

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>In the Matter of the Investigation of</p> <p>ASD VENTURES INC. d/b/a COLLEGE HUNKS HAULING JUNK & MOVING</p> <p>For Compliance with WAC 480-15</p>	<p>DOCKETS TV-210654 and TV-210655 (Consolidated)</p> <p>INITIAL ORDER 01</p>
<p>In the Matter of the Penalty Assessment Against</p> <p>ASD VENTURES INC. d/b/a COLLEGE HUNKS HAULING JUNK & MOVING</p> <p>in the Amount of \$700</p>	<p>CONSOLIDATING DOCKETS; APPROVING SAFETY MANAGEMENT PLAN; EXTENDING PROVISIONAL PERIOD SUBJECT TO CONDITIONS</p>

BACKGROUND

1 On October 12, 2020, the Washington Utilities and Transportation Commission (Commission) entered Order 01, Order Consolidating Dockets; Approving Safety Management Plan; Upgrading Safety Rating; Imposing and Suspending Penalties against ASD Ventures Inc., d/b/a College Hunks Hauling Junk & Moving, (ASD Ventures) in Dockets TV-200746 and TV-200745. In that order, the Commission assessed a \$5,050 penalty, a \$3,000 portion of which was suspended for a period of two years, subject to the following conditions: (1) ASD Ventures must pay the \$2,250 portion of the penalty that is not suspended within 10 days of the effective date of Order 01, and (2) ASD Ventures must not incur any repeat violations of critical regulations upon re-inspection. Additionally, the Commission upgraded the Company’s safety rating to conditional, and, based on that upgrade, the Commission refrained from cancelling ASD Ventures’ provisional permit, extending the Company’s provisional period for good cause.

**Pursuant to RCW 80.01.060(3)
This packet is the final
Order in this docket.**

2 On August 20, 2021, Staff completed the ordered follow-up safety investigation of ASD Ventures, which resulted in a proposed conditional safety rating.

3 On September 13, 2021, the 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 ASD Ventures for Compliance with Washington Administrative Code (WAC) 480-15-555, WAC 480-15-560, and WAC 480-15-570 (Notice).

4 The Notice explained that Commission staff (Staff) conducted a compliance review of ASD Ventures' operations between July and August 2021 and documented safety requirement violations, including one acute violation of 49 C.F.R. § 391.15(a), two critical violations of 49 C.F.R. § 391.45(a), three critical violations of 49 C.F.R. § 391.51(b)(2), two critical-type violations of WAC 480-15-555, and other violations of 49 C.F.R. Parts 391, 395, and 396, and proposed a conditional safety rating for the Company. Based on its investigation and the proposed conditional safety rating, Staff recommended that the Commission cancel ASD Ventures' provisional household goods carrier permit based on its failure to obtain a satisfactory safety rating in either of the compliance reviews conducted by Staff during the Company's extended provisional period. The Notice directed ASD Ventures to file a proposed safety management plan by September 28, 2021. The Commission also set a brief adjudicative proceeding for October 12, 2021, to determine whether the Commission should cancel ASD Ventures' household goods carrier permit.

5 On September 23, 2021, the Commission assessed an \$700 penalty (Penalty Assessment) in Docket TV-210655 against ASD Ventures for the safety violations discovered during Staff's compliance review. The Penalty Assessment includes:

- a \$100 penalty for 1 acute violation of 49 C.F.R. § 391.15(a) for using a disqualified driver;
- a \$200 penalty for 2 critical violations of 49 C.F.R. § 395.45(a) for using a driver not medically examined and certified;
- a \$100 penalty for 3 violations of 49 C.F.R. § 391.51(b)(2) for failing to maintain inquiries into driver's driving record in driver's qualification file; and
- a \$100 penalty for 1 violation of 49 CFR § 395.8(a)(1) for failing to require driver to prepare a record of duty status using the appropriate method.

6 Also on that date, in Dockets TV-200746 and TV-200745 (*Consolidated*), the
Commission issued a compliance letter, imposing the \$3,000 suspended penalty due to
Commission Staff's (Staff) discovery of ASD Ventures' repeat violations of critical
regulations.

7 On October 8, 2021, ASD Ventures submitted a notice of intent to pay the penalty
assessment in Docket TV-210655. On that same date, ASD Ventures submitted a
proposed safety management plan.

8 On October 11, 2021, the Commission issued a Notice Cancelling Brief Adjudicative
Proceeding and Setting Deadline for Written Submission by Staff pursuant to a joint
request by Staff and the Company.

9 Also on October 11, 2021, Staff filed with the Commission its evaluation of the
Company's safety management plan (Evaluation), recommending that the Commission
consolidate the Commission's safety investigation with the penalty assessment, accept
the Company's safety management plan, and extend the Company's provisional period
subject to the following conditions:

1. ASD Ventures maintains its conditional safety rating.
2. ASD Ventures pays the \$700 penalty in TV-210655.
3. ASD Ventures pays the imposed \$3,000 penalty in TV-200746 and
TV-200745 (*Consolidated*) in full or enter a mutually agreeable payment
arrangement with Staff within 10 days of an order.
4. All Company operations staff must attend the October 13, 2021,
household goods training provided by Commission Staff.
5. Staff performs a focused review of the Company's hours of service
records, criminal background checks, and driver's medical certification six
months from the date of reinstatement.
6. ASD Ventures must achieve a satisfactory safety rating following a
comprehensive safety investigation six months from the date of an order.
7. The Company must not receive any repeat acute or critical violations
during follow-up inspections.
8. Any violation of these conditions will be grounds for cancellation of ASD
Ventures' operating authority as an intrastate household goods mover in
Washington.

