



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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Date: September 11, 2024

To: Connor Thompson, Administrative Law Judge, Administrative Law Division

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

Re: **TV-240549 Lion Movers LLC**

Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods mover operating authority (THG-070121)

On July 9, 2024, Commission staff (Staff) completed a routine safety investigation of Lion Movers LLC, (Lion Movers 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 Lion Movers 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 C.F.R. § 385.5 and 385.7. In this case, Lion Movers was given until September 18, 2024, to come into compliance with applicable laws and rules by obtaining Commission approval of a SMP.

The proposed conditional safety rating was based on one violation of critical regulations – 49 C.F.R. § 395.8(a)(1).

“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.

Critical violations discovered during investigation:

1. Twenty-six critical violations of 49 C.F.R. § 395.8(a)(1) for failing to require a driver to prepare a record of duty status using the appropriate method.

On August 2, 2024, the Commission issued a penalty assessment against Lion Movers in the amount of \$300 because of violations discovered during the safety investigation. The penalty was calculated as follows:

1. A \$100 penalty for one violation of WAC 480-15-555(1) for failing to complete a national criminal background check for an employee.
2. A \$100 penalty for 26 violations of 49 C.F.R. § 395.8(a)(1) for failing to require a driver to prepare a record of duty status using the appropriate method.
3. A \$100 penalty for one violation of 49 C.F.R. § 396.3(a)(1) for defective brakes on a commercial motor vehicle that is equal to or greater than 20 percent of the service brakes on the vehicle.

In an August 5, 2024, Notice of Intent to Cancel, the Commission instructed Lion Movers to submit its proposed SMP no later than August 29, 2024.

On September 9, 2024, Lion Movers submitted a SMP addressing each violation noted during the investigation. Staff reviewed the SMP to ensure that it addressed the following seven requirements:

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 C.F.R. § 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 C.F.R. § 385.5 and 385.7. A corporate officer, partner, or the owner of the company must sign the statement.

On September 11, 2024, the Company filed a "Waiver of Hearing" letter along with its response to the penalty assessment, admitting the violations, and stating the intent to pay the \$300 penalty.

Summary and Recommendations

Staff reviewed Lion Movers' SMP and concludes it meets the legal requirements of 49 C.F.R. § 385. The plan demonstrates that the Company has taken corrective action to develop a compliant safety program and implemented systems that if followed, should prevent future repeat violations.

Documentation of company training documents and policies, driver qualifications, vehicle maintenance, hours of service records, company registration, leasing, and criminal background documents were included in the plan. Additionally, the plan contains calendar reminders for future compliance due dates.

The Company took the required steps to bring its safety operations into compliance with Commission regulations. Lion Movers submitted a SMP that addresses each violation, identifies how the violations occurred, describes the steps the Company took to correct the violations, and put controls in place to ensure the Company maintains compliance. Staff recommends the Commission:

1. Not cancel Lion Movers' provisional permit;
2. Maintain the Company's conditional safety rating; and
3. Extend the Company's provisional period until such a time that Lion Movers achieves a satisfactory safety rating, or the Commission finds good cause to cancel the Company's operating authority.

Staff has verified with the Company that it waives its right to a hearing and is recommending that the Brief Adjudicative Proceeding scheduled for September 12, 2024, be cancelled.