

Docket No. TC-171023 - Vol. I

In the Matter of the Investigation of Rocket
Transportation, LLC

November 20, 2017



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Page 1

1 BEFORE THE WASHINGTON
 2 UTILITIES AND TRANSPORTATION COMMISSION

4 In the Matter of the Investigation) DOCKET NO. TC-171023
 of)
 5 ROCKET TRANSPORTATION, LLC)
 6 For Compliance with WAC 480-30-221)

8 BRIEF ADJUDICATIVE PROCEEDING, VOLUME I
 9 Pages 1-42
 10 ADMINISTRATIVE LAW JUDGE LAURA CHARTOFF

12 November 20, 2017
 13 1:30 P.M.

14 Washington Utilities and Transportation Commission
 15 1300 South Evergreen Park Drive SW
 16 Olympia, Washington 98504

20 REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

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Page 2

1 A P P E A R A N C E S
 2
 3 ADMINISTRATIVE LAW JUDGE:
 4
 5 LAURA CHARTOFF
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 6 Transportation Commission
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14 FOR ROCKET TRANSPORTATION:
 15
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20 ALSO PRESENT:
 21
 22 MATHEW PERKINSON
 23 * * * *
 24
 25

Page 3

1 EXAMINATION INDEX
 2 MATHEW PERKINSON PAGE
 3 By Mr. Roberson. 8
 4 By Ms. Roman. 22
 5
 6 KATHY ROMAN
 7 By Mr. Roberson. 36
 8
 9 EXHIBIT INDEX PAGE
 10 EXHIBITS FOR ADMISSION PAGE
 10 Exhibit MP-1 Sandy Yeomans compliance review 11
 11 Exhibit KR-1 William Wagner certificates 35
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 4

1 OLYMPIA, WASHINGTON; NOVEMBER 20, 2017
 2 1:30 P.M.
 3 --o0o--
 4
 5 P R O C E E D I N G S
 6
 7 JUDGE CHARTOFF: Let's be on the record.
 8 Good morning. This is Docket TC-171023, which is
 9 captioned, In the Matter of the Investigation of Rocket
 10 Transportation, LLC for Compliance with Washington
 11 Administrative Code 480-30-221.
 12 My name is Laura Chartoff, and I am the
 13 administrative law judge presiding over today's brief
 14 adjudicative proceeding. Today is Monday,
 15 November 20th, 2017, and the time is 1:30 p.m.
 16 On October 18th, 2017, the Commission issued
 17 a notice of intent to cancel certificate notice of brief
 18 adjudicative proceeding setting time for oral
 19 statements. The Commission issued the notice of intent
 20 to cancel following the compliance review conducted by
 21 Commission Staff in July 2017, which resulted in a
 22 proposed unsatisfactory safety rating for Rocket
 23 Transportation. The company was required to file a
 24 proposed safety management plan, which I understand has
 25 been done, and we will be addressing how that affects
 the company's safety rating today.

Page 5

1 Before we get started, I also want to
 2 address the penalty assessment in Docket TC-171022 in
 3 the amount of \$7,000. On November 1st, 2017, Rocket
 4 Transportation filed an application for mitigation in
 5 that docket and requested a hearing to present evidence
 6 supporting a reduced penalty. In that application, the
 7 company requested that we consolidate the penalty
 8 mitigation hearing with any and all dockets for
 9 convenience. And I think that makes sense to address
 10 the request for mitigation here today, so that will give
 11 the company an opportunity to explain any corrective
 12 actions taken to prevent the violations from recurring,
 13 and Staff can make a recommendation about whether or not
 14 the penalty should be reduced.

15 I'm assuming that neither party has an
 16 objection to consolidating those dockets today? No,
 17 okay. So we can address both of them. Those matters
 18 are consolidated and -- okay.

19 So when I call on each party to testify, I
 20 will swear you in with the oath of witness so that
 21 anything you tell the Court will be under oath and can
 22 be considered sworn testimony. For the court reporter's
 23 benefit, please speak slowly and clearly and please use
 24 the microphone on the table in front of you. Once you
 25 are sworn in, you can present your testimony and call

Page 6

1 witnesses. You can also introduce any exhibits from the
 2 list you prefiled, and I will rule on the admissibility
 3 of each of those.

4 And the order will be as follows. First
 5 we'll have Staff address the proposed safety management
 6 plan and safety rating. Following Staff's presentation,
 7 the company will have the opportunity to ask Staff's
 8 witness any questions, and then the company will present
 9 testimony. So at that time, the company can address the
 10 violations and the penalty assessment, and once you are
 11 done testifying, Staff's attorney may have some
 12 questions for you and then Staff will make a
 13 recommendation on the penalty.

14 So do you have any questions before we get
 15 started?

16 MR. ROBERSON: No.

17 JUDGE CHARTOFF: Okay. So first, let's take
 18 an appearance from Commission Staff.

19 MR. ROBERSON: Good afternoon, Judge
 20 Chartoff. My name is Jeff Roberson, R-o-b-e-r-s-o-n.
 21 I'm an assistant attorney general appearing on behalf of
 22 Staff. My business address is 1400 South Evergreen Park
 23 Drive Southwest, PO Box 40128, Olympia, Washington
 24 98504. My telephone number is 360-664-1188, and my
 25 email address is Jroberso@utc.wa.gov.

Page 7

1 JUDGE CHARTOFF: Thank you.
 2 And the company, please?

3 MS. ROMAN: My name is Kathy Roman,
 4 R-o-m-a-n, for Rocket Transportation, LLC. Well, I
 5 guess now we're live. Do you want business address
 6 also?

