



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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Date: March 30, 2023

To: Rayne Pearson, Administrative Law Judge, Administrative Law Division

From: Jason Sharp, Motor Carrier Safety Supervisor, Transportation Safety Division

Re: **TV-230081 Tiraogo Simpure d/b/a TS Moving**

Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG067675)

On February 1, 2023, Commission staff (Staff) completed a routine safety investigation of Tiraogo Simpure d/b/a TS Moving (TS Moving 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 TS Moving the same opportunity as companies that receive a proposed unsatisfactory safety rating to provide evidence, in the form of an approved safety management plan (SMP), 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, TS Moving has until March 31, 2023, to come into compliance with applicable laws and rules by obtaining Commission approval of a SMP.

The conditional safety rating was based on two violations of acute and critical regulations – 49 C.F.R. § 395.8(a)(1) and WAC 480-15-550.

“**Acute**” violations 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 and Critical violations discovered during investigation:

1. One violation of WAC 480-15-550 – Failing to maintain cargo insurance while operating a motor vehicle as required. (Acute)
2. Thirty violations of Title 49 CFR § 395.8(a)(1) – Failing to require driver to prepare a record of duty status. (Critical)

In a March 3, 2023, Notice of Intent to Cancel, the Commission instructed TS Moving to submit its proposed safety management plan no later than March 16, 2023.

On March 10, 2023, TS Moving submitted an initial SMP that was not accepted by Staff. Staff notified the Company that the SMP was not accepted and provided a detailed response addressing where the SMP was deficient.

On March 23, 2023, the Commission held the brief adjudicative proceeding. Staff testified that the Company had submitted an SMP, but that it was not accepted by Staff. Staff further testified that it would continue to work with TS Moving leading up to its cancellation date on April 2, 2023. The Company was instructed to submit its final proposed SMP by 5:00 pm on March 29, 2023.

On March 30, 2023, TS Moving submitted an updated SMP addressing each violation noted during the safety investigation.

Staff only recommends approving a SMP 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 TS Moving's SMP and concludes it is not sufficient to justify an upgrade to the company's safety rating, and it fails to demonstrate that adequate corrective actions have been taken to address the violations cited during the safety investigation. As required by 49 C.F.R. § 385.17(c), a motor carrier must base its request for upgrade upon evidence that it has taken corrective actions and that its operations currently meet the safety standard and factors specified in 49 C.F.R. § 385.5 and 385.7. The request must include a written description of corrective actions taken, and other documentation the company wishes to be considered.

TS Moving's SMP fails to demonstrate that the Company has corrected all the violations identified in the safety investigation or how to ensure future compliance. TS Moving addressed each violation discovered and explains why the violations occurred. The plan fails to demonstrate that each violation has been corrected or that the Company has sufficient safety management controls in place to ensure these violations do not reoccur in the future.

Staff recommends that the Company's proposed conditional safety rating remain, and the provisional permit be cancelled.

Partial documentation of a driver qualification file, vehicle maintenance, hours of service records, travel information and future calendar date reminders were included as attachments to the plan.