



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503

P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

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COMMISSION

01/14/21 16:34

Received
Records Management

Date: January 14, 2021

To: Samantha Doyle, Administrative Law Judge, Administrative Law Division

From: Mathew Perkinson, Assistant Director, Transportation Safety Division

Re: **TV-200946 and TV-200947 Two Men and a Moving Van LLC, d/b/a Move for Less**
Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG067981)

On November 19, 2020, Commission staff (staff) completed a routine safety investigation of Two Men and a Moving Van LLC, d/b/a Move for Less (Move for Less or Company) which resulted in a proposed conditional safety rating.

Provisional household goods companies must achieve a satisfactory safety rating prior to receiving permanent status. As the Company has yet to achieve a satisfactory safety rating, the commission afforded Move for Less the same opportunity as companies that receive a proposed unsatisfactory safety rating to provide evidence, in the form of an approved safety management plan, showing that the company took corrective action to address the identified violations.

Commission rules prohibit motor carriers from operating beginning on the 61st day after the date of the notice of a proposed unsatisfactory rating. A company may request a change in its safety rating based on evidence that it has taken corrective actions to address the identified violations, and that its operations currently meet the safety standard and factors in 49 CFR § 385.5 and 385.7. In this case, Move for Less has until January 19, 2021, to come into compliance with applicable laws and rules by obtaining commission approval of a safety management plan.

The proposed conditional safety rating was based on five violations of acute and critical regulations – 49 CFR § 382.115(a), 383.23(a), 391.51(b)(2), WAC 480-15-530, and 480-15-555.

“**Acute**” regulations are those identified as such where non-compliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier.

“**Critical**” regulations are those identified as such where non-compliance relates to management and operational controls. These are indicative of breakdowns in a company's management

controls. Patterns of non-compliance with a critical regulation are linked to inadequate safety management controls and higher than average accident rates.

Acute violations discovered during investigation:

1. One violation of 49 CFR § 382.115(a) – Failing to implement a controlled substance and/or an alcohol testing program on the date the employer begins commercial motor vehicle operations.
2. One violation of WAC 480-15-530 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.

Critical violations discovered during investigation:

3. Two violations of 49 CFR § 383.23(a) – Operating a commercial motor vehicle without a valid commercial driver’s license.
4. Five violations of 49 CFR § 391.51(b)(2) – Failing to maintain inquiries into driver’s driving record in driver’s qualification file.
5. Five violations of WAC 480-15-555 – Failing to conduct or retain paperwork containing criminal background check for a household goods carrier in the state of Washington as required.

On December 1, 2020, the commission issued a penalty assessment against Move for Less in the amount of \$7,300 as a result of violations discovered during the routine safety investigation.¹ The penalty includes:

1. A \$5,000 penalty for 50 violations of WAC 480-15-530 for failing operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.
2. A \$500 penalty for five violations of WAC 480-15-555 for failing to conduct or retain paperwork containing criminal background check for a household goods carrier in the state of Washington as required.
3. A \$1,500 penalty for one violation of 49 CFR § 382.115(a) for failing to implement a controlled substance and/or alcohol testing program on the date the employer begins commercial motor vehicle operations.
4. A \$200 penalty for two violation of 49 CFR § 383.23(a) for allowing a driver to operate a commercial motor vehicle without a valid CDL.
5. A \$100 penalty for five violations of 49 CFR § 391.51(b)(2) for failing to maintain inquiries into driver’s driving record in driver qualification file.

¹ TV-200947

On December 7, 2020, Move for Less filed with the commission its application for mitigation of penalties. In the request for mitigation, the Company admitted the violations and believed that the penalty should be reduced.

In a December 8, 2020, Notice of Intent to Cancel, the commission instructed Move for Less to submit its proposed safety management plan no later than January 4, 2021.

On January 14, 2021, Move for Less submitted a safety management plan addressing each violation noted during the investigation. Staff only recommends approving a safety management plan that addresses the following seven items:

1. The plan must address each acute, critical, or serious violation discovered during the most recent investigation. It must also include corrective actions that address other violations noted during the investigation.
2. Identify why the violations were permitted to occur.
3. Discuss the actions taken to correct the deficiency or deficiencies that allowed the violations to occur. Include actual documentation of this corrective action.
4. Outline actions taken to ensure that similar violations do not reoccur in the future. The plan must demonstrate that the company's operations currently meet the safety standard and factors specified in 49 CFR § 385.5 and 385.7. To do so, the plan must demonstrate the company now has adequate safety management controls in place which function effectively to ensure acceptable compliance with applicable safety requirements.
5. If the request includes actions that will be conducted in the near future, such as training, reorganization of departments, purchasing of computer programs, etc., companies must include a detailed description of the activity or training and a schedule of when that activity will commence and when it will be completed.
6. Include any additional documentation relating to motor carrier safety and the prevention of crashes that the company believes supports its request.
7. Include a written statement certifying the company will operate within federal and state regulations and the company's operation currently meets the safety standard and factors specific in 49 CFR § 385.5 and 385.7. A corporate officer, partner, or the owner of the company must sign the statement.

Summary and Recommendations

Staff reviewed Move for Less' safety management plan and concludes it is acceptable and meets the requirements of 49 CFR § 385. Because of the Company's actions, staff recommends the commission not cancel Move for Less' permit and extend its provisional period until such a time

that the Company achieves a satisfactory safety rating. Staff further recommends that Dockets TV-200946 and TV-200947 be consolidated.

Staff confirmed with the company that it waived its right to a hearing in both dockets and the brief adjudicative proceeding schedule for January 15, 2021, was cancelled.

In response to the request for mitigation, the Company corrected each violation and took steps to prevent future occurrence. Staff recommends mitigating the reduced penalty of \$7,300 to \$3,650. Staff further recommends that \$2,000 of the penalty be suspended for a period of two years before being waived, on the conditions that: (1) staff conducts a follow-up safety investigation at least six months from the date of an Order, (2) the Company may not incur any repeat violations of acute or critical regulations, and (3) Move for Less pays the \$1,650 portion of the penalty that is not suspended.

The Company took all the required steps to bring its safety operations into compliance with commission regulations. Move for Less submitted a safety management plan that addresses each violation, identifies how the violations occurred, describes the steps taken to correct them, and put controls in place to ensure the company maintains compliance.

Documentation of driver qualifications, vehicle maintenance, insurance, criminal background check information, and motor vehicle report of sale receipts were included in the plan.