



TV-230061

STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503
P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

Received
Records Management
Mar 22, 2023

Date: March 22, 2023

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

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

Re: **TV-230061 Marsik Movers LLC**
Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG068754)

On January 25, 2023, Commission staff (Staff) completed a follow-up safety investigation of Marsik Movers LLC (Marsik 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 Marsik 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 CFR § 385.5 and 385.7. In this case, Marsik Movers has until March 27, 2023, to come into compliance with applicable laws and rules by obtaining Commission approval of a SMP.

The conditional safety rating was based on the Company's recordable accident ratio and acute violations of WAC 480-15-530.

“**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.

Acute violation discovered during investigation:

1. Three violations of WAC 480-15-530 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.

In the 365 days preceding the investigation, the Company was involved in two recordable accidents and had a recordable accident/per million miles driven ratio of 44.44.

On February 8, 2023, the Commission issued a penalty assessment against Marsik Movers in the amount of \$500 because of violations discovered during the safety investigation. The penalty includes:

1. A \$300 penalty for three violations of WAC 480-15-530 for operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.
2. A \$100 penalty for one repeat violation of WAC 480-15-590 for failing to ensure that all equipment lease agreement conditions are met prior to operating a leased motor vehicle.
3. A \$100 penalty for one repeat violation of 49 C.F.R. § 390.19(b)(2) for failing to file the MCS-150 registration form each 24 months according to schedule.

In a February 9, 2023, Notice of Intent to Cancel, the Commission instructed Marsik Movers to submit its proposed SMP no later than March 1, 2023.

On March 10, 2023, Marsik Movers paid the \$500 penalty in full.

On March 15, 2023, the Commission held the brief adjudicative proceeding. Staff testified that the Company had not submitted an acceptable SMP. Staff further testified that it would continue to work with Marsik Movers leading up to its cancellation date on March 27, 2023. The Company was instructed to submit its final proposed SMP by 5:00 pm on March 23, 2023.

On March 21, 2023, Marsik Movers 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 Marsik Movers' SMP and determined it is acceptable and meets the requirements of 49 C.F.R. § 385. The Company took the required steps to bring its safety operations into compliance with Commission regulations. Marsik Movers submitted a SMP that addresses each violation, identifies how the violations occurred, describes the steps taken to correct them, and put controls in place to ensure the Company maintains compliance.

Documentation of lease agreements, insurance coverage, accident register, driver requirements, compliance calendar appointments and hours of service records were included in the plan.

With the acceptance of the SMP, Staff recommends the Commission: (1) not cancel Marsik Movers provisional permit, (2) maintain the Company's conditional safety rating, and (3) extend the provisional operating authority again for good cause, until such a time that the Company receives a satisfactory safety rating, or the Commission finds good cause to cancel Miracle Man Movers' operating authority.