

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)	DOCKET NO. TC-001846
)	
Complainant)	THIRD SUPPLEMENTAL ORDER
)	
v.)	INITIAL ORDER GRANTING
)	COMPLAINT; ORDERING REVENUE
BREMERTON-KITSAP AIRPORTER, INC., C-903,)	REDUCTION
)	
Respondent.)	
.....)	

***Synopsis:** This order proposes an overall rate reduction for Bremerton-Kitsap Airporter, Inc. The Company provides airporter service between points in Kitsap and Pierce Counties and the Seattle-Tacoma International Airport. Because the rates between the two routes are out of balance, the rate changes will result in a reduction of the Kitsap County rates of \$2.00, and an increase to the Pierce County rates of \$2.50 per fare.*

1 **Nature of the Proceeding:** This began as an application filed on November 27, 2000, by Bremerton-Kitsap Airporter, Inc., for an increase in general rates. The matter was converted to a complaint by the Commission Staff seeking to decrease the Company’s rates.

2 **Procedural history:** The matter was heard upon due and proper notice to all interested parties before Administrative Law Judge Marjorie Schaer on December 12 and 13, 2001, in Olympia, Washington.

3 **Initial Order:** The presiding administrative law judge proposes to grant the complaint and to require the Company to file new tariffs.

4 **Appearances:** The parties were represented as follows.

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I. DISCUSSION

- 5 Bremerton-Kitsap Airporter, Inc. (“BKA” or “Company”) is an auto transportation company, and operates under a certificate of public convenience and necessity issued by the Washington Utilities and Transportation Commission (“Commission”). BKA’s certificate is C-903. The Company provides airporter service between points in Kitsap and Pierce Counties and the Seattle-Tacoma International Airport.
- 6 On November 27, 2000, BKA filed with the Commission a request for a general rate increase. The filing sought an increase of \$2 per fare, an annual revenue increase of \$230,000 (14.2%). The Commission suspended the filing on December 27, 2000. Following an initial prehearing conference on April 3, 2001, on May 14, 2001, the Company asked for permission to withdraw its rate increase request. On June 8, 2001, the regulatory staff of the Commission (“Staff”) filed an answer asking the Commission to deny BKA’s request to withdraw its tariff filing. Staff argued that BKA’s tariff rates should be lowered, and that the most efficient way to resolve this dispute was to continue to examine the rates in this proceeding, so that work already performed would not have to be duplicated. On June 11, 2001, the Company asked for permission to reply to the answer, and the Company was authorized to file its reply to the answer by July 2, 2001. The procedural schedule was suspended on June 28, 2001.
- 7 On July 25, 2001, the request to withdraw the tariff filing was denied, and a second prehearing conference was scheduled for August 9, 2001. At the conference, the parties agreed that BKA should be granted leave to withdraw its proposed tariffs, and the proceeding should be converted into a complaint proceeding in which Staff would bear the burden of proof in seeking to lower BKA’s present rates. Hearing on the complaint was held in Olympia on December 12 and 13, 2001, and post-hearing briefs, including proposed findings of fact and conclusions of law were filed on February 5 and 12, 2002, respectively.

II. DISCUSSION AND DECISION

A. Principles of Utility Rate Setting

8 The ultimate determination to be made by the Commission in this matter is whether the rates and charges currently charged by BKA are fair, just, reasonable, and sufficient, pursuant to RCW 80.28.020. The Company withdrew its proposed tariffs, and this matter was converted from a rate case to a Commission complaint in accordance with WAC 480-09-600 and RCW 34.05.070. Hence, increased rates are not at issue in this proceeding. The issue remaining is whether the Company's rates should continue at present levels or be reduced. This question is resolved by determining the adjusted results of operations during the test year, establishing the fair value of the Company's property-in-service, to which it will be authorized to claim depreciation expense, determining the proper operating ratio (margin to be earned) and then ascertaining the appropriate spread of rates charged to customers in Pierce and Kitsap counties to recover that margin.

9 In order to accomplish this task, the parties developed evidence from which the Commission may determine the following:

1. The appropriate test period, which is defined here as the most recent 12-month period for which income statements and balance sheets were available at the time the proceeding began. The test period is used for investigation of the Company's operations for the purposes of this proceeding;
2. The Company's results of operations for the appropriate test period, adjusted for unusual events during the test period, and for known and measurable prospective changes;
3. The appropriate rate base, which is derived from the balance sheets of the test period. The rate base represents the net book value of assets provided by investors' funds, which are used and useful in providing utility service to the public for the test period. Under the pre-tax operating ratio approach, the appropriate amount of test period depreciation expense is derived from this appropriate rate base;
4. The appropriate operating margin the Company is authorized to earn;
5. Any existing revenue excess or deficiency; and
6. The allocation of the rate increase or decrease, if any, fairly and equitably among the Company's ratepayers.

