

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of	)	DOCKET TC-143691
	)	
SPEEDISHUTTLE WASHINGTON,	)	
LLC d/b/a SPEEDISHUTTLE	)	ORDER 02
SEATTLE	)	
	)	
For a Certificate of Public Convenience	)	INITIAL ORDER OVERRULING
and Necessity to Operate Motor	)	OBJECTIONS TO APPLICATION
Vehicles in Furnishing Passenger and	)	FOR NEW AUTHORITY
Express Service as an Auto	)	
Transportation Company	)	
.....	)	

**BACKGROUND**

- 1 On October 10, 2014, Speedishuttle Washington, LLC d/b/a Speedishuttle Seattle (Speedishuttle or Applicant) filed with the Washington Utilities and Transportation Commission (Commission) an application for a certificate of public convenience and necessity to operate as an auto transportation company (Application). Speedishuttle proposes to provide door-to-door service between SeaTac International Airport (SeaTac) and points within King County.
  
- 2 On November 12, 2014, Shuttle Express, Inc. (Shuttle Express) filed a letter objecting to the Application on the grounds that the Applicant seeks to provide the same service Shuttle Express currently provides. On November 20, 2014, Pacific Northwest Transportation Services, Inc. d/b/a Capital Aeroporter Shuttle (Capital Aeroporter) also filed an objection. Pursuant to Washington Administrative Code (WAC) 480-30-116, the Commission scheduled a hearing on the application for January 12, 2015, at 1:30 p.m.
  
- 3 On January 12, 2015, the Commission conducted a brief adjudicative proceeding at the Commission’s offices in Olympia, Washington, before Administrative Law Judge Rayne Pearson. Under WAC 480-30-116(3), the hearing was limited to the question of whether the objecting companies hold certificates to provide the same service in

the same territory as the Applicant seeks to provide, whether the objecting companies provide the same service, and whether the objecting companies will provide the same service to the satisfaction of the Commission.<sup>1</sup>

4 Julian H. Beattie, Assistant Attorney General, Olympia, Washington, represented Commission Staff (Staff).<sup>2</sup> David Wiley, Williams, Kastner & Gibbs PLLC, Seattle, Washington, represented Speedishuttle. John Fricke, Vice President-Operations, Olympia, Washington, represented Capital Aeroporter. Wesley Marks, CFO, Renton, Washington, represented Shuttle Express.

5 Cecil Morton, Speedishuttle owner and president, testified about Speedishuttle's 15-year history providing airport shuttle service in Hawaii and the company's decision to expand its business operations to Seattle. Mr. Morton sponsored exhibits documenting a 3.53 percent increase in airport passenger volume at SeaTac between 2012 and 2013,<sup>3</sup> and a population increase of more than 300,000 in King County between 2000 and 2012.<sup>4</sup> Mr. Morton also described Speedishuttle's business model, which offers door-to-door scheduled passenger service only.

6 Mr. Morton testified that all Speedishuttle customers are greeted outside the security gate by a company employee, escorted to the baggage claim, and then escorted to their shuttle. The Company plans to hire multilingual greeters to communicate with non-English speaking customers, and provides a multilingual website for reservations. Speedishuttle operates a fleet of Mercedes Benz vehicles equipped with wheelchair accessible lifts, high ceilings, Speedishuttle TV,<sup>5</sup> and Wi-Fi. Finally, Mr. Morton

---

<sup>1</sup> WAC 480-30-116(3). The revisions to WAC 480-30-116, effective September 21, 2013, provide greater specificity than the prior rule by identifying the narrow issues the Commission will consider in an adjudicated application for new certificate authority.

<sup>2</sup> In a formal proceeding such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

<sup>3</sup> Morton, Exh. CM-5.

<sup>4</sup> Morton, Exh. CM-3; Morton, Exh. CM-4.

<sup>5</sup> Speedishuttle TV is "an orientation of the marketplace. So when guests arrive, they see a program that has to do with ... Seattle." Morton, TR 28:23-25.

testified that Speedishuttle offers a service guarantee that all shuttles will depart within 20 minutes of check-in, compared to Shuttle Express's guarantee of 30 minutes.

