

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
STAFF RESPONSE TO BENCH REQUEST

DATE PREPARED: January 12, 2024	WITNESS: Jason Sharp
DOCKET: TV-231020	RESPONDER: Jason Sharp
REQUESTER: Bench	TELEPHONE: 360-701-1603

BENCH REQUEST NO. 1:

On December 28, 2023, the Washington Utilities and Transportation (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 Marsik Movers LLC (Marsik Movers or Company).

This proceeding is related to WAC 480-15-999(1)(2), which incorporates by reference the federal safety requirements found in Title 49 of the CFR. Under the federal register, companies which are found to have deficient safety ratings may (1) challenge the rating on appeal, *see* 49 CFR 385.15; or (2) request a rating change, *see* 49 CFR 385.17. A carrier which chooses the latter must demonstrate corrective actions were taken to bring safety practices into compliance. *Id.* The carrier must also provide evidence that “its operations currently meet the safety standard and factors specified in §§ 385.5 and 385.7.” *Id.*

Further, under WAC 480-15-305(1)(b), in order to extend a company’s provisional authority beyond 18 months, the Commission must find “good cause” that the Company is “making substantial progress toward a satisfactory rating.” *But c.f.* 49 CFR §385.17(g) (limiting time period of extensions); 49 CFR § 385.323 (limiting time period of extensions). As a matter of Commission practice, these findings are generally made upon submission of a Safety Management Plan (SMP) by the Company to Staff and Staff’s subsequent evaluation of the SMP filed to the docket. The current proceeding is the third time the Company has engaged in this process.

On February 9, 2024, Commission staff (Staff) filed its Evaluation of a Safety Management Plan (Evaluation) in this Docket. In separate correspondence with the presiding officer, Staff indicated that Exhibit JS-1 at page 5 contained the total number of miles driven by the Company under its provisional authority.

In order to aid in the wholistic analysis of whether “good cause” exists to extend, please provide the following:

1. A pdf copy of Schedule 1 from each of the final annual reports submitted by Marsik Movers since it began operation.
2. A summation of the miles tracked in the Schedule 1s.
3. An explanation of the “Total Miles Operated” on page 5 of JS-1.
4. A summation of the total recordable accidents in the Schedule 1s.
5. An explanation of the “Recordable Accidents” on page 5 of JS-1.

6. An explanation of the calculation of Factor 6 on page 15 of JS-1; indicate if page 6 of the submitted SMP is relevant to this calculation.
7. If any, please indicate the date of the last safety inspection passed by the Company.

RESPONSE:

On February 9, 2024, Commission staff (Staff) filed its evaluation of Marsik Movers LLC’s (Marsik Movers or Company) safety management plan (SMP) in Docket TV-231020.

On February 9, 2024, the Administrative Law Judge assigned to this docket issued Bench Request No. 1 seeking additional information related to Marsik Movers’ operations as a provisional household goods mover in Washington State.

Staff’s response to Judge Hughes’s request is itemized as follows:

1. A pdf of Schedule 1 is attached as Attachment A.
2. The table below illustrates the total operating miles traveled during each of the four preceding calendar years, as reported by Marsik Movers’ Schedule 1s.

Year	Miles Traveled per year
2019	1,430
2020	50,140
2021	35,000
2022	45,000

3. “Total Miles Operated” refers to all mileage driven by company vehicles during a calendar year. Marsik Movers reported in each year of operation between 2019 and 2022 that all miles operated were UTC-regulated intrastate miles.
4. The table below illustrates the total number of recordable accidents during each of the four preceding calendar years, as reported by Marsik Movers’ Schedule 1s. Note the “Recordable Accident” listed on page 5 of JS-1 is for calendar year 2023 and should be included on the Company’s 2023 Annual Report, due in May 2024.

Year	Miles Traveled per year
2019	0
2020	0
2021	0
2022	2

5. During the course of the safety investigation, Staff discovered that Marsik Movers had been involved in one recordable accident during the 365 days preceding the start of the investigation on November 16, 2023.

An accident is an occurrence involving a commercial motor vehicle operating on a highway in interstate or intrastate commerce, which results in:

- A fatality (any injury which results in the death of a person at the time of the motor vehicle accident or within 30 days of the accident)
- Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident.
- One of more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

On May 19, 2023, Marsik Movers was involved in a single vehicle accident that resulted in the vehicle requiring a tow.

6. Factor 6 covers the Company's Recordable Accident Rate. This factor was not used in the calculation of Marsik Movers' proposed conditional safety rating. The recordable accident rate covers all accidents that occur within the 12 months immediately preceding the start of the investigation. This calculation will only be used in the overall safety rating calculation when a motor carrier incurs two or more recordable accidents within the 12 months prior to the safety investigation.¹

When applicable, this factor is calculated by multiplying the motor carrier's number of recordable interstate and intrastate accidents in the previous 12 months by 1,000,000. This number is then divided by the motor carrier's fleet mileage during the previous 12 months.

