

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of  FOUR SEASONS MOVING & STORAGE LLC,  For Compliance with WAC 480-15- 560 and WAC 480-15-570.	DOCKET TV-220338  ORDER 01  APPROVING SAFETY MANAGEMENT PLAN; EXTENDING PROVISIONAL PERIOD; IMPOSING AND SUSPENDING PENALTIES
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**BACKGROUND**

- 1 On May 26, 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 Four Seasons Moving & Storage LLC (Four Seasons or Company) for compliance with Washington Administrative Code (WAC) 480-15 (Notice). The Notice set a hearing for June 22, 2022.
- 2 The Notice explained that on May 11, 2022, Commission staff (Staff) completed an investigation of the Company's compliance with the safety requirements in WAC 480-15. As a result of the compliance investigation, Staff documented 37 acute or critical safety requirement violations and proposed an unsatisfactory safety rating for the Company. Staff notified the Company of this proposed rating on May 11, 2022.
- 3 The Notice indicated that Four Seasons must come into compliance with applicable laws by obtaining Commission approval of a safety management plan no later than July 8, 2022. If the Company fails to come into compliance by that date, the Notice indicated that the Commission will cancel its household goods carrier permit effective July 11, 2022.
- 4 On June 9, 2022, the Commission issued a Penalty Assessment against Four Seasons in the amount of \$1,600 in this Docket as a result of violations discovered during the safety investigation (Penalty Assessment). The violations and associated penalty amounts include:
  - A \$100 penalty for one violation of WAC 480-15-550 for operating a commercial motor vehicle (CMV) without having adequate cargo insurance coverage.

- A \$400 penalty for four violations of WAC 480-15-555 for failing to conduct or retain paperwork containing criminal background checks or hiring an individual with a disqualifying conviction for a household goods carrier in the state of Washington.
- A \$600 penalty for two violations of 49 Code of Federal Regulations (C.F.R.) § 391.45(a) for using a driver not medically examined and certified.
- A \$100 penalty for two violations of 49 C.F.R. § 391.51(b)(2) because two driver investigation history files were missing a copy of the response from each state agency concerning the driver's driving record pursuant to 49 C.F.R. § 391.23(a)(1).
- A \$100 penalty for 28 violations of 49 C.F.R. § 395.8(a)(1) for failing to require driver to make a record of duty status.
- A \$200 penalty for two violations of 49 C.F.R. § 395.8(e) for false or inaccurate reports of record of duty status.
- A \$100 penalty for two violations of 49 C.F.R. § 396.3(b) for failing to keep minimum records of inspection and vehicle maintenance.

5 On June 21, 2022, the Company filed with the Commission an application for mitigation of penalties (Mitigation Request). In the Mitigation Request, the Company admitted the violations and requested that the Commission reduce the penalty.

6 Also on June 21, 2022, the Company submitted a safety management plan (Safety Management Plan) to Staff that addressed each of the violations cited in Staff's investigation.

7 Also on June 21, 2022, Staff submitted its evaluation of the Safety Management Plan and notified the Commission that the Company waived its right to a hearing. The Commission subsequently issued a notice canceling the brief adjudicative proceeding.

8 On June 22, 2022, Staff submitted an Amended Safety Management Plan (Amended Evaluation). In the Amended Evaluation, Staff states that it believes the Safety Management Plan is acceptable and meets the requirements of 49 C.F.R. § 385. Staff notes that the Company took all the required steps to bring its safety operations into compliance with Commission regulations. The Safety Management Plan 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.

Accordingly, Staff recommends the Commission accept the Safety Management Plan, upgrade the Company's safety rating to conditional, and extend its provisional operating authority for good cause until such a time that the Company receives a satisfactory safety rating. Staff further recommends that the Commission assess a reduced penalty of \$1,000. Finally, Staff recommends the Commission suspend a \$500 portion of the penalty for a period of two years, and then waive it, subject to the following conditions: (1) Staff must conduct a follow-up safety investigation at least six months from the effective date of this Order; (2) the Company must not incur any repeat acute or critical violations upon re-inspection; (3) the Company must maintain a conditional safety rating; and (4) the Company must pay the \$500 portion of the penalty that is not suspended.