- 7 Speedishuttle's CFO, Jack Roemer, testified about the Company's proposed pricing model, which uses an equal per-person rate structure. Shuttle Express, by contrast, uses a shared-ride model, which charges a high rate for the first passenger, and a much lower rate for each additional passenger for passengers traveling together.
- 8 Wesley Marks testified for Shuttle Express that the Company currently provides door-to-door service between SeaTac Airport and each of the points in King County that Speedishuttle proposes to serve, with the exception of restricted portions of Enumclaw and North Bend.<sup>6</sup> On cross-examination, Mr. Marks testified that Wi-Fi service is available in ten of Shuttle Express's 107 vehicles, and the Company's website is English-only.
- 9 Paul Kajanoff, president of Shuttle Express, testified about the Company's history of customer satisfaction. On cross-examination, Mr. Kajanoff testified about a Commission enforcement action brought against Shuttle Express in Docket TC-120323 for relying on independent contractors to transport passengers on 5,715 occasions during a one-year period rather than using company employees as required by Commission rule. Mr. Kajanoff explained that although Shuttle Express had a sufficient number of vehicles and drivers available, the company made a policy decision to use contractors on those occasions to provide upgraded service. Mr. Kajanoff argued that the population density in King County does not warrant the entry of additional operators, and that approving Speedishuttle's application would not be in the public interest.
- 10 James and John Fricke testified for Capital Aeroporter. John Fricke testified that the company provides door-to-door passenger service between SeaTac Airport and several of the points in South King County that Speedishuttle seeks to serve. James Fricke testified about the number and seating capacity of Capital Aeroporter's vehicles,

---

<sup>6</sup> Shuttle Express's certificate C-975 limits its operations to within a 25 mile radius of SeaTac, Boeing Field, Renton Airport, and Payne Field.

the company's telephone and online reservation systems, and the company's ten-minute pickup window. All of Capital Aeroporter's vehicles are equipped with Wi-Fi service. On cross examination, James Fricke testified that door-to-door shared ride service is not available 24 hours per day in King County; a customer seeking that service from Capital Aeroporter must purchase direct van service. John Fricke testified on cross examination that Capital Aeroporter has an English-only website, and does not have airport greeters or TVs in its vehicles.

11 Staff did not present any evidence or take a position on the objections.

### DISCUSSION AND DECISION

12 On September 21, 2013, the Commission amended its rules governing the Commission's review of applications for authority to operate a passenger transportation company in Washington.<sup>7</sup> The changes clarify and streamline the application process for companies seeking to provide such service, give companies rate flexibility, and promote competition in the auto transportation industry.<sup>8</sup> Existing companies may file objections to new applications on limited grounds that, if sustained, will result in denial of the application. If the objections are overruled, the application proceeds through a Commission Staff review of fitness and compliance with the other prerequisites for obtaining a certificate of convenience and public necessity.

13 WAC 480-30-116(3) provides that adjudications of auto transportation applications are "limited to the question of whether the objecting company holds a certificate to provide the same service in the same territory, whether the objecting company provides the same service, and whether an objecting company will provide the same service to the satisfaction of the Commission." All three elements must be present for the Commission to deny an application to serve a given route.

---

<sup>7</sup> *In re Amending and Adopting Rules in WAC 480-30 Relating to Passenger Transportation Companies*, Docket TC-121328, General Order R-572, Order Amending and Adopting Rules Permanently (2013), *codified at* WAC 480-30 (General Order R-572).

<sup>8</sup> *Id.* ¶13 and ¶25.

- 14 Under WAC 480-30-140(2), the Commission may consider a number of factors to determine whether the service applied for is the same as existing service. Those factors include, but are not limited to: whether existing companies are providing service to the full extent of their authority; the type, means, and methods of service provided; whether the type of service provided reasonably serves the market; and whether the population density warrants additional facilities or transportation. We address these pertinent factors as they relate to each objector.
- 15 **Shuttle Express.** Although Shuttle Express provides door-to-door scheduled service to the full extent of its authority, 24 hours per day, it does not offer all of the features included in Speedishuttle’s business model. For example, Speedishuttle service includes a personal airport greeter for each customer at no additional cost, a multi-lingual reservation website, and both Wi-Fi and television service in each of its vehicles. Shuttle Express offers greeter service for a fee, and has an English-only website. In addition, Shuttle Express has Wi-Fi service in just 10 of its 107 vehicles – less than ten percent of its fleet – and does not offer television service. Finally, Speedishuttle guarantees a 20 minute airport departure time, while Shuttle Express offers a 30 minute guarantee. Each of these factors distinguishes Speedishuttle’s proposed service from the service Shuttle Express currently provides.
- 16 Second, Speedishuttle, through cross-examination and exhibits, effectively demonstrated that Shuttle Express does not reasonably serve the King County market. Speedishuttle specifically pointed to Shuttle Express’s use of contract drivers, or “rescue service,” for a ten-year period ending in January 2014. At hearing, Mr. Kajanoff testified that Shuttle Express previously relied on contract drivers solely for the purpose of offering upgraded service. At the Commission’s December 12, 2013, open meeting, however, Shuttle Express requested the Commission grant a rule exemption to allow the company to continue using “rescue service” because it would not be able to “survive in the long run” without it.<sup>9</sup>
- 17 Shuttle Express argued that using contract drivers – which supplemented approximately five percent of its business over a 10-year period – was the lowest cost

