



Date: November 20, 2017

To: Gregory J. Kopta
Director, Administrative Law

From: Mathew Perkinson
Motor Carrier Safety Manager

Re: TC-171022 and TC-171023 Rocket Transportation LLC
Evaluation of Safety Management Plan and recommendations regarding the company's safety rating, the cancellation of its operating authority (C-62991) and associated penalties.

In October 2017, staff completed a routine safety investigation of Rocket Transportation LLC d/b/a Rocket Transportation (Rocket Transportation). Staff conducted the closing conference with the company on October 12, 2017. The investigation resulted in a proposed *unsatisfactory* safety rating effective November 26, 2017.

The factors that led to the proposed unsatisfactory safety rating were violations of two critical regulations and the company's accident rate of 3.74 accidents per one million miles travelled. The investigation resulted in a penalty assessment of \$7,000 in Docket TC-171022.

“Acute” regulations are those where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall basic safety management controls of the motor carrier.

“Critical” regulations are those identified as such where noncompliance relates to management and/or operational controls. These are indicative of breakdowns in a carrier's management controls.

Critical Violations

State and federal regulations factor the number of acute and critical violations committed by a carrier into determining the carrier's safety rating. The following Critical violations were discovered during staff's investigation:

1. **Sixty-nine violations of Title 49 CFR Part 391.45(a) – Using a driver not medically examined and certified.** Rocket Transportation allowed three employees without current medical certification to drive on 69 occasions during the six months prior to the compliance review, as follows:
 - Employee Pauline Cheng (three occurrences) drove one day in November; and two days in December, 2016.
 - Employee Todd Katke (49 occurrences) drove four days in July; twenty-two days in August; twenty days in September; and three days in October, 2016.
 - Employee Klaus Sterling (17 occurrences) drove two days in May; and fifteen days in June, 2017.

2. **Two violations of Title 49 CFR Part 391.51(b)(7) – Failing to maintain medical examiner’s certificate in driver’s qualification file.** Rocket Transportation failed to maintain copies of the medical examiner’s certificate in the driver qualification files of two employees, William Wagoner and Pauline Cheng.

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

Accident Ratio

State and federal regulations also use the number of recordable accidents a company is involved in during the previous year per million miles travelled during the same period to determine the carrier’s safety rating.

Rocket Transportation reported 534,174 miles travelled in 2016. Rocket Transportation was involved in two Department of Transportation Recordable accidents in the 2016 reporting period. This results in an accident rate of 3.74 accidents per million miles travelled ($2 \times 1,000,000 \div 537,174 = 3.74$).

Upgrading a Proposed Unsatisfactory Safety Rating

Passenger carriers have 45 days from the date the proposed unsatisfactory safety rating is issued to receive a change to the rating. To upgrade a proposed unsatisfactory safety rating, a company must submit a Safety Management Plan (SMP), which commission staff must approve. A carrier’s request to change its safety rating must be based upon evidence that the company has taken corrective actions to address the violations identified and that company operations currently meet the safety fitness standard as specified in 49 CFR Parts 385.5 and 385.7.

A Notice of Intent to Cancel Certificate and Notice of Brief Adjudicative Proceeding was issued on October 18, 2017. The notice instructed Rocket Transportation to submit a SMP no later than November 10, 2017. A Brief Adjudicative Proceeding was schedule for November 20, 2017.

On November 1, 2017, Rocket Transportation submitted a request for mitigation. In its mitigation request the company contests the number of violations and requests a hearing. Rocket Transportation requested that the commission combine the Dockets for convenience at the hearing. The company submitted an initial SMP on November 7, 2017. The company submitted a revised SMP on November 13, 2017.

Evaluation of Safety Management Plan

Staff uses the following criteria when evaluating a SMP, and provides its analysis of Rocket Transportation’s SMP’s compliance with those criteria:

1. The plan must address each acute, critical, or serious violation discovered during the most recent compliance investigation. Corrective actions to address other violations noted during the investigation must also be included.