10 Staff determined, based on its review of the Company's proposed plan, that the Company's plan is acceptable and meets the requirements of 49 CFR Part 385 and that ASD Ventures took appropriate action to develop a compliant safety program and implement a system that should prevent future repeat violations. Staff also acknowledges that the Company demonstrated a willingness to comply with the safety regulations and showed progress in implementing a compliant safety program. Staff recommends that the Commission refrain from cancelling the Company's permit and also extend the Company's provisional permit period for good cause.

DISCUSSION AND DECISION

1. Consolidation

11 Because the violations cited in Staff's investigation conducted between July and August 2021 gave rise to the enforcement actions taken in both dockets, the Commission exercises its discretion to consolidate these proceedings. Accordingly, Docket TV-210654 and Docket TV-210655 are consolidated.

2. Safety Rating

12 Washington Law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Staff's July-August 2021 compliance review of ASD Ventures found eight violations of safety regulations including acute and critical violations, which resulted in a proposed conditional safety rating.

13 On October 8, 2021, the Company submitted its proposed safety management plan. Staff determined that ASD Ventures' safety management plan demonstrates that ASD has taken appropriate action to develop a compliant safety program and implemented a system, for which the Company supplied Staff with evidence of the compliance tracking system along with calendar reminders for future compliance dates. Staff acknowledged that the Company demonstrated a willingness to comply with the safety regulations, showed progress in implementing a compliant safety program, and included all necessary portions of an acceptable safety management plan, including a statement that the Company had hired additional staff to oversee the compliance program. Staff concludes that ASD Ventures' safety management plan is acceptable and satisfies the legal requirements of 49 CFR Part 385. We agree.

- 14 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 will refrain from cancelling ASD Ventures' permit.
- 15 We likewise agree with Staff's recommendation to extend the Company's provisional period for its household goods carrier permit, subject to the conditions recommended and outlined by Staff. 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 continued to demonstrate significant steps to ensure its operations comply with applicable safety regulations.
- 16 ASD Ventures was already operating under a safety management plan related to its prior compliance review in Dockets TV-200746 and TV-200745 (*Consolidated*). It is appropriate, therefore, to place additional conditions during the extended provisional period. Accordingly, the Commission finds good cause to extend the Company's provisional period subject to the conditions recommended by Staff with one modification. As this Order is issued after the Commission's October 13, 2021, household goods training, it is fair to permit the Company to meet this requirement either at the October 13, 2021, training, or at the next available household goods training scheduled by the Commission. In addition, we find it appropriate to reiterate the condition requiring ASD Ventures to pay the \$3,000 penalty from Dockets TV-200746 and TV-200745 (*Consolidated*) and that the Commission will allow the Company to reach a mutually agreeable payment arrangement with Staff within 10 days of this Order if the Company is unable to remit payment in full.

3. Penalty

- 17 Violations discovered during safety inspections are subject to penalties of \$100 per violation.¹ In some cases, Commission requirements are so fundamental to safe

¹ See RCW 80.04.405.

operations that the Commission will issue penalties for first-time violations.² Violations defined by federal law as “critical” or “acute” meet this standard.³

18 The violations discovered by Staff during July-August 2021 resulted in penalties of \$700. The Company does not contest the violations. The Company promptly addressed the violations and submitted on May 18, 2021, a notice of its intent to pay the penalty in full. We uphold the penalty amount and include its payment in the conditions of extending the Company’s provisional period.

FINDINGS AND CONCLUSIONS

- 19 (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.
- 20 (2) ASD Ventures is a household goods carrier subject to Commission regulation.
- 21 (3) ASD Ventures committed eight violations of WAC 480-15 and Title 49 C.F.R., including acute and critical safety violations.
- 22 (4) ASD Ventures does not dispute that the violations occurred.
- 23 (5) ASD Ventures cured the deficiencies that led to the proposed conditional safety rating and submitted a safety management plan addressing the controls it has put in place to ensure the Company maintains compliance. Accordingly, ASD Ventures’ safety management plan should be approved, and the Company’s permit should not be cancelled.
- 24 (6) Pursuant to WAC 480-15-305(1)(b), the Commission should find good cause to extend ASD Ventures’ provisional period, again, subject to the conditions recommended by Staff and outlined in Paragraphs 8 and 16.

² Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶¶ 12, 15 (Jan. 7, 2013) (Enforcement Policy).

³ 49 C.F.R. § 385, Appendix B.

- 25 (7) ASD Ventures has already submitted a notice indicating that it will pay in full the Penalty Assessment of \$700 resulting from the eight violations discovered by Staff.
- 26 (8) Staff's July-August 2021 investigation gave rise to the enforcement actions taken in both Docket TV-210654 and Docket TV-210655. Accordingly, the Commission should exercise its discretion to consolidate the proceedings.

ORDER

THE COMMISSION ORDERS:

- 27 (1) Docket TV-210654 and Docket TV-210655 are consolidated.
- 28 (2) ASD Ventures Inc. d/b/a College Hunks Hauling Junk & Moving's safety management plan is approved.
- 29 (3) ASD Ventures Inc. d/b/a College Hunks Hauling Junk & Moving's provisional period is extended subject to the conditions outlined in Paragraphs 8 and 16.

DATED at Lacey, Washington, and effective October 18, 2021.

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).