

**In the Matter of the Investigation of: Marsik Movers,
LLC**

Docket No. TV-231020 - Vol. I

January 31, 2024



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the)
Investigation of)
) Docket TV-231020
MARSIK MOVERS, LLC,)
) PAGES 1-31
For Compliance with WAC)
480-14-300, WAC 480-15-560)
and WAC 480-15-590,)

BRIEF ADJUDICATIVE PROCEEDING - VOLUME I
The Honorable Bijan Hughes Presiding
January 31, 2024

TRANSCRIBED BY: Debra M. Moore, CCR

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A P P E A R A N C E S

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January 31, 2024

THE COURT: Good afternoon. Let's be on the record. The time is 1:30. This is Docket TV-231020. The -- which is the time which was set for the complaint today against Marsik Movers, LLC, which I may refer to as the Company during the hearing. Before us today is an assessment of penalty and the proposed cancellation of the Company's provisional permit of authority to operate as a household goods carrier.

My name is Bijan Hughes, and I'm an administrative law judge with the Washington Utilities and Transportation Commission. So let's start by taking short appearances. Staff?

MR. O'BRIEN: Good afternoon, Your Honor. My name is Colin O'Brien, assistant attorney general, appearing on behalf of Staff.

THE COURT: And the Company?

MR. FILIP: Good afternoon. This is Marcel Filip, the owner of Marsik Movers.

THE COURT: Marcel. Could you spell your name for the --

MR. FILIP: Marcel?

THE COURT: Yes.

1 MR. FILIP: M-A-R-C-E-L, F-I-L-I-P.

2 THE COURT: Great. So before we move to motions, I
3 want to begin today by briefly summarizing the
4 Company's history of compliance. And I intend to take
5 official notice of this information, all of which is
6 found in earlier dockets and filings. And I want to
7 start with this so that both parties have an
8 opportunity to respond during the course of the
9 hearing.

10 Then I'm going to list relevant questions I believe
11 we're here to answer. And I do this to provide clarity
12 as to, you know, what the standards which will be
13 applied in the order are.

14 So with that said, Marsik Movers, LLC, is a
15 Washington company engaging in business as a household
16 goods carrier. The Company currently holds
17 commission-issued Provisional Permit Number THG-068754
18 and U.S. DOT Number 3257682.

19 Approximately 55 months ago, the Company began
20 operations as a household good carrier on May 23rd,
21 2019, under a provisional permit of authority.
22 Approximately 21 months ago, in Dockets TV-220168 and
23 TV-220169, the commission found the Company committed
24 60 regulatory violations. Nonetheless, the Company
25 submitted a safety management plan, or an SMP, and the

1 commission extended the provisional authority for good
2 cause.

3 Approximately ten months ago, in Docket TV-230061,
4 the commission found Company had committed five
5 critical or acute regulatory violations. Nonetheless,
6 Company submitted an SMP, and the commission extended
7 the provisional authority for good cause, which brings
8 us to the present complaint, which is the result of the
9 latest safety inspection.

10 And so we're here today to determine three things:
11 One, did Marsik Movers violate the regulations
12 described in the complaint; two, is Marsik Movers
13 currently in compliance with safety standards as
14 required by 48 CFR 285.17, Subsection (c); and, three,
15 does good cause exist to extend Marsik Movers'
16 provisional authority.

17 And so with that context in mind, let us proceed. So
18 are there any motions? Staff?

19 MR. O'BRIEN: None at the moment, Your Honor.

20 THE COURT: Okay. Company?

21 MR. FILIP: Yes, I'm here.

22 THE COURT: Sorry. I was asking if you had any
23 motions, but --

24 MR. FILIP: Any motions? Like, I see, but I see just
25 two people active in this chat, like, three people.

1 Or -- or, I'm sorry, what was the question? Sorry.

2 THE COURT: Sorry. Would you -- would a language
3 access be helpful to you? I think we do have those
4 services. But I was asking if you had any motions or
5 things you wanted to ask the Court before we begin?

6 MR. FILIP: No, no, no, I'm good. I'm all good.
7 Like, I have -- like, I got notice of this, like,
8 last -- oh, my God. I'm sorry. I have emotions.
9 First -- like, you know, the first time on the camera.

