

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of

DAVID LU d/b/a GRANDMA'S BOY  
MOVING COMPANY

For Compliance with WAC 480-15-560  
and WAC 480-15-570

DOCKET TV-230198

ORDER 01

APPROVING SAFETY  
MANAGEMENT PLAN;  
MAINTAINING SAFETY RATING;  
IMPOSING AND SUSPENDING  
PENALTIES; CANCELING  
HEARING

**BACKGROUND**

- 1 On April 20, 2023, 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 David Lu d/b/a Grandma's Boy Moving Company (David Lu or Company) for Compliance with Washington Administrative Code (WAC) 480-15 (Notice).
- 2 The Notice explained that Commission staff (Staff) conducted a compliance review of the Company's operations in March 2023 and cited the Company for 25 violations of federal and state safety regulations, which resulted in a proposed conditional safety rating. Based on its review, Staff recommended the Commission cancel the Company's household goods carrier permit unless David Lu obtains Commission approval of a safety management plan. The Notice directed David Lu to file a proposed safety management plan by April 27, 2023. The Commission also set a brief adjudicative proceeding for May 11, 2023, at 1:30 p.m. to determine whether the Commission should cancel the Company's household goods carrier permit.

3 On April 4, 2023, the Commission assessed a \$2,500 penalty (Penalty Assessment) against David Lu for the safety violations discovered during Staff's compliance review.<sup>1</sup> The Penalty Assessment includes:

- A \$100 penalty for one violation of WAC 480-15-555(1) for failing to conduct or retain paperwork containing criminal background checks or hiring an individual with a disqualifying conviction for a household goods carrier in the state of Washington.
- A \$100 penalty for one violation of WAC 480-15-555(2) for failing to maintain evidence of a background check for the term of employment and three years after termination.
- A \$2,300 penalty for 23 violations of 49 C.F.R. § 395.8(a)(1) for failing to require a driver to prepare a record of duty status.

4 On April 18, 2023, David Lu filed with the Commission a request for mitigation of the penalty. In its request, the Company admitted to the violations, stated that it had implemented corrective actions, and requested the penalty be reduced.

5 On May 4, 2023, David Lu submitted a proposed safety management plan and a signed waiver of hearing.

6 On May 5, 2023, Staff filed with the Commission its evaluation of the Company's safety management plan and penalty recommendation (Evaluation). In its Evaluation, Staff also requested the Commission cancel the brief adjudicative proceeding and decide this matter on a paper record.

7 Based on its review of the Company's proposed plan, Staff believes that the Company's plan is acceptable and meets legal requirements. In addition, Staff notes that the Company took all the required steps to bring its safety operations into compliance with Commission regulations. Staff recommends that the Commission not cancel the Company's provisional permit, maintain the Company's safety rating as conditional, but

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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.

also extend the Company's provisional permit period until such time as the Company achieves a satisfactory safety rating. Staff further recommends that the Commission suspend a \$2,000 portion of the \$2,5000 penalty for a period of two years, and then waive it, subject to the following conditions:

- (1) The Company maintains a conditional safety rating;
- (2) Staff performs a follow-up safety investigation at least six months from the date of this Order;
- (3) The Company may not incur any repeat violations of critical regulations upon reinspection; and,
- (4) The Company pays the \$500 portion of the penalty that is not suspended or enters into a mutually agreeable payment arrangement with Staff within 10 days of this Order.

### **DISCUSSION AND DECISION**

8 Washington Law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Staff's compliance review of David Lu found 25 violations of critical regulations. 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 May 4, 2023, David Lu submitted its proposed safety management plan, requesting the Commission allow it to maintain its household goods permit.

10 On May 5, 2023, Staff filed its Evaluation of the Company's proposed safety management plan. Staff determined that the Company's 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 the Company's safety management plan is acceptable and satisfies the legal requirements of 49 C.F.R. Part 385. We agree.

11 Based on Staff's Evaluation, the Commission finds that the Company has achieved compliance with WAC 480-15 by correcting the violations that led to the proposed conditional safety rating. Accordingly, the Commission agrees with Staff's recommendation and grants the Company's request to maintain its household goods permit and maintain the Company's conditional safety rating.

12 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 time as the Company achieves a satisfactory rating.

13 Finally, we agree with Staff's recommendation to suspend a \$2,000 portion of the \$2,5000 penalty for a period of two years, and then waive it, subject to the following conditions:

- (1) The Company maintains a conditional safety rating;
- (2) Staff performs a follow-up safety investigation at least six months from the date of this Order;
- (3) The Company may not incur any repeat violations of critical regulations upon reinspection; and,
- (4) The Company pays the \$500 portion of the penalty that is not suspended or enters into a mutually agreeable payment arrangement with Staff within 10 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) David Lu is a household goods carrier subject to Commission regulation.

16 (3) David Lu cured the deficiencies that led to the proposed conditional safety rating. Accordingly, David Lu's safety rating should be maintained as

conditional, and the Company should be allowed to maintain its household goods carrier permit.

- 17 (4) Pursuant to WAC 480-15-305(1)(b), the Commission should find good cause to extend David Lu's provisional period until such time as the Company achieves a satisfactory safety rating.
- 18 (5) David Lu committed 25 violations of WAC 480-15 and Title 49 C.F.R.
- 19 (6) David Lu does not dispute that the violations occurred.
- 20 (7) David Lu should be penalized \$2,500 for 25 violations of WAC 480-15 and Title 49 C.F.R., with a \$2,000 portion suspended for a period of two years, and then waived thereafter, subject to the conditions outlined in Paragraph 13 of this Order.

## **ORDER**

### **THE COMMISSION ORDERS**

- 21 (1) David Lu d/b/a Grandma's Boy Moving Company's safety management plan is approved.
- 22 (2) David Lu d/b/a Grandma's Boy Moving Company's safety rating is maintained as conditional.
- 23 (3) The Commission assesses a \$2,500 penalty against David Lu d/b/a Grandma's Boy Moving Company and suspends a \$2,000 portion of the penalty amount for a period of two years, and then waives it, subject to the conditions outlined in Paragraph 13 of this Order.
- 24 (4) David Lu d/b/a Grandma's Boy Moving Company's provisional period is extended until such time as the Company achieves a satisfactory safety rating.
- 25 (5) The Brief Adjudicative Proceeding set for May 11, 2023, is canceled.

DATED at Lacey, Washington, and effective May 8, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ *Andrew J. O'Connell*

ANDREW J. O'CONNELL  
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).