

March 11, 2012

This document is being filed to be placed under Docket TC- 120276, regarding Seatac Shuttle's filing of a less than 3% fare increase under WAC Section 480-30-421.

March 6, 2012. Initial email from Mr. Mickelson to Mr. Solin and Mr. Lauver.

Hello Mr. Solin and Mr. Lauver,

The Washington Utilities and Transportation Commission (Commission) has received the tariff revision filing. I have reviewed your initial filing submitted under WAC 480-30-421 and uses the 2011 annual report for support. The 2011 annual report shows the company having an operating ratio of 85.9 percent after restating fuel surcharge revenue and before the proposed fare increase, therefore I propose that you withdraw your current filing (docket TC-120276).

Otherwise, I will need the following information to help understand your current situation in support of a fare increase:

- 1) Monthly detailed passenger count price-out by tariff item/class. A total passenger count all tickets sold and fares charged during the test year, including all routes, zones, and types of service, and breakdowns between one-way and round trip fares, adults, children, commuters, etc. Revenues of the passenger count/tickets sold analysis must be reconciled to the revenues of the chosen test period. The passenger count/tickets sold analysis forms the basis of the revenue impact of the filing called for in WAC 480-30-381<<http://apps.leg.wa.gov/wac/default.aspx?cite=480-30-381>> (2)(b)(ii).
- 2) A detailed depreciation schedule (electronically, in Excel if possible) listing all used and useful assets held by the company during the test period, including the date of purchase, the cost at purchase, the depreciable life, the salvage value, depreciation expense, and accumulated depreciation expense at the end of the test period.
- 3) An income statement listing all revenue and expense accounts by month.
 - a) If nonregulated revenue represents more than ten percent of total company test period revenue, a detailed separation of all revenue and expenses between regulated and nonregulated operations.
- 4) Please provide detailed employee job descriptions, hours' work (quarterly breakdown), and rate of pay for each employee used by the company.
- 5) A consolidated balance sheet (electronically, in Excel if possible), including the percentage of equity and the percentage of debt, and the cost of that debt by component.
- 6) Any information about every transaction with an affiliated interest or subsidiary that directly or indirectly affects the proposed rates. This must include: A full description of the relationship, terms and amount of the transaction, the length of time the relationship has been ongoing, and an income statement and balance sheet for every affiliated entity.
- 7) Provide a copy (electronically, in Excel if possible) of the General Ledger.
- 8) Provide a month breakdown of fuel expense for the test period (by gallons and actual fuel costs) and include the most recent months after the test period for a proforma.

Commission staff is arranging for this filing to be on the open meeting agenda of March 29, 2012 for commission action. Data requests responses, discussions, and analysis need to be completed by end of business on March 19, 2012, so staff can prepare materials for the agenda and avoid any delays in the effective date of this filing. If you have any questions, please contact me at cmickels@utc.wa.gov<<mailto:cmickels@utc.wa.gov>> or (360) 664-1267<<tel:%28360%29%20664-1267>>.

Sincerely,
Chris

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March 6, 2012 response from Mr. Lauver to Mr. Mickelson.

Mr. Mickelson:

TC-120276

March 6, 2012

You have confused this filing with one under WAC 480-30-426. This filing is for an increase of LESS THAN THREE PERCENT OF GROSS REVENUES and falls under WAC 480-30-421. We have supplied you with the information necessary to substantiate this percentage. Your reference to WAC 480-30-381 (2) b is baffling as we have supplied you with the passenger count and the amount of the proposed increase, the math is not difficult and it is done for you in the transmittal letter.

Your persistence in placing obstacles in the way of this company in the performance of the normal course of business and any attempt to remain viable can only be taken as misguided. I suggest you review the recent statements of the commission regarding the applicability of your former regulatory model to autotransportation and reevaluate your position. The purpose of WAC 480-30-421 is to offer companies a simplified and expedited way to effect small rate changes to offset increasing costs, not to provide a platform for the staff to create work and deny any request. Under your methodology there is no applicability of -421, you would evaluate any request under your no longer applicable 93/7 method. That being the case there is no reason for any company to file for a less than three percent increase. If that is your position, how do you justify the cost to the companies and the tax payers of developing and incorporating this section into WAC?

I along with all of the other regulated companies; I'm sure, am more than mildly interested to have you state under what circumstances you would support a filing under -421. I am also most interested in your explanation as to the purpose of -421.

Once you have provided answers to our questions, we stand ready to supply any reasonable documentation in support of our filing under 480-30-421. The inclusion of our annual report clearly shows that the letter and intent of -421 was met in this request and we expect that it be treated accordingly.