10 Like, the last safety audit that I had with Tracy,
11 like, I got so many questions, and I got to answer as
12 well many things, what I have to do, like, on daily
13 basis and check most of the things. But, yeah, no
14 question for now.

15 THE COURT: Okay. Good.

16 MR. FILIP: Thank you.

17 THE COURT: So let's -- let's progress to the merits,
18 unless, Staff, you have, like, an opening statement, or
19 should we just swear in the witness?

20 MR. O'BRIEN: I think we can just move on to swearing
21 in witnesses, Your Honor.

22 THE COURT: Okay. So who -- could you present the
23 first witness then?

24 MR. O'BRIEN: Yes, Your Honor. First we'd like to
25 call Special Investigator Tracy Cobile.

1 THE COURT: Okay. Hi there. All right. So can you
2 raise your right hand. Do you swear or affirm that the
3 testimony that you give today will be the truth, the
4 whole truth, and nothing but the truth?

5 MS. COBILE: Yes.

6 THE COURT: Very good. All right. Please proceed,
7 Counselor.

8

9 TRACY COBILE: Witness herein, having first been
10 duly sworn on oath, was examined
11 and testified as follows:

12

13 D I R E C T E X A M I N A T I O N

14 BY MR. O'BRIEN:

15 Q. Good afternoon, Ms. Cobile. Would you please state
16 your name and spell your last name for the record?

17 A. Good afternoon. It's Tracy Cobile, C-O-B, as in boy,
18 I-L-E.

19 Q. And what is your current occupation?

20 A. I am a Special Investigator 3 with the Motor Carrier
21 Safety Program for the Washington Utilities and
22 Transportation Commission.

23 Q. And how long have you been in that position?

24 A. Three years.

25 Q. What are your responsibilities?

1 A. As a special investigator with the Motor Carrier Safety
2 Program for the commission, I conduct compliance
3 investigations on regulated transportation companies,
4 which includes inspecting the carrier's records and
5 physically inspecting the commercial motor vehicles in
6 their fleet.

7 Q. And what training or education have you received
8 relating to your role as an investigator?

9 A. I obtained my investigative safety analysis certificate
10 or certification from the Federal Motor Carrier Safety
11 Administration, and I am certified through the
12 Commercial Vehicle Safety Alliance to conduct
13 commercial vehicle inspections.

14 Prior to UTC, I served as a commercial vehicle
15 enforcement officer with the Washington State Patrol
16 for seven years. And four of those years included
17 investigative work conducting new-entrant safety audits
18 on a federal level.

19 Q. All right. Thank you. And turning to the matter at
20 issue today, are you familiar with the company Marsik
21 Movers?

22 A. Yes.

23 Q. And how did you become aware of that company?

24 A. Per Order 01 in Docket TV-230061, a follow-up
25 investigation was assigned to me on November 1st, 2023.

1 And I met with the carrier for an on-site follow-up
2 investigation on November 16th, 2023.

3 Q. And did you conduct that compliance review?

4 A. Yes.

5 Q. Did you summarize -- or did you write a report
6 summarizing your review?

7 A. Yes, I did.

8 Q. Turning to the document identified as Proposed Exhibit
9 JS1, Ms. Coble, what is that exhibit?

10 A. Exhibit JS1 is the final compliance review report
11 submitted by me. And this document -- or report
12 documents the investigation of the compliance -- the
13 Company's regulatory compliance with the commission's
14 rules and standards.

15 Q. And did you write or fill out this compliance review
16 report?

17 A. Yes.

18 Q. Is the information contained in this exhibit true and
19 correct, to the best of your knowledge?

20 A. Yes.

21 Q. And just for a bit of background, can you explain what
22 is a compliance review?

23 A. A compliance review is an on-site examination of the
24 motor carrier's operations, such as drivers' hours of
25 service, driver qualification files, physical vehicle

1 inspections, repair and maintenance files, drivers'
2 license requirements, financial responsibility,
3 accidents, hazardous materials if they apply, and other
4 safety and transportation records to determine whether
5 a motor carrier meets the safety fitness standards.

6 A compliance review may also be conducted in response
7 to a request for an upgrade or a -- of their safety
8 rating or to follow up on the potential of violations
9 of the safety regulations or complaints or other
10 evidence of safety violations.