Page 6 of Marsik Movers' SMP addresses the correction of maintaining the required accident information on the company's accident register. At the time the investigation began, this information was not present on the company's accident register. This paperwork correction does not factor into the Marsik Movers' safety rating as it is neither an acute or critical violation.

7. Staff has performed three safety investigations as part of Marsik Movers' provisional period as a household goods mover. Each investigation has resulted in a conditional safety rating. The Company has not had an interstate safety investigation.

¹ 49 C.F.R. § 385, Appendix B(II)(B)(d).

2019

SCHEDULE 1
Vehicle and Mileage Information

Driver and Vehicle Information	
Indicate the number of drivers and vehicles used in UTC regulated operations. If not applicable, enter zero.	
Drivers employed	1
Total vehicles operated	1
Total vehicles owned	1
Total vehicles leased	0
Total vehicles under 10,000 lbs. (gvw rating)	0

Agent Operations	
Do you operate as the agent of an interstate carrier?	<i>Enter Yes or No:</i> No
If yes , what is the name of the carrier:	
DO NOT report interstate operating miles driven while acting as an agent. <i>If not applicable, enter zero.</i>	

Interstate Operations	
Do you have interstate operating authority?	<i>Enter Yes or No:</i> No
If yes , list your MC#:	
NOTE: If you have interstate operating authority, you must report interstate operating miles, <i>even if zero.</i>	

Total Operating Miles	
Instructions	
<ul style="list-style-type: none"> - Report all miles driven by company vehicles. - Intrastate miles are all miles driven where both the start and end points were within Washington. - Interstate miles are all miles driven where the start and/or end point of the trip were outside Washington. - Do NOT Report Interstate operating miles driven while acting as an Agent. - Do not leave blank - If not applicable, enter 0. 	
UTC-Regulated Intrastate Miles	1,430
Interstate Miles	0

Recordable Intrastate and Interstate Accidents		
Instructions		
<ul style="list-style-type: none"> - Report accidents by incident occurrence, i.e., if there were two disabled vehicles requiring towing in one accident, report only the one accident occurrence. - Number of recordable accidents IS NOT a total of other categories; record the number of accidents that occurred. - Do not leave blank - If not applicable, enter 0. 		
Recordable Accidents	UTC-Regulated Intrastate	Interstate
A fatality	0	0
An injury to a person requiring immediate treatment away from the scene of the accident	0	0
Disabling damage to a vehicle, requiring it to be towed from the accident scene	0	0
Number of recordable accidents	0	0

2020

SCHEDULE 1
Vehicle and Mileage Information

Driver and Vehicle Information	
Indicate the number of drivers and vehicles used in UTC regulated operations. <i>If not applicable, enter 0.</i>	
Drivers employed	2
Total vehicles operated	2
Total vehicles owned	2
Total vehicles leased	0
Total vehicles under 10,000 lbs. (gvw rating)	0

Agent Operations	
Do you operate as the agent of an interstate carrier?	<i>Enter Yes or No:</i> No
If yes , what is the name of the carrier:	
Do not report interstate operating miles driven while acting as an agent. <i>If not applicable, enter zero.</i>	

Interstate Operations	
Do you have interstate operating authority?	<i>Enter Yes or No:</i> No
If yes , list your MC#:	
NOTE: If you have interstate operating authority, you must report interstate operating miles, <i>even if 0.</i>	

Total Operating Miles	
Instructions	
<ul style="list-style-type: none"> - Report all miles driven by company vehicles. - Intrastate miles are all miles driven where both the start and end points were within Washington. - Interstate miles are all miles driven where the start and/or end point of the trip were outside Washington. - Do not Report Interstate operating miles driven while acting as an Agent. - Do not leave blank fields - If not applicable, enter 0. 	
UTC-Regulated Intrastate Miles	50,140
Interstate Miles	0

Recordable Intrastate and Interstate Accidents	
Instructions	
<p>- Report only accidents that meet one or more of the three criteria below.</p> <p><u>Here is how this schedule should be completed.</u> For recordable accidents, the accident should include a fatality, an injury, or disabling damage. The number of recordable accidents is not a total of the other categories.</p> <p>Example: An accident that includes a fatality, an injury to a person requiring immediate treatment away from the scene, as well as disabling damage to a vehicle requiring it to be towed from the scene, you would enter 1 for each of those columns. It would still be recorded as 1 recordable accident, not 3.</p> <p>For more information about your company's recordable accidents, please visit the Safety Measurement System by clicking the link below, enter your U.S. DOT number and click the Crash Indicator link.</p> <p>- Do not leave fields blank - if not applicable, enter 0.</p>	

Safety Measurement System (dot.gov)	Click here to also review 49 Code of Federal Regulations (eCFR) §390.5	
Recordable Accidents	UTC-Regulated Intrastate	Interstate
A fatality	0	0
An injury to a person requiring immediate treatment away from the scene of the accident	0	0
Disabling damage to a vehicle, requiring it to be towed from the accident scene	0	0
Number of recordable accidents	0	0

SCHEDULE 1 Vehicle and Mileage Information

Driver and Vehicle Information

Indicate the number of drivers and vehicles used in UTC regulated operations. *If none, enter 0.*

Drivers employed	2
Total vehicles operated	2
Total vehicles owned	2
Total vehicles leased	0
Total vehicles under 10,000 lbs. (gvw rating)	0

Agent Operations

Do you operate as the agent of an interstate carrier?	<i>Enter Yes or No:</i>	No
If yes , what is the name of the carrier:		

Do not report interstate operating miles driven while acting as an agent.