I look forward to reply at your earliest convenience.

Michael Lauver

March 8, 2012 Response from Mr. Eckhardt to Mr. Lauver.

Mr. Lauver,

Thank you for your reply.

Staff agrees that a rate filing for less than three percent increase is not a "general rate increase filing" under WAC 480-30-421(1)(a) and that the company is not required to submit with its original filing the work papers set forth in WAC 480-30-426. Staff notes that WAC 480-30-426 is a minimum or threshold requirement because the filing must include, but is not limited to, the listed items.

Staff is fully aware of discussions that may result in future changes to statutes and rules. While you suggest in your email that there have been "recent statements of the commission regarding the applicability of your former regulatory model to auto transportation...", those statements were made in discussions about possible statutory changes, which have not been enacted by the legislature. Therefore, staff must analyze this filing using current statutes and rules.

Your position is clear, but Staff disagrees, as set forth in greater detail below. Our conclusion and request for additional information has not changed.

The company has the burden to demonstrate that the proposed rates will be fair, just, reasonable and sufficient. Staff requested the additional information that we think we need to make that determination.

Staff does not interpret WAC 480-30-421 to allow automatic rate increases. The rule sets a lower threshold filing requirement for rate increase filings that are less than three percent. The rule does not change the statutory requirement that rates be fair, just, reasonable and sufficient. The rule allows staff to evaluate each filing to determine whether or not we require

additional information, and, if so, what type of information, to determine if the proposed rates are fair, just, reasonable, and sufficient. Staff evaluates the reason for the increase (such as a change in a single expense, a change in general operating expenses, or to improve the operating ratio), the company's last general rate case, and whether or not it is reasonable to assume that cost increases may be caused or offset by other changes in costs or operations.

This matter is scheduled for the March 29, 2012, open meeting. Both the company and staff will have an opportunity to present their opinions to the commissioners at that time. Unless staff receives the requested additional information and our analysis shows that the company has demonstrated a need for additional revenue and the proposed rates are fair, just, reasonable, and sufficient, staff will recommend that the commission suspend the filing and set the matter for hearing.

Thank you.

This e-mail states the informal opinions of commission staff, offered as technical assistance, and are not intended as legal advice. We reserve the right to amend these opinions should circumstances change or additional information be brought to our attention. Staff's opinions are not binding on the commission.

Eugene K. Eckhardt

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March 11, 2012 Response from Mr. Lauver to Mr. Eckhardt.

SEATAC SHUTTLE, LLC
PO BOX 2895
OAK HARBOR, WA 98277

March 11, 2012

Re: Docket TC-120276

Mr. Eckhardt:

Thank you for your response of March 8, 2012 on behalf of Mr. Mickelson, though we must admit it is not the response we were anticipating. Your acknowledgment that "Staff agrees that a rate filing for less than three percent increase is not a "general rate increase filing" under WAC480-30-421(1)(a) and that the company is not required to submit with its original filing the work papers set forth in WAC 480-30-426." This states our position and we are glad that you agree with it. Following this interpretation we submitted our annual report to substantiate the less than three percent threshold of our request. If additional reasonable documentation is needed to substantiate the three percent threshold we will provide it.

We informed Mr. Mickelson of the Commission's current position regarding regulation of autotransportation in an effort to suggest that the extreme, detail oriented documentation requests of the past are no longer applicable and that in the case of a -421 filing the process should certainly be one that is streamlined and not burdensome to the company filing the request. Unfortunately he immediately fell back on the unsupportable 93/7 ratio methodology that has been incorrectly applied to autotransportation for decades and in this case has no application whatsoever under -421. As Mr. Mickelson's supervisor we thought you would correct this misinterpretation. Instead you characterized the Commission's position as "those statements (of the Commission) were made in discussions about possible statutory changes, which have not been enacted by the legislature. Therefore, staff must analyze this filing using current statutes and rules." Once again you have taken a position that reinforces your personal policy denying any attempt by autotransportation operators to keep pace with the cost of living and the economic realities of surviving in business today. These were not in fact "statements in discussion" as you suggest and I suspect you fully are aware of, but were contained in the required document issued by the commission pursuant to seeking legislative changes. Whether or not those changes were enacted during this most current session has no bearing on the statements contained in the document. So that there can be no misinterpretation I refer you to this document.