11 Q. And what codes or standards are you checking in the --
12 in these investigations?

13 A. Compliance with the Washington Administrative Codes, or
14 the WACs; the Revised Codes of Washington, or the RCWs;
15 and the Code of Federal Regulations, or the CFRs, which
16 are adopted by the State.

17 Q. And how often do these reviews occur?

18 A. For, okay, household goods companies, they're operating
19 under a provisional permit, so they have a review
20 conducted within the first 18 months of retaining -- of
21 obtaining their provisional permit. And if a
22 satisfactory safety rating is not achieved, then a
23 follow-up investigation will occur, as specified in the
24 docket, in the docket.

25 Q. All right. And just to confirm, you did conduct a

1 compliance review of Marsik Movers. And when did you
2 conduct that review?

3 A. The on-site investigation was conducted on November
4 16th, 2023, and the closing appointment then occurred
5 on December 14th.

6 Q. And what was the method that you conducted this review?

7 A. The method? Well, it was an on-site comprehensive
8 investigation, and it was conducted at the motor
9 carrier's principal place of business.

10 Q. And who did you speak with on site?

11 A. The owner of Marsik Movers, Marcel Filip.

12 Q. And during your investigation, did you find that Marsik
13 Movers had any violations?

14 A. Yes.

15 Q. How many violations did you find during your review?

16 A. There were nine violations identified. Those -- those
17 are nine types of violations. And then there were
18 seven counted, seven violations.

19 Q. And did you find any acute violations?

20 A. No.

21 Q. And just -- just for the record, what is an acute
22 violation?

23 A. Acute violations, they're defined where noncompliance
24 is so severe that they require immediate corrective
25 action by a motor carrier. And this is regardless of

1 its overall safety position, such as one-time
2 occurrences.

3 Q. All right. And during your review, did you find any
4 critical violations?

5 A. Yes.

6 Q. And what was that violation?

7 A. Referring to the report, there is a critical repeat
8 violation of CFR 395.8(a)(1). That's hours of service,
9 and that's for failing to prepare a record of duty
10 status using the appropriate method as required.

11 Q. And what is a critical violation, just generally
12 speaking?

13 A. Critical violations are those identified where
14 noncompliance is indicative of the breakdowns in the
15 Company's safety management controls and demonstrated
16 by a pattern of noncompliance.

17 Q. All right. And were there any other factors that
18 impacted your review and assessment?

19 A. There were two repeat violations. One, WAC 480-15-590,
20 failure to maintain the original lease agreement; and a
21 CFR 390.15(b) for failing to maintain an accident
22 register with supporting documentation in the Company
23 files.

24 Marsik Movers at the time of this investigation did
25 not have the federally recordable accident or

1 supporting documentation for the accident that occurred
2 on May 19th, 2023, recorded or presented as being
3 associated with Marsik Movers. The files were found
4 under a company called Flex Moving, which Marsik Movers
5 conducted household goods moves for under their
6 authority and DOT number. And after further
7 investigation and admittance from Mr. Filip, the
8 Marsik -- Marsik Movers took responsibility for that
9 particular accident through Enterprise Rental and their
10 Company.

11 So recordable accidents such as these discovered in
12 the past 365 days are key factors that negatively
13 impact the proposed safety rating.

14 Q. And just for the record, what is a recordable accident?

15 A. A recordable accident is one involving a motor vehicle
16 where the result is either a fatality; a personal
17 injury, where that person is required to be treated
18 away from the scene of the accident; or disabling
19 damage to any one of the vehicles that need to be towed
20 away from the scene.

21 Q. And the commission reviews companies' motor safety
22 vehicle accidents, including accidents on the road or
23 recordable accidents?

24 A. Yes, recordable accidents. Correct.

25 Q. Based on the violations you found during your review,

1 what safety rating did Marsik Movers receive?

2 A. A proposed conditional rating.

3 Q. And did you notify the Company of this result?

4 A. Yes. So that December 14th, 2023, closing date, I
5 met -- I had a closing interview with Marcel Filip, the
6 owner of Marsik, where I provided him a copy of the
7 report. We went over the entire report in detail, to
8 include Parts A, B, the requirements and
9 recommendations, and the safety fitness rating of
10 the -- of the report. We also went over in detail the
11 safety -- the safety management plan, the SMP process,
12 and that was discussed with Mr. Filip in detail as
13 well.