### DISCUSSION AND DECISION

- 9 **Four Seasons' safety rating and operating authority.** Washington Law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Staff conducted a safety inspection in April and May 2022 and found 68 violations of these requirements, including 37 acute and critical violations. The Company subsequently submitted its Safety Management Plan addressing these violations.
- 10 Staff evaluated the Safety Management Plan and found that it identifies how each violation occurred, describes the steps taken to correct each violation, and describes the controls the Company has put in place to ensure compliance going forward. Staff concludes that the Safety Management Plan is acceptable and satisfies applicable legal requirements. We agree with Staff's conclusions.
- 11 Based on Staff's Amended Evaluation, the Commission approves the Company's Safety Management Plan and accepts Staff's proposed conditional safety rating for the Company.
- 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

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

13 **Penalty Assessment.** Violations discovered during safety inspections are subject to penalties of \$100 per violation.<sup>1</sup> In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.<sup>2</sup> Acute and critical violations meet this standard.<sup>3</sup>

14 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company's compliance.<sup>4</sup>

15 Here, Staff recommends the Commission assess a reduced penalty of \$1,000. We agree with Staff's recommendation. The Company provided a comprehensive safety management plan that details the steps it has taken to bring its operations into compliance with applicable regulations. The safety management plan includes documentation of driver qualifications, vehicle maintenance, leasing, insurance, motor carrier registration, criminal background, and hours of service records. Accordingly, we are satisfied that Four Seasons has cured the violations that gave rise to the Penalty Assessment and has put adequate controls in place to prevent the violations from reoccurring.

16 **Suspended Penalty.** The Commission considers several factors in determining whether to suspend a portion of a penalty, including whether it is a first-time penalty for the same or similar violations, and whether the company has taken specific actions to remedy the violations and avoid the same or similar violations in the future, such as purchasing new technology, making system changes, or training company personnel.<sup>5</sup> Another factor we consider is whether the company agrees to a specific compliance plan that will guarantee future compliance in exchange for suspended penalties.<sup>6</sup>

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<sup>1</sup> See RCW 80.04.405.

<sup>2</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

<sup>3</sup> 49 C.F.R. § 385, Appendix B.

<sup>4</sup> Enforcement Policy ¶19.

<sup>5</sup> *Id.* at ¶20.

<sup>6</sup> *Id.*

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In this case, the Company has taken action to cure the violations and prevent each of the violations from reoccurring. Suspending a portion of the penalty with the conditions proposed by Staff will both increase compliance and provide a strong incentive to avoid violations in the future. Accordingly, we agree with Staff's recommendation and suspend a \$500 portion of the penalty for a period of two years and then will waive it if the Company complies with the following conditions:

- a) Four Seasons must maintain a conditional safety rating;
- b) Staff must conduct a follow-up investigation at least six months from the effective date of this Order;
- c) Four Seasons may not incur any repeat acute or critical violations of WAC 480-15 upon re-inspection; and
- d) Four Seasons must pay the remaining \$500 of the penalty that is not suspended within 10 days of the effective date of this Order.

#### **FINDINGS AND CONCLUSIONS**

- (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.
- (2) Four Seasons is a household goods carrier subject to Commission regulation.
- (3) Four Seasons committed 68 violations of chapter 480-15 WAC, including incorporated federal regulations.
- (4) Four Seasons corrected the violations identified in the April and May 2022 safety investigation. Accordingly, the Commission should give Four Seasons a conditional safety rating.
- (5) Pursuant to WAC 480-15-305(1)(b), the Commission should find good cause to extend Four Seasons' provisional period until the earlier of the following: (a) the Company achieves a satisfactory safety rating and permanent operating authority or (b) the Commission finds good cause to cancel the Company's operating authority.
- (6) The Commission should penalize Four Seasons \$1,000 for 68 violations of Chapter 480-15 WAC and Title 49 C.F.R. The Commission should suspend a \$500 portion of this penalty for two years and then waive it if the Company complies with the conditions set out in paragraph 17, above.

**ORDER**

**THE COMMISSION ORDERS:**

- (1) The Commission approves Four Seasons Moving & Storage LLC's Safety Management Plan.
- (2) The Commission sets Four Seasons Moving & Storage LLC's safety rating as conditional.
- (3) The Commission extends Four Seasons Moving & Storage LLC's provisional period until the earlier of the following: (a) Four Seasons Moving & Storage LLC achieves a satisfactory safety rating and permanent operating authority or (b) the Commission finds good cause to cancel Four Seasons Moving & Storage LLC's operating authority.
- (4) The Commission assesses a \$1,000 penalty against Four Seasons Moving & Storage LLC. The Commission suspends a \$500 portion of the penalty for a period of two years, and then waives it if Four Seasons Moving & Storage LLC complies with the conditions set out in paragraph 17, above.
- (5) Four Seasons Moving & Storage LLC must pay the \$500 portion of the penalty that is not suspended within 10 days of the effective date of this order.

Dated at Lacey, Washington, and effective July 5, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Gregory J. Kopta*  
GREGORY J. KOPTA  
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 twenty-one (21) days after the entry of this Initial Order to file a *Petition for Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-610(7)(b). WAC 480-07-610(7)(c) states that any party may file a *Response* to a Petition for review within seven (7) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) 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 fails to 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). Any Petition or Response filed must also be electronically served on each party of record as required by WAC 480-07-140(1)(b).