

Service Date: September 12, 2016

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper  
Carrier Classification of, and Complaint for  
Penalties against:

MARCUS ALLEN PERKINS and  
EMERALD CITY PARTY BUS, LLC d/b/a  
ELLIE'S LIMO AND LUXURY CAR  
SERVICE

DOCKET TE-160822

ORDER 01

ORDER INSTITUTING SPECIAL  
PROCEEDING; COMPLAINT SEEKING  
TO IMPOSE PENALTIES

and

NOTICE OF HEARING

**(Set for October 5, 2016, at 1:30 p.m.)**

**INTRODUCTION**

- 1 The Washington Utilities and Transportation Commission (Commission), pursuant to RCW 81.04.510, institutes this special proceeding on its own motion to determine whether Emerald City Party Bus, LLC (Emerald City) is operating as a charter party or excursion service carrier, transporting passengers for compensation between points in the state of Washington and on the public highways of Washington State without the certificate required for such operations by RCW 81.70.220.
- 2 The Commission has information from which it believes and therefore alleges that Emerald City is operating as a charter party carrier or excursion service carrier, transporting passengers for compensation on the public highways of the State of Washington without the necessary certificate required for such operations by RCW 81.70.220. Specifically, the Commission has evidence that Emerald City advertised its services on at least three different online websites and also offered charter party carrier transportation when a member of Commission Staff, posing as a consumer, inquired whether Emerald City could provide such transportation.
- 3 Pursuant to RCW 81.04.510, upon proof of these allegations, the Commission is authorized to issue an order requiring Emerald City to cease and desist activities subject to regulation under Title 81 RCW. In addition, RCW 81.04.110 authorizes the Commission to file a complaint on its own motion, setting forth any act or omission by

Emerald City that violates any law, or any order or rule of the Commission. Under RCW 81.70.220, the Commission may impose financial penalties of up to \$5,000 for each violation.

- 4 At the hearing in this special proceeding that will be conducted pursuant to Part IV of the Administrative Procedure Act (APA), RCW 34.05, of which notice is given here, the Commission will also consider its Complaint against Respondent Perkins and Emerald City and decide whether Respondent Perkins and/or Emerald City should be penalized.

**ORDER AND NOTICE OF HEARING**

- 5 The Commission has jurisdiction to institute a special proceeding to determine whether Emerald City is conducting business requiring operating authority, or has performed or is performing any act requiring Commission approval without securing such approval pursuant to RCW 80.01.040, RCW 81.01.010, RCW 81.04.510, and RCW 81.70.220. In addition to the foregoing statutes, this matter involves Title 81 RCW, including but not limited to RCW 81.04.020, RCW 81.70.020, RCW 81.70.310, and RCW 81.70.360. This matter also involves the administrative rules set forth in WAC 480-30 and WAC 480-07.

- 6 **IT IS HEREBY ORDERED** that Emerald City and Respondent Perkins appear before the Commission in this special proceeding conducted under the authority of RCW 81.04.510 at 1:30 p.m. on October 5, 2016, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, to give testimony and evidence under oath as to its operations. Perkins and Emerald City shall appear at the time and place set forth above unless the Executive Director and Secretary of the Commission, by notice of hearing, specifies a different time and place. This is ordered pursuant to the subpoena powers granted in RCW 34.05.446, RCW 80.01.060(1), and RCW 81.04.510.

- 7 **IT IS FURTHER ORDERED** that at the hearing in this special proceeding the burden of proving that the alleged operations are not subject to the provisions of Title 81 RCW shall be upon Emerald City as provided by RCW 81.04.510.

- 8 **NOTICE IS FURTHER GIVEN THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY**

**OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC 480-07-450.**

- 9 If a limited English-speaking or hearing-impaired party needs an interpreter, a form is attached to this notice to be filled out and returned as indicated, so that a qualified interpreter may be appointed at no cost to the party or witness.
- 10 The names and mailing addresses of all parties and their known representatives are shown as follows:

Respondent	Marcus Allen Perkins 20115 32nd Ave. South Tukwila, WA 98198
Carrier:	Emerald City Party Bus Mr. Marcus Allen Perkins 20115 32nd Ave. South Seatac, WA 98198
Representative:	Unknown
Commission:	Washington Utilities and Transportation Commission 1300 S. Evergreen Park Drive S.W. P.O. Box 47250 Olympia, WA 98504-7250 (360) 664-1160
Representative:	Jeff Roberson Assistant Attorney General 1400 S. Evergreen Park Drive S.W. P.O. Box 40128 Olympia, WA 98504-0128 (360) 664-1192

**COMPLAINT SEEKING PENALTIES**

**PARTIES**

11 Complainant, the Washington Utilities and Transportation Commission, is an agency of the State of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including charter party carriers, under the provisions of Title 81 RCW.

