

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of FOUR STAR TRUCKING, INC., for a permit to operate as a common carrier ))))))))	DOCKET TV-111671 NOTICE OF INTENT TO DENY APPLICATION; NOTICE OF OPPORTUNITY FOR HEARING
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I. INTRODUCTION

1 **Nature of Proceeding.** The Washington Utilities and Transportation Commission (Commission) hereby provides notice of its intention to deny Four Star Trucking, Inc.’s (Four Star Trucking or Applicant) application for permanent authority for failure to meet the application requirements in RCW 81.80 and WAC 480-14.

2 **Procedural Background.** On August 30, 2011, Four Star Trucking, through its president, Darlene Riojas, filed with the Commission an application requesting authority to operate as common carrier in the state of Washington under RCW 81.80 and WAC 480-14.

3 Commission Staff has reviewed the application, as well as materials received from state and federal agencies regarding this company. Commission Staff recommends that the Commission deny Four Star Trucking’s application for a permit for the reasons set forth below.

II. APPLICABLE LAW

4 RCW 81.80.070 requires that before it issues a permit, the Commission must find the applicant is fit, willing, and able to perform the service and conform to the provisions of this chapter and the rules and regulations of the Commission. RCW 81.80.070(2).

5 In order for a permit to be issued, the applicant must establish safety fitness and proof of minimum financial responsibility. RCW 81.80.070(3).

III. FACTUAL ALLEGATIONS

- 6 Commission Staff makes the following factual allegations based on its review and investigation of the application.
- 7 Four Star Trucking is owned and operated by one or more of the same individuals that own and operate 7 Star Transport, LLC (7 Star Transport). The name “7-Star Transport” appears at the top of each page of Four Star Trucking’s common carrier permit application received by the Commission on August 30, 2011.
- 8 Four Star Trucking and 7 Star Transport are currently subject to out-of-service orders issued by the Washington State Patrol (WSP) and the Federal Motor Carrier Safety Association (FMCSA), which prohibit the companies from operating any commercial motor vehicles in interstate and intrastate commerce.
- 9 On February 19, 2011, federal enforcement staff conducted a Compliance Review of 7 Star Transport, documenting numerous serious safety violations. As a result of the Compliance Review, FMCSA gave 7 Star Transport an “unsatisfactory” safety rating. FMCSA required the company to take action within 60 days to improve its safety rating. However, the company failed to take the required action. On June 26, 2011, FMCSA issued an out of service order on 7 Star Transport for serious safety violations. 7 Star Transport was ordered to cease all operations of any commercial motor vehicles in interstate and intrastate commerce. The out of service order also applied to the operations of any successor entities, including any motor carrier entity or entities established or used to avoid the consequences of a final “unsatisfactory” safety rating.
- 10 WSP enforces commercial motor vehicle safety laws under RCW 46.32. On June 6, 2011, WSP issued a \$57,117.20 penalty against 7 Star Transport for safety deficiencies discovered during the Compliance Review. On August 11, 2011, WSP issued an out of service order pursuant to RCW 46.32.100(2), to 7 Star Transport’s USDOT number for failing to pay the penalty due. The company was ordered to immediately cease all motor carrier operations for commerce. The out of service order remains in effect until it is rescinded.
- 11 On September 19, 2011, the WSP issued an out of service order to the Applicant, Four Star Trucking, pursuant to RCW 46.32.080(4)(d), which required it to cease and desist all motor vehicle operations in Washington. The Applicant was found to be a subterfuge for 7 Star Transport, LLC. While the order is in effect, and until it is rescinded, all motor carrier operations being conducted by Four Star Trucking and 7 Star Transport are suspended. Citing the safety violations found in the Compliance

Review, WSP required that violations must be corrected and all fines paid prior to reinstatement.

- 12 The above-described out of service orders have not been rescinded or reversed, and remain in effect. The Applicant's DOT number has not been reinstated. A motor carrier that operates a commercial motor vehicle after being placed out of service is liable for penalties. 49 U.S.C. § 521(b); RCW 42.32.100(1)(c).
- 13 These allegations, if not satisfactorily rebutted, support factual findings that Four Star Trucking is currently subject to out of service orders that prohibit it from operating commercial motor vehicles interstate and within Washington, and owes outstanding monetary penalties to WSP, stemming from a Compliance Review and unsatisfactory safety rating. Such factual findings, in turn, support the conclusion that the Applicant has failed to establish safety fitness as required by RCW 81.80.070(3), and the application should be denied.
- 14 **NOTICE OF OPPORTUNITY FOR HEARING.** Four Star Trucking may request a hearing to contest the factual allegations set out in this notice. Four Star Trucking may request such a hearing by filing a written request for a hearing with the Commission by **July 6, 2012**. An original and five (5) paper copies of the request must be directed to the attention of David W. Danner, Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, and must reference Docket TV-111671.
- 15 If Four Star Trucking requests a hearing by **July 6, 2012**, the Commission will schedule a brief adjudicative proceeding under RCW 34.05.482 and WAC 480-07-610. If Four Star Trucking does not request a hearing by that date, the Commission will enter an order rejecting the application for permanent authority.

DATED at Olympia, Washington, and effective June 21, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary