

Service Date: February 25, 2022

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of, and  
Penalty Assessment against,

BIGFOOT MOVING SERVICE LLC

For Violations of WAC 480-15

DOCKET TV-220015

ORDER 01

CANCELING HEARING;  
APPROVING SAFETY  
MANAGEMENT PLAN;  
MAINTAINING SAFETY RATING;  
IMPOSING AND SUSPENDING  
PENALTIES

**BACKGROUND**

- 1 On January 19, 2022, the Washington Utilities and Transportation Commission (Commission) issued a Notice of Intent to Cancel and Notice of Brief Adjudicative Proceeding; Setting Time for Oral Statements in the Matter of the Investigation of Bigfoot Moving Service LLC (Bigfoot Moving or Company) for Compliance with Washington Administrative Code (WAC) 480-15 (Notice).
- 2 The Notice explained that Commission staff (Staff) conducted a compliance review of the Company's operations in January 2022 and cited the Company for 124 critical violations of federal and state safety regulations, which resulted in a proposed conditional safety rating. Based on its review, Staff recommended the Commission cancel the Company's household goods carrier permit unless Bigfoot Moving obtains Commission approval of a safety management plan. The Notice directed Bigfoot Moving to file a proposed safety management plan by February 15, 2022. The Commission also set a brief adjudicative proceeding for March 1, 2022, at 9:30 a.m. to determine whether the Commission should cancel the Company's household goods carrier permit.
- 3 On January 26, 2022, the Commission assessed a \$4,200 penalty (Penalty Assessment) against Bigfoot Moving for the safety violations discovered during Staff's compliance review.<sup>1</sup> The Penalty Assessment includes:

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<sup>1</sup> The Penalty Assessment cites violations of Washington Administrative Code (WAC) 480-15-555, WAC 480-15-560, and WAC 480-15-570. WAC 480-15-560 and -570 adopt by reference sections of Title 49 Code of Federal Regulations (C.F.R.). Accordingly, Commission safety

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

- A \$4,000 penalty for 40 violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified.
- A \$100 penalty for four violations of 49 C.F.R. § 391.51(a) for failing to maintain driver qualification files for each driver.
- A \$100 penalty for 120 violations of 49 C.F.R. § 395.8(a)(1) for failing to require drivers to prepare records of duty status.

4 On February 23, 2022, Bigfoot Moving filed with the Commission a request for mitigation of the penalty. In its request, the Company contests the violations of 49 C.F.R. § 391.45(a), explaining that it initially provided incorrect documents to Staff. The Company has since provided proof that its driver was medically examined and certified during the review period, and therefore requests that the Commission waive the 40 violations of 49 C.F.R. § 391.45(a). The Company admits it committed the remaining violations cited in the Penalty Assessment and provided assurance it has taken steps to prevent them from recurring.

5 Also on February 23, 2022, Bigfoot Moving submitted a proposed safety management plan.

6 On February 24, 2022, Staff filed with the Commission its evaluation of the Company's safety management plan and penalty recommendation (Evaluation). In its Evaluation, Staff indicated that the Company waived its right to a hearing in both dockets and requested the Commission cancel the brief adjudicative proceeding and decide this matter on a paper record.

7 Based on its review of the Company's proposed plan, Staff determined that the Company took all the required steps to bring its safety operations into compliance with Commission regulations. Staff recommends that the Commission maintain the Company's safety rating as conditional, but also extend the Company's provisional permit period until such time as the Company achieves a satisfactory safety rating. Staff further recommends that the Commission waive the \$4,000 penalty for 40 violations of 49 C.F.R. § 391.45(a) because the Company provided documentation showing that its driver was in compliance with medical examination and certification requirements during the review period.

### DISCUSSION AND DECISION

- 8 Washington Law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Staff's compliance review of Bigfoot Moving found 124 violations of critical regulations, which was later reduced to 84 violations. The revised number of violations does not change the outcome of Staff's investigation, which resulted in a proposed conditional safety rating. Violations classified as "critical" are indicative of a breakdown in a carrier's management controls. Patterns of noncompliance with a critical regulation are quantitatively linked to inadequate safety management controls and usually higher-than-average accident rates.
- 9 On February 23, 2022, Bigfoot Moving submitted its proposed safety management plan and requested the Commission allow it to maintain its household goods permit.
- 10 On February 24, 2022, Staff filed its Evaluation of the Company's proposed safety management plan.<sup>2</sup> Staff determined that the Company's plan addresses each violation, identifies 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 the Company's safety management plan is acceptable and satisfies the legal requirements of 49 C.F.R. Part 385. We agree.
- 11 Based on Staff's Evaluation, the Commission finds that the Company has achieved compliance with WAC 480-15 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 maintain its household goods permit.
- 12 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

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<sup>2</sup> Staff's evaluation also requests the Commission consolidate Dockets TV-220014 and TV-220015, but both the Notice and the Penalty Assessment were filed in Docket TV-220015. Accordingly, consolidating these dockets is not necessary.

Commission finds good cause to extend the Company's provisional period until such time as the Company achieves a satisfactory rating.

13 Finally, we agree with Staff's recommendation to waive a \$4,000 portion of the penalty because Bigfoot Moving satisfactorily demonstrated that the 40 violations of 49 C.F.R. § 391.45(a) cited in the Penalty Assessment did not occur. Accordingly, we waive those violations and assess a \$200 penalty for the remaining violations cited in 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) Bigfoot Moving is a household goods carrier subject to Commission regulation.

16 (3) Bigfoot Moving cured the deficiencies that led to the proposed unsatisfactory safety rating. Accordingly, Bigfoot Moving's safety rating should be maintained as conditional, and the Company should be allowed to maintain its household goods carrier permit.

17 (4) Pursuant to WAC 480-15-305(1)(b), the Commission should find good cause to extend Bigfoot Moving's provisional period until such time as the Company achieves a satisfactory safety rating.

18 (5) Bigfoot Moving committed 84 violations of WAC 480-15 and Title 49 C.F.R.

19 (6) Bigfoot Moving does not dispute that the violations occurred.

20 (7) Bigfoot Moving should be penalized \$200 for 84 violations of WAC 480-15 and Title 49 C.F.R.

### **ORDER**

THE COMMISSION ORDERS THAT:

- 21 (1) The Commission approves Big Foot Moving Service LLC's safety management  
plan.
- 22 (2) Big Foot Moving Service LLC's safety rating is maintained as conditional.
- 38 (3) The Commission assesses a \$200 penalty against Big Foot Moving Service LLC.
- 23 (4) Big Foot Moving Service LLC's provisional period is extended until such time as  
the Company achieves a satisfactory safety rating.
- 24 (6) The Brief Adjudicative Proceeding set for March 1, 2022, is canceled.

DATED at Lacey, Washington, and effective February 25, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Rayne Pearson*  
RAYNE PEARSON  
Administrative Law Judge

**Service Date: February 25, 2022**

## **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 21 days after service of this initial order to file a petition for administrative review (Petition). Section (7)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-610(7)(c) states that any party may file a response to a Petition within 7 days after service of the Petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence that is essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will give other parties in the proceeding an opportunity to respond to a motion to reopen the record, unless the Commission determines that it can rule on the motion without hearing from the other parties.

WAC 480-07-610(9) 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 does not 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).