

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of)	DOCKET TC-143691
)	
SPEEDISHUTTLE WASHINGTON,)	
LLC d/b/a SPEEDISHUTTLE)	SHUTTLE EXPRESS'S MOTION
SEATTLE)	TO REOPEN THE RECORD
)	
For a Certificate of Public Convenience)	
and Necessity to Operate Motor Vehicles)	
in Furnishing Passenger and Express)	
Service as an Auto Transportation)	
Company)	
.....)	

INTRODUCTION & RELIEF REQUESTED

1 Applicant Speedishuttle Washington, LLC seeks to provide the same service that certificate holder Shuttle Express, Inc., already provides: door-to-door service within King County. At the time of the January 12 hearing on Speedishuttle's application, Shuttle Express's President was suffering from temporary but severe hearing loss. Mr. Kajanoff submitted a request for technological accommodation but no such accommodations were available. In fact, the one piece of technology that could have aided Mr. Kajanoff—the telephone call-in bridge—was not operational. The hearing transcript demonstrates that Mr. Kajanoff was unable to audibly understand and respond to the evidence presented. This demonstrates good and sufficient cause to reopen the record because Shuttle Express was not represented by counsel, and Mr. Kajanoff intended to represent Shuttle Express's interests on direct and cross-examination. Because his hearing impairment was not adequately accommodated, Mr. Kajanoff was unable to do so. For these reasons, Shuttle Express

respectfully requests that the Commission allow Shuttle Express to present additional evidence relevant to the Commission's adjudication of Speedishuttle's Application.

2 One of the factors identified in the Initial Order overruling Shuttle Express's objections was increasing population density in King County. While King County has experienced a population increase, Shuttle Express has experienced a nearly nine percent decrease in the number of passengers in the last two years. This is likely due to the light rail line to the airport and the advent of services such as Uber. The attached Declaration of Paul Kajanoff documents this decline, and demonstrates that the market is already experiencing increased competition.

FACTUAL BACKGROUND

3 On October 10, 2014, Speedishuttle filed with the Commission an application for a certificate of public convenience and necessity to operate as an auto transportation company. Speedishuttle proposes to provide door-to-door service between SeaTac International Airport (SeaTac) and points within King County.

4 On November 12, 2014, Shuttle Express filed a letter objecting to Speedishuttle's Application on the grounds that Speedishuttle seeks to provide the same service Shuttle Express already provides.

5 On November 20, 2014, Pacific Northwest Transportation Services, Inc., d/b/a Capital Aeroporter Shuttle, also filed an objection.

6 The Commission scheduled a brief adjudicative hearing on Speedishuttle's Application for January 12, 2015.

7 On January 9, 2015, Shuttle Express submitted a request for accommodation at the brief adjudicative hearing because Shuttle Express President Paul Kajanoff was ailed by temporary but severe hearing loss. Mr. Kajanoff was to play a central role in representing

Shuttle Express's interests at the hearing, and he requested basic technological accommodations so that he would be able to hear and adequately respond at the proceeding.

8 On January 12, 2015, the Commission conducted a brief adjudicative proceeding pursuant to Washington Administrative Code (WAC) 480-30-116. The proceeding was held at the Commission's offices in Olympia, Washington, before Administrative Law Judge Rayne Pearson.

9 Mr. Kajanoff had extreme difficulty participating in the hearing. Shuttle Express's other representative, Wesley Marks, had to relay virtually all messages because the microphone system was insufficient.

10 Moreover, the call-in bridge line was not working at the hearing. The phone bridge would have been a convenient and effective way to accommodate Mr. Kajanoff's hearing impairment.

11 On January 22, 2015, Judge Pearson issued the Initial Order overruling all objections to Speedishuttle's application and referring the Application to the Commission Staff for evaluation. (Initial Order Overruling Objections to Application for New Authority ¶ 28)

STATEMENT OF THE ISSUE

12 Is there good and sufficient cause for opening the record to include evidence regarding the decreasing demand for door-to-door shared ride service where Shuttle Express's President and most knowledgeable employee was unable to present and cross-examine evidence because of severe hearing loss?

