

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of	DOCKET TV-240545
SAN JUAN MOVING COMPANY	ORDER 01
For Compliance with WAC 480-15-530, WAC 480-15-555, 480-15-560, and 480-15- 590	APPROVING SAFETY MANAGEMENT PLAN; EXTENDING PROVISIONAL PERIOD SUBJECT TO CONDITIONS; MITIGATING PENALTIES

**BACKGROUND**

- 1 On July 26, 2024, the Washington Utilities and Transportation Commission (Commission) issued Notice of Intent to Cancel Permit as a Household Goods Carrier (NOIC) against San Juan Moving Company (San Juan or Company).<sup>1</sup> The NOIC also notified the Company that a Brief Adjudicative Proceeding (BAP) was scheduled for September 4, 2024. The NOIC requires the Company to obtain Commission approval of a Safety Management Plan (SMP) no later than September 7, 2024, to avoid cancellation.
- 2 On August 2, 2024, the Commission issued a Notice of Penalties Incurred and Due for Violations of Laws and Rules (Notice of Penalties) setting penalties in the amount of \$4,000.<sup>2</sup> The Penalty Assessment documented violations of WAC chapter 480-15 and adopted provisions of Title 49 of the Code of Federal Regulations.<sup>3</sup>
- 3 On August 12, 2024, the Company filed an application for mitigation of the \$4,000 penalty.<sup>4</sup> In this application, the Company admitted the violations noted in the Notice of Penalties. The Company attached a statement to its application that provides, “I have made this decision to request mitigation because this is my first audit and first time being

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<sup>1</sup> *In the Matter of the Investigation of San Juan Moving Company For Compliance with WAC 480-15-530, WAC 480-15-555, 480-15-560, and 480-15-590, Docket TV-240545, issued Notice of Intent to Cancel Permit as a Household Goods Carrier (NOIC) (July 26, 2024).*

<sup>2</sup> Notice of Penalties Incurred and Due for Violations of Laws and Rules (Notice of Penalties), filed August 2, 2024.

<sup>3</sup> WAC 480-15-560. Carriers must also comply with parts of Title 49 Code of Federal Regulations (49 C.F.R.)

<sup>4</sup> Application for Mitigation of Penalty, filed August 12, 2024.

a business owner. I would like to use my darter management plan as my reason to be given financial mitigation[.]” For purposes of this Order, the undersigned concludes that “darter management plan” is a typo and that the statement should read “safety management plan.”

4 The Company submitted an SMP to the Commission on August 14, 2024. The SMP is not in the record.

5 On August 19, 2024, the Company submitted a waiver of hearing. The waiver is signed by Chase Haws and states as follows:

The undersigned represents the Respondent, San Juan Moving Company, in this proceeding. The undersigned admits the violations ~~alleged in the NOIC~~, waives its right to a hearing, and consents to the Commission entering an order based on the written information filed in this Docket.

It is not clear from the record whether the strikethrough text in the waiver is intentional, or whether it is a scrivener’s error or an artifact of formatting. For purposes of this Order, the undersigned concludes that the strikethrough text is an error.

6 On August 20, 2024, Commission staff (Staff)<sup>5</sup> submitted its evaluation of the Company’s proposed SMP.<sup>6</sup> Staff notes that on July 9, 2024, it completed a routine safety investigation of San Juan that resulted in a proposed conditional safety rating. The proposed conditional safety rating was based on thirteen violations of safety regulations under three different rules – 49 C.F.R. § 395.8(a)(1), WAC 480-15-530, and WAC 480-15-555(1). Commission rules state that a carrier that receives a conditional or unsatisfactory rating must take corrective action and request a change of safety ratings within 60 days of a conditional or unsatisfactory rating, or must cease operations beginning on the 61<sup>st</sup> day.<sup>7</sup>

7 Staff proffers that the Company’s SMP is acceptable and meets the requirements of 49 C.F.R. part 385. According to Staff, documentation of company policies, driver qualifications, vehicle maintenance, hours of service records, and criminal background

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<sup>5</sup> In formal proceedings such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

<sup>6</sup> Staff’s Evaluation of San Juan Moving Company’s Safety Management Plan (Evaluation), filed August 20, 2024.

<sup>7</sup> 49 C.F.R. § 385.11(c)(2) and 49 C.F.R. § 385.17.

documents were included in the plan. Staff submits that the Company took the required steps to bring its safety operations into compliance with Commission regulations.

