

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of  
TAPIAS TRANSPORT LLC,

Petitioner,

For an Exemption from WAC 480-14-  
250(1)(a)

DOCKET TV-230230

ORDER 01

GRANTING PETITION FOR  
EXEMPTION

**BACKGROUND**

- 1 Tapias Transport LLC (Tapias or Company) is regulated by the Washington Utilities and Transportation Commission (Commission) as a common carrier of property. Tapias is a trucking company based out of Kennewick, Washington, with one driver and one truck. The Company first received a common carrier permit on September 9, 2020. On October 4, 2021, the Commission canceled the permit after receiving a cancellation notice from the insurance provider. On February 22, 2023, Tapias applied for reinstatement.
- 2 Under WAC 480-14-250(1), each common carrier must file with the Commission evidence of currently effective liability and property damage insurance written by a company authorized to write such insurance in the state of Washington. Prior to October 4, 2022, Tapias was insured by such companies. After the insurance cancellation in October of 2021, Tapias was unable to get insurance from admitted insurance carriers. The Company's former insurer, United Financial Casualty Company, determined that the Company's operating history made it an unacceptable risk to insure.
- 3 The Company has experienced difficulty acquiring insurance due to a collision in August of 2021, an insurance coverage gap between August of 2022 and February of 2023 while the Company was not operating, and a speeding violation in 2020.
- 4 On April 10, 2023, the Company filed a Petition for an exemption from WAC 480-14-250(1)(a), the Commission's insurance rule for vehicles with gross vehicle weight ratings of 10,000 pounds or more. The Company requests to retain insurance from Knight Specialty Insurance Company (Knight), a surplus lines insurer that is not authorized to write insurance in Washington. Surplus lines insurance is used when licensed insurers in the standard market will not provide coverage because the risk is too high, too unfamiliar,

or does not otherwise meet the insurers' guidelines. Surplus line insurers have more flexibility to design and price their policies and generally charge higher premiums because the risks they insure against are usually more costly to cover.

- 5 While the specific requirements of Commission rules can be exempted, under RCW 81.80.190, the Commission must "require the carriers to either procure and file liability and property damage insurance from a company licensed to write such insurance in the State of Washington, or deposit security, for the limits of liability and on terms and conditions that the Commission determines are necessary for the reasonable protection of the public against damage and injury for which the carrier may be liable by reason of the operation of any motor vehicle." Because this is a statutory requirement, the Company cannot be exempted from the obligation to purchase its insurance from a company licensed in Washington. The Office of the Insurance Commissioner (OIC) authorizes insurance companies to write insurance in Washington. RCW 48.15.040 allows surplus lines coverage under certain conditions if insurance from authorized insurers cannot be procured. The licensing requirements for surplus line brokers are found in RCW 48.15.070.
- 6 Brazos Specialty Risk, Inc., WAOIC #832238, (Brazos) is a broker registered with the OIC and authorized to write surplus lines insurance on behalf of Knight Specialty Insurance Company (Knight) in Washington. Tapias has secured a firm quote for auto liability insurance from Knight through its broker, Brazos.
- 7 Tapias attempted to find similar admitted coverage after its most recent authorized insurance carrier declined coverage. The Company has been unable to find another admitted insurance carrier that provides the same coverage as Knight.
- 8 Tapias requests an exemption from WAC 480-14-250(1)(a) so that it can operate with insurance from Knight, a "non-admitted" surplus lines insurer that offers coverage to those whose needs are not met by the standard insurance market. Knight required Tapias to submit a Safety Improvement Plan. The plan was signed and submitted by the owner and sole operator, Lubin Tapias Cespedes.
- 9 Commission staff (Staff) supports the Company's Petition. The Federal Motor Carrier Safety Administration (FMCSA) accepts surplus lines insurance (CFR Title 49 § 387.315). Staff is willing to recommend the use of surplus lines insurance subject to the condition that the Company buys insurance from a highly rated surplus line company (AM Best A- or above rating). Knight's financial strength rating is A- for excellent and its long-term issuer rating is also A- or excellent.

## DISCUSSION

10 We grant the Company's Petition subject to the condition that Staff recommends. Under WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. We find that the Company's Petition meets this standard subject to the condition that the Company buys insurance from a highly rated surplus lines company (AM Best A- or above rating). The purpose of the insurance rule is to protect the public from loss or damage caused by the Company while providing service. Surplus lines insurance responds to that need and is a viable option for high-risk or unique lines of business where risk is less certain. In addition, FMCSA accepts surplus lines insurance and has accepted the Company's filing with Knight. Accordingly, we find that the Petition for exemption is consistent with the public interest, the purposes underlying regulation, and applicable statutes, and conclude that it should be granted.

## FINDINGS AND CONCLUSIONS

- 11 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rules, regulations, and practices of motor carrier companies relating to acquiring common carrier permit and insurance requirements.
- 12 (2) Tapias is a common carrier company and a public service company subject to Commission jurisdiction.
- 13 (3) This matter came before the Commission at its regularly scheduled meeting on April 27, 2023.
- 14 (4) On April 10, 2023, Tapias filed a Petition for Exemption from the Commission's insurance rule, WAC 480-14-250(1)(a), so that it may purchase surplus lines insurance with an unauthorized insurer, Knight Specialty Insurance Company, consistent with the requirements of RCW 48.15.
- 15 (5) Pursuant to WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

- 16 (6) After reviewing Tapias' Petition and giving due consideration to all relevant matters and for good cause shown, the Commission finds that granting Tapias' Petition subject to the condition that it buys insurance from a highly-rated surplus lines company (AM Best A- or above rating) is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

**ORDER**

**THE COMMISSION ORDERS:**

- 17 (1) Tapias Transport LLC's Petition for exemption from WAC 480-14-250(1)(a) is granted subject to the condition that Tapias Transport LLC purchases insurance from a highly rated surplus line insurance company (AM Best A- or above rating).
- 18 (2) The Commission retains jurisdiction over the subject matter and Tapias Transport LLC to effectuate the terms of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective April 27, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AMANDA MAXWELL  
Executive Director and Secretary