B. Test year and Allocation and Conversion Factors

- 10 All parties have used the 12 months ended September 30, 2000, as the test period for investigation of the Company's operations for the purposes of this proceeding.
- 11 After the appropriate level of pro forma operating expenses, operating income and corresponding gross operating revenues are determined, the Staff proposes an allocation of those amounts between the Bremerton-Kitsap operations and Pierce County, Ft. Lewis, McChord operations. Staff proposes to set separately the fares in the two sectors of the Company's operations based upon these allocations. (Exhibit No. T-1, pages 32-33 and Exhibit No. 6, page 4.) BKA did not contest the Staff's proposed allocations.
- 12 Both parties propose that the revenue requirement of the Company be determined based upon a pre-Federal income tax operating ratio methodology. Neither party proposes a Net-To-Gross Conversion Factor to gross-up any operating revenue deficiency or excess found to be appropriate to a gross operating revenue amount that reflects the changes in the pre-tax revenue sensitive expenses that would occur with the changes in operating revenue.

Discussion and Decision

- 13 The use of the 12 months ended September 30, 2000 as the test year and the allocation methodology proposed by the Staff are appropriate and are adopted for this Order. Although there is no Federal income tax adjustment to consider in this proceeding, both parties did identify certain revenue sensitive expenses. These expenses should have been considered in the revenue requirement calculation, and have been so applied in this Order. A pre-tax conversion factor of 0.976740 will be used for purposes of grossing-up the determined operating revenue deficiency or excess found to be appropriate to a gross operating revenue amount that reflects the changes in the pre-tax revenue sensitive expenses. The conversion factor is composed of a Commission Regulatory Fee Factor of 0.4% and a Business and Occupation Tax Factor of 1.9260%. The amounts for these two factors were agreed upon and used by both parties in their results of operations statements.

C. Results of Operations

- 14 The Company's results of operations for the test year form the basis of the analysis of the results of operations upon which the amount of revenue excess or deficiency is determined. This determination is made after all appropriate adjustments are made to the test period results of operations. These adjustments are for unusual events during the test period, and for known and measurable events that will occur prospectively, in order to reflect changes to the test year that will make it a better predictor of what the Company can expect its operations to cost. The primary objective of the historical

test period pre-tax operating ratio approach is to identify the prospective percentage relationships of total pre-tax operating expenses to total gross operating revenues that will exist during the period in which the rates authorized at the conclusion of the rate case or complaint proceeding will be in effect. Both parties' results of operations statements portray restating and pro forma adjustments, which they propose be made to the Company's test period results of operations. *WAC 480-09-330(2)*.

- 15 “Restating actual adjustments,” is an accounting term used to revise the booked operating results for any defects or infirmities that may exist in actual recorded results, which can distort test period earnings. Restating actual adjustments are also used to adjust from an as-recorded basis to a basis that is acceptable for ratemaking purposes. Examples for restating actual adjustments are adjustments to remove amounts more appropriately attributable to a prior period, to eliminate below-the-line items that were recorded as operating revenues or expenses in error, to adjust from book estimates to actual amounts, and to eliminate or to normalize extraordinary items which have been recorded during the test period. *WAC 480-09-330(b)*.
- 16 “Pro forma adjustments,” another accounting term, give effect for the test period to all known and measurable changes that will occur prospectively that are not offset by other factors. Pro forma adjustments are used to adjust to prospective conditions. *Id.*
- 17 This Order will first catalog the uncontested adjustments, then discuss and decide the contested adjustments. Tables 1 and 2 will provide the dollar impacts of the uncontested and contested adjustments, respectively.

1. Uncontested Adjustments

- 18 Many of the proposed adjustments to the test year results of operations have been agreed on by BKA and Staff. These uncontested adjustments are shown in the following Table 1. The proposed uncontested adjustments have been reviewed and found reasonable for purposes of setting rates in this proceeding.