7 JUDGE CHARTOFF: Yes, business address.
 8 MS. ROMAN: 261321 Highway 101 in Sequim,
 9 Washington 98382.

10 JUDGE CHARTOFF: And can I have a phone
 11 number and email address?

12 MS. ROMAN: The business phone is
 13 360-683-8087 and email, trips,
 14 t-r-i-p-s@gorocketman.com.

15 JUDGE CHARTOFF: Thank you.
 16 Okay. Mr. Roberson, you may proceed with
 17 the issue of the company's proposed safety management
 18 plan and safety rating when you're ready.

19 MR. ROBERSON: Staff will call Mat
 20 Perkinson.

21 JUDGE CHARTOFF: Mr. Perkinson, please stand
 22 and raise your right hand.

23
 24 MATHEW PERKINSON, witness herein, having been
 25 first duly sworn on oath,

Page 8

EXAMINATION OF PERKINSON / ROBERSON

1 was examined and testified
 2 as follows:

3
 4 JUDGE CHARTOFF: Thank you. You may be
 5 seated.

6
 7 E X A M I N A T I O N
 8 BY MR. ROBERSON:

9 Q. Good afternoon. Can you please state your name
 10 and spell your last name for the record.

11 **A. Mathew Perkinson. Perkinson, P-e-r-k-i-n-s-o-n.**

12 Q. And who employs you?

13 **A. Washington Utilities and Transportation**
 14 **Commission.**

15 Q. And what is your position with the Commission?

16 **A. Motor carrier safety manager.**

17 Q. And how long have you worked for the Commission
 18 in that capacity?

19 **A. I've been in this position for a couple of**
 20 **months, but been with the Commission for about six**
 21 **years.**

22 Q. And can you describe any training that you've
 23 had to enable you to carry out your duties with the
 24 Commission?

25 **A. Prior to this position, I was the supervisor**

Page 9

EXAMINATION OF PERKINSON / ROBERSON

1 over at the motor carrier safety program and before
 2 that, I was an investigator that performed motor carrier
 3 safety work and went through commercial vehicle safety
 4 alliance training and also training that certified me to
 5 perform safety investigation.
 6 Q. And are you familiar with the statutes governing
 7 auto transportation carriers?
 8 **A. Yes.**
 9 Q. And are you familiar with Commission regulations
 10 implementing those statutes?
 11 **A. Yes, I am.**
 12 Q. And does Commission Staff perform safety audits
 13 on carriers that the Commission regulates?
 14 **A. Yes.**
 15 Q. And why does it do that?
 16 **A. To ensure that -- in our case, to ensure that**
 17 **the companies are complying with the safety regulations.**
 18 Q. And how does Staff typically perform a safety
 19 audit?
 20 **A. They would contact the company, do some pre-work**
 21 **to collect some history about whether the company's been**
 22 **in compliance or not, contact them, set up an**
 23 **appointment, and then during the routine safety**
 24 **investigation look through the carrier's files and**
 25 **determine whether or not those comply with the**

Page 10

EXAMINATION OF PERKINSON / ROBERSON

1 regulations.
 2 Q. And are you familiar with the company called
 3 Rocket Transportation, LLC?
 4 **A. I am.**
 5 Q. And does it hold a certificate of authority from
 6 the Commission?
 7 **A. Yes, they do.**
 8 Q. And do you know what kind that certificate is?
 9 **A. Auto transportation.**
 10 Q. And how are you familiar with Rocket
 11 Transportation?
 12 **A. One of my Staff performed the routine safety**
 13 **investigation and submitted the report to me.**
 14 Q. And did you help her prepare that report
 15 basically?
 16 **A. Yeah, there's a level of review.**
 17 Q. Could you turn to the exhibit marked MP-1.
 18 **A. Okay.**
 19 Q. Can you identify that document?
 20 **A. Says, (as read) Sandy Yeomans compliance report.**
 21 Q. And is that a true and accurate copy of the
 22 safety compliance report for Rocket Transportation?
 23 **A. Yes.**
 24 Q. And does Staff produce safety compliance reports
 25 like this as a matter of routine in the course of

Page 11

EXAMINATION OF PERKINSON / ROBERSON

1 performing a safety review of a carrier?
 2 **A. Yeah, at the conclusion of every review, a**
 3 **report like this is generated.**
 4 Q. So would it be fair to say that Staff produces
 5 these reports contemporaneously with the safety audits?
 6 **A. Yes.**
 7 Q. And is it important that these reports are
 8 accurate?
 9 **A. It is.**
 10 Q. Why?
 11 **A. Because the company's held accountable for them,**
 12 **and there might be administrative penalties as a result**
 13 **of this work.**
 14 Q. And does Staff rely on these reports?
 15 **A. Yes.**
 16 MR. ROBERSON: Your Honor, at this time
 17 Staff would move to admit Exhibit MP-1.
 18 JUDGE CHARTOFF: Ms. Roman, do you have any
 19 objection?
 20 MS. ROMAN: No.
 21 JUDGE CHARTOFF: Okay. Then I will admit
 22 that and mark as MP -- Exhibit MP-1.
 23 (Exhibit MP-1 admitted.)
 24 BY MR. ROBERSON:
 25 Q. Now, when Staff performs a safety audit, does it

Page 12

EXAMINATION OF PERKINSON / ROBERSON

1 look to see whether the audited carrier uses medically
 2 certified drivers?
 3 **A. Yes.**
 4 Q. And why does it do that?
 5 **A. Again, to ensure compliance. The statutes and**
 6 **rules lay out that certain drivers need to be medically**
 7 **certified for safety, and it's Staff's job to ensure**
 8 **that they are, in fact, certified.**
 9 Q. And were all Rocket Transportation's drivers
 10 medically certified?
 11 **A. They were not.**
 12 Q. And do State and Federal regulations provide
 13 that the use of drivers who are not medically examined
 14 and certified constitute this serious violation?
 15 **A. Yes.**
 16 Q. And how serious is that violation?
 17 **A. There is a couple of different classes of**
 18 **violation, acute being the most serious, critical being**
 19 **the next in line, and then other violations that are**
 20 **less more administrative or paperwork in nature. So it**
 21 **would be critical violation.**
 22 Q. And what is the significance of a violation
 23 being labeled critical?
 24 **A. Critical violations indicates the reporter used**
 25 **as part of a matrix to come up with a safety rating.**

Page 13

EXAMINATION OF PERKINSON / ROBERSON

1 Q. Are critical violations linked to safety
 2 outcomes?
 3 **A. Yeah, critical violations are indicative of
 4 company breakdown and might be linked to higher than
 5 usual accidents.**
 6 Q. Okay. When Staff performs a safety audit, does
 7 it examine driver qualification files?
 8 **A. Yes.**
 9 Q. And why does it do that?
 10 **A. Again, to make sure that the file is in
 11 compliance with the regulation.**
 12 Q. And do those driver qualifications files need to
 13 contain documents like certain kinds of documents?
 14 **A. Yes.**
 15 Q. And what are those kind of documents?
 16 **A. There would be driver's abstracts, notes related
 17 to verifying that the doctor who issued a medical
 18 certificate is on the National Registry. You would have
 19 copies of medical certificates, things of that nature
 20 related to the driver.**
 21 Q. And did Rocket Transportation maintain driver
 22 qualification files with the necessary medical
 23 examiner's certificates for all its drivers?
 24 **A. No.**
 25 Q. And do State and Federal regulations provide

Page 14

EXAMINATION OF PERKINSON / ROBERSON

1 that the failure to maintain those driver qualification
 2 files with the proper medical examiner certificate are
 3 serious violations?
 4 **A. Yes, those would be also critical violations.**
 5 Q. Okay. Does it matter for purposes of
 6 maintaining the certificate and the file if the drivers
 7 are actually certified?
 8 **A. Yes, you --**
 9 Q. Is it a separate violation to have a file
 10 without the certificate even if the driver's certified?
 11 **A. Yes, it would be.**
 12 Q. Okay. Did Rocket Transportation have all the
 13 necessary notations showing that the medical examiner
 14 certifying its drivers were listed on the National
 15 Registry?
 16 **A. No.**
 17 Q. And do State and Federal regulations require
 18 carriers to take certain actions with regard to the
 19 employee applications?
 20 **A. They do.**
 21 Q. And what do those regulations require?
 22 **A. There's various bits of information that need to
 23 be contained on that application: Name, address,
 24 employment history. Depending on whether or not a
 25 driver is operating a CDL vehicle, there might be**

Page 15

EXAMINATION OF PERKINSON / ROBERSON

1 additional requirements.
 2 Q. And did all of Rocket's drivers have
 3 applications with all the necessary information?
 4 **A. They did not.**
 5 Q. Okay. Do regulations also require employers to
 6 act on those applications and investigate the background
 7 of potential employees within a certain amount of time?
 8 **A. They do, within 30 days of employment.**
 9 Q. Sorry. And had Rocket investigated the
 10 background of all of its employees within 30 days of
 11 employment?
 12 **A. No.**
 13 Q. Okay. And do State and Federal regulations
 14 require carriers to inquire into driving records of each
 15 of their drivers every 12 months?
 16 **A. Yes.**
 17 Q. And did Rocket Transportation do so?
 18 **A. They did not on all of the drivers, no.**
 19 Q. Okay. Do State and Federal regulations require
 20 carriers to review the driving records of each driver to
 21 determine whether the driver is disqualified or fails to
 22 meet minimum safety requirements?
 23 **A. They do, yes.**
 24 Q. And did Rocket so review its drivers' records?
 25 **A. No, of the five drivers that we sampled, five of**

Page 16

EXAMINATION OF PERKINSON / ROBERSON

1 them they did not check.
 2 Q. Okay. Do State and Federal regulations require
 3 carriers to require their drivers to provide to the
 4 carrier at least once every 12 months a list of traffic
 5 violations for which he or she has been convicted during
 6 the previous 12 months?
 7 **A. Yes.**
 8 Q. And did Rocket Transportation require its
 9 drivers to provide that list to it?
 10 **A. Same as before, no, on the five drivers that
 11 were checked.**
 12 Q. Okay. Do State and Federal regulations require
 13 carriers to require their driver to prepare records of
 14 duty status?
 15 **A. Yes.**
 16 Q. And did Rocket require its drivers to prepare a
 17 record of duty status in all cases?
 18 **A. No.**
 19 Q. And do State and Federal regulations require
 20 carriers to ensure that their drivers accurately and
 21 completely fill out a driver vehicle inspection report
 22 for each trip?
 23 **A. Yes.**
 24 Q. And did Rocket Transportation require its
 25 drivers to fill those DVRs completely and accurately

Page 17

EXAMINATION OF PERKINSON / ROBERSON

1 after every trip?

2 **A. No, it looks like there was some missing**

3 **required information and maybe the reports were not**

4 **signed appropriately.**

5 Q. And are you familiar with the manner in which

6 the results of the safety audit are used to calculate a

7 proposed safety rating for a carrier?

8 **A. Yes, I am.**

9 Q. And how does that work?

10 **A. In summary, a combination of the violations and**

11 **the amount of accidents that have occurred in the past**

12 **year are used to come up with the calculation. There**

13 **are six different factors depending on which violation**

14 **is recorded is where those factors are impacted.**

15 Q. And did Staff input the results of its

16 compliance review into that matrix for Rocket

17 Transportation?

18 **A. Yes.**

19 Q. And did that result in a proposed safety rating

20 for Rocket?

21 **A. Yes.**

22 Q. And what was that proposed rating?

23 **A. It was unsatisfactory.**

24 Q. And can you explain briefly the factors that

25 resulted in that rating for Rocket?

Page 18

EXAMINATION OF PERKINSON / ROBERSON

1 **A. Sure. So the two violations that were critical**

2 **that we already discussed, the using the driver not**

3 **medically examined and certified and not keeping those**

4 **medical examiner certificates in the files impacted the**

5 **safety rating. That, combined with the amount of**

6 **accidents that had occurred in the previous year, which**

7 **was 3.74 accidents per million miles. It's a**

8 **calculation that -- based on the information provided by**

9 **the company. Our software will calculate a per million**

10 **miles, and if that number is high enough, then that**

11 **related factor will become unsatisfactory and the**

12 **overall rating will become unsatisfactory.**

13 Q. So in this case, it was really the two critical

14 violations plus the number of accidents that pushed

15 Rocket into unsatisfactory territory?

16 **A. That's correct.**

17 Q. Okay. What is the significance of a proposed

18 unsatisfactory safety rating?

19 **A. Companies have to cease operations after 45**

20 **days.**

21 Q. And does a carrier have a chance to upgrade a

22 proposed unsatisfactory rating?

23 **A. They do.**

24 Q. How does a carrier do that?

25 **A. Within 45 days, the companies will work with**

Page 19

EXAMINATION OF PERKINSON / ROBERSON

1 Staff typically to get in a safety management plan that

2 is deemed to be in compliance and fixes all of the

3 violations that were found during the review.

4 Q. And for the record, what is a safety management

5 plan?

6 **A. A safety management plan is basically the plan**

7 **that the company submits addressing all of the**

8 **violations, putting in place any corrective action that**

9 **they've taken combined with any documentation supporting**

10 **the corrective action, and typically a signed statement**

11 **indicating that they will not have any issues in the**

12 **future.**

13 Q. And did Rocket Transportation submit a safety

14 management plan?

15 **A. Yes, they did.**

16 Q. And has Staff reviewed it?

17 **A. Yes.**

18 Q. And what is Staff's opinion as to that as was

19 seen of Rocket's safety management plan?

20 **A. Staff's reviewed the plan and believes that it's**

21 **acceptable. Rocket has accepted responsibility for the**

22 **violations and submitted sufficient documentation to**

23 **support that it will avoid noncompliance in the future.**

24 Q. So it is your testimony that the safety

25 management plan is sufficient to cause the Commission to

Page 20

EXAMINATION OF PERKINSON / ROBERSON

1 upgrade Rocket's proposed safety rating?

2 **A. Yes.**

3 Q. And are you familiar with the Commission's

4 guidance on penalties?

5 **A. Yes.**

6 Q. And did you consider that guidance when

7 determining a penalty recommendation for Rocket?

8 **A. Yes.**

9 Q. And what is that recommendation, given all that

10 you know in this case?

11 **A. So in reviewing the safety management plan, it's**

12 **a really extensive document, takes a lot of work to come**

13 **into compliance. I think Rocket has done a great job in**

14 **submitting and working with our Staff. They've been**

15 **very cooperative and because of that, and also accepting**

16 **responsibility for the violations, Staff would recommend**

17 **that the Commission issue a reduced penalty basically**

18 **cutting the penalty in half from 7,000 to \$3,500, and**

19 **then Staff would further recommend the Commission**

20 **suspend 1,170 or another half of the reduced penalty for**

21 **a period of two years with some conditions.**

22 Q. And what are those conditions?

23 **A. That the company does not incur any repeat**

24 **violations, repeat critical violations upon a follow-up**

25 **nonrated review within one year, and that the company**

Page 21

EXAMINATION OF PERKINSON / ROBERSON

1 maintain the conditional safety rating and that the --
 2 the remaining \$1,750 penalty be due and payable
 3 immediately; however, Staff would support a payment
 4 arrangement.
 5 MR. ROBERSON: That's all we have.
 6 JUDGE CHARTOFF: Okay. Can you repeat
 7 the -- the amount suspended and the amount that would be
 8 due?
 9 MR. PERKINSON: Yes, so the initial penalty
 10 was \$7,000. Staff would recommend that the Commission
 11 assess a penalty reduced by half of that to \$3,500 and
 12 then further suspend that half of that to 1,750.
 13 JUDGE CHARTOFF: Suspend 1,750?
 14 MR. PERKINSON: Yes.
 15 JUDGE CHARTOFF: No repeat critical
 16 violations, maintain conditional.
 17 MR. PERKINSON: So maintain conditional
 18 safety rating and then --
 19 JUDGE CHARTOFF: For a period of, what's
 20 that part?
 21 MR. PERKINSON: Does not have it here, but
 22 for two years is the condition. And then Staff would do
 23 a follow-up in one year, what's called a nonrated
 24 review, so there would be no rating associated with the
 25 follow-up, but it would be essentially to ensure that

Page 22

EXAMINATION OF PERKINSON / ROMAN

1 violations that were discovered before were not
 2 happening again.
 3 JUDGE CHARTOFF: Okay.
 4 MR. PERKINSON: And then Staff would -- if
 5 they did find violations, they would recommend imposing
 6 the suspended portion of that penalty.
 7 JUDGE CHARTOFF: Okay. Ms. Roman, do you
 8 have any questions for Mr. Perkinson?
 9 MS. ROMAN: Yes.
 10
 11 **EXAMINATION**
 12 BY MS. ROMAN:
 13 Q. You mentioned our accident numbers, and I was
 14 curious what that was. What was the accident number
 15 that was -- that you were working from?
 16 **A. Sure. Give me just one second. So Ms. Yeomans'**
 17 **report shows that there was two reported accidents and**
 18 **that the total miles operated were 534,000 miles.**
 19 Q. The accidents, were they -- or were we at fault
 20 on those accidents?
 21 **A. It's my understanding that you weren't, and I**
 22 **don't know that -- that doesn't matter in the case of**
 23 **reportable accidents.**
 24 Q. Okay. Well, I was just curious because to me,
 25 you know, if our vans failed or our drivers fail, that

