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 1 BEFORE THE WASHINGTON

 2 UTILITIES AND TRANSPORTATION COMMISSION

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 4 WASHINGTON UTILITIES AND )DOCKET NO. TV-190395

 TRANSPORTATION COMMISSION, )

 5 )

 Complainant, )

 6 )

 vs. )

 7 )

 GBU ENTERPRISES GRP, INC, )

 8 D/B/A GOLDEN VALLEY VAN )

 LINES, )

 9 )

 )

10 Respondent. )

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12 BRIEF ADJUDICATIVE PROCEEDING, VOLUME I

13 Pages 1-15

14 ADMINISTRATIVE LAW JUDGE LAURA CHARTOFF

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16 July 24, 2019

17 1:33 p.m.

18

 Washington Utilities and Transportation Commission

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 Lacey, Washington 98503

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 1 A P P E A R A N C E S

 2 ADMINISTRATIVE LAW JUDGE:

 3 LAURA CHARTOFF

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11

 ALSO PRESENT:

12

 JASON SHARP

13 Motor Carrier Safety Supervisor

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 1 EXAMINATION INDEX

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 1 LACEY, WASHINGTON; JULY 24, 2019

 2 1:33 P.M.

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 4 P R O C E E D I N G S

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 6 JUDGE CHARTOFF: Let's be on the record.

 7 Good afternoon. This is Docket TV-190395, which is

 8 captioned Washington Utilities and Transportation

 9 Commission, complainant, versus GBU Enterprises Group,

10 Inc., doing business as Golden Valley Van Lines,

11 respondent.

12 My name is Laura Chartoff. I am the

13 administrative law judge presiding over today's brief

14 adjudicative proceeding.

15 So today is Wednesday, July 24th, 2019, and

16 the time is 1:33 p.m.

17 So let's start by taking appearances

18 starting with short appearance from Staff.

19 MR. FUKANO: Good afternoon, Judge Chartoff.

20 I am Harry Fukano, Assistant Attorney General, with the

21 Utilities and Transportation Commission division, and I

22 am here today on behalf of Commission Staff.

23 JUDGE CHARTOFF: Okay. And for the Company?

24 Is the Company present?

25 Okay. Hearing nothing, the Company has

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 1 failed to appear, how would you like to proceed?

 2 MR. FUKANO: Staff would ask that the

 3 Commission find the Company, GBU, in default under

 4 RCW 34.05.440 and WAC 480-07-450 for failure to appear

 5 at the time and place set for the hearing, and Staff

 6 would request that the Commission proceed with the

 7 hearing and resolve the issues before it.

 8 JUDGE CHARTOFF: Okay. And have you had any

 9 recent contact with the Company?

10 MR. FUKANO: No.

11 JUDGE CHARTOFF: Okay. All right. I find

12 GBU Enterprises Group, Inc., doing business as Golden

13 Valley Van Lines in default and will issue a written

14 order reflecting this finding. We will proceed without

15 the Company.

16 So, Mr. Fukano, you may proceed when you're

17 ready.

18 MR. FUKANO: Thank you. And I have placed

19 two copies of proposed Exhibit JS-1 on the bench.

20 JUDGE CHARTOFF: Thank you.

21 MR. FUKANO: Commission WACs 480-15-560 and

22 480-15-570 require household goods carriers to comply

23 with various safety requirements including standards

24 adopted from 49 Code of Federal Regulations.

25 Staff intends to introduce evidence that

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 1 shows that GBU has violated Commission safety

 2 requirements based on the results of a prior inspection

 3 conducted by the Federal Motor Carrier Safety

 4 Administration. Staff will introduce evidence through

 5 its investigator, Mr. Jason Sharp. Thank you.

 6 And at this time, Staff would like to call

 7 Mr. Jason Sharp.

 8

 9 JASON SHARP, witness herein, having been

10 first duly sworn on oath,

11 was examined and testified

12 as follows:

13

14 JUDGE CHARTOFF: Thank you.

15

16 E X A M I N A T I O N

17 BY MR. FUKANO:

18 Q. Would you please state your name and spell your

19 last name for the record.

