

Docket No. TC-171023 - Vol. I

In the Matter of the Investigation of Rocket
Transportation, LLC

November 20, 2017



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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

BRIEF ADJUDICATIVE PROCEEDING, VOLUME I

Pages 1-42

ADMINISTRATIVE LAW JUDGE LAURA CHARTOFF

November 20, 2017

1:30 P.M.

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

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ADMINISTRATIVE LAW JUDGE:

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ALSO PRESENT:

MATHEW PERKINSON

* * * *

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1 OLYMPIA, WASHINGTON; NOVEMBER 20, 2017

2 1:30 P.M.

3 --o0o--

4 P R O C E E D I N G S

5
6 JUDGE CHARTOFF: Let's be on the record.

7 Good morning. This is Docket TC-171023, which is
8 captioned, In the Matter of the Investigation of Rocket
9 Transportation, LLC for Compliance with Washington
10 Administrative Code 480-30-221.

11 My name is Laura Chartoff, and I am the
12 administrative law judge presiding over today's brief
13 adjudicative proceeding. Today is Monday,
14 November 20th, 2017, and the time is 1:30 p.m.

15 On October 18th, 2017, the Commission issued
16 a notice of intent to cancel certificate notice of brief
17 adjudicative proceeding setting time for oral
18 statements. The Commission issued the notice of intent
19 to cancel following the compliance review conducted by
20 Commission Staff in July 2017, which resulted in a
21 proposed unsatisfactory safety rating for Rocket
22 Transportation. The company was required to file a
23 proposed safety management plan, which I understand has
24 been done, and we will be addressing how that affects
25 the company's safety rating today.

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

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.

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,

EXAMINATION OF PERKINSON / ROBERSON

1 was examined and testified
2 as follows:

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

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**

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**

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

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

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.**

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

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**

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**

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

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?

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**

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

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**

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

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

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

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

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

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.

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

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.

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 prefiled a list of exhibits.

23 MS. ROMAN: Yes.

24 JUDGE CHARTOFF: Did you plan to introduce
25 those?

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

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

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.

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.

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

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.

EXAMINATION OF ROMAN / ROBERSON

1 EXAMINATION

2 BY MR. ROBERSON:

3 Q. So with regard to the medical certificate for
4 your drivers, you mentioned that it was very difficult
5 to get them and that often people were shortening the
6 lifespan of their certificate. Do you acknowledge that
7 the regulation requires a valid certificate? Do you
8 intend to comply with that requirement going forward?

9 **A. Oh, absolutely. We've never intended not to.**
10 **Any nonrenewals were an oversight believing we were in**
11 **compliance. And then as soon as it was found that that**
12 **was not the case, it was rectified immediately. This --**
13 **this audit, I believe, is the first audit they've gone**
14 **back and looked for gaps between medical certificates.**
15 **In past audits, they've only looked for current medical**
16 **certificates, and then we always have all the past ones**
17 **in there just because I'm too lazy to throw them out.**

18 **But they -- I believe in the past, we've had**
19 **gaps, like I said, up to a month, and that has not**
20 **really majorly concerned me. When they come back with a**
21 **new two-year, it's not a big deal to me. But I never**
22 **intentionally missed a date, and I do not -- and I saw**
23 **one that Todd had, I think was six months, that's**
24 **ridiculously outrageous, and I do not accept that at all**
25 **within my staff, but it ultimately comes down to me, and**

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

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**

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.

1 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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CERTIFICATE

STATE OF WASHINGTON

COUNTY OF THURSTON

I, Tayler Garlinghouse, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript is true and accurate to the best of my knowledge, skill and ability.

Tayler Garlinghouse, CCR 3358