Page 23

EXAMINATION OF PERKINSON / ROMAN

1 is critical. If we're rear-ended because somebody
 2 behind us is not paying attention, then that's a
 3 completely different thing. I mean, we've had four
 4 accidents in our ten years of operating, and none of
 5 them have been our fault. And to me, that's vital in
 6 evaluating drivers and vehicles.
 7 JUDGE CHARTOFF: Okay. I just -- Ms. Roman,
 8 you will have an opportunity to argue your side.
 9 MS. ROMAN: Well, I was just curious of the
 10 rating and how it came about. I just...
 11 **A. Yeah, I would just add that, you know, in my**
 12 **experience, it doesn't matter whether who was at fault**
 13 **in terms of a reportable accident, and the Department of**
 14 **Transportation defines that criteria. We just take the**
 15 **data from you as the company and put it in. In this**
 16 **case, it was two reportable.**
 17 BY MS. ROMAN:
 18 Q. Okay. Thank you.
 19 **A. I understand your point.**
 20 **JUDGE CHARTOFF: Do you have any other**
 21 **questions or are you --**
 22 MS. ROMAN: No, no.
 23 JUDGE CHARTOFF: Okay.
 24 MS. ROMAN: Very good job.
 25 JUDGE CHARTOFF: So at this time, I will

Page 24

1 swear you in and then we can walk through each of the
 2 violations --
 3 MS. ROMAN: Okay.
 4 JUDGE CHARTOFF: -- that Staff talked about.
 5
 6 KATHY ROMAN, witness herein, having been
 7 first duly sworn on oath,
 8 was examined and testified
 9 as follows:
 10
 11 JUDGE CHARTOFF: You may be seated.
 12 So let's walk through each of the violations
 13 in the penalty assessment, and you can briefly explain
 14 whether and why the violations occurred and then
 15 describe any steps you've taken to correct the violation
 16 and prevent the violation from occurring again.
 17 So the first violation is Title 49 CFR Part
 18 391.45(a), which is using a driver not medically
 19 examined and certified. So Staff -- in the penalty
 20 assessment, Staff asserts that Rocket Transportation
 21 allowed three employees without current medical
 22 certification to drive on 69 occasions. Do you have any
 23 comments on that? Or why did -- can you tell me why the
 24 violation occurred or what the reasons were?
 25 MS. ROMAN: Simply that the processes in

Page 25

1 place were not acted upon. The drivers are supposed to
 2 keep an eye on their cards. They are critically made
 3 aware of that as step one. And then the dispatcher and
 4 office manager follow that up with their own charts that
 5 they keep to keep an eye on the dates, because as time
 6 seems to fly so fast when you're busy, things are easily
 7 overlooked.

8 And so with -- personally within a month of
 9 renewal, I don't see that as a super big deal because
 10 with the timelines that with -- the certifications that
 11 are getting tighter and tighter, if you have a one-year
 12 certificate and you have to renew prior to expiration,
 13 that really is only 11-month certification, and then it
 14 rolls back another 11 months, and it keeps going
 15 backwards. It's not really a 12-month certification.

16 So if a driver is off a week of renewing their
 17 certificate, to me that's darn good for operating and
 18 keeping moving and all that. I understand that it's --
 19 that that's not okay in your paperwork world, but in my
 20 opinion, the one driver, Pauline Chang, was within what
 21 I would consider an operational, though not optimal, a
 22 safe guideline.

23 The other two, well, there's absolutely no
 24 excuse for the gaps that happened on Todd. He doesn't
 25 drive CDL for us, but he actually has a CDL, and Brian

Page 26

1 came with his own certification, and then has just
 2 renewed it with us since he came on. And he -- I don't
 3 know, didn't notice he only got a one-year instead of
 4 two-year. That's becoming more and more common now.
 5 When I first started 10 years ago, two-years were very,
 6 very common and easy to get, and now it's very difficult
 7 to get a two-year.

8 So most of them are one-years, and it just
 9 comes by so fast that, you know, you've got to stop work
 10 and go make an appointment and get it done. In our
 11 area, there's one place that does it, and that's a
 12 half-hour drive from the office, which could be an hour
 13 and a half drive from the person's home. And so it's
 14 just very, very limited in where we can go. And so most
 15 drivers, like I said, end up renewing a month in
 16 advance, which makes it roll backwards into unoptimal
 17 times, that's the other part.

18 This time of the year, getting a
 19 certification at this time of year is just a nightmare
 20 because of just how busy everything is. And so the
 21 drivers end up getting them earlier, and then they
 22 don't -- you don't get any credit for renewing early.
 23 You know, if the person's had five certificates and
 24 renewed them a month early five times, there's no
 25 five-month leeway for the future because of that time.

Page 27

1 So it's just -- I don't accept it, I
 2 understand it's wrong, it's -- the one part I think is
 3 just part of just the crazy part of doing business. The
 4 other part, it should not be overlooked, and it is
 5 critical that people be in regular to get their medical
 6 certifications.

7 And I think the thing that changed also for
 8 us was that -- or that happened that we were kind of
 9 shocked about was that people's personal doctors could
 10 no longer do their certifications. We had several
 11 people who would stay on top of them religiously because
 12 they could throw it in with their annual checkup or
 13 something, and that's not okay anymore. So it's just
 14 added one more wrinkle to the mess, but not an
 15 impossible thing, just another thing to track.