Interstate Operations

Do you have interstate operating authority?	<i>Enter Yes or No:</i>	No
If yes , list your MC#:		

Total Operating Miles

Instructions

- Report all miles driven by company vehicles.
- **Intrastate** miles are all miles driven where both the start and end points were within Washington.
- **Interstate** miles are all miles driven where the start and/or end point of the trip were outside Washington.
- **NOTE:** If you have interstate operating authority, you must report interstate operating miles, even if 0.
- **Do not** Report Interstate operating miles driven while acting as an Agent.
- **Do not leave blank fields** - if none, enter 0.

UTC-Regulated Intrastate Miles	35,000
Interstate Miles	0

Recordable Intrastate and Interstate Accidents

Instructions

- Report only accidents that meet one or more of the three criteria below.

Here is how this schedule should be completed. For recordable accidents, the accident should include a fatality, an injury, or disabling damage. The number of recordable accidents **is not** a total of the other categories.

Example: An accident that includes a fatality, an injury to a person requiring immediate treatment away from the scene, as well as disabling damage to a vehicle requiring it to be towed from the scene, you would enter 1 for each of those columns. It would still be recorded as 1 recordable accident, not 3.

For more information about your company's recordable accidents, please visit the Safety Measurement System by clicking the link below, enter your U.S. DOT number and click the Crash Indicator link.

- **Do not leave fields blank** - if none, enter 0.

Safety Measurement System (dot.gov)	Click here to also review 49 Code of Federal Regulations (eCFR) §390.5 Definitions.	
Recordable Accidents	UTC-Regulated Intrastate	Interstate
A fatality	0	0
An injury to a person requiring immediate treatment away from the scene of the accident	0	0
Disabling damage to a vehicle, requiring it to be towed from the accident scene	0	0
Number of recordable accidents	0	0

2022

SCHEDULE 1
Vehicle and Mileage Information

Driver and Vehicle Information

Indicate the number of drivers and vehicles used in UTC regulated operations. If none, enter 0.

Drivers employed	1
Total vehicles operated	3
Total vehicles owned	3
Total vehicles leased	0
Total vehicles under 10,000 lbs. (gvw rating)	0

Agent Operations

Do you operate as the agent of an interstate carrier?	<i>Enter Yes or No:</i>	yes
If yes , what is the name of the carrier:	Ernest Moving and storage	
Do not report interstate operating miles driven while acting as an agent.		

Interstate Operations

Do you have interstate operating authority?	<i>Enter Yes or No:</i>	NO
If yes , list your MC#:		

Total Operating Miles

Instructions

- Report all miles driven by company vehicles.
- **Intrastate** miles are all miles driven where both the start and end points were within Washington.
- **Interstate** miles are all miles driven where the start and/or end point of the trip were outside Washington.
- **NOTE:** If you have interstate operating authority, you must report interstate operating miles, even if 0.
- **Do not** Report Interstate operating miles driven while acting as an Agent.
- **Do not leave blank fields** - If none, enter 0.

UTC-Regulated Intrastate Miles	45,000
Interstate Miles	0

Recordable Intrastate and Interstate Accidents

Instructions

- Report only accidents that meet one or more of the three criteria below.

Here is how this schedule should be completed. For recordable accidents, the accident should include a fatality, an injury, or disabling damage. The number of recordable accidents **is not** a total of the other categories.

Example: An accident that includes a fatality, an injury to a person requiring immediate treatment away from the scene, as well as disabling damage to a vehicle requiring it to be towed from the scene, you would enter 1 for each of those columns. It would still be recorded as 1 recordable accident, not 3.

For more information about your company's recordable accidents, please visit the Safety Measurement System by clicking the link below, enter your U.S. DOT number and click the Crash Indicator link.

- **Do not leave fields blank** - if none, enter 0.

Safety Measurement System (dot.gov)	Click here to also review 49 Code of Federal Regulations (eCFR) §390.5 Definitions.	
Recordable Accidents	UTC-Regulated Intrastate	Interstate
A fatality	0	0
An injury to a person requiring immediate treatment away from the scene of the accident	0	0
Disabling damage to a vehicle, requiring it to be towed from the accident scene	1	0
Number of recordable accidents	2	0