TABLE 1: ACTUAL RESULTS OF OPERATIONS & UNCONTESTED ADJUSTMENTS FOR THE 12 MONTHS ENDED SEPTEMBER 30, 2000				
Ln #	Description	Total Operating Revenues	Total Operating Expenses	Net Operating Income
	(A)	(B)	(C)	(D)
1	Actual Results of Operations	\$1,653,071	\$1,783,832	(\$130,761)
	Uncontested Adjustments			
2	RA-01 Reclassify Income/Correct Mispostings	15,923	0	15,923
3	RA-02 Remove Non-Operating Income	0	0	0
4	RA-03 Adj Depr Sch & Gain on Sale of Assets	0	(38,665)	38,665
5	RA-07 Capitalized Items	0	(4,484)	4,484
6	RA-08 Adjust Fuel Tax Credit (RA-8/RA-10)	0	(22,984)	22,984
7	RA-1B Reclassify Investment Loss(RA-1/RA-9)	0	0	0
8	RA-09 Federal Income Tax (RA-9/RA-8)	0	0	0
9	PA-01 Remove Fuel S/C Revenue	(15,033)	(350)	(14,683)
10	PA-02 BKA Pay Increases	0	17,934	(17,934)
11	PA-03 Current Average Fuel	0	11,168	(11,168)
12	PA-04 Federal Income Tax (PA-4/None)	0	0	0
13	Total Uncontested Adjustments	<u>\$890</u>	<u>\$37,381</u>	<u>\$38,271</u>

2. *Contested Adjustments*

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Contested adjustments are those adjustments to the test year results of operations sponsored by one of the parties to the proceeding, and contested by the other party. The Company and Staff agree as to which adjustments are contested and the amounts at issue, as shown on the table at the top of page 6 of Staff's brief and in Exhibit No. 1 to the Company's brief. Table 2 shows the four contested ratemaking adjustments:

TABLE 2: CONTESTED RATEMAKING ADJUSTMENTS				
Ln#	Contested Oper. Expense Adjustments	Company	Staff	Difference
1	Company Rate Case Costs	\$100,000	\$0	\$100,000
2	Executive Salary & Related Payroll Taxes Total Amount of Adjustment	(\$282,119) + (\$4,091) = (\$286,210)	(\$355,000) + (\$6,884) = (\$361,884)	(\$72,881) + (\$2,793) = (\$75,674)
3	Affiliated Interest Facility Lease	\$0	(\$22,930)	(\$22,930)
4	Industrial Insurance Premium Refund	\$10,767	\$7,178	\$3,589

a. **Company Rate Case Costs**

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By adjustment C-PA-4, the Company includes \$100,000 in legal and accounting fees paid to outside consultants and attorneys related to this proceeding. The Company proposes that all costs incurred after it sought to dismiss its rate increase filing should be included in this proceeding. On the date of BKA's original testimony filing of November 9, 2001, the Company had incurred a total of \$26,480.86 in fees and costs. Exhibit No. 42 indicates that the Company's actual costs from May 15, 2001, to November 30, 2001, were \$62,804.90. The company represented that it would update Exhibit No. 42, but never moved to include additional evidence in the record. BKA also proposes that if the rate case costs are amortized over a period of time, then a two or three-year amortization period would be appropriate.

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The Staff opposes BKA recovering any of its legal and expert witness costs related to this proceeding because of the Company's long history of rate applications that were withdrawn midway through the process, including this one. Staff also argues that \$100,000 is shockingly high, noting that there are no intervenors, the issues are few, and BKA required the testimony of only Mr. Richard Asche, its president, and Mr. Weldon Burton, its expert witness on regulatory accounting. Mr. Burton filed only twenty pages of testimony. Staff argues that if some portion of rate case costs is allowed, it should be amortized over a reasonable period, suggesting that five years

would be appropriate. Staff also notes that BKA's last fully-litigated rate case was in 1991.