16 And then the medical examiner's
 17 certification, that topped off another wrinkle because
 18 we had two places that we could go to and now we can
 19 only go to one. So, you know, I understand the -- that
 20 we want to keep everybody safe, but it's just making
 21 business more and more difficult.

22 JUDGE CHARTOFF: So what steps have you
 23 taken or do you plan to take to correct the violations
 24 and prevent them from recurring?

25 MS. ROMAN: Wow, we have -- well, the

Page 28

1 audit -- Okay. I'm the only person at Rocket that has
 2 been through an audit in the past, only person left at
 3 Rocket that's been through an audit. So the people, the
 4 officer manager, the dispatcher, the operations manager,
 5 all of them were new to this level of regulation, and so
 6 my words went unheeded. One thing I didn't know that I
 7 know now is that Sandy Yeomans and the Staff is
 8 available. You know, I get a new person on board, I can
 9 go, Here's your book and here's your phone number, and
 10 this is who you need to call because it's important.
 11 Because I don't know why that, you know, when I say,
 12 Look, you have to watch these dates, they cannot go by,
 13 they go, Yeah, yeah, yeah, I got it, I got it, I got it.
 14 And then their review came up and they'd go slap, slap,
 15 slap. And they'd go, Well, you didn't train me
 16 properly.

17 You go, What? No, this is your job, and
 18 this is what I told you needs to happen.

19 So with this audit, it has become aware now
 20 to more people currently employed at Rocket how vitally
 21 important it is. And so procedures have been
 22 reestablished, and like I said, the importance now of
 23 those procedures is made clear that it's not just Kathy
 24 speaking to hear herself talk, it's really, really,
 25 really important.

Page 29

1 Also, some of these violations occurred in
 2 minivans that are not regulated by the UTC. So I'm not
 3 sure if that makes a difference or not in the -- in
 4 the -- and whether or not it's violation of the UTC that
 5 the drivers driving minivans were not medically
 6 certified.
 7 JUDGE CHARTOFF: Okay.
 8 MR. ROBERSON: And if I may, Staff has a
 9 little bit of legal argument on that subject that I'll
 10 postpone to the end if that's okay with you.
 11 JUDGE CHARTOFF: Oh, okay. Yeah, let me see
 12 if --
 13 MS. ROMAN: Oh, I just remember, I
 14 personally treat all vehicles the same when we're
 15 operating, but when Sandy was going through different
 16 things whenever we got to minivans, she'd go, Nope, I
 17 don't want to see it, I don't want to hear it. That's
 18 why this suddenly came up as well, if you don't care
 19 about these, then why do we care about these? So that
 20 was kind of...
 21 JUDGE CHARTOFF: Okay. Let me -- so you --
 22 you prefled a list of exhibits.
 23 MS. ROMAN: Yes.
 24 JUDGE CHARTOFF: Did you plan to introduce
 25 those?

Page 30

1 MS. ROMAN: Only if -- I mean, if it makes
 2 any difference. I mean, I brought them all, but if
 3 nobody wants to see them and it makes no difference,
 4 then no, I don't have to.
 5 JUDGE CHARTOFF: Oh, it's -- it's -- it's
 6 your choice whether you want to introduce them. I can't
 7 say whether they would make a difference or not at this
 8 point.
 9 MS. ROMAN: Okay. I guess -- well, if you
 10 wanted to table that legal argument to later, but if it
 11 makes absolutely no difference, then do you really want
 12 me to bring all that paperwork out to prove if they were
 13 in minivans, or are we accepting that they were or --
 14 JUDGE CHARTOFF: So it sounds like you would
 15 like to hear his legal argument as well?
 16 MS. ROMAN: Yes.
 17 JUDGE CHARTOFF: Okay. Why don't we go
 18 ahead.
 19 MR. ROBERSON: It's simply two statutory
 20 citations. The first is WAC 480-30-221, and that is the
 21 regulation that incorporates the Federal regulations for
 22 motor carrier safety. And there it provides that the
 23 definition of motor vehicle is defined elsewhere in
 24 Washington's code, meaning we don't incorporate the
 25 Federal definition, we use Washington's definition. And

Page 31

1 Washington definition is at 480-30-036, and it basically
 2 says that every self-compelled vehicle used on public
 3 highways for transporting individuals for compensation
 4 is a motor vehicle, which means that the usual split in
 5 authority between the Department of Licensing and the
 6 Commission does not apply for -- this is only for auto
 7 transportation companies. So if you're an auto
 8 transportation company, every vehicle you have is
 9 subject to Commission jurisdiction. So even if they
 10 were minivans, they would be covered by the Commission's
 11 jurisdiction.
 12 JUDGE CHARTOFF: Thank you.
 13 MS. ROMAN: I'm sorry, I'm just a little in
 14 shock because we were -- previously had to file approval
 15 to use minivans under Department of Licensing. And then
 16 in 2014, I requested the Commission take all of our
 17 vehicles under its purview to simplify reporting
 18 requirements because Department of Licensing does not
 19 require medical certifications. They don't even require
 20 that you actually see the driver in person, and they
 21 felt that it was a waste of energy and time to send the
 22 money and register vehicles. And since we're dealing
 23 with you guys fully, it just made sense to say let's do
 24 it all together. And so I'm hearing from this that
 25 that's the way it should be anyway, and I'm not sure why

Page 32

1 I had to make that request to have them all together, so
 2 that's just kind of interesting to me.
 3 Anyway, when we started, we were under
 4 Paratransit Services, Department of Licensing, and
 5 Utilities and Transportation Commission. And so we have
 6 so many more things that we do, or did because of all
 7 three, that we were so oversaturated before things that
 8 we did that I think that's part of what dropped here,
 9 too, is that we don't have to do fingerprint checks
 10 anymore, which we did for Paratransit. There's just
 11 things that everybody requires, and it's just kind of
 12 got convoluted, but anyway.
 13 Okay, well, then with that, then since it
 14 makes absolutely no difference, then I don't seem to --
 15 see to waste the Court's time in reviewing many pieces
 16 of paper for nothing.
 17 JUDGE CHARTOFF: Okay.
 18 MS. ROMAN: Regarding the minivans.
 19 JUDGE CHARTOFF: Okay. Okay. Do you have
 20 any more -- anything else to say?
 21 MS. ROMAN: The employee, Klaus Sterling,
 22 the time period listed on this paper is not accurate to
 23 his violations time. He does have a violation, I'm not
 24 denying that. That's not the violation time, and I'm
 25 sure it was a simple typo.