20 A. Jason Sharp, S-h-a-r-p.

21 Q. What is your current position?

22 A. I am the motor carrier safety supervisor.

23 Q. How -- what are the respons- -- or your

24 responsibilities in that position?

25 A. My responsibilities include assigning safety

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 1 investigations and reviewing the work of the motor

 2 carrier safety investigations team here at the

 3 Commission.

 4 Q. How long have you been in this position?

 5 A. I've been the motor carrier supervisor for over

 6 a year and a half now.

 7 Q. I'd like to talk about the matter at issue in

 8 today's hearing.

 9 Are you familiar with GBU?

10 A. Yes, I am.

11 Q. And how did you become aware of the present

12 matter involving GBU?

13 A. I received email notification from Jeff James,

14 the Washington District Administrator of the Federal

15 Motor Carrier Safety Administration, that an

16 investigator under his supervision had recently placed

17 GBU Enterprises out of service following an

18 unsatisfactory safety rating.

19 Q. And I am -- or I'm showing you what has been

20 labeled as proposed Exhibit JS-1. What is this exhibit?

21 A. This exhibit is my declaration into this matter.

22 Q. And you are familiar with it?

23 A. Yes, I am.

24 Q. Did you create this exhibit?

25 A. Yes.

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 1 Q. Do you have any changes that you would like to

 2 make to this exhibit?

 3 A. No.

 4 Q. Would you please turn to Attachment A. What is

 5 Attachment A?

 6 A. Attachment A is the safety investigation report

 7 completed by the FMCSA.

 8 Q. And what is the date associated with that

 9 report?

10 A. The review date listed is February 6th, 2019.

11 Q. And who does the report pertain to?

12 A. GBU Enterprises.

13 Q. Does the report find any serious violations?

14 A. Yes, it does. It finds several serious

15 violations.

16 Q. And would you please state those violations for

17 the record?

18 A. Yes. So the violations of a serious nature

19 categorized as acute or critical lead to the safety

20 fitness evaluation of a company. It is completed the

21 same way with the FMCSA as it is with the Utilities and

22 Transportation Commission. And the Company was found to

23 have an acute violation for failing to implement a

24 random controlled substance and alcohol testing program.

25 It also had four critical vi- -- four separate

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 1 types of critical violations identified ranging from

 2 using drivers prior to receiving a negative

 3 preemployment controlled substance test; failing to

 4 maintain inquiries into a driver's driving record and

 5 the qualification file; failing to require drivers to

 6 prepare a record of duty status using the appropriate

 7 method, and also using commercial motor vehicles that

 8 had not been periodically inspected.

 9 Q. Who conduced the investigation detailed in the

10 February report?

11 A. Federal Investigator Chad Liderway [phonetic].

12 Q. Are the safety standards enforced by FMCSA in

13 respect to -- different from the safety standards

14 enforced by the Commission?

15 A. No, they are not. The Commission adopts the

16 standards and processes.

17 Q. Would the critical and acute violations found in

18 the report also constitute violation of the Commission's

19 motor carrier safety standards?

20 A. Yes, they would.

21 Q. In your experience, does the -- does Commission

22 motor carrier safety staff rely on information gathered

23 by FMCSA?

24 A. Yes.

25 Q. Would you please turn to Attachment B. What is

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 1 Attachment B?

 2 A. Attachment B is the letter that was sent to GBU

 3 Enterprises from the Federal Motor Carrier Safety

 4 Administration notifying them that it had 60 days to

 5 receive an upgrade to its proposed unsatisfactory safety

 6 rating following the safety investigation. Within this

 7 notice, it also notifies the Company that, under 49 CFR

 8 385.13, that when a motor carrier receives a final

 9 safety rating of unsatisfactory, that it is prohibited

10 from operating a commercial motor vehicle in interstate

11 and intrastate commerce.

12 MR. FUKANO: At this time, I would move to

13 admit Exhibit JS-1 and its attachments into evidence.

14 JUDGE CHARTOFF: Okay. The exhibit marked

15 JS-1 and its attachments are admitted into evidence.

16 (Exhibit JS-1 admitted.)

17 MR. FUKANO: Thank you.

18 BY MR. FUKANO:

19 Q. Does Staff have a recommendation as to what

20 action the Commission should take in response to the

21 violations detailed in its report?