EVIDENCE RELIED UPON

13 Shuttle Express relies upon the pleadings, transcripts, exhibits and Initial Order contained in the record, as well as the Declaration of Paul Kajanoff attached to this Motion to Reopen.

LEGAL ARGUMENT

A. The commission may reopen the record where good and sufficient cause exists.

14 “Any party may file a motion to reopen the record at any time after the close of the record and before entry of the final order. . . . In contested proceedings, the commission may reopen the record to allow receipt of evidence that is essential to a decision and that was unavailable and not reasonably discoverable with due diligence at the time of the hearing or for any other good and sufficient cause.” WAC 480-07-830.

B. Good and sufficient causes exists where the Commission’s lack of accommodation severely impacted Shuttle Express’s ability to present evidence and cross-examine the Applicant.

15 Good and sufficient cause exists here. Shuttle Express was denied the opportunity to have its President and most qualified representative present arguments and evidence on its behalf because Mr. Kajanoff’s hearing impairment was not adequately accommodated.

16 Shuttle Express representative Wesley Marks had to physically write any questions intended for Mr. Kajanoff. Otherwise, Mr. Kajanoff was unable to understand or comprehend the proceeding.

17 Mr. Kajanoff was the most qualified representative to testify regarding Shuttle Express’s history and services. Mr. Kajanoff also intended to cross-examine Speedishuttle’s evidence. Shuttle Express was not represented by counsel.

18 Shuttle Express validly filed a request for accommodation, requesting at minimum sufficient technological accommodations to allow Mr. Kajanoff to participate in the hearing.

19 Pursuant to WAC 480-07-350 and 10-08-150(9), a hearing officer is required to
appoint and pay for an interpreter at the cost of the Commission when a party is hearing-
impaired.

20 No such interpreter was provided, and no technological accommodations were made.
The proceeding's call in bridge would have allowed Mr. Kajanoff to at least have an
individualized hearing aid (by calling in himself), but this system was not even operational
during the proceeding.

21 Good and sufficient cause exists here to reopen the proceeding so Mr. Kajanoff can
submit additional evidence as to the demand for door-to-door service. This evidence is crucial
to the Commission's analysis in deciding whether public convenience and necessity require
another door-to-door service operator.

22 The new evidence will show that Shuttle Express is already battling increased
competition without the entry of a new regulated competitor.

CONCLUSION

23 For the foregoing reasons, Shuttle Express respectfully requests that the Court
consider the attached declaration and its exhibits in deciding whether public convenience and
necessity require another door-to-door service operator.

DATED: February 9, 2015

MILLS MEYERS SWARTLING P.S.
Attorneys for Defendant Shuttle Express, Inc.

By: 

Bruce Winchell
WSBA No. 14582
Hunter G. Jeffers
WSBA No. 48161

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on this date I caused to be served in the manner indicated a copy of the within and foregoing document upon the following persons:

Attorney for SpeediShuttle:

David Wiley
Williams, Kastner & Gibbs, PLLC
Two Union Square
601 Union Street, Suite 4100
Seattle, WA 98101
dwiley@williamskastner.com

- Via first class mail, postage prepaid
- Via facsimile
- Via legal messenger
- Via e-mail:

For Pacific NW Transp. Services, Inc.:

John E. Fricke
VP Operations
P.O. Box 2163
Olympia, WA 98507-2163
johnf@capair.com

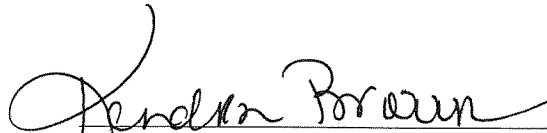
- Via first class mail, postage prepaid
- Via facsimile
- Via legal messenger
- Via e-mail:

Attorney for Staff of Washington UTC:

Julian Beattie
Office of the Attorney General
Utilities and Transportation Division
1400 S. Evergreen Park Drive SW
P.O. Box 40128
Olympia, WA 98504-0128
jbeattie@utc.wa.gov

- Via first class mail, postage prepaid
- Via facsimile
- Via legal messenger
- Via e-mail:

DATED February 9, 2015.


Kendra Brown