

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of

MOVE DUDES LLC,

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

DOCKET TV-220340

ORDER 01

APPROVING SAFETY
MANAGEMENT PLAN;
UPGRADING SAFETY RATING
TO SATISFACTORY

BACKGROUND

- 1 On May 25, 2022, the Washington Utilities and Transportation Commission (Commission) issued a notice of intent to cancel the permit and authority of Move Dudes LLC (Move Dudes or Company) for 12 violations of Washington Administrative Code (WAC) 480-15 (Notice).
- 2 The Notice explained that, based on Commission staff's (Staff) May 2022 compliance review, Staff recommends that the Commission cancel the Company's household goods carrier permit unless the Company obtains Commission approval of a safety management plan. The Notice directed Move Dudes to file a proposed safety management plan by July 8, 2022.
- 3 The Commission also noticed a brief adjudicative proceeding on June 22, 2022, at 9:30 a.m., to determine whether the Commission should cancel Move Dudes' household goods carrier permit.
- 4 On June 8, 2022, the Commission issued a Penalty Assessment (Penalty Assessment) against Move Dudes in the amount of \$100 for violations discovered during the routine safety investigation. Specifically, the Commission assessed a \$100 penalty for five critical violations of 49 C.F.R. § 395.8(a)(1)¹ for failing to require a driver to prepare a record of duty status.

¹ WAC 480-15-999 adopts by reference Title 49 of the Code of Federal Regulations (C.F.R.), pertaining to safety requirements for household goods carriers.

- 5 On June 16, 2022, Move Dudes submitted a proposed safety management plan addressing each violation noted in Staff's investigation.
- 6 On June 17, 2022, Staff filed its evaluation of the safety management plan (Evaluation). Staff determined, based on its review of the Company's proposed plan, that the Company took all of the required steps to bring its safety operations into compliance with Commission regulations and meets the requirements of 49 CFR § 385. Staff explains that it proposed a conditional safety rating for Move Dudes because Company management interpreted the requirement to track driver's hours of service as documenting only driving time, rather than all on-duty time worked by commercial drivers. Move Dudes has implemented a system for tracking all on-duty hours for each driver, as well as tracking driver's hours worked for other employers. Because of the Company's actions, Staff recommends the Commission not cancel Move Dudes' provisional permit. Staff further recommends the Commission upgrade the Company's safety rating to satisfactory, but also extend the Company's provisional permit period until such time as the Company achieves a satisfactory safety rating. Staff notes that the \$100 penalty remains unpaid.
- 7 In its Evaluation, Staff also requested that the Commission cancel the brief adjudicative proceeding and decide this matter on a paper record. Staff stated that it conferred with Move Dudes and that the Company waived its right to a hearing.
- 8 On June 17, 2022, the Commission issued a notice canceling the June 22, 2022, brief adjudicatory proceeding and informing the parties that the Commission would enter an order based on the parties' written submissions.

DISCUSSION

- 9 Washington Law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Staff's May 2022 compliance review of Move Dudes found 12 violations of safety regulations, including five critical violations of 49 C.F.R. § 395.8(a)(1), which resulted in a proposed conditional safety rating.
- 10 On June 16, 2022, the Company submitted its proposed safety management plan and requested the Commission upgrade its safety rating. Staff determined that Move Dudes' safety management plan addresses each violation, identified 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 Move Dudes' safety management plan is acceptable and satisfies the legal requirements of 49 CFR Part 385. We agree.

- 11 Based on Staff's Evaluation, the Commission finds that the Company has achieved compliance with 49 C.F.R. § 395.8(a)(1) 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 upgrade its safety rating to satisfactory. The Commission declines to cancel the Company's permit and operating authority.
- 12 We also agree with Staff's recommendation to extend the Company's provisional period for its household goods operating authority. 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. In this case, Staff recommends that the Commission assess a satisfactory safety rating but maintain the Company's provisional operating authority. The Commission takes administrative notice of its publicly available records, which show that the Company received provisional operating authority approximately two years ago, on September 21, 2020. In light of Staff's recommendation and the Company's relatively limited history of regulated operations, the Commission finds good cause to extend the Company's provisional period.
- 13 The Company has not requested mitigation of the penalty. The Company should pay the \$100 penalty consistent with the terms of the Penalty Assessment.

FINDINGS AND CONCLUSIONS

- 14 (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.
- 15 (2) Move Dudes is a household goods carrier subject to Commission regulation.
- 16 (3) Move Dudes committed 12 violations of WAC 480-15, including five critical violations of 49 C.F.R. § 395.8(a)(1), for failing to require a driver to prepare a record of duty status.
- 17 (4) Move Dudes cured the deficiencies that led to the proposed conditional safety rating.

- 18 (5) Move Dudes should be determined to have a satisfactory safety rating, and the Company should be allowed to maintain its provisional permit and operating authority.

ORDER

THE COMMISSION ORDERS:

- 19 (1) The Commission approves Move Dudes LLC's safety management plan.
- 20 (2) Move Dudes LLC is determined to have a satisfactory safety rating.
- 21 (3) The \$100 penalty assessed against Move Dudes LLC is due and payable immediately.

DATED at Lacey, Washington, and effective June 22, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Michael Howard

MICHAEL HOWARD
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).