Discussion and Decision

- 22 The Staff is correct that the Company's proposed rate case cost recovery of \$100,000 is shockingly high. The latest known and measurable amount on the record of \$62,605 itself strains against the high end of a reasonable range.
- 23 At TR 189, the Staff (Mr. Colbo) indicated that the normal treatment given to this item is to amortize the amounts over 3 years, but he would recommend a 5-year amortization period in this case if the Commission decides to allow the expenses for ratemaking. The Company's last litigated rate case was in 1991 and the present case before the Commission is the first time, to our knowledge, that the Commission has ever filed a complaint against BKA. Amortization periods vary depending on the time between rates cases, along with consideration of the magnitude of the cost claimed, and the effect of including it in rates. Thus, at times, certain solid waste companies who were appearing annually before the Commission had no amortization of rate case costs. A certain electricity company that was required to file a rate case every three years had a three-year amortization. Companies whose costs were excessive received no rate case costs, or only a portion of rate case costs. See, for example, *WUTC v. Sno-King Garbage Company, Inc.*, Docket Nos. TG-900657, TG-900658, Fourth and Fifth Supp. Orders, (Dec. 1991) (Commission found no benefit to ratepayers from the amounts spent on expert and attorney fees in the case and denied their recovery in rates as exorbitant and imprudent); *Petition of PSE*, Docket No. UE-920433, Fifteenth Supp. Order (Dec. 15, 1993) (Commission affirmed rejection of portion of PSE's rate case expenses, partly in response to Public Counsel argument that the Company simply spent too much); see also, *WUTC v. Rosario Utilities, LLC*, Docket No. UW-951483, Fourth Supp. Order, pp. 7, 8 (November 25, 1996) (only \$6,000 allowed, 18,000 sought). One could argue for a ten or eleven-year amortization for BKA, because its last fully litigated rate case was in 1991.
- 24 Because of the extraordinary magnitude of the rate case costs incurred in this proceeding, this Order recommends that the Commission adopt the Staff's proposal to amortize the amount over 5 years. This Order rejects the Company's proposal to include \$100,000 of rate case costs in this proceeding to measure its prospective revenue requirement. Although the Company may recover a reasonable amount in rates, it is very unlikely that these costs will recur in the near-term future, and certainly not on an annual basis. Including the entire amount in rates in the rate year would embed \$100,000 of operating revenues in rates with no comparable prospective expense. BKA will be allowed to include \$62,805 in rate case costs, to be amortized over five years.

b. Executive Compensation

- 25 The president of BKA is Mr. Richard Asche. He and his wife own 99 percent of the stock in the corporation. Both Staff and the Company include an adjustment RA-5 for the owner/operator compensation for the work performed by Mr. Asche as an employee of BKA. Another portion of the ratemaking formula, the margin, is designed to provide payment of the return on the equity that the Asche's have invested in BKA.
- 26 During the test year Mr. Asche received a salary of \$66,000. He also received \$355,000 in bonuses, which were recorded as operating expenses. Staff proposes that the salary amount of \$66,000 is an appropriate amount of compensation for the work performed by Mr. Asche as an employee of BKA. Staff also argues that the \$355,000 is properly considered a distribution of profits to the company's investors, not as an operating expense for regulatory purposes. In addition to the fact that the \$66,000 is the amount selected by BKA to pay Mr. Asche, Staff also performed studies of other managers of bus companies to test whether this level of compensation was appropriate.
- 27 First, Staff analyzed the executive salaries paid in 1999 by other regulated airporter services with revenues comparable to the Company's actual test year revenue of \$1.65 million, and found that they were generally lower (with one exception). In addition, Staff surveyed the salaries paid to executives of transit authorities in Washington State with revenues less than \$10 million. The average annual salary of the four executives in that group was \$66,952. Staff notes the testimony of Mr. Burton for BKA in Exhibit 32T at page 8 that the public transit authority comparison should not be made because the private company executive must be compensated for the "entrepreneurial risk factor." Staff argues that the range of skills demanded of the public executives is more complex than what is required to run an airporter service with two routes and no door-to-door service.
- 28 The Company has proposed a salary for Mr. Asche of \$138,881; the calculation of this amount is shown in revised Exhibit 32. Mr. Burton calculated this salary figure by taking a number from a staff workpaper in Docket No. TC-980036, and increasing it for inflation, then adding an amount for a benefits package. BKA's brief at page eight notes the "fact" that this number was preliminary, or contained in a draft report that was never formally adopted by the Commission. Mr. Burton testified that, based on his 25 years of regulatory accounting experience, \$138,881 is a reasonable compensation figure for Mr. Asche. The Company also argues that Mr. Asche's "success as an owner of a regulated auto transportation company with low rates and high operating efficiencies" should be rewarded in a higher salary. BKA Brief, p. 11.