The SMP addresses each of the violations. Kathy Roman, CEO Rocket Transportation takes personal responsibility for allowing the violations to occur and stated “. . . *agree[d that] there was lack of oversight in our driver safety program. . .*” Mr. Roman stated that the violations occurred due to staff’s ignorance of the “. . . detailed list of safety items to stay on top of. . . ”

2. Identify why the violations were permitted to occur.

- Rocket Transportation's SMP states the violations were permitted to occur because of the company's ignorance of the safety regulations. Staff believes Rocket Transportation has taken responsibility for allowing violations 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. (For example: documentation may include items such as new policies and procedures, training programs and sign-in lists, or copies of new forms).
 - The company has taken several steps to ensure the violations were corrected. Rocket has put policies into place to provide guidance on compliance, Set up calendar reminders and excel spreadsheets to ensure drivers do not operate without the required medical certification, and set up files for its personnel and vehicles.
 - All drivers obtained medical certification from a medical provider on the National Registry. Rocket Transportation provided documentation. Prior medical certificates were added to the files.
 - Rocket Transportation states it will keep employees files secured.
 - Rocket Transportation will maintain medical certifications and initial driver abstracts with each driver qualification file going forward.
 - Rocket Transportation will implement a procedure to ensure drivers abstracts are checked at the time of hire and annually.
 - Rocket Transportation created a pre-employment checklist to ensure all requirements are met prior to an employee performing safety-sensitive duties.
 - Rocket Transportation has implemented a driver vehicle inspection report (DVIR) for capturing required information and provided examples of its use.
 - Rocket Transportation will use the UTC supplied form Driver Daily Log going forward to avoid hours-of-service violations.
 - Rocket Transportation has designated specific individuals as responsible for specific safety-related duties. Rocket Transportation will collect information from drivers during its annual safety meeting.
 4. Outline actions taken to ensure that similar violations do not reoccur in the future. This must include demonstrating adequate safety management controls that will ensure acceptable compliance with applicable safety requirements.
 - Rocket Transportation's SMP provides new policies and procedures that the company put in place that should ensure the violations do not occur again. Rocket Transportation implemented the use of several new forms to gather and track critical safety information. Rocket Transportation has ensured all of its current drivers have medical certification. Rocket Transportation has implemented several new controls that staff hopes will prevent reoccurrence in the future.
 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.
 - Rocket Transportation pledged to be more diligent in the future and to ensure that the company is in compliance with safety requirements.

6. Include any additional documentation relating to motor carrier safety and the prevention of crashes that you believe supports your request.
 - Rocket Transportation reported two DOT-recordable accidents in the past year. Drivers were not cited for the accidents.
7. Include a written statement certifying the carrier will operate within federal and state regulations and the carrier'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.
 - Rocket Transportation included a statement “. . . *Mr. Dickson knows many more important safety guidelines now and going forward will implement, update, correct, and modify procedures to ensure safe operation. . .*” Ms. Roman signed the statement. The SMP identifies how Rocket Transportation intends to maintain compliance with safety regulations.

Summary and Recommendations

Safety Rating

- Staff recommends the commission upgrade the company's safety rating to “conditional” effective by November 26, 2017.
- Rocket Transportation received a proposed unsatisfactory safety rating due to having inadequate safety management controls and a high ratio of accidents per million miles. Rocket Transportation demonstrated it is willing and able to comply with passenger safety regulations. Rocket Transportation was cooperative and timely in producing information as requested by Commission Staff.
- Staff reviewed Rocket Transportation's safety management plan and concludes it is acceptable and meets the requirement of 49 CFR, Part 385.17 for reasons outline in this evaluation recommendation.

Penalty Recommendation

- On October 18, 2017, the Commission issued a penalty assessment of \$7,000 in Docket TC-171022.
- On November 1, 2017, the commission received an application for mitigation. Rocket Transportation admitted to some violations and despite disputing a few violations the company ultimately accepted responsibility for all of the violations.
- The company took several steps to bring its safety operations in compliance with commission regulations. Because of the company's actions staff recommends that the commission assess a penalty reduced by half of the original \$7,000 to \$3,500. Staff recommends to commission suspend \$1,750 of the reduced penalty for a period of two years – with conditions:
 - The company does not incur any repeat critical violations upon a non-rated follow-up safety investigation in one year.
 - The company maintains a conditional safety rating.
 - If repeat violations of critical regulations are discovered during the follow-up in November 2018, or in any other safety investigation before that, staff would recommend that the entire suspended penalty be imposed.
 - The remaining \$1,750 penalty is due and payable immediately; however staff would not object to a payment arrangement if requested.