



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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Date: May 20, 2024

To: Bijan Hughes, Administrative Law Judge, Administrative Law Division

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

Re: **TV-240223 Let's Move LLC**

Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of household goods mover operating authority (THG-070281)

On March 28, 2024, Commission staff (Staff) completed a routine safety investigation of Let's Move LLC, (Let's Move or Company) which resulted in a proposed unsatisfactory safety rating.

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, Let's Move has until May 27, 2024, to come into compliance with applicable laws and rules by obtaining Commission approval of a safety management plan (SMP).

The proposed unsatisfactory safety rating was based on four violations of critical regulations – 49 C.F.R. § 391.45(a), 391.51(a), 395.8(a)(1), and WAC 480-15-555.

“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.

Critical violations discovered during investigation:

1. Three critical violations of 49 C.F.R. § 391.45(a), with 56 occurrences identified, for using a driver not medically examined and certified.

2. Two critical violations of 49 C.F.R. § 391.51(a) for failing to maintain a driver qualification file for each driver employed.
3. Sixty critical violations of 49 C.F.R. § 395.8(a)(1) for failing to require driver to make a record of duty status.
4. Four critical violations of WAC 480-15-555 for failure to complete a criminal background check for every person the carrier intends to hire.

In an April 17, 2024, Notice of Intent to Cancel, the Commission instructed Let's Move to submit its proposed SMP no later than May 7, 2024.

On April 21, 2024, Let's Move submitted an initial SMP for staff review.

On April 24, 2024, Staff notified Let's Move that its SMP was not accepted and provided detailed information as to where the plan was deficient.

On April 24, 2024, the Commission issued a penalty assessment against Let's Move in the amount of \$6,300 because of violations discovered during the safety investigation. The penalty was calculated as follows:

1. A \$400 penalty for four violations of WAC 480-15-555 for failure to complete a criminal background check for every person the carrier intends to hire.
2. A \$5,600 penalty for 56 violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified.
3. A \$100 penalty for two violations of 49 C.F.R. § 391.51(a) for failing to maintain driver qualification file on each driver employed.
4. A \$100 penalty for 60 violations of 49 C.F.R. § 395.8(a)(1) for failing to require driver to make a record of duty status.
5. A \$100 penalty for one violation of 49 C.F.R. § 396.17(a) for using a commercial motor vehicle not periodically inspected.

On May 7, 2024, the Company filed its response to the penalty assessment, admitting the violations, and requesting that the penalties be mitigated. In the application for mitigation, the Company did not request a hearing, but rather requested the Commission decide based solely on information that it provided.

On May 15, 2024, Let's Move submitted a SMP addressing each violation noted during the investigation. Staff reviewed the SMP to ensure that it addressed the following seven requirement:

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 May 17, 2024, Let's Move submitted a "Waiver of Hearing" letter to this docket.

Summary and Recommendations

Staff reviewed Let's Move's SMP and concludes it meets the legal requirements of 49 C.F.R. § 385. The plan demonstrates that the Company has taken corrective action to develop a compliant safety program and implemented systems that if followed, should prevent future repeat violations.

Documentation of driver qualifications, vehicle maintenance, hours of service records, and criminal background documents were included in the plan. The SMP states that the Company has submitted its MCS-150 biennial update report to the Federal Motor Carrier Safety Administration, though that update has yet to post to Let's Move's profile as of this evaluation. Additionally, the plan contains calendar reminders for future compliance due dates.

The Company took the required steps to bring its safety operations into compliance with Commission regulations. Let's Move submitted a SMP that addresses each violation, identifies how the violations occurred, describes the steps the Company took to correct the violations, and

put controls in place to ensure the Company maintains compliance. Staff recommends the Commission:

1. Not cancel Let's Move's provisional permit;
2. Upgrade the proposed unsatisfactory safety rating to conditional; and
3. Extend the Company's provisional period until such a time that Let's Move achieves a satisfactory safety rating, or the Commission finds good cause to cancel the Company's operating authority.

In response to the Company's mitigation request, Let's Move states that it did not receive technical assistance prior to being penalized by the Commission and that violations were unintentional based on ignorance of these regulatory requirements. Prior to initiating the safety investigation, Staff verified using Commission records that Vincent Benedetto, co-owner of Let's Move, received technical assistance by completing Commission sponsored household goods training on April 3, 2022. Each of the regulations that resulted in enforcement are covered during this training session. Staff did not find that Let's Move intentionally violated Commission rules, however the Company has the responsibility to understand and comply with applicable regulations, and either knew or should have known about these requirements. With that stated, Staff acknowledges that the Company was cooperative throughout the safety investigation, provided staff with evidence that it corrected these first-time violations, and implemented procedures to prevent future occurrences. Staff recommends that the \$6,300 assessed penalty be reduced to \$3,300. Further, Staff recommends \$1,650 of the reduced penalty be suspended for two years and then waived, with the following conditions:

1. Let's Move maintains a conditional safety rating;
2. Staff perform a follow-up safety investigation at least six months from the date of the order;
3. The Company does not incur repeat critical violations upon reinspection; and
4. Let's Move pays the \$1,650 that is not suspended

Staff has verified with the Company that it waives its right to a hearing and is recommending that the Brief Adjudicative Proceeding scheduled for May 21, 2024, be cancelled.