

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SHUTTLE EXPRESS, INC.,

Petitioner and Complainant,

v.

SPEEDISHUTTLE WASHINGTON, LLC,

Respondent.

DOCKET NOS.

TC-143691,

TC-160516, and

TC-161257 (consolidated)

**MOTION FOR STAY
OF SHUTTLE EXPRESS, INC.**

1 Shuttle Express, Inc. (“Shuttle Express” or “Petitioner”) respectfully files this motion to stay, in part, Order No. 20 (“Final Order”),¹ pursuant to WAC 480-07-860.

2 The Final Order assesses a \$120,000 penalty, to be paid within 30 days of the order (December 18, 2017). Final Order, ¶¶ 93-94. Shuttle Express expects to seek judicial review of the penalty provisions of the Final Order. Pending that review, Shuttle Express seeks a narrow and limited stay of the order, in particular the very short 30-day timetable to pay the penalty. Shuttle Express does not seek to stay any other aspect of the Final Order, but reserves its right to seek judicial review of the entire order.

¹ Order 13 and Order 10 in consolidated Dockets TC-160516 and TC-161257. Except as may otherwise be noted, all citations to orders in these cases will be to the order numbers in lead Docket TC-143691.

3 As Mr. Kajanoff stated in pre-filed testimony in this docket earlier this year, Shuttle Express has suffered operating losses since Speedishuttle began to compete with it. *See, e.g.* Exhibit PK-3T at 18. Shuttle Express continues to lose money on an annual basis today—over \$1.2 million through the end of September. Marks Declaration, ¶ 2.

4 The airport ground transportation market at SeaTac is highly seasonal. Shuttle Express generally incurs substantial losses from about October through April and only makes money from May through September. Marks Declaration, ¶ 3.

5 Shuttle Express has needed over \$2.0 million of capital infusion to continue to operations since Speedishuttle entered the market. Marks Declaration, ¶ 2. Despite those infusions, Shuttle Express currently does not have \$120,000 of excess working capital that is not allocated to covering seasonal losses and maintaining the current or projected level of service consistent with UTC rules and reasonable expectations of the public. Marks Declaration, ¶ 4.

6 In order to pay the \$120,000 penalty in 30 days, Shuttle Express would either have to: 1) reduce service levels and quality, 2) obtain a further capital infusion, 3) obtain bank credit, or 4) do some combination of the foregoing. Marks Declaration, ¶ 5. At this time Shuttle Express does not know which of these options could or would be exercised if the penalty is not stayed. *Id.*

7 The Commission will not be materially harmed if the penalty is stayed pending appeal, whether the UTC is affirmed or not. If the penalty is affirmed, Shuttle Express is hopeful that because Speedishuttle has stated its intention to discontinue service effective immediately (in Dkt. TC-171144) that Shuttle Express will soon return to profitability and be able to rebuild working capital from earnings and cash flow. If that happens, the risk of harm to the public interest in ultimately paying the fine will be diminished.

8 On the other hand, if profitability does not return, the UTC will be no worse off than it is now. In order to pay the fine at that future time, the company will still have to either have to reduce service levels and quality, obtain a further capital infusion, or obtain a bank loan to pay the penalty. So, the risk of non-payment will either be lessened due to a restoration of working capital or will be substantially the same as it is today. And of course, if the UTC is reversed on review, the penalty will never have to be paid and the stay will become moot.

Respectfully submitted, this 21st day of November, 2017.

/s/
Brooks E. Harlow, WSBA # 11843
LUKAS, LAFURIA, GUTIERREZ & SACHS, LLP
8300 Greensboro Drive, Suite 1200
Tysons, VA 22102
Direct: (703) 584-8680
Cell: (206) 650-8206
bharlow@fcclaw.com

Counsel for Shuttle Express, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2017, I electronically served via email the foregoing Stay Motion on behalf of Shuttle Express, Inc. to:

<p>Julian Beattie Office of the Attorney General Utilities and Transportation Division 1400 S. Evergreen Park Dr. SW PO Box 40128 Olympia, WA 98504-0128 (360) 664-1192 Email: jbeattie@utc.wa.gov</p>	<p>David W. Wiley Blair I. Fassburg Williams Kastner Two Union Square 601 Union Street, Suite 4100 Seattle, WA 98101 (206) 233-2895 Email: dwiley@williamskastner.com Email: bfassburg@williamskastner.com</p>
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Dated at Tysons, Virginia this 21st day of November, 2017.

/s/
Maureen Halligan
Legal Assistant to Brooks E. Harlow
LUKAS, LAFURIA, GUTIERREZ & SACHS, LLP
8300 Greensboro Drive, Suite 1200
Tysons, VA 22102
General: (703) 584-8678
Direct: (703) 584-8698