

Service Date: March 15, 2022

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of ARTUR DUBONOSOV d/b/a MOVING ART, For Compliance with WAC 480-15	DOCKETS TV-220048 and TV-220049 (<i>Consolidated</i>) ORDER 01
In the Matter of the Penalty Assessment against ARTUR DUBONOSOV d/b/a MOVING ART, in the amount of \$2,400	CONSOLIDATING DOCKETS; APPROVING SAFETY MANAGEMENT PLAN; MAINTAINING SAFETY RATING; EXTENDING PROVISIONAL PERIOD; IMPOSING PENALTIES

BACKGROUND

- 1 On February 1, 2022, the Washington Utilities and Transportation Commission (Commission) issued a Notice of Intent to Cancel and Notice of Brief Adjudicative Proceeding; Setting Time for Oral Statements in the Matter of the Investigation of Artur Dubonosov d/b/a Moving Art (Moving Art or Company) for Compliance with Washington Administrative Code (WAC) 480-15 (Notice).
- 2 The Notice explained that Commission staff (Staff) conducted a compliance review of Moving Art's operations in January 2022 and cited the Company for 56 acute and critical violations of federal and state safety regulations, which resulted in a proposed conditional safety rating. Based on its review, Staff recommended the Commission cancel Moving Art's household goods carrier permit unless the Company obtains Commission approval of a safety management plan. The Notice directed Moving Art to file a proposed safety management plan by February 23, 2022. The Commission also set a brief adjudicative proceeding for March 9, 2022, at 10 a.m. to determine whether the Commission should cancel Moving Art's household goods carrier permit.

**Pursuant to RCW 80.01.060(3)
This packet is the final
Order in this docket.**

- 3 On February 7, 2022, the Commission assessed a \$2,400 penalty (Penalty Assessment) against Moving Art for the safety violations discovered during Staff’s January 2022 compliance review.¹ The Penalty Assessment includes:
- A \$1,900 penalty for 19 violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified.
 - A \$100 penalty for one violation of 49 C.F.R. § 391.51(a) for failing to maintain driver qualification files on each driver employed.
 - A \$100 “per category” penalty for 30 violations of 49 C.F.R. § 395.8(a)(1) for failing to require a driver to prepare a record of duty status.
 - A \$100 penalty for one violation of 49 C.F.R. § 396.3(b) for failing to keep minimum records of inspection and vehicle maintenance.
 - A \$100 penalty for one violation of C.F.R. § 396.17(a) for using a CMV not periodically inspected.
 - A \$100 penalty for one violation of WAC 480-15-555 for failing to acquire criminal background checks for prospective employees.
- 4 On March 8, 2022, Moving Art submitted a safety management plan and filed its response to the Penalty Assessment. The Company admits the violations and stated that it intends to pay the \$2,400 penalty in full.
- 5 On March 8, 2022, Staff filed with the Commission its evaluation of the Company’s safety management plan and penalty recommendation (Evaluation). Staff evaluated the proposed plan and determined it is acceptable. Staff indicated that the Company waived its right to a hearing in both dockets and requested the Commission cancel the brief adjudicative proceeding and decide this matter on a paper record.
- 6 On March 8, 2022, the Commission issued a notice canceling the March 29, 2022, hearing and informing the parties that the Commission would enter an order based on the parties’ written submissions.
- 7 Based on its review of the Company’s proposed plan, Staff determined that the Company took all the required steps to bring its safety operations into compliance with Commission regulations. Staff recommends that if the Company gets its permit reinstated following its

¹ The Penalty Assessment cites violations of Washington Administrative Code (WAC) 480-15-555, WAC 480-15-560, and WAC 480-15-570. WAC 480-15-560 and -570 adopt by reference sections of Title 49 Code of Federal Regulations (C.F.R.). Accordingly, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of Title 49 C.F.R.

cancellation for lack of insurance, the Commission should not cancel the Company's permit due to the proposed conditional safety rating. Staff further recommends that the Commission maintain the Company's safety rating as conditional, but also extend the Company's provisional permit period until such time as the Company achieves a satisfactory safety rating. Finally, Staff recommends that Dockets TV-220048 and TV-220049 be consolidated.

DISCUSSION AND DECISION

1. Consolidation

8 Because the violations cited in Staff's January 2022 investigation gave rise to the enforcement actions taken in both dockets, the Commission exercises its discretion to consolidate these proceedings. Accordingly, Docket TV-220048 and Docket TV-220049 are consolidated.