Page 33

1 JUDGE CHARTOFF: And these are the dates
 2 listed on the notice of --
 3 MS. ROMAN: The 171022.
 4 JUDGE CHARTOFF: Okay.
 5 MS. ROMAN: Yes.
 6 JUDGE CHARTOFF: And which employee?
 7 MS. ROMAN: Klaus Sterling.
 8 JUDGE CHARTOFF: Okay. And so how many
 9 days -- repeat again what you think is incorrect.
 10 MS. ROMAN: Klaus Sterling, it says he has
 11 17 violations -- no, I'm sorry, two days. Sorry. One
 12 second. Yeah, it says he has 17 occurrences, two days
 13 in May and 15 days in June 2016, and that is not
 14 accurate. It was -- if you change the year to 2017,
 15 that would be accurate. Trust me, I looked at his
 16 certificates over and over and over trying to figure out
 17 what was happening.
 18 JUDGE CHARTOFF: So you're saying all of
 19 them were in 2017 or just the June?
 20 MS. ROMAN: Yes, all of them.
 21 JUDGE CHARTOFF: Okay.
 22 MS. ROMAN: That's all regarding that first
 23 portion. Everything else is on the second portion. Are
 24 you ready for me?
 25 JUDGE CHARTOFF: Okay.

Page 34

1 MS. ROMAN: Regarding the -- the two
 2 violations listed for Title 49 Part 391.51(b)(7),
 3 William Wagner, his file is complete. He started with
 4 us in August of 2014 and everything is there. So I do
 5 not understand what that violation they're referring to
 6 is.
 7 Pauline Chang has driven for us for nine
 8 years, and office staff gleefully threw away all of her
 9 old certificates. So she is current, but that whole we
 10 want the first original one and the current last three
 11 years', something like that, those are the -- or sorry,
 12 I mean, three years of physicals are what is missing.
 13 So I can only assume they're talking about the fact that
 14 she doesn't have her full three years of expired
 15 certificates, but Bill has everything back to hire. I'm
 16 sorry, making sure I did it right.
 17 JUDGE CHARTOFF: Okay. Do you have anything
 18 further?
 19 MS. ROMAN: On that, no, not regarding the
 20 penalties. Everything else is just proof and support of
 21 safety plan and so forth. I mean, I have his
 22 certificates and her certificates here that if they need
 23 to be presented to be, you know, proven, then I have
 24 them.
 25 JUDGE CHARTOFF: Okay. Again, I can't make

Page 35

1 that call right now. It might be -- I guess I suggest
 2 that you just offer them into evidence.
 3 MS. ROMAN: Okay. Then especially for
 4 Bill -- Billy Wagner, I would like to enter his
 5 certificates into evidence. I'm not sure the process of
 6 this. I have them -- three copies.
 7 JUDGE CHARTOFF: Yes, so provide one copy to
 8 Mr. Roberson and two copies to me.
 9 MR. ROBERSON: Thank you.
 10 MS. ROMAN: I have them heavily highlighted
 11 because I don't like them floating around. So if
 12 they're heavily copied, then they're easily shredded.
 13 JUDGE CHARTOFF: That's fine. Thank you.
 14 Mr. Roberson, any objections?
 15 MR. ROBERSON: No.
 16 JUDGE CHARTOFF: Okay. Then I will admit
 17 and mark as KR-1.
 18 (Exhibit KR-1 admitted.)
 19 Ms. Roman, do you have anything further?
 20 MS. ROMAN: No. Regarding the violations,
 21 no.
 22 JUDGE CHARTOFF: Okay. Mr. Roberson, do you
 23 have any questions for Ms. Roman?
 24 MR. ROBERSON: I just have a couple quick
 25 ones.

Page 36

EXAMINATION OF ROMAN / ROBERSON

E X A M I N A T I O N

1 BY MR. ROBERSON:
 2 Q. So with regard to the medical certificate for
 3 your drivers, you mentioned that it was very difficult
 4 to get them and that often people were shortening the
 5 lifespan of their certificate. Do you acknowledge that
 6 the regulation requires a valid certificate? Do you
 7 intend to comply with that requirement going forward?
 8 **A. Oh, absolutely. We've never intended not to.**
 9 **Any nonrenewals were an oversight believing we were in**
 10 **compliance. And then as soon as it was found that that**
 11 **was not the case, it was rectified immediately. This --**
 12 **this audit, I believe, is the first audit they've gone**
 13 **back and looked for gaps between medical certificates.**
 14 **In past audits, they've only looked for current medical**
 15 **certificates, and then we always have all the past ones**
 16 **in there just because I'm too lazy to throw them out.**
 17 **But they -- I believe in the past, we've had**
 18 **gaps, like I said, up to a month, and that has not**
 19 **really majorly concerned me. When they come back with a**
 20 **new two-year, it's not a big deal to me. But I never**
 21 **intentionally missed a date, and I do not -- and I saw**
 22 **one that Todd had, I think was six months, that's**
 23 **ridiculously outrageous, and I do not accept that at all**
 24 **within my staff, but it ultimately comes down to me, and**
 25

