

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER T-37319
(CORRECTED)¹

LOUISIANA PUBLIC SERVICE COMMISSION
VERSUS
THE MOVING SPECIALIST LLC

Docket No. T-37319, In re: Cancellation of Common Carrier Certificate No. 8571 for failure to maintain the required insurance coverage on file with the Commission pursuant to General Orders dated March 16, 2021 and October 13, 2023.

(Decided September 6, 2024.)

ORDER

Background

The Louisiana Public Service Commission (“LPSC” or “Commission”) issued a citation to The Moving Specialist LLC (“Carrier”) directing the Carrier to show cause at a hearing why its Common Carrier Certificate Number 8571 should not be canceled due to the Carrier’s failure to maintain the required insurance coverage on file with the Commission as required by the Commission’s General Order dated March 16, 2021² (“2021 General Order”) and the Commission’s General Order dated October 13, 2023³ (“2023 General Order”). When the hearing was convened on September 5, 2024, the Commission Staff appeared and presented testimonial and documentary evidence in support of its allegations. The Carrier did not appear at the hearing.

Applicable Law

The Commission’s jurisdiction over common carriers and public utilities is established by Article 4, Section 21 of the Louisiana Constitution of 1974, which provides in pertinent part:

[t]he [C]ommission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

Louisiana statutes more specifically describe the powers of the Commission over motor carriers operating intrastate for hire in the transportation of persons, household goods, and waste over the public highways and bridges of Louisiana. The business of operating motor vehicles for hire is a

¹ The Order is being corrected to correct a typographical error in the exhibit numbers, specifically Staff Exhibit 6.
² Louisiana Public Service Commission General Order Number 3-16-2021 (R-35848), Louisiana Public Service Commission, ex parte. (*Docket No. R-35848, In re: Possible amendments to the General Order dated May 4, 2017 regarding Commission approval for Household Goods Carriers operating as Transportation Service Providers for the United States Department of Defense to include affiliated companies on their Common Carrier Certificates while operating under Tender of Service Agreements with the United States Department of Defense's Non-temporary Storage Program.*).
³ Louisiana Public Service Commission General Order dated October 13, 2023, Louisiana Public Service Commission, ex parte. (*Docket No. R-36830, In re: Possible amendments to General Order dated January 12, 1976 as it pertains to intrastate insurance filings for motor carriers.*).

“business affected with a public interest”;⁴ and, “[t]he [C]ommission has the power and authority necessary to supervise, govern, regulate, and control motor carriers . . . which transport household goods, passengers, or waste intrastate and to fix reasonable and just rates, fares, tolls, or charges for the commodities furnished or services rendered by such motor carriers.”⁵ Companies engaged in the intrastate business of transporting household goods, passengers, or certain kinds of waste intrastate – non-hazardous oilfield wastes, non-hazardous industrial solid wastes, and hazardous wastes – are classified as “common carriers” subject to the Commission’s regulation.⁶ The Commission shall require insurance and indemnity bonds, including public liability and property damage insurance, written by companies qualified to do business in Louisiana.⁷

The 2021 General Order requires regulated household goods movers, in order to secure a Commission registration permit, to provide proof of bodily injury and property damage insurance, carry cargo insurance, secure and maintain worker’s compensation insurance, and secure and file with the Commission a surety bond.⁸ Also, the 2021 General Order states that, once acquired, a carrier’s authority may be revoked if it does not continue to comply with the requirements of the 2021 General Order.⁹

The 2023 General Order provides the Commission’s rules and regulations regarding required insurance filings for motor carriers, including that public liability and property damage insurance filings shall be made on a Form E, Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance (“Form E”).¹⁰ The 2023 General Order specifies that when a lapse of insurance coverage occurs, motor carriers are subject to citation and fine at an open hearing.¹¹ A carrier’s certificate may be revoked after notice and hearing for failing to comply with applicable law or Commission order.¹² Additionally, the Commission’s General Order dated June 7, 2006 (“2006 General Order”) authorizes the imposition of a \$25 citation fee when a citation is issued to a Commission-jurisdictional motor carrier.¹³

⁴ La. R.S. 45:161.

⁵ La. R.S. 45:163(A).

