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July 30, 2021

Rayne Pearson, Administrative Law Judge
Administrative Law Division
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Application for Reinstatement, Dockets TV- 210563, TV-210308, and TV-210309 I Heart Movers, LLC; Motion to approve application for reinstatement with conditions*
Docket TV-210563

Dear Judge Pearson:

On April 28, 2021, Commission staff (Staff) completed an ordered follow-up safety investigation of I Heart Movers, LLC (IHM or Company), which resulted in a proposed conditional safety rating.

Provisional household goods companies must achieve a satisfactory safety rating prior to receiving permanent status. As the Company has yet to achieve a satisfactory safety rating, the Commission afforded IHM the same opportunity as companies that receive a proposed unsatisfactory safety rating to provide evidence, in the form of an approved safety management plan, showing that the Company took corrective action to address the identified violations.

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 CFR 385.5 and 385.7. In this case, IHM had until June 25, 2021, to come into compliance with applicable laws and rules by obtaining commission approval of a safety management plan.

On June 24, 2021, IHM submitted a safety management plan for Staff's review.

On June 25, 2021, Staff submitted an evaluation of the safety management plan to the presiding Administrative Law Judge. Staff determined that the plan was insufficient to justify an upgrade to the company's safety rating, noting it failed to demonstrate that adequate corrective actions had been taken to address the violations cited during the safety investigation.

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On June 25, 2021, Order 01 in Dockets TV-210308 and TV-210309 (consolidated) cancelled the company's provisional household goods moving permit.

On July 8, 2021, the Company submitted an updated safety management plan addressing each violation noted during the safety investigation.

On July 19, 2021, the Company applied for reinstatement of its provisional operating authority.¹

The proposed unsatisfactory safety rating was based on three violations of critical regulations – 391.45(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. Ten violations of WAC 480-15-555 – Failing to complete a criminal background check for every person the carrier intends to hire.
2. Eighty-two violations of Title 49 CFR § 391.45(a) – Using a driver not medically examined and certified.
3. Ninety violations of Title 49 CFR § 395.8(a)(1) – Failing to require driver to prepare a record of duty status.

Summary and Recommendations

Staff recommends that the Commission issue an order approving the application for reinstatement in Docket TV-210563, with the conditions outlined below. Staff reviewed IHM's safety management plan and concludes it is acceptable and meets the requirements of 49 CFR § 385. Unlike the plan submitted shortly before the hearing, this plan demonstrates that IHM has taken appropriate action to develop a compliant safety program and implemented a system, that if followed, should prevent future repeat violations.

Documentation of driver qualifications, hours of service records, support statements, insurance, vehicle leasing, and criminal background check information were included in the plan. The Company supplied Staff with evidence that it created a compliance tracking system along with calendar reminders for future compliance dates.

The plan states that the Company hired additional staff to oversee the safety compliance program and intends to require its drivers to attend Commission provided household goods training.

¹ Docket TV-210563.

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Should the Commission authorize the Company's reinstatement, Staff recommends the Commission implement the following conditions:

1. IHM pay the remaining \$3,550 penalty in TV-200627 in full through a payment plan consisting of 11 monthly payments of \$300 and one final payment of \$250, effective September 1, 2021. Meaning, a first payment due by September 1, 2021 in the amount of \$300. Going forward monthly installments of \$300 each month no later than the 1st of each month, with a final payment in August 2022, in the amount of \$250. Staff has discussed this payment plan with the company and
2. All employees of IHM must attend the August household goods training provided by the Commission.
3. Staff perform a focused review of the Company's hours of service records, criminal background checks, and driver's medical certification six months from the date of reinstatement.
4. IHM must achieve a satisfactory safety rating following a comprehensive safety investigation one year from the date of reinstatement.
5. The Company must not receive any repeat critical violations during follow-up inspections.
6. Any violation of these conditions will be grounds for cancellation of IHM's operating authority as an intrastate household goods mover in Washington.

Sincerely,

/s/ Nash Callaghan, WSBA No. 49682

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