

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>In the Matter of the Investigation of</p> <p>DOOR TO DOOR MOVING LLC</p> <p>For Compliance with WAC 480-15-560 and WAC 480-15-555</p>	<p>DOCKET TV-230957</p> <p>ORDER 01</p> <p>APPROVING SAFETY MANAGEMENT PLAN; EXTENDING PROVISIONAL PERIOD SUBJECT TO CONDITIONS</p>
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BACKGROUND

- 1 On December 4, 2023, the Washington Utilities and Transportation Commission (Commission) issued a Penalty Assessment (Penalty Assessment) against Door to Door Moving, LLC., (Door to Door Moving or Company) in the amount of \$1,200. The Penalty Assessment documented violations of WAC chapter 480-15 and adopted provisions of Title 49 of the Code of Federal Regulations.
- 2 That same day, the Commission issued a Notice of Intent to Cancel; Notice of Brief Adjudicative Proceeding; Setting Time for Oral Statements (NOIC) against Door to Door Moving. The NOIC, among other things, scheduled a brief adjudicative proceeding (BAP) for January 10, 2024. The NOIC also required the Company to obtain Commission approval of its Safety Management Plan (SMP) by January 19, 2024.
- 3 On December 11, 2023, the Company filed a partially completed application for mitigation, admitting the violations of WAC 480-15-555 noted in the Penalty Assessment, expressing contrition for the errors; and promising to improve.
- 4 On January 4, 2024, the Company submitted a waiver of hearing and admitted to all of the violations alleged in the NOIC.
- 5 That same day, Commission staff (Staff)¹ submitted its evaluation of Door to Door Moving’ proposed SMP. Staff notes that earlier on November 20, 2023, it completed a

¹ In formal proceedings such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

routine safety investigation of Door to Door Moving that resulted in a proposed conditional safety rating. The proposed conditional safety rating was based on forty-one violations of safety regulations – Washington Administrative Code (WAC) 480-15-555(1), 49 CFR § 395.45(a), 49 CFR § 395.51(a), 49 CFR § 395.8(a)(1), 49 CFR § 395(b), and 49 CFR § 395.17(a). Pursuant to 49 CFR § 385.17, a carrier that receives a conditional or unsatisfactory rating must take corrective action and request a change of safety ratings within 61 days of a conditional or unsatisfactory rating, or cease operations.

6 Staff proffers that the Company’s SMP, submitted on January 4, 2023, is acceptable and meets the requirements of 49 C.F.R. part 385. Documentation of driver qualifications, hours of service records, inspector reports, calendar notices, and criminal background checks were included in the plan. Staff submits that the Company took the required steps to bring its safety operations into compliance with Commission regulations.

7 Staff therefore recommends the following:

- The Commission does not cancel Door to Door Moving’s provisional permit;
- The Commission suspends half of the assessed penalty for two years, at which point it would be waived, provided that Company,
 - i. Maintains the safety rating of conditional; and
 - ii. Does not incur repeat violations of critical regulations upon reinspection.
- The Commission extends the Company’s provisional period until such a time that Door to Door Moving achieves a satisfactory safety rating, or the Commission finds good cause to cancel the Company’s operating authority.

8 On January 5, 2024, the Commission cancelled the hearing by notice, and indicated that this matter would be decided on a paper record

9 That same day, the Commission issued a Bench Request for the SMP, and Staff filed its response to the Bench Request including the SMP on January 9, 2024.

DISCUSSION

10 Washington Law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Staff’s November 2023 compliance review of Door to Door Moving found forty-one violations of safety regulations, which resulted in a proposed conditional safety rating. We rule on whether the Company’s SMP should be approved and whether its provisional period should be extended for good cause.