⁶ La. R.S. 45:162(5)(a).

⁷ La. R.S. 45:163 (D).

⁸ Louisiana Public Service Commission General Order Number 3-16-2021 (*R-35848*), Louisiana Public Service Commission, ex parte. (*Docket No. R-35848, In re: Possible amendments to the General Order dated May 4, 2017 regarding Commission approval for Household Goods Carriers operating as Transportation Service Providers for the United States Department of Defense to include affiliated companies on their Common Carrier Certificates while operating under Tender of Service Agreements with the United States Department of Defense's Non-temporary Storage Program.*) at p. 3, Section III-Requirements, para. 1(a)-(d).

⁹ *Id.* at p. 4, Section III-Requirements, para. 2.

¹⁰ 2023 General Order at ordering paragraph (1)(2).

¹¹ *Id.* at ordering paragraph (1)(14).

¹² La. R.S. 45:166(A).

¹³ Louisiana Public Service Commission General Order dated June 7, 2006, *In re: Revisions to the Transportation Bond Schedule and Transportation Fee Schedule*.

The Commission Staff's Case

The Commission Staff alleges that the Carrier failed to maintain proof of its bodily injury and property damage (“BI & P”) insurance and workers compensation insurance on file with the Commission in violation of the 2021 General Order and 2023 General Order. Consequently, the Commission is seeking that the Carrier be found guilty as alleged, the Carrier’s Common Carrier Certificate Number 8571 be canceled, and the Carrier be assessed a \$25 citation fee per the 2006 General Order. In support of its allegations, the Commission Staff presented the testimony of Maegan Hood.

Testimony of Maegan Hood

Ms. Hood testified that she is an Enforcement Agent in the Commission’s Transportation Division, whose duties include receiving and reviewing insurance-related filings for regulated motor carriers. Ms. Hood testified that the Carrier is a household goods mover. Ms. Hood discussed the Commission’s rules and processes for motor carrier insurance filings, particularly household goods movers. Per Ms. Hood, household goods movers must have proof of insurance submitted to the Commission pursuant to the 2021 General Order and the 2023 General Order, and La. R.S. 45:166 authorizes the cancellation of a carrier’s authority.

Ms. Hood testified that, on April 3, 2024, the Commission’s Transportation Division received a Form K¹⁴ from Blue Hill Specialty Insurance Company indicating that the Carrier’s BI & PD insurance policy would be canceled effective May 8, 2024. Ms. Hood further testified that that, on April 3, 2024, the Commission’s Transportation Division received an ACORD Certificate of Liability Insurance from Riverlands Insurance Services Inc. indicating that the Carrier’s Workers Compensation and Employers’ Liability insurance policy would be canceled effective April 3, 2024. Ms. Hood stated that on May 10, 2024, Tammy Burl, Transportation Administrator, prepared two notices of cancellation to the Carrier bearing her signature. Ms. Hood identified the notice of cancellation letters and explained that they notified the Carrier to have its insurer submit a current Form E and a current ACORD certificate and the consequences for non-compliance. Ms. Hood stated that Ms. Burl mailed the notice to the Carrier at its address on file with the Commission via United States Postal Service (“USPS”) regular mail.

¹⁴ The Commission is notified of the cancellation or expiration of a carrier’s insurance through the receipt of a Form K Uniform Notice of Cancellation of Motor Carrier Insurance Policies (“Form K”).

According to Ms. Hood, the Carrier did not submit updated insurance filings following issuance of the May 10, 2024 notices of cancellation; therefore, on June 14, 2024, she prepared and mailed a tentative hearing letter to the Carrier at its address on file via USPS regular mail and email.¹⁵ Copies of the two May 10, 2024 notice of cancellation letters were attached to the tentative hearing letter. Ms. Hood stated the letter notified the Carrier that a hearing had been tentatively scheduled for September 5, 2024, and that a citation would be issued if the Carrier did not submit proof of insurance on or before July 1, 2024.

Ms. Hood explained that the Commission did not receive updated insurance filings following the mailing of the tentative hearing letter. Consequently, the Commission's Transportation Division mailed a citation to the Carrier on July 3, 2024, advising the Carrier that it must appear at a hearing on September 5, 2024, that an order may be issued canceling its authority, and that a \$25 citation fee had been assessed to its account. Attached to the citation were the two May 10, 2024 cancellation notices and the July 14, 2024 tentative hearing letter.