8 Staff recommends that the Commission:

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

9 Staff further recommends that the \$4,000 penalty be reduced to \$2,000. It also recommends that \$1,000 of that reduced penalty be suspended for two years and then waived, provided that the Company meets the following conditions:<sup>8</sup>

1. San Juan maintains a conditional safety rating;
2. Staff perform a follow-up safety investigation at least six months from the date of this order;
3. The Company does not incur repeat acute or critical violations upon reinspection; and
4. San Juan pays the \$1,000 that is not suspended.<sup>9</sup>

10 On August 26, 2024, the undersigned sent an email to all parties requesting clarification regarding whether the Company agreed to the proposed penalty mitigation set forth in Staff's recommendations. Mr. Haws replied that same day and confirmed that the Company agrees to the proposed mitigation.

## DISCUSSION

11 Washington Law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Staff's July 9, 2024, safety investigation identified thirteen violations of three different safety regulations, which resulted in a proposed conditional safety rating.<sup>10</sup> We rule on whether the Company's SMP should be approved and whether its provisional period should be extended for good cause.

12 Staff determined that the SMP addresses each violation, identified how each violation occurred, describes the steps taken to correct each violation, and describes the controls

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<sup>8</sup> Evaluation at 4.

<sup>9</sup> Evaluation at 4.

<sup>10</sup> Evaluation at 2.

put in place to ensure compliance going forward. Staff concludes the Company's SMP is acceptable and satisfies the legal requirements of 49 CFR part 385.<sup>11</sup> As noted above, the SMP itself is not in the record.

- 13 Based on Staff's Evaluation, the Commission finds that the Company has cured identified compliance deficiencies with 49 C.F.R. part 385 by correcting the violations that led to the proposed conditional safety rating. Accordingly, the Commission agrees with Staff's recommendation and grants the Company's request to maintain its safety rating as conditional. The Commission declines to cancel the Company's permit and operating authority.
- 14 We also agree with Staff's recommendation to extend the Company's provisional period for its household goods operating authority.<sup>12</sup> 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.<sup>13</sup> 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. In this case, Staff recommends that the Commission extend the Company's provisional period until such a time that the Company achieves a satisfactory safety rating, or the Commission finds good cause to cancel the Company's operating authority.
- 15 Because the Company has admitted to the violations there would appear to be no outstanding controversy as to whether the violations occurred, such that the only remaining question is the appropriate amount of the penalty.
- 16 The Company has requested mitigation of some of the assessed \$4,000 penalty. The Company admitted to the errors made and corrected them.
- 17 Staff recommends a mitigation of this penalty as set forth above. The Company agrees to Staff's proposed mitigation of the penalty.
- 18 We agree with Staff's recommendation that mitigation is appropriate, given the corrective actions taken by the Company.

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<sup>11</sup> Evaluation at 4.

<sup>12</sup> Evaluation at 4.

<sup>13</sup> See WAC 480-15-305(1)(b).

### 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) San Juan is a household goods carrier subject to Commission regulation.
- 21 (3) San Juan committed thirteen safety violations, as set forth above.
- 22 (4) On August 14, 2024, San Juan submitted its updated SMP.
- 23 (5) San Juan cured the deficiencies that led to the conditional safety rating.
- 24 (6) The Company's updated SMP submitted on August 14, 2024, should be approved, and the Company's provisional period should be extended subject to the conditions proposed by Staff.
- 25 (7) San Juan's request to mitigate the penalty assessment levied against the Company, as set forth above, should be granted, subject to Staff's proposed conditions.

### ORDER

#### THE COMMISSION ORDERS:

- 26 (1) The Commission approves San Juan's safety management plan.
- 27 (2) San Juan's provisional period is extended subject to the conditions noted in this Order.
- 28 (3) The \$4,000 penalty assessment is mitigated as set forth above and subject to the conditions proposed by Staff. Within 10 days of the effective date of this Order, San Juan must pay the \$1,000 portion of the penalty that has not been suspended.

DATED at Lacey, Washington, and effective September 4, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Eliza Jane Manoff*

Eliza Jane Manoff

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 twenty-one (21) days after the entry of this Initial Order to file a *Petition for Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-610(7)(b). WAC 480-07-610(7)(c) states that any party may file a *Response* to a Petition for review within seven (7) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) 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 fails to 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). Any Petition or Response filed must also be electronically served on each party of record as required by WAC 480-07-140(1)(b).