

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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

OCTOPUS MOVERS SERVICES, LLC

For Violations of WAC 480-15

DOCKET TV-230199

ORDER 01

APPROVING SAFETY
MANAGEMENT PLAN;
UPGRADING SAFETY RATING;
CANCELING BRIEF
ADJUDICATIVE PROCEEDING

BACKGROUND

- 1 On April 6, 2023, 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 Octopus Movers Services, LLC, (Octopus Movers 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 March 2023 and cited the Company for violations of critical 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 Octopus Movers obtains Commission approval of a safety management plan. The Notice directed Octopus Movers to file a proposed safety management plan by April 26, 2023. The Commission also set a brief adjudicative proceeding for May 10, 2023, at 1:30 p.m. to determine whether the Commission should cancel the Company's household goods carrier permit.
- 3 On April 4, 2023, the Commission assessed an \$800 penalty (Penalty Assessment) against Octopus Movers for eight violations of 49 C.F.R. § 395.8(a)(1), failing to require its driver to complete a record of duty status.
- 4 On April 10, 2023, Octopus Movers paid the \$800 penalty in full.
- 5 On May 4, 2023, the Company filed a proposed safety management plan and signed waiver of hearing.
- 6 On May 5, 2023, Staff filed with the Commission its evaluation of the Company's safety management plan (Evaluation). 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 upgrade the Company's safety rating to satisfactory.

DISCUSSION AND DECISION

- 7 Washington Law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Staff's compliance review of Octopus Movers found violations of a critical regulation, 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.
- 8 On May 4, 2023, Octopus Movers submitted its proposed safety management plan and requested the Commission allow it to maintain its household goods permit.
- 9 On May 5, 2023, Staff filed its Evaluation of the Company's proposed safety management plan. 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.
- 10 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 and upgrade the Company's safety rating to satisfactory.

FINDINGS AND CONCLUSIONS

- 11 (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.

- 12 (2) Octopus Movers is a household goods carrier subject to Commission regulation.
- 13 (3) Octopus Movers cured the deficiencies that led to the proposed conditional safety rating. Accordingly, Octopus Movers' safety rating should be upgraded to satisfactory, and the Company should be allowed to maintain its household goods carrier permit.

ORDER

THE COMMISSION ORDERS THAT:

- 14 (1) The Commission approves Octopus Movers Services, LLC's, safety management plan.
- 15 (2) Octopus Movers Services, LLC's, safety rating is upgraded to satisfactory.
- 16 (3) The Brief Adjudicative Proceeding scheduled for May 10, 2023, is canceled.

DATED at Lacey, Washington, and effective May 8, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Rayne Pearson
RAYNE PEARSON
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 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).