Ms. Hood testified that the citation was mailed via USPS regular mail and certified mail return receipt requested to the Carrier's address on file with the Commission. Ms. Hood advised that notice of the proceeding was published in the Commission's Official Bulletin dated July 3, 2024. Ms. Hood stated that the citation sent via regular mail was not returned as undeliverable, however the certified mail was not claimed and was returned to the Commission. Ms. Hood identified the envelope containing the citation sent by certified mail that was returned to the Commission on July 30, 2024 affixed with a USPS label stating "Return to Sender, Unclaimed, Unable to Forward", noting that the last four digits of the certified tracking number on the envelope match those on the citation.

Ms. Hood testified that, as of the time of the hearing, the Carrier had not updated any of its insurance filings (Form E or ACORD certificate) on file with the Commission, nor filed the appropriate documents to close its LPSC certificate. Ms. Hood stated that the Commission Staff is seeking that the Carrier be found guilty of failure to maintain required insurance filings, that Common Carrier Certificate Number 8571 be canceled, and that the Carrier be required to pay the \$25 citation fee.

¹⁵ Ms. Hood stated that the Carrier's email address was incorrectly spelled on the tentative hearing letter as: "cory@themovingspecialistofnloa.com", with the correct spelling being: cory@themovingspecialistofnola.com. Ms. Hood testified that it was her recollection that she emailed the letter to the correct email.

In connection with her testimony, Ms. Hood identified the following documents which were admitted:

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| Staff Exhibit 1 | A copy of the Form K received by the Commission on April 3, 2024, issued by Blue Hill Specialty Insurance Company, reflecting an effective cancellation date of May 8, 2024, for a BI & PD insurance policy issued to the Carrier. |
| Staff Exhibit 2 | A copy of the ACORD Certificate of Liability Insurance received by the Commission on April 3, 2024, issued by Riverlands Insurance Services Inc., reflecting an effective cancellation date of April 3, 2024, for Workers Compensation and Employers' Liability insurance policy issued to the Carrier. |
| Staff Exhibit 3, <i>in globo</i> | A copy of correspondence on Commission Transportation Division letterhead, dated May 10, 2024, bearing the signature of Tammy Burl, Transportation Administrator, addressed to the Carrier regarding the liability insurance policy (Form E), and a copy of correspondence on Commission Transportation Division letterhead, dated May 10, 2024, bearing the signature of Tammy Burl, Transportation Administrator, addressed to the Carrier regarding the workers compensation insurance policy (ACORD). |
| Staff Exhibit 4, <i>in globo</i> | A copy of correspondence on Commission letterhead, dated June 14, 2024, bearing the signature of Maegan Hood, Enforcement Agent, addressed to the Carrier, with the subject line "RE: Insurance" with copies of the correspondences dated May 10, 2024 (Staff Exhibit 3). |
| Staff Exhibit 5, <i>in globo</i> | A copy of the citation to the Carrier marked with certified mail return receipt number 7022 3330 0001 8583 0997 with a mailout date of July 3, 2024, with attached copies of the May 10, 2024 and June 14, 2024 letters (Staff Exhibits 3 and 4). |
| Staff Exhibit 6, <i>in globo</i> | A copy of the front of an envelope addressed to the Carrier with the return address of the LPSC with USPS certified mail tracking number 7022 3330 0001 8583 0997 and a USPS label bearing the words "Return to Sender," Unclaimed," and "Unable to Forward" stamped received by the Commission on July 30, 2024; and, a copy of the back of the envelope with the attached unsigned certified mail return receipt bearing tracking number 7022 3330 0001 8583 0997. |

After the presentation of its evidence, Commission Staff reiterated that it is requesting that the Commission issue an order finding the Carrier guilty of failing to maintain required insurance on file with the Commission, canceling Common Carrier Certificate Number 8571, and ordering the Carrier to pay a \$25 citation fee.