---

<sup>9</sup> December 12, 2013, open meeting digital recording at 1:12:54.

way to meet customer needs,<sup>10</sup> and that acquiring additional vehicles and drivers would “require a rate increase, which would make it hard to compete.”<sup>11</sup> Although Mr. Kajanoff testified that the company no longer engages in this practice, he offered no evidence at hearing to demonstrate that Shuttle Express has expanded its business to compensate for this otherwise long-term unmet need. By the company’s own admission when it sought the rule waiver, Shuttle Express was unable to reasonably serve the market without relying on outside assistance for a ten-year period.

18 Finally, Speedishuttle presented evidence that while both SeaTac’s passenger volume and King County’s population have experienced significant growth in recent years, there has been no corresponding increase in regulated airport shuttle transportation in the proposed service area. Shuttle Express and Capital Aeroporter are the only companies that currently provide door-to-door shared ride service in King County. Given the totality of these factors, we find that Shuttle Express does not provide the same service Speedishuttle seeks to provide.

19 **Capital Aeroporter.** Capital Aeroporter offers shared ride door-to-door service between points within South King County and SeaTac between 3:45 a.m. and 11:55 p.m., and shared ride door-to-door service from SeaTac to points within King County from 5:50 a.m. to 12:35 a.m. Speedishuttle, however, seeks to provide 24-hour door-to-door service in the same area. Like Shuttle Express, Capital Aeroporter does not have a multi-lingual website. Although Capital Aeroporter offers free Wi-Fi, it does not provide airport greeting service or televisions in its vehicles. Given the totality of these factors – as well as the issue of population density discussed above – we find that Capital Aeroporter does not provide the same service Speedishuttle seeks to provide.

## FINDINGS AND CONCLUSIONS

20 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates, rules, regulations, and practices of auto transportation companies.

---

<sup>10</sup> *Id.* at 1:12:25.

<sup>11</sup> *Id.* at 1:13:07.

- 21 (2) October 10, 2014, Speedishuttle filed an application with the Commission to operate as an auto transportation company subject to the Commission's jurisdiction.
- 22 (3) On November 12, 2014, Shuttle Express filed an objection to Speedishuttle's application on the grounds that Shuttle Express provides the same service the Applicant proposes to provide between SeaTac Airport and points within King County.
- 23 (4) On November 20, 2014, Capital Aeroporter filed an objection to Speedishuttle's application on the grounds that it provides the same service the Applicant proposes to provide between SeaTac Airport and points within South King County.
- 24 (5) A number of factors, discussed above, distinguish the service Shuttle Express provides from the service Speedishuttle proposes to provide.
- 25 (6) Shuttle Express does not provide the same service Speedishuttle proposes to provide.
- 26 (7) A number of factors, discussed above, distinguish the service Capital Aeroporter provides from the service Speedishuttle proposes to provide.
- 27 (8) Capital Aeroporter does not provide the same service Speedishuttle proposes to provide.

**ORDER**

**THE COMMISSION ORDERS THAT:**

- 28 (1) The objections to Speedishuttle Washington d/b/a Speedishuttle Seattle's application to provide service between points within King County and SeaTac Airport are overruled.

- 29 (2) Speedishuttle Washington d/b/a Speedishuttle Seattle's application is referred to Commission Staff for evaluation of whether Speedishuttle Seattle will provide service in accordance with the Commission's auto transportation rules.

Dated at Olympia, Washington, and effective January 22, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON  
Administrative Law Judge



**NOTICE TO THE PARTIES**

This is an initial order. The action proposed in this initial order is not yet effective. If you disagree with this initial order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this initial order, and you would like the order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has 20 days after the entry of this initial order to file a petition for administrative review (Petition). Section (3) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-825(4) states that any party may file an answer (Answer) to a Petition within 10 days after service of the petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will not accept answers to a petition to reopen unless the Commission requests answers by written notice.

RCW 80.01.060(3), as amended in the 2006 legislative session, provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion.

You must serve on each party of record one copy of any Petition or Answer filed with the Commission, including proof of service as required by WAC 480-07-150(8) and (9). To file a Petition or Answer with the Commission, you must file an original and three copies of your petition or answer by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250