

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of  
  
Zen Moving PLLP d/b/a 2 Pure Moving –  
Man With A Truck Moving  
  
For Compliance with WAC 480-15-560 and  
WAC 480-15-570

DOCKET TV-230584  
  
ORDER 01  
  
APPROVING SAFETY  
MANAGEMENT PLAN;  
EXTENDING PROVISIONAL  
PERIOD SUBJECT TO  
CONDITIONS

**BACKGROUND**

- 1 On August 3, 2023, the Washington Utilities and Transportation Commission (Commission) issued a Penalty Assessment against Zen Moving PLLP, d/b/a 2 Pure Moving – Man With A Truck Moving (Zen Moving or Company) in the amount of \$11,100. The Penalty Assessment documented violations of WAC chapter 480-15 and Title 49 of the Code of Federal Regulations.
- 2 On August 11, 2023, Zen Moving submitted a payment for the full amount of the \$11,100 penalty in question.
- 3 That same day, August 11, 2023, the Commission issued a Notice of Intent to Cancel Permit as a Household Goods Carrier; Notice of Brief Adjudicative Proceeding; Setting Time for Oral Statements (NOIC) against Zen Moving. The NOIC, among other things, scheduled a brief adjudicative proceeding (BAP) for September 1, 2023. The NOIC also required the Company to obtain Commission approval of its Safety Management Plan (SMP) by September 11, 2023.
- 4 On August 25, 2023, Commission staff (Staff)<sup>1</sup> submitted its exhibit list and its exhibit, labeled Sharp, Exh. JS-1 (Investigation Report, dated 7/11/23 (24 pages)).

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<sup>1</sup> In formal proceedings such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

5 On August 31, 2023, the Company submitted a waiver of hearing, admitting the violations noted in the NOIC and requesting a decision based on the written information filed to the docket.

6 That same day, August 31, 2023, the Commission cancelled the brief adjudicative proceeding by notice.

7 That same day, August 31, 2023, Staff filed its Evaluation of the Company's SMP (Evaluation). Staff notes that earlier on July 12, 2023, it completed a routine safety investigation of Zen Moving that resulted in a proposed unsatisfactory safety rating. The proposed unsatisfactory safety rating was based on five violations of critical regulations – Washington Administrative Code (WAC) 480-15-555(1), 49 C.F.R. § 391.45(a), 391.51(a), 395.8(a)(1), and 396.17(a).

8 Staff submits that the Company's SMP, submitted on August 31, 2023 is acceptable and meets the requirements of 49 C.F.R. part 385. Documentation of driver qualifications, vehicle maintenance, hours of service records, carrier registration information, and criminal background checks were included in the plan. Staff submits that the Company took the required steps to bring its safety operations into compliance with Commission regulations.

9 Staff therefore recommends the following:

- the Commission does not cancel Zen Moving's provisional permit;
- upgrade the proposed unsatisfactory safety rating to conditional; and
- the Commission extends the Company's provisional period until such a time that Zen Moving achieves a satisfactory safety rating, or the Commission finds good cause to cancel the Company's operating authority.

## **DISCUSSION**

10 Washington Law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Staff's July 2023 compliance review of Zen Moving found five violations of critical regulations, which resulted in a proposed conditional safety rating. We rule on whether the Company's SMP should be approved and whether its provisional period should be extended for good cause.

11 On August 31, 2023, the Company submitted its updated SMP. Staff determined that Zen Moving's SMP 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 Zen Moving's SMP is acceptable and satisfies the legal requirements of 49 CFR Part 385. We agree.

12 Based on Staff's Evaluation, the Commission finds that the Company has achieved compliance with 49 C.F.R. part 385, 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 conditional. The Commission declines to cancel the Company's permit and operating authority.

13 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 extend the Company's provisional period until such a time that Zen Moving achieves a satisfactory safety rating, or the Commission finds good cause to cancel the Company's operating authority. The Commission therefore finds good cause to extend the Company's provisional period subject to the conditions proposed by Staff in paragraph 9 of this Order.

14 Because the Company has admitted the violations described in the NOIC and paid the full penalty amount, there is no outstanding issue as to whether the violations occurred or the appropriate amount of the penalty.

### FINDINGS AND CONCLUSIONS

15 (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.

16 (2) Zen Moving is a household goods carrier subject to Commission regulation.

17 (3) Zen Moving committed thirteen violations of WAC 480-15-555(1), ninety-one violations of 49 C.F.R. § 391.45(a), four violations of 49 C.F.R. § 391.51(a), one hundred-fifty violations of 49 C.F.R. § 395.8(a)(1), one violation of 49 C.F.R. § 393.41, three violations of 49 C.F.R. § 396.3(a)(1), and five violations of 49 C.F.R. § 396.17(a).

- 18 (4) Zen Moving cured the deficiencies that led to the proposed unsatisfactory safety rating.
- 19 (5) Zen Moving's updated SMP submitted on August 31, 2023 should be approved, and the Company's provisional period should be extended subject to the conditions proposed by Staff, as noted in paragraph 9 of this Order.

**ORDER**

**THE COMMISSION ORDERS:**

- 20 (1) The Commission approves Zen Moving PLLP d/b/a 2 Pure Moving – Man With A Truck Moving's safety management plan.
- 21 (2) Zen Moving PLLP d/b/a 2 Pure Moving – Man With A Truck Moving's provisional period is extended subject to the conditions noted in paragraph 9 of this Order.

DATED at Lacey, Washington, and effective September 5, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Michael Howard*

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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).