14 Q. Okay. And do you have any changes you'd like to make
15 to your report at this time?

16 A. No.

17 MR. O'BRIEN: Your Honor, at this time I'd like to
18 move to admit Proposed Exhibit JS1 into evidence.

19 THE COURT: Before I do, any objection from the
20 Company? If you responded, you're muted. Sorry.

21 MR. FILIP: I don't have any -- any questions.

22 THE COURT: No questions. Fair enough. So I will
23 grant the motion, and we will be admitting -- it will
24 be Exhibit 1. So that will be in the record for the --
25 for the order.

1 (Exhibit No. 1 admitted into evidence)

2 MR. O'BRIEN: Thank you, Your Honor. Staff has no
3 further questions for Investigator Cobile at this time.

4 THE COURT: And you said that you don't have any
5 questions for her either?

6 MR. FILIP: Are you asking me?

7 THE COURT: Yes. You have an opportunity to ask --
8 ask her any questions that you would like related to
9 this.

10 MR. FILIP: No. I'm totally fine. I got to go
11 through the report. I know all the details. I'm good.
12 No question.

13 THE COURT: Okay. Thank you. Any other witnesses?

14 MR. O'BRIEN: Yes. At this time I'd like to call
15 Jason Sharp, Your Honor.

16 THE COURT: Okay. Hello. Can you please raise your
17 right hand. Do you swear or affirm that the testimony
18 that you give today will be the truth, the whole truth,
19 and nothing but the truth?

20 MR. SHARP: Yes.

21 THE COURT: Please proceed, Counselor.

22

23 JASON SHARP: Witness herein, having first been
24 duly sworn on oath, was examined
25 and testified as follows:

1 D I R E C T E X A M I N A T I O N

2 BY MR. O'BRIEN:

3 Q. Good afternoon, Mr. Sharp. Please state your name and
4 spell it for the record.

5 A. My name is Jason Sharp, S-H-A-R-P.

6 Q. And what is your current position with the commission?

7 A. I am the motor carrier safety supervisor with the
8 Washington Utilities and Transportation Commission.

9 Q. And what are your responsibilities in that position?

10 A. As supervisor, I assign safety investigations to our
11 investigations staff, such as Investigator Cobile. I
12 review their investigative reports and provide
13 recommendations for follow-on action, enforcement, and
14 so forth as a result of any violations that they
15 discover during their review process.

16 Q. And what kind of training have you received in order to
17 prepare you to carry out those responsibilities?

18 A. So similar to how Investigator Cobile responded to the
19 question, prior to being the supervisor for the team, I
20 was also a safety investigator. So I received training
21 through the Federal Motor Carrier Safety Administration
22 to conduct compliance reviews as well as certification
23 through the Commercial Vehicle Safety Alliance to
24 conduct commercial vehicle safety inspections.

25 Q. All right. And how long have you been in your current

1 position?

2 A. Six years.

3 Q. So moving on to the matter at hand today, are you
4 familiar with Marsik Movers?

5 A. Yes, I am.

6 Q. And how did you become aware of the Company?

7 A. I have assigned each of the three safety investigations
8 as far as determining the Company's provisional status,
9 and I've reviewed each of the assignments as well as
10 the subsequent safety management plans as a -- as a
11 result of the findings of those investigations.

12 Q. And turning to the exhibit now entered as JS1, have you
13 had a chance to review that exhibit?

14 A. Yes.

15 Q. And are you familiar with how the safety rating was
16 determined in this case?

17 A. Yes. The commission adopts the federal safety rating
18 methodology. And the exhibit actually points out how
19 the safety rating became a proposed conditional on
20 pages 15 and 16. When conducting a safety
21 investigation, there are several different parts of a
22 company's operations that are checked. In this case,
23 there are six factors that are graded to determine an
24 overall fitness rating.

25 And on page 15, it shows that the factor 3 for

1 operational and driving performance, which encompasses
2 49 CFR Parts 392 and 395, resulted in an unsatisfactory
3 marking on that particular factor. And so if we go to
4 the next page, on page 16, it has a formula chart that
5 breaks down, you know, what the overall rating would be
6 determined by the number of unsatisfactory or
7 conditional factors. Here the Company had factor 3,
8 resulting in an unsatisfactory factor, with zero -- or
9 two or fewer conditional factors for the overall rating
10 to come out as a proposed condition.