2012 UTC AGENCY REQUEST LEGISLATION
An Act Relating to Commercial Passenger Carriers
Z-0596.4/11 4thDraft

Statement of Need

Paragraph 3

"The UTC believes that the rationale for economic regulation of this industry is no longer valid. The capital investment of bus and airporter companies is low, and the equipment purchased (buildings and vehicles) can be more easily converted to other uses or sold. The ease with which companies can enter and leave the market undermines the premise that the public will not be served because companies who compete may drive each other out of business and leave the market without service."

As demonstrated in this document, this is no mere discussion, but a document explaining and proclaiming the position of the Agency with regard to deregulation. Without this statement of

need the agency may not even propose legislation. The reasoning and statements are not dependent upon the actions of the legislature. They are the current position of the Commission, of which you as a staff member should be supporting.

You further state that the “The company has the burden to demonstrate that the proposed rates will be fair, just, reasonable and sufficient.” We agree and feel that this burden has been met.

There has not been a single complaint to the commission from our customers in our eight and one half year operating history regarding our rates. Ergo they are “fair”.

Our rates are “just” and are more than “just”. We operate with one of the lowest passenger mile costs in the country and one of the lowest in the state. The requested increase would not change that position.

Is it reasonable to pay the same price for a commodity for seven years in an economy in which all other costs have gone up by more than twenty percent? We think that it is unreasonable and that we need to start looking to rectify this situation and bring our fares back up to a “reasonable” level. We have decided to do this in very small increments over time so as not to impact the consumer on any appreciable level.

When you operate a multi-million dollar business providing 40 jobs and a vital service to the community at a very high individual risk, what is sufficient? In a business where one lapse in attention by an employee could result in an accident and bankrupt the company and put the owners/investors at very high personal risk, is a three percent return sufficient? Or, does it demand a return based not only on investment but exposure, liability and risk? The regulatory model that the commission has now rejected provided no such return but seeks through its interpretation and implementation by you and your staff to find the path of lowest possible return. You deny taxes as expenses, you deny interest as expenses, and you refuse to factor in market factors or other circumstances all of which are called for under RCW. You have implemented a policy of selective interpretation and implementation designed to severely limit the profitability of all companies. One can only speculate as to the reasons behind this policy as it is clearly and unequivocally not called for in RCW. This was not the intent of the legislature. In short, our rates are not sufficient. They do not meet the risk analysis test. Yes we can still buy fuel and pay our employees, but we could lose it all by two seconds of inattention.

In your response you further state “Staff does not interpret WAC 480-30-421 to allow automatic rate increases. The rule sets a lower threshold filing requirement for rate increase filings that are less than three percent”. We agree with this statement but not your interpretation of it. First, it has never been suggested that a -421 filing is “automatic” or automatically granted. The less than three percent threshold must be demonstrated and we have provided all the documentation to that effect. Second, the lower threshold is just that. It is not license to fall back on a methodology that is nowhere alluded to in the statute. A methodology that I might add, that you, Mr. Eckhardt, sat before the commission in open

meeting and explained how it penalizes good, efficient operators and rewards inefficient poor operators. It is a conundrum that we have been seeking for years to unravel, why you persist in the punitive policy while current law provides you with other options that permit reasonable regulation of the companies and still fosters a healthy, growing industry.

Is it the policy of you and your staff to fall back on "rule" when you find it convenient and to ignore or produce a "creative" interpretation of rule or even law when it serves to stiffen the regulatory position of the agency? The commission has spoken on that policy and position clearly and it is our expectation that you will follow that instruction.

Finally, Mr. Mickelson suggested that we send you his canned list of figures, counts, and etcetera or withdraw our request. The hammer is of course, the specter of a full blown rate hearing on this -421 request. We have neither the time, the inclination, nor the money for a rate hearing. If we did we would not be asking for the paltry less than 3% amount that we are. We note that you and your staff have never supported or approved any submission under -421 since its creation in 2005. Hence, when would you ever approve a -421 filing? Therefore, if you are unwilling to support this rate request on its merits and under the clear dictates of -421 we will withdraw it and seek other avenues of resolution.

Mr. Eckhardt, there has been a long overdue "sea of change" at the agency as proclaimed by the commissioners. It is time that you and your staff looked at our businesses in light of the real world and not through the same old, arcane, outdated and misapplied methodology. Change hurts but ultimately it is for the common good.

If you are not willing to support this request for rate increase, please advise us no later than March 16, 2012 and we will withdraw this filing at that time.

Thank you,

Michael Lauver
John Solin
mike@seatacshuttle.com
john@seatacshuttle.com

Copy to Records