

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of

OCTOPUS MOVERS SERVICES,  
LLC,

For Compliance with WAC 480-15-  
555, WAC 480-15-560, and WAC  
480-15-570.

DOCKET TV-220274

ORDER 01

APPROVING SAFETY MANAGEMENT  
PLAN; EXTENDING PROVISIONAL  
PERIOD

**BACKGROUND**

- 1 On April 27, 2022, the Washington Utilities and Transportation Commission (Commission) issued a Notice of Intent to Cancel and Notice of Brief Adjudicative Proceeding; Settling Time for Oral Statements in the Matter of the Investigation of Octopus Movers Services, LLC, (Octopus Movers or Company) for compliance with Washington Administrative Code (WAC) 480-15 (Notice). The Notice set a hearing for June 6, 2022.
- 2 The Notice explained that on April 14, 2022, Commission staff (Staff) completed an investigation of the Company's compliance with the safety requirements in WAC 480-15. As a result of the compliance investigation, Staff documented 34 critical safety requirement violations and proposed an unsatisfactory safety rating for the Company. Staff notified the Company of this proposed rating on April 14, 2022.
- 3 The Notice indicated that Octopus Movers must come into compliance with applicable laws by obtaining Commission approval of a safety management plan no later than June 13, 2022. If the Company fails to come into compliance by that date, the Notice indicated that the Commission will cancel its household goods carrier permit effective June 14, 2022.
- 4 On May 2, 2022, the Commission issued a notice rescheduling the brief adjudicative proceeding to June 7, 2022.
- 5 On May 6, 2022, the Commission issued a Penalty Assessment against Octopus Movers in the amount of \$2,700 in this Docket as a result of violations discovered during the safety investigation (Penalty Assessment). The violations and associated penalty amounts include:

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

1. One violation of WAC 480-15-555 – Failing to conduct or retain paperwork containing criminal background checks or hiring an individual with a disqualifying conviction for a household goods carrier in the state of Washington. The Commission assessed a penalty of \$100 for this violation.
  2. Twenty-one violations of 49 Code of Federal Regulations (C.F.R.) § 391.45(a) – Using a driver not medically examined and certified. The Commission assessed a penalty of \$100 for each occurrence of this violation, for a total of \$2,100.
  3. One violation of 49 C.F.R. § 391.51(a) – Failing to maintain driver qualification files on each driver employed. The Commission assessed a penalty of \$100 for this violation.
  4. Thirty violations of 49 C.F.R. § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status. The Commission assessed a “per category” penalty of \$100 for these critical violations.
  5. One violation of 49 C.F.R. § 396.3(a)(1) – An out-of-service condition caused by a tire contacting a commercial motor vehicle (CMV). The Commission assessed a penalty of \$100 for this out-of-service violation.
  6. Two violations of 49 C.F.R. § 396.3(b) – Failing to keep minimum records of inspection and vehicle maintenance. The Commission assessed a “per category” penalty of \$100 for these critical violations.
  7. Two violations of 49 C.F.R. § 396.17(a) – Using a CMV not periodically inspected. The Commission assessed a “per category” penalty of \$100 for these critical violations.
- 6 On May 11, 2022, the Company paid the \$2,700 penalty in full.
- 7 On May 20, 2022, the Company submitted a safety management plan (Safety Management Plan) to Staff that addressed each of the violations cited in Staff’s investigation.
- 8 On May 26, 2022, Staff submitted its evaluation of the Safety Management Plan (Evaluation). Staff believes the Safety Management Plan is acceptable and meets the requirements of 49 C.F.R. § 385. Staff notes that the Company took all the required steps to bring its safety operations into compliance with Commission regulations. The Safety Management Plan 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. Accordingly, Staff recommends the Commission accept the Safety Management Plan, upgrade the Company's safety rating to conditional, and extend its provisional operating authority for good cause until such a time that the Company receives a satisfactory safety rating. Staff stated further that the Company waived its right to a hearing and recommended the Commission cancel the brief adjudicative proceeding scheduled for June 7, 2022, and decide this matter on a paper record.

- 9 On May 31, 2022, the Commission issued a notice canceling the brief adjudicative proceeding.

### DISCUSSION AND DECISION

- 10 **Octopus Movers' safety rating and operating authority.** Washington Law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Staff conducted a safety inspection in March and April 2022 and found 58 violations of these requirements. The Company subsequently submitted its Safety Management Plan addressing these violations.
- 11 Staff evaluated the Safety Management Plan and found that it identifies how each violation occurred, describes the steps taken to correct each violation, and describes the controls the Company has put in place to ensure compliance going forward. Staff concludes that the Safety Management Plan is acceptable and satisfies applicable legal requirements. We agree with Staff's conclusions.
- 12 Based on Staff's Evaluation, the Commission approves the Company's Safety Management Plan and accepts Staff's proposed conditional safety rating for the Company.
- 13 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.

14 **The Penalty Assessment.** Finally, we observe that Octopus Movers paid the \$2,700 penalty in full and that the Company did not request mitigation of the penalty. No outstanding issues remain with regard to the Penalty Assessment.

### FINDINGS AND CONCLUSIONS

- (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.
- (2) Octopus Movers is a household goods carrier subject to Commission regulation.
- (3) Octopus Movers committed 58 violations of chapter 480-15 WAC, including incorporated federal regulations.
- (4) Octopus Movers corrected the violations identified in the March and April 2022 safety investigation. Accordingly, the Commission should give Octopus Movers a conditional safety rating.
- (5) Pursuant to WAC 480-15-305(1)(b), the Commission should find good cause to extend Octopus Movers's provisional period until the earlier of the following: (a) the Company achieves a satisfactory safety rating and permanent operating authority or (b) the Commission finds good cause to cancel the Company's operating authority.
- (6) The Commission penalized Octopus Movers \$2,700 for 58 violations of Chapter 480-15 WAC, and the Company has paid that penalty in full.

### ORDER

#### THE COMMISSION ORDERS:

- (1) The Commission approves Octopus Movers Services LLC's Safety Management Plan.
- (2) The Commission sets Octopus Movers Services LLC's safety rating as conditional.
- (3) The Commission extends Octopus Movers Services LLC's provisional period until the earlier of the following: (a) Octopus Movers Services LLC achieves a satisfactory safety rating and permanent operating authority or (b) the

Commission finds good cause to cancel Octopus Movers Services LLC's operating authority.

Dated at Lacey, Washington, and effective June 2, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Gregory J. Kopta*  
GREGORY J. KOPTA  
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).