Findings of Fact and Conclusions of Law

From the evidence presented at the hearing, we make the following findings of fact and conclusions of law:

Findings of Fact

1. The Carrier is an LPSC-regulated household goods mover that currently holds Common Carrier Certificate Number 8571.
2. On April 3, 2024, the Commission received a Form K from Blue Hill Specialty Insurance Company advising that the Carrier's BI & PD insurance would be canceled effective May 8, 2024.
3. On April 3, 2024, the Commission received an ACORD Certificate of Liability Insurance from Riverlands Insurance Services Inc. advising that the Carrier's Workers Compensation and Employers' Liability insurance policy was canceled effective April 3, 2024.
4. On May 10, 2024, the Commission's Transportation Division mailed two letters via USPS regular mail to the Carrier at its address on file with the Commission advising that the Commission received a notifications of insurance cancellation. The first letter advised the Carrier that its BI & PD insurance was canceled effective May 8, 2024, and the Commission had not received proof of replacement coverage. The second letter advised the Carrier that its Workers Compensation insurance was canceled effective April 3, 2024, and the Commission had not received proof of replacement coverage. The letters instructed the Carrier regarding the process for replacement insurance, the consequences for failing to provide replacement insurance, and to cease operations until replacement insurance was filed.
5. On June 14, 2024, the Commission's Transportation Division emailed and mailed a letter via USPS regular mail to the Carrier at the address on file with the Commission advising that the Carrier's common carrier certificate had been flagged for failure to maintain the required insurance coverage on file with the Commission. The letter provided that if proof of replacement insurance was not filed by July 1, 2024, the Commission would issue a citation and that a hearing on the matter had been tentatively scheduled for September 5, 2024.
6. The Commission did not receive any updated insurance filings (Form E or ACORD certificate) for the Carrier. On July 3, 2024, the Transportation Division mailed a citation via USPS regular mail and certified mail return receipt requested (receipt number 7022 3330 0001 8583 0997) to the Carrier's address on file with the Commission directing the Carrier to appear at a hearing on September 5, 2024. Notice of the proceeding was published in the Commission's Official Bulletin on July 3, 2024.
7. The copy of the citation sent via regular mail was not returned to the Commission for any reason. The complete certified mailing was returned to the Commission with the unsigned receipt attached and with the front of the envelope marked by the USPS with a label bearing the words "Return to Sender," "Unclaimed," and "Unable to Forward."
8. The Carrier did not appear at the September 5, 2024 hearing, and as of the time of the hearing, the Commission had neither received neither a replacement Form E, an ACORD certificate, nor any documents to close the Carrier's LPSC account.

Conclusions of Law

1. At the hearing in this matter, the Commission Staff had the burden of proving its allegations against the Carrier. Because the Carrier did not appear at the hearing, the Commission Staff also had the burden of demonstrating that the Carrier was provided fair notice of the hearing and the opportunity to present a defense. La. R.S. 45:1166 provides that a permit may be revoked "after notice and hearing for failure to comply with any provision of R.S. 45:161 through 45:172, or with any lawful order, rule or regulation of the [C]ommission . . ."