11 Q. Okay. And since the date that the Company received
12 notification of this proposed fitness rating, has the
13 Company requested an upgrade to the safety rating by
14 way of submitting a safety management plan?

15 A. Yes. The Company has submitted a plan several times.

16 Q. And has that management plan been accepted at this
17 point?

18 A. The plan has not been accepted as of today. The
19 Company is continuing to address Staff's concerns with
20 their plan as -- as he's working towards getting an
21 approved plan. But as of right now, we -- Staff cannot
22 accept the plan.

23 Q. And, therefore, Staff -- is Staff able to provide any
24 recommendation to upgrade the Company's safety rating?

25 A. Not at this time.

1 Q. And has the Company responded to the penalty assessment
2 in this case?

3 A. The Company paid the \$300 penalty in full, I believe,
4 yesterday.

5 MR. O'BRIEN: Thank you, Mr. Sharp. I have no
6 further questions for the witness at this time, Your
7 Honor. You're muted.

8 THE COURT: Okay. Mr. Sharp, to your knowledge, is
9 the Company currently in compliance?

10 MR. SHARP: Not at this time.

11 THE COURT: Okay. And I wanted to ask about that.
12 So let me find my citation.

13 MR. SHARP: Sure.

14 THE COURT: Okay. So 49 CFR 385.17(c), I believe,
15 requires a company to currently be in compliance in
16 order to request a safety rating change. So I suppose
17 my question is, does Staff believe that CFR applies, or
18 does Staff check whether or not they are currently in
19 compliance before making a recommendation?

20 MR. SHARP: In order for Staff to accept a safety
21 management plan from a company, we like to determine if
22 the documentation that the company has implemented
23 supports that what they are doing is in compliance.
24 And so that is part of -- of the acceptance of the plan
25 for 385.17. Staff will not accept a plan that -- that

1 doesn't contain corrective action and demonstration of
2 the company's understanding and ability to comply with
3 the regulations.

4 THE COURT: Okay. Sorry. Go ahead. No? Okay.
5 385.17(g), I believe, covers the extension for
6 provisional authorities. But I believe it only in the
7 CFRs lists unsatisfactory ratings as being able to be
8 extended. And, further, it limits it only to 60 days
9 or I think maybe 120. But, in any event, there is a
10 limitation. Are those limitations of the CFR at all
11 part of the calculation making a recommendation?

12 MR. SHARP: So there's -- this is where the
13 commission rules are -- differ slightly from the
14 federal rules, in that we are -- because provisional
15 carriers, through WAC, require that companies move on
16 from the -- from the provisional to a permanent status
17 within 18 months unless they're extended for good
18 cause, then they may obtain a satisfactory rating.

19 And so in these cases, with a provisional company, if
20 a company receives a conditional or a proposed
21 conditional rating, they are treated as -- or they are
22 given the same opportunity to request an upgrade as
23 those companies that, through the CFR, receive a
24 proposed unsatisfactory rating.

25 So the conditional rating wouldn't apply,

1 necessarily, per the CFR element of 385.17, because
2 they -- they did not receive an unsatisfactory rating.
3 However, because of the requirement for household goods
4 companies to obtain that satisfactory rating, that is
5 why we're here today.

6 THE COURT: Okay. I -- thank you. I know that's a
7 novel question, so I appreciate that response. Oh.
8 Okay. We can move on. So, thank you, Mr. Sharp.
9 So -- okay. Does the Company have any questions for
10 the witness?

11 MR. FILIP: No, I don't have any questions.

12 THE COURT: Thank you. Okay. Any other witnesses?

13 MR. O'BRIEN: Staff has no other witnesses to call,
14 Your Honor.

15 THE COURT: Okay. Well, thank you. Would Marsik
16 Movers like to present any evidence, or you can proceed
17 by testifying in a narrative, if you'd like, make some
18 sort of statement. But this would be your opportunity
19 to -- to address the things that have been said.

20 MR. FILIP: Yes. I totally understand my violations,
21 what they occurred, about the hours of service and the
22 accident of the trucks, and I know how important it is.
23 Like, I got to familiarize myself again. I will try
24 for future just to make sure they will never occur
25 again and make sure to check with them on daily basis

1 to make sure I'm doing it right. That's pretty much --
2 yeah. Nothing more to say. I already made some
3 mistakes, and I'm trying to solve them. I'd like to
4 put them in case and be right.

