



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

**Date:** May 5, 2023

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

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

**Re:** **TV-230199 Octopus Movers Services, LLC**

Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG-068516)

On June 2, 2022, the Washington Utilities and Transportation Commission (Commission) entered Order 01 in Docket TV-220274, which approved Octopus Movers Services, LLC's (Octopus Movers or Company) safety management plan (SMP), upgraded the Company's safety rating to conditional, and extended the provisional period after receiving a proposed unsatisfactory safety rating following a routine safety investigation.

On March 20, 2023, Commission staff (Staff) completed a follow-up safety investigation of Octopus Movers 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 Octopus Movers the same opportunity as companies that receive a proposed unsatisfactory safety rating to provide evidence, in the form of an approved 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, Octopus Movers has until May 19, 2023, 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 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 violation discovered during investigation:**

1. Eight violations of Title 49 C.F.R. § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status using the appropriate method.

On April 4, 2023, the Commission issued a penalty assessment against Octopus Movers in the amount of \$800 because of violations discovered during the safety investigation. The penalty includes:

1. A \$800 penalty for eight 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.

In an April 6, 2023, Notice of Intent to Cancel, the Commission instructed Octopus Movers to submit its proposed SMP no later than April 26, 2023 .

On April 10, 2023, Octopus Movers filed its response to the penalty assessment, admitting the violations, and paying the \$800 penalty in full.

On May 4, 2023, Octopus Movers submitted a SMP addressing each violation noted during the 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 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 May 4, 2023, Octopus Movers submitted a Waiver of Hearing letter to the docket.

### **Summary and Recommendations**

Staff reviewed Octopus Movers' SMP and determined it is acceptable and meets the requirements of 49 C.F.R. § 385. The proposed conditional safety rating was the result of the Company owner interpreting the requirement to track a driver's hours of service as documenting only driving time and hours performing customer moves. This resulted in missing the on-duty time spent doing administrative tasks for the furtherance of the business. Octopus Movers has implemented a system for tracking all on-duty hours for each driver. The plan demonstrates that the Company has taken appropriate action to develop a compliant safety program and implemented a system, that if followed, should prevent future repeat violations.

Documentation of hours of service records were included in the plan.

The Company took the required steps to bring its safety operations into compliance with Commission regulations. Octopus 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. Staff recommends the Commission not cancel Octopus Movers permit and upgrade the proposed conditional safety rating to satisfactory.

Staff has verified with the Company that it waives its right to a hearing and is recommending that the Brief Adjudicative Proceeding scheduled for May 10, 2023, be cancelled.