2. Safety Rating

9 Washington Law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Staff's January 2022 compliance review of Moving Art found 56 violations of Commission rules, including 30 violations of critical safety regulations, which resulted in a proposed conditional safety rating. Violations classified as "critical" are indicative of a breakdown in a carrier's management controls. Patterns of noncompliance with a critical regulation are quantitatively linked to inadequate safety management controls and usually higher-than-average accident rates.

10 On March 8, 2022, the Company submitted its proposed safety management plan and requested the Commission upgrade its safety rating. Staff determined that Moving Art's safety management plan addresses each violation, identifies how each violation occurred, describes the steps taken to correct each violation, and describes the controls put in place to ensure compliance going forward. Staff concludes that Moving Art's safety management plan is acceptable and satisfies the legal requirements of 49 C.F.R. Part 385. We agree.

11 Based on Staff's Evaluation, the Commission finds that the Company has achieved compliance with WAC 480-15 by correcting the violations that resulted in Staff's recommendation to cancel the Company's household goods permit. Accordingly, if the Company gets its permit reinstated following its cancellation for lack of insurance, the

Commission agrees with Staff's recommendation and grants the Company's request to maintain its permit with a conditional safety rating.

- 12 We likewise agree with Staff's recommendation to extend the Company's provisional period for its household goods carrier permit. 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. 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. Here, the Company has corrected the violations at issue and demonstrated that it has taken significant steps to ensure its operations comply with applicable safety regulations. Accordingly, the Commission finds good cause to extend the Company's provisional period until such time as the Company achieves a satisfactory rating.

3. Penalty

- 13 Violations discovered during safety inspections are subject to penalties of \$100 per violation.² In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.³ Acute and critical violations meet this standard.⁴
- 14 Moving Art committed 30 critical violations of WAC 480-15 and Title 49 C.F.R. Accordingly the Company must either pay the \$2,400 penalty or file jointly with Staff a proposed payment arrangement within ten days of the effective date of this Order.

FINDINGS AND CONCLUSIONS

- 15 (1) The Commission is an agency of the State of Washington, vested by statute with

² See RCW 80.04.405.

³ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

⁴ 49 C.F.R. § 385, Appendix B.

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.

- 16 (2) Moving Art is a household goods carrier subject to Commission regulation.
- 17 (3) Moving Art cured the deficiencies that led to the proposed cancellation of its household goods permit. Accordingly, Moving Art's safety rating should be maintained as conditional, and the Company should be allowed to maintain its household goods carrier permit.
- 18 (4) Pursuant to WAC 480-15-305(1)(b), the Commission should find good cause to extend Moving Art's provisional period until such time as the Company achieves a satisfactory safety rating.
- 19 (5) Moving Art committed 56 violations of WAC 480-15 and Title 49 C.F.R., 30 of which were classified as critical.
- 20 (6) Moving Art does not dispute that the violations occurred.
- 21 (7) Moving Art should be penalized \$2,400 for 56 violations of WAC 480-15 and Title 49 C.F.R.

ORDER

THE COMMISSION ORDERS THAT:

- 22 (1) The Commission approves Artur Dubonosov d/b/a Moving Art's safety management plan.
- 23 (2) Artur Dubonosov d/b/a Moving Art's safety rating is maintained as conditional.
- 24 (3) The Commission assesses a \$2,400 penalty against Artur Dubonosov d/b/a Moving Art.
- 25 (4) Within 10 days of the effective date of this Order, Artur Dubonosov d/b/a Moving Art must either pay the \$2,400 penalty or file jointly with Commission Staff a proposed payment arrangement.

- 26 (5) Artur Dubonosov d/b/a Moving Art's provisional period is extended until such time as the Company achieves a satisfactory safety rating.

DATED at Lacey, Washington, and effective March 15, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Samantha Doyle
SAMANTHA DOYLE
Administrative Law Judge

Service Date: March 15, 2022

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 21 days after service of this initial order to file a petition for administrative review (Petition). Section (7)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-610(7)(c) states that any party may file a response to a Petition within 7 days after service of the Petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence that is essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will give other parties in the proceeding an opportunity to respond to a motion to reopen the record, unless the Commission determines that it can rule on the motion without hearing from the other parties.

WAC 480-07-610(9) 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 does not 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).