- 11 On January 4, 2024, the Company submitted its updated SMP. Staff determined that Door to Door Moving's SMP addresses each violation, identified 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 Door to Door Moving's SMP is acceptable and satisfies the legal requirements of 49 CFR part 385. We have reviewed the underlying SMP, and we agree with Staff's recommendation. We note how the company specifically addressed the issues as follows:
- 12 The Company has admitted to one violation of WAC 480-15-555(1) for failing to complete a criminal background check for every person the carrier intended to hire. The Company's SMP notes controls put in place to prevent this, specifically, "[t]o stop this from happening again I have every new hire go to the checkr [sic] and fill out a background check form before they can be hired on."
- 13 The Company has admitted to seven violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified. The Company's SMP notes controls put in place to prevent this, specifically, "I have set up reminders each year for the medical examinations which is bi-annual."
- 14 The Company has admitted to one violation of 49 C.F.R. § 391.51(a) for failing to maintain driver qualification file on each driver employed. The Company's SMP notes controls put in place to prevent this, specifically, "[c]urrently I have updated all my files, as well as made a list of priorities needed in order to stay in compliance with any new driver that I decide to hire on."
- 15 The Company has admitted to thirty violations of 49 C.F.R. § 395.8(a)(1) for failing to require a driver to prepare a record of duty status using the appropriate method. The Company's SMP notes controls put in place to prevent this, specifically, "[t]o correct my mistake and resolve the issue I have since put a monthly check on the calendar as well as a quarterly check on a schedule to keep records to stay in compliance."
- 16 The Company has admitted to one violation of 49 C.F.R. § 396.3(b) for failing to keep minimum records of inspection and vehicle maintenance. The Company's SMP notes controls put in place to prevent this, specifically, "I have started on my own file and work with my mechanic on filling out the proper records. . . ."
- 17 The Company has admitted to one violation of 49 C.F.R. § 396.17(a) for using a commercial motor vehicle not periodically inspected. The Company's SMP notes controls put in place to prevent this, specifically, "I have personally scheduled on a calendar of my own a month before its laps to make sure that it stays up to date and I have enough time to schedule a visit."
- 18 Based on Staff's Evaluation and the Company's SMP, the Commission finds that the Company has cured identified compliance deficiencies with 49 C.F.R. part 385, 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 safety rating as conditional. The Commission declines to cancel the Company's permit and operating authority.

- 19 We also agree with Staff's recommendation to extend the Company's provisional period for its household goods operating authority. 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. In this case, Staff recommends that the Commission extend the Company's provisional period until such a time that Door to Door Moving achieves a satisfactory safety rating, or the Commission finds good cause to cancel the Company's operating authority.
- 20 Because the Company has admitted to the violations there would appear to be no outstanding controversy as to whether the violations occurred, such that the only remaining question is the appropriate amount of the penalty.
- 21 The Company has requested mitigation of some of the assessed \$1,200 penalty. Company admitted to the errors made and corrected them.
- 22 Staff recommends a resolution of this penalty, wherein \$600 of the assessed penalty is suspended for two years and then waived subject to the following conditions:
- Door to Door Moving maintains a conditional safety rating;
 - Staff performs a follow-up safety investigation at least six months from the date of the order;
 - The Company does not incur repeat critical violations upon reinspection; and
 - Door to Door Moving pay the non-suspended \$600 assessed penalty.
- 23 We agree with Staff's recommendation that mitigation is appropriate, given the corrective actions taken by Company.

FINDINGS AND CONCLUSIONS

- 24 (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.

- 25 (2) Door to Door Moving is a household goods carrier subject to Commission regulation.
- 26 (3) Door to Door Moving committed forty-one safety violations, described in paragraphs 12 through 17.
- 27 (4) Door to Door Moving cured the deficiencies that led to the conditional safety rating.
- 28 (5) Door to Door Moving' updated SMP submitted on January 4, 2024, should be approved, and the Company's provisional period should be extended subject to the conditions proposed by Staff, as noted in paragraph 7 of this Order.
- 29 (6) It is appropriate to suspend half of the \$1200 penalty assessed against Door to Door Moving, pursuant to the conditions in paragraph 22.

ORDER

THE COMMISSION ORDERS:

- 30 (1) The Commission approves Door to Door Moving, LLC's safety management plan.
- 31 (2) Door to Door Moving LLC's provisional period is extended subject to the conditions noted in paragraph 7 of this Order.
- 32 (3) Half of the \$1200 penalty will be suspended subject to the conditions noted in paragraph 22 of this Order. The remaining \$600 penalty shall be due within 10 days of the effective date of this Order.

DATED at Lacey, Washington, and effective January 19, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Bijan Hughes

Bijan Hughes

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).