2. Pursuant to its constitutional and statutory authority, the Commission has adopted the Rules of Practice and Procedure. Pertinent to this proceeding, Commission Rules 7 and 19 provide for notice of non-criminal proceedings through publication in the Commission's Official Bulletin, as well as through service "through any means whereby proof of receipt or unclaimed status can be shown" to "the last known place of address of the person entitled to receive such notice . . ."¹⁶
3. Pursuant to constitutional and legislative mandate, and Commission orders adopted pursuant thereto, the Commission has the authority to regulate motor carriers and to ensure that such entities maintain levels of insurance required by statute and by Commission General Orders. The 2021 General Order, specific to household goods movers, requires carriers to submit bodily injury/property damage insurance certificates on a uniform form as required by the Commission to obtain a permit. Additionally, the 2021 General Order requires carriers to secure and maintain workers' compensation insurance. The 2021 General Order further states that once authority is granted, it may be revoked if a household goods mover does not continue to comply with any requirements of the 2021 General Order. The 2023 General Order provides that public liability and property damage insurance filings shall be made on a Form E.
4. The Commission's Transportation Division issued the citation to the Carrier by USPS regular mail and certified mail return receipt requested to the Carrier's address on file with the Commission. The citation (as well as the June 14, 2024 tentative hearing letter) sent via regular mail was not returned to the Commission. The Commission Staff demonstrated through testimonial and documentary evidence that the citation sent via certified mail was not claimed by the Carrier. Interim Rule 7 adopted in Special Order No. 72-2021 permits service where proof of receipt or unclaimed status can be shown. This Commission has ruled consistent with Louisiana courts that a carrier cannot defeat service by refusing certified mail, finding that "[w]hen a plaintiff sends certified mail to a defendant at the correct address, and the defendant simply refuses to accept the package this is still sufficient service."¹⁷ This Commission and Louisiana courts have repeatedly held that a litigant may not defeat service by failing to claim a certified mailing.¹⁸ We find that the record, taken as a whole, demonstrates that the Commission Staff provided fair notice to the Carrier of the hearing date and that the Carrier was provided a fair opportunity to present a defense at the hearing.
5. In this proceeding, the Commission Staff established through testimonial and documentary evidence that the Carrier failed to provide a Form E indicating that its BI & PD liability insurance coverage had been extended beyond the May 8, 2024 cancellation date stated in the Form K. Further, the Commission Staff established through testimonial and documentary evidence that the Carrier failed to provide a updated ACORD certificate indicating that its Workers Compensation and Employers' Liability insurance policy had been extended beyond April 3, 2024. Thus, we find that the Carrier failed to maintain the required proof of insurance coverage filing (Form E and ACORD certificate) on file with the Commission as required by the 2021 General Order and 2023 General Order. Accordingly, we find that the Carrier is guilty of violating the 2021 General Order and 2023 General Order.
6. We conclude that the Carrier's failure to maintain proof of effective insurance coverage through the filing of a Form E and an ACORD certificate constitutes a failure to comply with applicable law and Commission orders; thus, cancellation of the Carrier's Common Carrier Certificate is appropriate pursuant to La. R.S. 45:166.

¹⁶ Special Order Number 72-2021 dated November 22, 2001, Louisiana Public Service Commission, ex parte, *In re: Possible implementation of Interim Rule 7 of the Commission's Rules of Practice and Procedure (Service of Process) and possible revision to the Commission's Rules*.

¹⁷ Order No. T-35045 dated February 14, 2019 at 5; Louisiana Public Service Commission v. Luxury Limousines of New Orleans, LLC (Metairie, Louisiana) citing *Thomas Organ Co. v. Universal Music Co.*, 261 So. 2d 323 (La. App. 1 Cir. 1972).

¹⁸ E.g. Order No. T-35220 dated August 28, 2019, Louisiana Public Service Commission vs. American Integrated Services, Inc. (Robert, LA) citing *Thomas Organ Co. v. Universal Music Co.*, 261 So. 2d 323 (La. App. 1 Cir. 1972); *Hardy v. Dowe Company, Inc.*, 674 So. 2d 452 (La. App. 4 Cir. 5/8/96).

7. The 2006 General Order allows for the imposition of a \$25 fee for the issuance of a citation by the Commission. Therefore, it is appropriate to require the Carrier to pay the \$25 citation fee.

Conclusion

In accordance with the findings of fact and conclusions of law stated above:

IT IS ORDERED that Common Carrier Certificate Number 8571, currently issued to The Moving Specialist LLC, is CANCELED due to the failure of The Moving Specialist LLC to maintain proof of insurance coverage on file with the Commission.

IT IS FURTHER ORDERED that The Moving Specialist LLC pay a \$25 citation fee to the Commission.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
September 6, 2024
Corrected Order Mailed
September 9, 2024



A handwritten signature in blue ink, appearing to read "Brandon M. Frey".

BRANDON M. FREY
SECRETARY

/S/ MIKE FRANCIS
DISTRICT IV
CHAIRMAN MIKE FRANCIS

/S/ DAVANTE LEWIS
DISTRICT III
VICE CHAIRMAN DAVANTE LEWIS

/S/ FOSTER L. CAMPBELL
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

/S/ ERIC F. SKRMETTA
DISTRICT I
COMMISSIONER ERIC F. SKRMETTA

/S/ CRAIG GREENE
DISTRICT II
COMMISSIONER CRAIG GREENE