5 THE COURT: I would like to ask, there's -- there's a
6 repeat violation. So you submitted an SMP ten months
7 ago, and I believe in the last inspection you violated
8 a provision which was in that SMP. Can you speak to
9 that at all? Because you made similar representations
10 last time, so I'm just trying to assess --

11 MR. FILIP: Well, on this time, there was -- there
12 was less -- less violations. But the -- one of the
13 violations which occurred, the rental truck, what I got
14 from Enterprise, it was by mistakes. And I don't know
15 for sure, like, I have to have the accident on my
16 accident register. I had the old one for the previous
17 accidents, but I -- I didn't have the new one, because
18 I was not sure.

19 The car -- the truck was rental. Someone was using
20 it, like, for -- I was using for the other company to
21 do jobs, not for me. But it was my driver. And I was
22 not sure how to -- like, if I had to add this on the
23 register, and I miss it. Well, that's, like -- I don't
24 know. I need to inform more about this and make sure,
25 like, this not going to happen.

1 But I have all the details about that accident. No
2 one was injured. There was just towing who got the
3 truck. Even the police officer who had been on the --
4 on the side, he didn't made any reports. He just ask
5 it, like, hey, remove the truck from Enterprise, and
6 that's it. There was no accident, no car involved, no
7 passenger. The driver was fine. He didn't need any
8 medical -- medical assistance. And, yeah.

9 But the other violation what I had, the hour of
10 service, it was as well from my -- from my fault and
11 the lack of accuracy to -- to maintain them and keep
12 them on file for at least six months. And, yeah,
13 that's about it.

14 THE COURT: Thank you. I actually -- my apologies.
15 I forgot to swear you in. Could you please raise your
16 right hand.

17 MR. FILIP: Oh, sorry. My name's Marcel Filip. I'm
18 the owner of Marsik Movers from 2019.

19 THE COURT: Thank you. I'm going to ask you a
20 question, and then you can affirm. But no worries.
21 Please raise your right hand. Do you swear or affirm
22 that the testimony that you give today will be the
23 truth, the whole truth, and nothing but the truth?

24 MR. FILIP: Yes, I swear.

25 THE COURT: Okay. And you affirm the statements that

1 you just made previously was nothing but the truth?

2 MR. FILIP: Yes, all tell the truth.

3 (Mr. Filip sworn under oath.)

4 THE COURT: Thank you. Okay. My apologies for that.

5 MR. FILIP: No worries.

6 THE COURT: Okay. Well, if you -- if you are done
7 with your narrative, would Staff like to ask any
8 questions?

9 MR. O'BRIEN: No questions for the Company, Your
10 Honor.

11 THE COURT: Okay. Okay. I want to ask -- is Ms.
12 Cobile still here?

13 MS. COBILE: Hi, sir, or Your Honor.

14 THE COURT: I'm going to ask you the same question of
15 is the Company currently compliant, as far as you know?

16 MS. COBILE: No, sir, they are not.

17 THE COURT: And just for the record, were any of the
18 violations in this complaint similar to previous
19 complaints?

20 MS. COBILE: Yes.

21 THE COURT: Which ones specifically?

22 MS. COBILE: The 395.8(a)(1) that was identified in
23 my response and the repeat violation of -- pardon me
24 while I reference the WAC -- 480-15-590, the accident
25 register. And also the -- sorry. That was for the

1 lease agreement. And then -- I apologize.

2 THE COURT: Well, that's -- that's good.

3 MS. COBILE: CFR 390.15(b), which was the failure to
4 retain an accident register which was complete and
5 compliant.

6 THE COURT: Okay. Was one of those you said
7 480-14-590?

8 MS. COBILE: Yes.

9 THE COURT: So I suppose this could be a question for
10 your attorney, potentially. My understanding is WAC
11 480-14-040 defines common carrier to exclude household
12 goods carriers. So I was curious if Title 14 violation
13 should be applied here since the definition does
14 exclude it fairly explicitly.

15 MS. COBILE: Can you -- can you repeat that, Your
16 Honor?

17 THE COURT: Sure. Sorry. (Inaudible). 480-14-040
18 is the definition section for Title 14. I believe in
19 the definition of common carrier, midway through the
20 paragraph, it explicitly excludes household good movers
21 from the definition and the title.

