

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

GBU ENTERPRISES GRP., INC,  
D/B/A GOLDEN VALLEY VAN  
LINES,

Respondent.

DOCKET TV-190395

ORDER 02

CANCELLING HOUSEHOLD  
GOODS PERMIT; DEFAULT  
ORDER

**BACKGROUND**

- 1 On June 14, 2019, the Washington Utilities and Transportation Commission (Commission) entered a complaint and notice of hearing against GBU Enterprises GRP., Inc., d/b/a Golden Valley Van Lines (GBU or Company).<sup>1</sup> The complaint alleges that the Federal Motor Carrier Safety Administration (FMCSA) conducted a compliance review of GBU and subsequently placed the Company “out-of-service.” On this basis, Commission staff (Staff) requests that the Commission cancel GBU’s household goods permit. The notice of hearing scheduled a brief adjudicatory proceeding to convene on July 24, 2019, at 1:30 p.m., and stated that any party that failed to attend or participate in the hearing may be held in default.
- 2 On July 24, 2019, the Commission convened a brief adjudicative proceeding before Administrative Law Judge Laura Chartoff. Staff was the only party that appeared at the hearing. As such, Staff moved for default pursuant to RCW 34.05.440 and WAC 480-07-

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<sup>1</sup> Order 01, Notice of Intent to Cancel Household Goods Permit; Notice of Brief Adjudicative Proceeding (Set for July 24, 2019, at 1:30 p.m.), Docket TV-190395.

450, and requested that it be allowed to present its case. Judge Chartoff granted Staff's request to enter a default order and allowed Staff to go forward with its case.

3 Staff presented the testimony of Jason Sharp, Motor Carrier Safety Investigator Supervisor. Mr. Sharp testified that in April 2019 he received an email from FMCSA containing a list of motor carriers that FMCSA had recently placed out of service, and that GBU was listed as out-of-service as a result of an unsatisfactory safety rating. He explained that he then requested and received a copy of the federal investigation report from the FMCSA. The FMCSA investigation report was offered and admitted into evidence.<sup>2</sup>

4 The evidence shows that on February 11, 2019, the FMCSA conducted a compliance review of GBU, resulting in a proposed unsatisfactory rating based on the following violations:

- One acute violation of 49 C.F.R. § 382.305 for failure to implement a random controlled substance and alcohol testing program;
- Two critical violations of 49 C.F.R. § 382.301(a) for using a driver before the motor carrier has received a negative pre-employment controlled substance test result;
- Two critical violations of 49 C.F.R. § 391.51(b)(1) for failing to maintain inquiries into a driver's driving record in the driver's qualification file;
- 23 critical violations of 49 C.F.R. § 395.8(a)(1) for failing to require a driver to prepare a record of duty status using the appropriate method; and
- Two critical violations of 49 C.F.R. § 396.17(a) for using a commercial motor vehicle not periodically inspected.

5 The evidence further shows that on February 13, 2019, the FMCSA sent a letter to GBU informing the Company of the proposed unsatisfactory rating and that the rating would become final in 60 days if GBU did not improve its safety rating. Mr. Sharp testified that the FMCSA placed GBU out-of-service on April 15, 2019, and that the unsatisfactory

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<sup>2</sup> Exh. JS-1, Attachment A.

safety rating is deemed final. Mr. Sharp further testified that GBU did not appeal FMSCA's actions.

6 Harry Fukano, Assistant Attorney General, Lacey, Washington, represents Staff.

7 **Cancellation of Household Goods Permit Due to Insufficient Proof of Insurance.**  
Following the hearing, on July 26, 2019, the Commission cancelled GBU's permit because GBU failed to submit acceptable proof of insurance. Because GBU has 14 days from the July 26<sup>th</sup> notice date to appeal the cancellation related to insurance, the Commission will rule on Staff's complaint in this docket as an alternate basis for cancelling GBU's permit.

## DISCUSSION AND DECISION

### A. Default.

8 When a party to a hearing fails to appear at the time and place set for hearing, the Commission may dismiss the party or find them in default.<sup>3</sup> The Commission must implement any dismissal or default by written order served upon all parties, and the order may also dispose of the issues in the proceeding.<sup>4</sup>

9 At the hearing, Staff moved that GBU be held in default for failing to appear. Commission records show that GBU was served the complaint and notice of the hearing by email at the Company's email address of record, and that GBU failed to appear or otherwise respond to the complaint by the date of the hearing. Electronic service is sufficient for commencing adjudicative proceedings against regulated companies.<sup>5</sup> Because GBU was properly served notice of the hearing and failed to appear, we find GBU in default.

10 GBU may contest this order of default by written motion. WAC 480-07-450(2) states: "A party who is . . . found in default may contest the order of . . . default by written motion filed within ten days after service of the order. A . . . party found in default may request

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<sup>3</sup> RCW 34.05.440(2); WAC 480-07-450(1).

<sup>4</sup> Id.

<sup>5</sup> WAC 480-07-150(4); *See also* General Order 588 – Final Adoption Order – WSR 17-06-051, Docket A-130355 ¶16 and Appendix A (March 2, 2017)

that the order be vacated and, if the order is dispositive of the proceeding, that the proceeding be reopened for further process.” A notice appearing at the end of this order provides instructions for filing such a motion with the Commission.