22 A. Yes, Staff's recommendation is to recognize the

23 out-of-service rating put in place by the Federal Motor

24 Carrier Safety Administration effectively putting the

25 USDOT number out of service and to cancel the

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 1 provisional household goods permit that the Company

 2 currently holds with the Commission.

 3 MR. FUKANO: Thank you. No further

 4 questions.

 5 JUDGE CHARTOFF: Thank you. I have a

 6 question.

 7 So is -- is the Company still allowed to or

 8 eligible to request an upgrade to their safety rating?

 9 MR. SHARP: My understanding is yes, through

10 the Federal Motor Carrier Safety Administration.

11 JUDGE CHARTOFF: Okay. Okay. I think

12 that's all I have. Okay.

13 MR. FUKANO: Can I ask a brief follow-up

14 question?

15 JUDGE CHARTOFF: Sure.

16 MR. FUKANO: Thank you.

17

18 E X A M I N A T I O N

19 BY MR. FUKANO:

20 Q. For the purpose of the investigation detailed in

21 the February report, has the proposed safety rating

22 become final?

23 A. It has, and identified in Exhibit B, the Company

24 was also notified of its right to appeal any of the

25 violations discovered or to request administrative

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 1 review of the report and did not do so.

 2 JUDGE CHARTOFF: Thank you.

 3 MR. FUKANO: Thank you. Nothing further

 4 from Staff.

 5 JUDGE CHARTOFF: Okay. Thank you for your

 6 testimony. You are excused.

 7 Okay. Is -- is there anything else before

 8 we go off the record?

 9 MR. FUKANO: No, unless you would care for a

10 brief closing?

11 JUDGE CHARTOFF: If you would like to make a

12 closing, you can.

13 MR. FUKANO: Sure. I will just summarize

14 the argument.

15 JUDGE CHARTOFF: Okay.

16 MR. FUKANO: On February 6th, 2019, the

17 FMCSA investigated GBU and found several critical --

18 several critical violations and one acute violation,

19 which include violations of 49 CFR 382, 49 CFR 391, 49

20 CFR 395, and 49 CFR 396 as described in the declaration

21 of Jason Sharp.

22 Under WAC 480-15-450(1)(e), the Commission

23 may involuntarily cancel a household goods carrier's

24 permit for failing to comply with applicable safety laws

25 and Commission rules pertaining to the operation of

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 1 household goods carriers, including safety requirements

 2 set in law or rule.

 3 Through WAC 480-15-999, the Commission

 4 adopted 49 CFR. WAC 480-15-350(3)(b), which relates to

 5 equipment safety -- equipment safety requirements

 6 requires household goods carrier to comply with 49 CFR

 7 parts 385, 392, and 396. Similarly, WAC

 8 480-15-570(1)(c), which relates to driver safety

 9 requirements, requires a household goods carrier to

10 comply with 49 CFR parts 382, 385, 391 and 395.

11 Therefore, insofar as the violations found

12 in the FMCSA report would constitute violations of WAC

13 480-15-560 and 480-15-570 pertaining to safety

14 requirements. Those violations provide the Commission a

15 basis to involuntarily cancel the Commission's operating

16 authority. Consequently, Commission Staff requests that

17 the Commission cancel GBU's operating authority. Thank

18 you.

19 JUDGE CHARTOFF: Thank you. Thank you for

20 coming here today, and I will take this under advisement

21 and make a decision within ten days.

22 MR. FUKANO: Thank you.

23 JUDGE CHARTOFF: Anything else?

24 MR. FUKANO: None from Staff.

25 JUDGE CHARTOFF: Okay. We are adjourned.

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 1 (Adjourned at 1:45 p.m.)

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 1 C E R T I F I C A T E

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 3 STATE OF WASHINGTON

 4 COUNTY OF THURSTON

 5

 6 I, Tayler Garlinghouse, a Certified Shorthand

 7 Reporter in and for the State of Washington, do hereby

 8 certify that the foregoing transcript is true and

 9 accurate to the best of my knowledge, skill and ability.

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13 Tayler Garlinghouse, CCR 3358

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