22 So my question is, the provision in Title 14 that he
23 broke, was he subject to that as a household good
24 carrier, or can you speak to that?

25 MS. COBILE: May I -- I can't speak to that. I would

1 have to --

2 THE COURT: Sure.

3 MS. COBILE: -- look at that CFR. Maybe my
4 supervisor can provide more information on that
5 question if -- if that's okay with you.

6 THE COURT: Absolutely. I'm -- and it was a bit of a
7 curve ball, but I -- since we're here, I thought I'd --
8 I'd ask.

9 MS. COBILE: I appreciate it. Thank you.

10 MR. SHARP: Yes. So, Your Honor, the household goods
11 carriers rules are specifically in WAC 480-15, as
12 opposed to the common carrier rules identified in
13 480-14, and that's why that exclusion exists in 14,
14 because they don't apply in the household goods
15 operation. So if it's -- but they -- if it's a WAC
16 480-15, they are required to follow those rules.

17 THE COURT: Sure, but I believe the testimony was one
18 of the violations was under Title 14.

19 MR. SHARP: If so, then that was probably a misquote.
20 I'm looking at the exhibit and the violations starting
21 on page 3. Oh, you know what I see is a secondary
22 reference to 480-14-300, and I believe that that is
23 a -- a miscalculation, with the primary violation being
24 a 392.2, which is a local rule. So is that what you're
25 referring, where the reference is 480-14-300?

1 THE COURT: Yes.

2 MR. SHARP: Okay. That -- I just caught that. I
3 apologize. I -- I see that. The primary violation
4 should -- is 392.2. And the applicable, it has -- the
5 report has an incorrect secondary WAC reference there.

6 THE COURT: What, if any, effect does that have on
7 the calculation?

8 MR. SHARP: Zero. That doesn't affect the safety
9 rating.

10 THE COURT: Okay. Let me just pull up something to
11 confirm.

12 MR. SHARP: Yep.

13 THE COURT: Oh, what I'd give for a printer. Okay.
14 Okay. Well, I'm glad that we addressed that. That was
15 nagging at me as I -- as I was reviewing the record.
16 Okay. So thank you to our witnesses. I have no
17 further questions, and you are dismissed.

18 So I will take all of this under advisement and issue
19 an order shortly. Our transcripts sometimes take a
20 while, so would both parties consent to me issuing the
21 order in 15 days, as opposed to the normal ten calendar
22 days?

23 MR. O'BRIEN: I have no problem with that, Your
24 Honor. The cancellation date is February 13th. We are
25 still -- Staff is still working with the Company on the

1 potentiality of approving a safety management plan. So
2 if that were to happen, do you know how much notice you
3 would like in order to have an approved plan so that we
4 can extend -- so that we can suspend the conditional
5 rating?

6 THE COURT: I -- I would like some time, because I
7 think there's perhaps some complexity here. I would --
8 the CFRs I cited, I -- if that is the path that Staff
9 goes, I would like in some form 49 CFR 385.17(g) and
10 (c) addressed, if only to clarify which rules, the WAC
11 or the CFR, controls, in Staff's view.

12 So I can -- I mean, so I would like a few days with
13 it. I do think I'd benefit from the transcript. That
14 date is pretty set. So I will -- I will do my best
15 to -- to get something then. But as much time as
16 possible would be my preference if a safety management
17 plan does get approved.

18 MR. O'BRIEN: Okay. Thank you, Your Honor.

19 THE COURT: Okay. Any other matters?

20 MR. O'BRIEN: Nothing more from Staff, Your Honor.

21 THE COURT: Okay. Company, any -- anything else
22 before we wrap this up?

23 MR. FILIP: No, I don't have nothing else to say.

24 THE COURT: Okay. Well, thank you, sir.

25 MR. FILIP: Thank you.

1 THE COURT: Okay. It is 2:09, and let us get off the
2 record. We are adjourned.

3 (Conclusion of hearing)
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C E R T I F I C A T E

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I, the undersigned, do hereby certify under penalty of perjury that the foregoing court proceedings or legal recordings were transcribed under my direction as a certified transcriptionist; and that the transcript is true and accurate to the best of my knowledge and ability, including changes, if any, made by the trial judge reviewing the transcript; that I received the electronic recording in the proprietary court format; that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of February, 2024.

Debra M. Moore



Debra M. Moore, CCR