### **B. Household Goods Carrier Permit**

- 11 Washington law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. The Commission may cancel a household goods carrier permit if the carrier fails to comply with applicable laws and commission rules pertaining to operation of household carriers, including safety requirements set in law or rule. WAC 480-15-450(1)(e).
- 12 Here, the FMCSA found that the Company violated numerous acute and critical federal safety regulations, which have also been adopted by reference in Washington.<sup>6</sup> The violations resulted in a proposed unsatisfactory rating. The Company failed to take corrective action to address the violations in order to request an upgraded safety rating. As a result, the proposed unsatisfactory rating became final and the FMCSA placed the Company out-of-service, which revokes GBU’s authority to operate in interstate and intrastate commerce.<sup>7</sup>
- 13 Because the Company failed to comply with Commission safety requirements, which resulted in the FMCSA placing the Company out-of-service, the Commission finds good cause to cancel GBU’s household goods carrier permit, effective immediately. GBU must cease and desist all operations, including advertising and offering its services, unless and until the Company’s certificate is reinstated or the Company applies for and obtains a new certificate from the Commission.

### **FINDINGS AND CONCLUSIONS**

- 14 (1) The Commission is an agency of the state of Washington, vested by statute with authority to regulate persons engaged in the business of transporting household goods for compensation over public roads in Washington.

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<sup>6</sup> WAC 480-15-999.

<sup>7</sup> 49 C.F.R. § 385.13.

- 15 (2) The Commission has jurisdiction over the subject matter of this proceeding and over GBU.
- 16 (3) On February 11, 2019, the FMCSA concluded a compliance review of GBU that resulted in a proposed unsatisfactory rating based on the following violations:
- One acute violation of 49 C.F.R. § 382.305 for failure to implement a random controlled substance and alcohol testing program;
  - Two critical violations of 49 C.F.R. § 382.301(a) for using a driver before the motor carrier has received a negative pre-employment controlled substance test result;
  - Two critical violations of 49 C.F.R. § 391.51(b)(1) for failing to maintain inquiries into a driver’s driving record in the driver’s qualification file;
  - 23 critical violations of 49 C.F.R. § 395.8(a)(1) for failing to require a driver to prepare a record of duty status using the appropriate method; and
  - Two critical violations of 49 C.F.R. § 396.17(a) for using a commercial motor vehicle not periodically inspected.
- 17 (4) The proposed unsatisfactory safety rating became final on April 15, 2019, when the Company failed to receive an upgrade to its safety rating.
- 18 (5) Also on April 15, 2019, the FMCSA placed GBU “out-of-service,” thereby revoking GBU’s authority to operate in interstate and intrastate commerce. See 49 C.F.R. § 385.13.
- 19 (6) The Commission may cancel a household goods carrier permit if the carrier fails to comply with applicable laws and commission rules pertaining to operation of household carriers, including safety requirements set in law or rule. WAC 480-15-450(1)(e).
- 20 (7) FMCSA’s safety investigation discovered violations of regulations that the Commission adopts in WAC 480-15-999.
- 21 (8) The Commission should cancel GBU’s permit based on its failure to comply with Commission rules, which led to the FMCSA placing the Company’s USDOT number “out-of-service.”

- 22 (9) GBU is held in default for failing to appear at the July 24, 2019, hearing.

**ORDER**

THE COMMISSION ORDERS:

- 23 (1) GBU Enterprises GRP., Inc., d/b/a Golden Valley Van Lines is held in default. Should GBU Enterprises GRP., Inc., d/b/a Golden Valley Van Lines fail to respond to this Order by filing a written motion within ten (10) days requesting that this Order be vacated pursuant to WAC 480-07-450(2), the default in this proceeding shall become final.
- 24 (2) GBU Enterprises GRP., Inc., d/b/a Golden Valley Van Lines's household goods carrier permit THG 067605 is cancelled, effective immediately.
- 25 (3) GBU Enterprises GRP., Inc., d/b/a Golden Valley Van Lines must cease and desist all operations associated with this permit unless or until its permit is reinstated or it applies for and obtains a new permit from the Commission.
- 26 (4) The Commission retains jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective July 30, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

LAURA CHARTOFF  
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 480-07-450(2) states that a party held in default has 10 days after service of a default order to file a written motion requesting the order be vacated and the proceeding reopened for further process. The party held in default must state the grounds relied upon, including its reasons for failing to appear.**

WAC 480-07-610(7) provides that any party to this proceeding has twenty-one (21) days after the entry of this Initial Order to file a *Petition for Review*. **A party held in default must file a written motion requesting the order be vacated pursuant to WAC 480-07-450(2) within 10 days after service in order to have the Commission consider a Petition for Administrative Review from that party.** What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-610(7)(b). WAC 480-07-610(7)(c) states that any party may file a *Response* to a Petition for review within seven (7) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) 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 fails to 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). Any Petition or Response filed must also be electronically served on each party of record as required by WAC 480-07-140(1)(b).