

April 14, 2005

Re: In re Application of Pennco Transportation, Inc.

Docket No. TC-041340

In re Application of Heckman Motors, Inc.

Docket No. TC-041593

BRIEFS

INTRODUCTION

This brief will summarize the reasons that Olympic Bus Lines “OBL” should be selected to provide scheduled service from Port Angeles, Sequim and other flag stops to the Kingston terminal of Aqua Express, the new passenger-only service between Kingston and the Seattle waterfront. It will also discuss why Pennco Transportation, Inc. “Pennco” should be denied this same authority.

WHY OBL SHOULD BE SELECTED

Service History

A primary reason OBL should be granted this proposed new authority is that it has been servicing this route for over fifteen years. Kingston had previously been listed as a flag-stop on the OBL tariff, but not on the actual operating authority. The Utilities and Transportation commission staff had asked OBL to “clean up” their tariff by applying to have Kingston added

to their operating authority. We had applied to do this when Pennco suddenly applied for same authority.

Location Advantage

It has been suggested that incoming Victoria walk-on passengers (Victoria to Port Angeles passengers) will be interested in this new service and OBL is ideally located for this potential market. All OBL bus runs start at our home office on the Port Angeles waterfront a short walk from the ferry terminals of both the Coho and Victoria Express ferries. We have been in this same location for nearly 20 years and needless to say our location is very familiar to the city of Victoria. We will work aggressively to serve this market if granted the authority.

Cost, Financial Fitness and Equipment Advantage

OBL has a major cost advantage compared to Pennco because it can operate this route with no additional expenses. This is a fact, since OBL currently operates two runs that already stop in Kingston to take the ferry to Edmonds on its normal route to Seattle. OBL is financially able to add additional runs if demand for Aqua Express increases.

OBL's average passenger load factor is currently about 55% leaving many seats available should interest in this new ferry materializes. So far, however, our reservation agents report that there has been no increased interest in a Kingston destination since the Aqua Express initiated service in the fall of 2004. Apparently, whatever usage there is of this new service is filled by other means of transportation to Kingston.

OBL is backed by a strong financial statement and supported by two Consolidated Public Transportation Grants. These grants have allowed the purchase of three modern and comfortable busses with the latest safety standards. These busses carry up to 20 passengers.

Witnesses (Mr. Farmer and Mr. Estes) confirmed the reliable and quality service provided by OBL. They also noted the empty seats on OBL runs and wondered how we could ever be profitable. OBL has made an enormous investment in developing its existing service to the Seattle area over a period of nearly 15 years. Allowing Pennco to compete directly for the same Seattle bound passengers, in an overlapping route, would jeopardize the ability of OBL to continue offering quality service and, in fact, even to survive. Jack Heckman demonstrated at the hearings (Exhibit xx) that the drop location of the Aqua Express service is within minutes of current drop locations of OBL on its regular Seattle route.

It is again emphasized that Pennco's desire to offer frequent and scheduled service to Kingston is tantamount to offering frequent and scheduled service to Seattle, as all customers that exit in Kingston to board the Aqua Express are Seattle bound.

WHY PENNCO'S REQUEST FOR NEW AUTHORITY SHOULD BE DENIED

Pennco is not financially fit.

Pennco Transportation, Inc. must prove that they are financially fit to operate this new route. In considering the financial fitness of Pennco, their application displayed net losses on their previous years financial statement of over three hundred forty thousand dollars. When asked by Jack Heckman how these losses have been funded, Kevin Harris replied that he had funded them personally. Mr. Harris did not present a plan on how these losses would be turned around.

When asked by Mr. Thompson how Mr. Harris would describe his current financial condition, Mr. Harris was only able to describe the situation as "stable", and that it has been "worse", and has been "better". Most small town businessmen would not describe a financial loss of \$340,000 in one fiscal year as a "stable" year.

Numerous Claims Against Pennco

Olympic Bus Lines Exhibit #8 includes an article from the November 17, 2004 Port Townsend Leader newspaper, Mr. Harris's hometown newspaper, which revealed a number of serious claims against Mr. Harris and two of his companies, Real Solutions/Macro Systems and Pennco Transportation. These claims involve numerous unpaid bills and will undoubtedly demand considerable time, energy and money to resolve. In view of Mr. Harris's majority ownership in Pennco, his personal situation, as well as the other businesses in which he is involved, his ability to continue to personally fund and manage Pennco is problematic at best.

It is evident from the preceding statements that Pennco Transportation, Inc. is not financially fit and it is not in the Commissions interest to grant him new (overlapping with OBL) authority to help his company survive. Much of this revenue would come directly from revenue now used to sustain OBL.

Pennco has not shown a need

Mr. Harris was not able to provide any studies or surveys to demonstrate any need for his proposed new service. He claims that his proposed new service would begin as a “commuter service”; however, both Mr. Harris and his witness Mr. Caldwell agreed that the proposed rate structure is too high for commuter use. In fact, a quick analysis by Jack Heckman showed that at Pennco’s proposed fare of \$25/day plus the \$11.50 round trip for Aqual Express would cost a commuter \$36.50/day or approximately \$750/month to use Pennco’s commuter service. It became very clear, and Pennco agreed with Mr. Heckman’s analysis and conclusion, that Pennco either had not thought this business model through or it was submitting a “red herring” disguising their real plan to take OBL’s regular customers.

Mr. Harris did not even attempt to show that the tourist or shopper would spend the money for his service to get to Seattle via the Aqua Express.

Pennco stretches its authority

Pennco’s existing authority provides “door to door” service, but by his own admission he has turned it into a “scheduled door-to-door service”. When Mr. Heckman questioned Mr. Harris concerning his claim to provide “on demand door to door service” as his authority requires, Mr. Harris explained that if the customer wanted to travel at a time other than their scheduled times, it was considered and charged as a “charter” with a higher rate. This raises the question as to whether or not Pennco is properly utilizing its current certificate.

Mr. Harris has already been reprimanded in prior years for violation of his authority and it seems to have little affect on his behavior.

In summary, it appears that Mr. Harris’s current business model and existing UTC authority, providing door- to-door service is not working financially. The proposed new service is an attempt to save his very unprofitable company.

SUMMARY

OBL has been providing Scheduled service to the Seattle area including SeaTac for 15 years and through a hard-working and dedicated staff and invaluable grants, is making great progress toward an eventual self-supporting business. This has been a major achievement as

the Olympic Peninsula has been devastated by a very weak economy and environmental restrictions limiting growth and movement.

We are fully committed to achieving the goal of self-sufficiency and hope to achieve it within the next few years.

Granting authority to Pennco to operate another scheduled route to the Seattle area would severely impact or make impossible, the achievement of that goal.

We pray that you select OBL exclusively for the Kingston stop.

Jack Heckman

President

Olympic Bus Lines