Page 37

EXAMINATION OF ROMAN / ROBERSON

1 if I can't get it through to them what they need to be
 2 doing, then it comes back and hits me.
 3 Q. Would it be fair to say that it would be a big
 4 deal moving forward if there's such a gap?
 5 **A. It is always a big deal, will never stop being a**
 6 **big deal, and I will make sure everybody knows it's a**
 7 **big deal. I will be giving them your guys' numbers so**
 8 **they can argue with you about how big of a deal it is.**
 9 Q. Okay. And then turning to Mr. Sterling's
 10 violations, would you agree, then, if the date 2016 was
 11 substituted for 2017, that that would be true and
 12 accurate that he did have those violations?
 13 **A. I don't think you said what you thought you**
 14 **said.**
 15 Q. Probably true. I rarely do.
 16 So -- but it's on the -- the notice of the
 17 penalty assessment that he committed violations in 2016,
 18 but if it read 2017, it would be true and accurate?
 19 **A. Yes.**
 20 Q. Okay. So you're not contesting the violations,
 21 you're just contesting the fact that they were committed
 22 in 2016 rather than 2017?
 23 **A. I'm contesting what you're saying I violated,**
 24 **yes.**
 25 Q. So did he commit those violations in 2017 I

Page 38

EXAMINATION OF ROMAN / ROBERSON

1 guess is my basic question?
 2 **A. I believe so.**
 3 Q. Okay.
 4 **A. I didn't double-check that after -- I mean, I'm**
 5 **checking what you wrote me.**
 6 Q. Okay. With regard to Mr. Wagner's medical
 7 certificates in the file and Ms. Chang's, when you did a
 8 safety management plan, did you find those documents in
 9 those files or did you add them later to comply?
 10 **A. They were in there.**
 11 Q. They were in there.
 12 **A. They were not organized, and that was part of**
 13 **our safety management plan is I have now specified**
 14 **exactly how the folder is to be organized. I have not**
 15 **done them yet because it involves stapling these**
 16 **certificates to the folder so they cannot leave. That**
 17 **they are never to be culled, never to be thinned out.**
 18 **From the time that they start until the time they leave**
 19 **our employ, their medical certificate files will be in**
 20 **this folder stapled on the front side.**
 21 **On the backside will have their first motor**
 22 **vehicle report stapled behind their driver's license**
 23 **copy because that is apparently another one you guys**
 24 **want to see forever. I'm not sure why about that one,**
 25 **but that's the one you want so -- and then their**

Page 39

EXAMINATION OF ROMAN / ROBERSON

1 license, driver's license copies we'll keep perpetuity
 2 going on top of that on the back of that file. And then
 3 in the middle of the driver qualifications file will be
 4 the MBRs for that year that must be reviewed and so
 5 forth. And those will float around the middle, but I
 6 think that it was a -- an -- not organized file that
 7 caused Sandy confusion in not finding these documents.
 8 Q. Okay.
 9 **A. And I think the other part is like I said, it's**
 10 **not that they don't have current medical certificates,**
 11 **it's that they don't have three years of current medical**
 12 **certificates, which is to me not the same thing, but to**
 13 **you apparently it is.**
 14 MR. ROBERSON: Okay. I think that's all we
 15 have, Your Honor.
 16 JUDGE CHARTOFF: Okay.
 17 MR. ROBERSON: With one question for you.
 18 Mr. Perkinson has prepared Staff's formal response to
 19 the safety management plan and penalty recommendation.
 20 Would you like that in the docket or -- that's been kind
 21 of our tradition in the past is just to see what the
 22 carrier has to say and then submit as a docket. I'm
 23 just wondering if that's okay with you and Ms. Roman.
 24 JUDGE CHARTOFF: My -- well, I was going to
 25 ask you to make that recommendation.

Page 40

MR. ROBERSON: In terms of like on the
 2 record today?
 3 JUDGE CHARTOFF: Yes.
 4 MR. ROBERSON: Okay. Covered that a little
 5 bit earlier, but we can go back.
 6 JUDGE CHARTOFF: Oh, yeah, I mean, you
 7 covered it earlier. Was there anything you wanted to
 8 add to that?
 9 MR. ROBERSON: No, nothing new.
 10 JUDGE CHARTOFF: Okay. Okay. So I --
 11 that -- I think we've covered everything, so with that,
 12 thank you all for coming here today. So I will be
 13 issuing an order in the next few days reflecting the
 14 company's upgraded safety rating and the Commission's
 15 decision related to the penalty assessment. Okay.
 16 Anything else before we go off the record? Okay. We
 17 are adjourned. Oh --
 18 MS. ROMAN: For whatever penalty assessed, I
 19 need to request a payment plan. If that needs to be
 20 requested, it's being requested now. If you -- whatever
 21 would like to know. I don't -- I'm making the request.
 22 I don't know if you need to come to the actual
 23 assessment to the penalty several days later before you
 24 follow up with the -- what plan we agreed to or I mean,
 25 I'm just letting it be known that I'm making that

1 request.

2 JUDGE CHARTOFF: Typically we -- when we
3 issue a penalty assessment, we include in the order that
4 you can work with Staff to come up with a mutually
5 agreeable payment plan.

6 MS. ROMAN: Well, then, I'm glad I don't
7 know that.

8 JUDGE CHARTOFF: Okay. Anything else?

9 MS. ROMAN: No, thank you.

10 JUDGE CHARTOFF: Okay. We are adjourned.

11 We are off the record.

12 (Adjourned at 2:22 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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Tayler Garlinghouse, CCR 3358