12 Respondent Perkins is the registered agent and managing member of Emerald City. Between July 1, 2009, and December 31, 2013, Respondent Perkins operated Elle's Limo and Luxury Car Service as a sole proprietorship.

13 Emerald City is a Washington limited liability corporation. Emerald City provides charter and excursion services in the state of Washington. Ellie's Limo and Luxury Car Service is currently a registered trade name of Emerald City.

**JURISDICTION**

14 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 80.01.060, RCW 81.01.010, RCW 81.04.110, RCW 81.04.160, RCW 81.04.460, RCW 81.04.510; and chapter 81.70 RCW.

**BACKGROUND**

15 The following facts, set forth in the Staff Investigation Report of this matter, establish probable cause for the Commission to complain against the activities of Emerald City and/or Respondent Perkins and to seek penalties in accordance with applicable law.

16 In May 2014, Commission Staff contacted Respondent Perkins and advised him that the public service laws forbade him from offering charter or excursion services in Washington without a certificate from the Commission. Respondent Perkins informed Commission Staff that he was familiar with the requirements of the public service laws and not providing charter or excursion services. Staff told Respondent Perkins that it would commence an enforcement action if it discovered that he was violating the public service laws.

17 On January 4, 2016, Commission Staff identified Emerald City as possibly providing charter and excursion services without a certificate from the Commission. Accordingly, Commission Staff opened an investigation.

18 On January 4, 2016, Commission Staff visited Emerald City's website. Respondent Perkins introduces himself as Emerald City's owner on the site. The site offers a variety of charter and excursion services and notes that the company's vehicle fleet includes "luxury town cars, luxury limousine, party bus and passenger van." Commission Staff returned to the website on June 21 and July 13, 2016, and observed no change to the site from previous visits.

19 A March 27, 2016, post to Emerald City's Facebook page provides

It's that time of my friends for, proms, concerts, bar crawls, nites on the town, And never forget Yearly Seahawks tailgates. So get at me for fun and safe times on the Party Bus and Limo Needs.

The post ends by providing Emerald City's phone number.

20 On April 29, 2016, Commission Staff emailed Emerald City to ask for a quote for party bus service for 18 people. Staff addressed the email to Respondent Perkins. Staff received a reply stating that "I have a bus available that day" and providing a price quote. The reply was signed by Respondent Perkins.

21 A July 13, 2016, post on the website Craigslist provides

Hi, my name is Marcus Perkins, owner of Ellies Limo and Party Buses. I have been a personal driver for over 10 years. If you are looking for the best service and rates, Im your man. Im licensed, and insured. I provide the best rates and service. Birthday , Bachelor, tailgating, or just nites on the town. We can make it a nite to remember. I have a party buses, hummer limo, Chrysler 300 limo, and Lincoln stretch's... [R]ide in style with Emerald City. Call for specials and discounts.

The post ends by providing Emerald City's phone number and the address for Emerald City's homepage.

- 22 Neither Respondent Perkins nor Emerald City had a valid certificate authorizing either to offer charter party or excursion services at the times pertaining to this matter.
- 23 Neither Respondent Perkins nor Emerald City was registered as an interstate carrier at the times pertaining to this matter.

**APPLICABLE LAW AND REGULATIONS**

- 24 It is illegal for any person to
- engage in the business of a charter party carrier or excursion service carrier of passengers over any public highway [within the state of Washington] without first having obtained a certificate from the Commission to do so or having registered as an interstate carrier. For the purposes of this section, “engage in the business of a charter party carrier or excursion service carrier” includes advertising or soliciting, offering, or entering into an agreement to provide such service. Each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation under this chapter.

RCW 81.70.220(1).

- 25 The term “person” includes an “individual, a corporation, association, joint stock association, and partnership, their lessees, trustees, or receivers.” RCW 81.70.020(2). *See also* WAC 480-30-036.

- 26 Under state law, the definition of “charter party carrier” includes every person
- engaged in the transportation over any public highways in this state of a group of persons who, pursuant to a common purpose and under a single contract, acquire the use of a motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after leaving the place of origin.

