

**BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

In the Matter of:

**M & L TRANSIT SYSTEMS, INC.
USDOT# 569035
Petitioner**

**Docket No. FMCSA-2013-0512
(Eastern Service Center)**

INTERIM ORDER

I. Procedural History

On December 6, 2013, M & L Transit Systems, Inc. (Petitioner) served a document that requests administrative review of a safety rating and also responds to violations alleged in a civil penalty proceeding (Petition).¹ Petitioner did not provide a copy of the compliance review that resulted in the safety rating. According to the Federal Motor Carrier Safety Administration's Safety and Fitness Electronic Records (SAFER) System, Petitioner's current safety rating is Conditional based on a September 13, 2013 compliance review.²

Petitioner alleges that the compliance review erroneously cited Petitioner with a violation of 49 CFR 383.37(a) – knowingly allowing, requiring, permitting, or authorizing an employee to operate a CMV during any period in which the driver does

¹ The civil penalty proceeding is identified as Case No. MA-2013-0145-US1421. The civil penalty proceeding is not before the Assistant Administrator in these proceedings which are only related to Petitioner's request for administrative review of its safety rating under 49 CFR 385.15.

² <http://safer.fmcsa.dot.gov>

not have a current commercial learner's permit (CLP) or commercial driver's license (CDL) or does not have a CLP or CDL with the proper class or endorsements. Although Petitioner outlined its argument as to why the violation should not have been cited on the compliance review report, Petitioner did not indicate how this alleged error resulted in its Conditional safety rating.³ Therefore, I do not know whether removal of this violation from the compliance review would result in an improved safety rating.

II. Decision

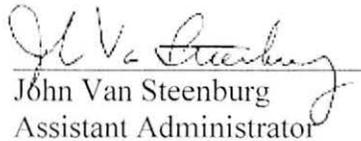
Although Petitioner requested administrative review under 49 CFR 385.15, it did not provide a copy of the compliance review in support of its request for administrative review. Because it is Petitioner's burden to demonstrate error, a petition for administrative review must explain the error and include a list of all factual and procedural issues in dispute and any information or documents that support its argument.⁴ Such information is necessary to rule on the merits of a request for administrative review. Although Petitioner explained the alleged error it believed the Agency committed, without referring to the compliance review report, I cannot determine whether the alleged error resulted in the erroneous calculation of Petitioner's safety rating. It would also be helpful to hear from the Field Administrator regarding the allegations of error advanced by Petitioner regarding the calculation of its safety rating.

It is therefore ORDERED, that the Field Administrator for FMCSA's Eastern Service Center serve a response to this Interim Order within 15 days of the service date of the Interim Order and provide a copy of the compliance review report for the record. All

³ 49 CFR 385.15(a).

⁴ 49 CFR 385.15(b). A petitioner requesting review of its safety rating, should provide a copy of its copy of the compliance review report that resulted in the rating.

further documents in these proceedings must be served on the Field Administrator and Petitioner with a copy to be filed in USDOT Dockets at the address indicated on the attached Certificate of Service.



John Van Steenburg
Assistant Administrator
Federal Motor Carrier Safety Administration

12/30/13

Date

CERTIFICATE OF SERVICE

This is to certify that on this 31 day of December 2013, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

| | |
|---|-----------------------------------|
| Michael F. D'Ampolo President M & L Transit Systems, Inc. 60 Olympia Ave. Woburn, MA 01801 <i>Petitioner</i> | One Copy U.S. First Class Mail |
| John C. Bell Cynthia Campise Anthony G. Lardieri Trial Attorneys FMCSA Office of Chief Counsel Eastern Service Center 802 Cromwell Park Drive, Suite N Glen Burnie, MD 21061 <i>Field Administrator's Attorneys</i> | One Copy U.S. First Class Mail |
| U.S. Department of Transportation Docket Operations, M-30 West Building Ground Floor Room W12-140 1200 New Jersey Avenue, S.E. Washington, D.C. 20590 | Original Personal Delivery |

