



TV-220659

STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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UTIL. AND TRANSP.
COMMISSION

10/18/22 08:29

Received
Records Management

Date: October 18, 2022

To: Samantha Doyle, Administrative Law Judge, Administrative Law Division

From: Jason Sharp, Motor Carrier Safety Supervisor, Transportation Safety Division

Re: **TV-220659 Tetris Moving Company LLC**
Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods operating authority (THG-067790)

On August 30, 2022, Commission staff (Staff) completed a routine safety investigation of Tetris Moving Company LLC, (Tetris Moving or Company) which resulted in a proposed conditional safety rating.

Provisional household goods companies must achieve a satisfactory safety rating prior to receiving permanent status. As the Company has yet to achieve a satisfactory safety rating, the Commission afforded Tetris Moving the same opportunity as companies that receive a proposed unsatisfactory safety rating to provide evidence, in the form of an approved safety management plan (SMP), showing that the company took corrective action to address the identified violations.

Commission rules prohibit motor carriers from operating beginning on the 61st day after the date of the notice of a proposed unsatisfactory rating. A company may request a change in its safety rating based on evidence that it has taken corrective actions to address the identified violations, and that its operations currently meet the safety standard and factors in 49 C.F.R. § 385.5 and 385.7. In this case, Tetris Moving has until October 28, 2022, to come into compliance with applicable laws and rules by obtaining Commission approval of a safety management plan.

The proposed conditional safety rating was based on four violations of acute and critical regulations – WAC 480-15-530, WAC 480-15-550, WAC 480-15-555, and 49 C.F.R. § 395.8(a)(1).

“**Acute**” violations are those identified as such where non-compliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier.

“**Critical**” regulations are those identified as such where non-compliance relates to management and operational controls. These are indicative of breakdowns in a company's management controls. Patterns of non-compliance with a critical regulation are linked to inadequate safety management controls and higher than average accident rates.

Acute and critical violations discovered during investigation:

1. Fifteen violations of WAC 480-15-530 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage. (Acute)
2. Fifteen violations of WAC 480-15-550 – Operating a commercial motor vehicle (CMV) without having adequate cargo insurance coverage. (Acute)
3. Three violations of WAC 480-15-555 – Failing to complete a criminal background check for every person the carrier intends to hire. (Critical)
4. Fifty-eight violations of Title 49 C.F.R. § 395.8(a)(1) – Failing to require a driver to prepare a record of duty status. (Critical)

On September 13, 2022, the Commission issued a penalty assessment against Tetris Moving in the amount of \$3,500 because of violations discovered during the safety investigation. The penalty includes:

1. A \$1,500 penalty for fifteen violations of WAC 480-15-530 for operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.
2. A \$1,500 penalty for fifteen violations of WAC 480-15-550 for operating a CMV without having adequate cargo insurance coverage.
3. A \$300 penalty for three violations of WAC 480-15-555 for failing to complete a criminal background check for every person the carrier intends to hire.
4. A \$100 penalty for one violation of 49 C.F.R. § 393.41 for no or defective parking brake system on CMV.
5. A \$100 penalty for 58 violations of 49 C.F.R. § 395.8(a)(1) for failing to require a driver to prepare a record of duty status.

In a September 15, 2022, Notice of Intent to Cancel, the Commission instructed Tetris Moving to submit its proposed safety management plan no later than October 3, 2022.

On October 15, 2022, Tetris Moving filed with the Commission its application for mitigation of penalties. In the request for mitigation, the Company admitted to the violations, stated that it had implemented corrective actions, and requested the penalty be reduced.

On October 15, 2022, Tetris Moving submitted a safety management plan addressing each violation noted during the investigation. Staff only recommends approving a safety management plan that addresses the following seven items:

1. The plan must address each acute, critical, or serious violation discovered during the most recent investigation. It must also include corrective actions that address other violations noted during the investigation.
2. Identify why the violations were permitted to occur.
3. Discuss the actions taken to correct the deficiency or deficiencies that allowed the violations to occur. Include actual documentation of this corrective action.

4. Outline actions taken to ensure that similar violations do not reoccur in the future. The plan must demonstrate that the company's operations currently meet the safety standard and factors specified in 49 C.F.R. § 385.5 and 385.7. To do so, the plan must demonstrate the company now has adequate safety management controls in place which function effectively to ensure acceptable compliance with applicable safety requirements.
5. If the request includes actions that will be conducted in the near future, such as training, reorganization of departments, purchasing of computer programs, etc., companies must include a detailed description of the activity or training and a schedule of when that activity will commence and when it will be completed.
6. Include any additional documentation relating to motor carrier safety and the prevention of crashes that the company believes supports its request.
7. Include a written statement certifying the company will operate within federal and state regulations and the company's operation currently meets the safety standard and factors specific in 49 C.F.R. § 385.5 and 385.7. A corporate officer, partner, or the owner of the company must sign the statement.

On October 17, 2022, a Waiver of Hearing letter was submitted to the docket by Ashley Rayl, on behalf of the Company.

Summary and Recommendations

Staff reviewed Tetris Moving's safety management plan and determined it is acceptable and meets the requirements of 49 C.F.R. § 385. The plan demonstrates that the Company has taken appropriate action to develop a compliant safety program and implemented a system, that if followed, should prevent future repeat violations.

Documentation of insurance, driver qualifications, maintenance, hours of service records, U.S. Department of Transportation registration records, and criminal background documents were included in the plan.

The Company took all the required steps to bring its safety operations into compliance with Commission regulations. Tetris Moving submitted a safety management plan that addresses each violation, identifies how the violations occurred, describes the steps taken to correct them, and put controls in place to ensure the Company maintains compliance.

With the acceptance of the safety management plan, Staff recommends the Commission: (1) not cancel Tetris Moving's provisional permit, (2) maintain the Company's conditional safety rating, and (3) extend the provisional operating authority for good cause, until such a time that the Company receives a satisfactory safety rating, or the Commission finds good cause to cancel Tetris Moving's operating authority.

In response to the application for mitigation, the Company corrected each violation and took steps to prevent future occurrences. Staff recommends reducing the assessed penalty of \$3,500 to \$2,000.

Staff has verified with the Company that it waives its right to a hearing and is recommending that the Brief Adjudicative Proceeding scheduled for October 17, 2022, be cancelled.