RCW 81.70.020(5); WAC 480-30-036.

- 27 The term “common purpose” is defined as “a group of persons [that] is travelling together to achieve a common goal or objective.” WAC 480-30-036.

28 Under state law, the definition of “party bus” is

any motor vehicle whose interior enables passengers to stand and circulate throughout the vehicle because seating is placed around the perimeter of the bus or is nonexistent and in which food, beverages, or entertainment may be provided. A motor vehicle configured in the traditional manner of forward-facing seating with a center aisle is not a party bus. A person engaged in the transportation of persons by party bus over any public highway in this state is considered engaging in the business of a charter party carrier or excursion service carrier.

RCW 81.70.020(9).

29 The Commission has the authority to regulate charter party carriers. RCW 81.70.270; RCW 81.70.220.

30 When used by a charter party carrier, motor vehicles (including limousines) with a seating capacity behind the driver of more than fourteen passengers are subject to regulation by the Commission. *See* RCW 81.70.270; WAC 308-83-010; WAC 480-30-036.

31 Charter party carriers are common carriers. RCW 81.04.010(11). For the purposes of Title 81 RCW, every common carrier is a public service company. RCW 81.04.010.

32 By law, every public service company that violates any Commission rule or provision of Title 81 RCW is subject to a penalty of up to one thousand dollars for every such violation. RCW 81.04.380; RCW 81.70.310. For a violation of RCW 81.70.220, however, “any person who engages in the business of a charter party carrier or excursion service carrier in violation of [RCW 81.70.220(1)] is subject to a penalty of up to five thousand dollars per violation.” RCW 81.70.220(2).

33 The Commission is authorized to file a complaint on its own motion setting forth any act or omission by any public service company that violates any law or any order or rule of the Commission. RCW 81.04.110; RCW 81.70.310; *see* RCW 81.04.510.

**COMPLAINT**

34 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 15 through 23 above.

35 Emerald City violated RCW 81.70.220 four (4) times by engaging in the business of a charter party or excursion carrier without first having obtained a certificate from the Commission to do so. Specifically, Emerald City operated as a charter party carrier of passengers by offering to provide charter party carrier transportation to Staff when Staff posed as a customer and by advertising charter party services on Emerald City's website, Emerald City's Facebook page, and the website Craigslist website.

**REQUEST FOR RELIEF**

36 Staff requests that the Commission, pursuant to its authority under RCW 81.04.380, RCW 81.70.220, and RCW 81.70.310, assess penalties of up to \$5,000 per violation against Emerald City and/or Respondent Perkins. Staff requests the penalties against Respondent Perkins in his individual capacity either under the responsible corporate official doctrine or under the doctrine of corporate disregard because Emerald City is Respondent Perkins's alter ego.

37 Staff further requests that the Commission order Emerald City to cease and desist activities subject to regulation under Title 81 RCW until it has obtained the necessary authority from the Commission.

38 Staff further requests that the Commission order such other or additional relief as is appropriate under the circumstances.

**PROBABLE CAUSE**

39 Based on a review of the Staff Investigation Report of this matter, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this Complaint.

**NOTICE OF HEARING**

40 **THE COMMISSION GIVES NOTICE THAT it will conduct a hearing concerning this Complaint concurrently with the special proceeding noticed above, which will**



**commence at 1:30 p.m. on October 5, 2016, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

41 An Administrative Law Judge from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, will be designated to preside at the hearing of these matters.

DATED at Olympia, Washington, and effective September 14, 2016.

GREGORY J. KOPTA  
Administrative Law Judge  
Administrative Law Division

Inquiries should be addressed to:  
Executive Director and Secretary  
Washington Utilities and  
Transportation Commission  
Richard Hemstad Building  
1300 S. Evergreen Park Drive S.W.  
P. O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

**NOTICE**

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: \_\_\_\_\_

Case Name: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Location: \_\_\_\_\_

Primary Language: \_\_\_\_\_

Hearing Impaired: (Yes) \_\_\_\_\_ (No) \_\_\_\_\_

Do you need a certified sign language interpreter?

Visual \_\_\_\_\_ Tactile \_\_\_\_\_

Other type of assistance needed: \_\_\_\_\_

English-speaking person who can be contacted if there are questions:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone No.: (\_\_\_\_\_) \_\_\_\_\_