per violation.<sup>3</sup> In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.<sup>4</sup> Critical violations meet this standard.<sup>5</sup>
- 13 The Penalty Assessment identifies 63 critical violations of Chapter 480-15 WAC and Title 49 C.F.R. committed by South Sound related to either failing to conduct criminal background checks or failing to require driver records of duty status.<sup>6</sup> South Sound does not dispute the violations. The Company's violations, although first-time violations, are so fundamental that the Penalty Assessment's \$400 penalty amount is warranted, justified, and fair. Accordingly, the Commission determines that the Company must pay the \$400 penalty amount to the Commission within ten days of the effective date of this Order.

### FINDINGS AND CONCLUSIONS

- 14 (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.
- 15 (2) South Sound is a household goods carrier subject to Commission regulation.
- 16 (3) South Sound cured the deficiencies that led to the proposed cancellation of its household goods permit. Accordingly, South Sound's safety rating should be maintained as conditional, and the Company should be allowed to maintain its household goods carrier permit.

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<sup>3</sup> See RCW 80.04.405.

<sup>4</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶ 12 (Jan. 7, 2013) (Enforcement Policy).

<sup>5</sup> 49 C.F.R. § 385, Appendix B.

<sup>6</sup> See Penalty Assessment at 3.

- 17 (4) Pursuant to WAC 480-15-305(1)(b), the Commission finds good cause to extend South Sound's provisional period until such time as the Company achieves a satisfactory safety rating.
- 18 (5) South Sound committed 63 critical violations of Chapter 480-15 WAC and Title 49 C.F.R.
- 19 (6) South Sound does not dispute that the violations occurred.
- 20 (7) South Sound should be penalized \$400 for 63 critical violations of Chapter 480-15 WAC and Title 49 C.F.R.

**ORDER**

THE COMMISSION ORDERS THAT:

- 21 (1) The Commission approves South Sound Moving, LLC, d/b/a South Sound Movers' safety management plan.
- 22 (2) South Sound Moving, LLC, d/b/a South Sound Movers' safety rating remains conditional.
- 23 (3) South Sound Moving, LLC, d/b/a South Sound Movers' provisional period is extended until such time as the Company achieves a satisfactory safety rating.
- 24 (4) The Commission assesses a \$400 penalty against South Sound Moving, LLC, d/b/a South Sound Movers.
- 25 (5) With 10 days of the effective date of this Order, South Sound Moving, LLC, d/b/a South Sound Movers must pay the \$400 penalty.

DATED at Lacey, Washington, and effective August 27, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Samantha Doyle*  
SAMANTHA DOYLE  
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).