Discussion and Decision

- 29 There are a number of methods one could use theoretically to come up with a proposed salary for Mr. Asche; e.g. as a percentage of revenues, taking the last allowed salary from the last litigated rate case and lifting it to test year levels using an inflation index, comparing the salary to a salary survey, etc. Because of the variety of approaches one could take, it is important to establish and maintain a ratemaking standard the Commission can use to determine a fair compensation for an owner/operator.
- 30 The standard ratemaking treatment in establishing an owner/operator allowance has been to authorize an owner/operator allowance that is comparable to a competitive or prevailing salary level for the type or types of services the owner-operator performs. If, for example, an owner/operator spends half of his time as a driver, then ratepayers should not have to pay a higher than driver level cost simply because he is also the owner. The owner is compensated for his investment and risk in the business through the authorized revenue margin allowed above the authorized operating ratio.
- 31 The Company makes an adjustment to remove bonuses from the results of operations for ratemaking purposes, and does not challenge the Staff's removal of these bonuses. The record indicates that including bonuses as an operating expense may be part of a federal income tax reduction strategy. As long as it is understood by the Company that for ratemaking purposes, the Commission will treat these bonuses as a distribution of earnings to the owners or stockholders rather than as an operating expense, then the Company should be allowed to pursue whatever tax strategy it wishes on a per books basis. In the pursuit of a lower income tax liability, the interests of the stockholders and ratepayers are essentially identical.
- 32 The issue is what salary level should be allowed for Mr. Asche, the major stockholder of the Company, who also works as an employee of BKA. In making a determination of the appropriate salary level for Mr. Asche the Commission should be mindful of the following facts:
- As observed by Mr. Colbo, in his direct testimony, Exhibit No. T-1, page 11, lines 19-20, the Company paid Mr. Asche \$5,500 of "regular monthly salary" or \$66,000 per year for the test period. Also, as shown on Exhibit No. 9, page 4, the Company has chosen to pay Mr. Asche at this same level since 1997. Mr. Asche's Exhibit No. 29 indicates he has been paid a regular annual salary of \$66,000 each year since 1996. This was the Company's decision regarding the level of regular compensation to be paid to Mr. Asche for the test period. It is not the Commission's purpose in a rate case setting to intervene in the Company's decision and, in essence, authorize a raise for Mr. Asche. The Commission's concern is

whether the amount paid by the Company to Mr. Asche is reasonable for ratemaking purposes.

- In Exhibit No. T-1, at page 12, beginning at line 18, Mr. Colbo indicates that one of the first things he did was to compare Mr. Asche's salary to the compensation paid to other key employees. He noted that the annual compensation for these employees was in a range of \$20,000 to \$22,000. Exhibit No. 9, pages 6-7 indicates that the highest hourly wage rate paid to BKA employees is \$25.00 per hour. At a standard 2,080 hour work year, which assumes a 40 hour week, this would produce a top annual salary or wage of \$52,000. Apparently, however, no employees worked a full-time schedule for the year. Part-time employment is apparently the nature of the business. The average hourly wage for all employees is approximately \$9.95. Exhibit No. 9, page 10, line 7 would indicate that Mr. Asche pays his drivers a competitive level wage compared to other auto transportation companies. The highest annual bonus paid to any BKA employee was approximately \$200. Per Mr. Asche's direct testimony, Exhibit T-24, page 3, lines 14-16, the Company pays no other employee benefits. In Mr. Weldon's Exhibit No. 39, he proposes to add a "Benefits Package" factor of 22.5% to Mr. Asche's base salary, in spite of the fact that no benefits are paid to any other employee of BKA. The \$66,000 paid to Mr. Asche in regular salary is 26.92% higher than the above \$52,000 highest annual wage paid to any employee at \$25.00 per hour, if that employee had worked a full 40 hour week for the full year.
- Exhibit No. 9, page 11 shows that the average salary for "senior transit authority positions" is \$66,952, very close to the amount of Mr. Asche's regular pay for the test period of \$66,000. Page 11 also shows that average benefits of 25% are also paid. However, it is questionable whether Mr. Asche should be authorized a "benefit package" when no other employee at the Company, including Mr. Asche, is actually paid any additional benefits. The Company challenged Staff's survey as not a relevant comparison. However, there is nothing on the record that would indicate that higher salaries are the norm or demanded in this particular industry.
- Exhibit No. 9, page 10, line 7, column (a) shows that Grayline of Seattle d/b/a Evergreen Trails C-819, reported gross operating revenues of \$2.3 million and reported executive salary of \$64,121. Column (c) shows that Wickkiser International, Inc. C-933 reported gross operating revenues of \$2.9 million and reported an executive salary of \$59,500. Hence, the \$66,000 paid to Mr. Asche appears to compare closely to the two companies on Exhibit No. 9, page 10, who are the closest in revenue size to BKA. BKA shows pro forma operating revenues before any rate adjustment of \$1.7 million.

33 The purpose of executive compensation is to compensate the executive for his or her work on behalf of the company. Whether this executive is also the company's largest shareholder should have no bearing on the question of what is appropriate compensation for the job(s) the executive actually performs. The goal is to determine what the owner would have to pay someone with the requisite skills, in an arms-length transaction, to do the job. Mr. Asche's annual salary level should be set at \$66,000 for regulatory purposes in this case. The payroll taxes associated with Mr. Asche's salary should be adjusted to be consistent with this salary.

3. Affiliated Interest – Facilities Lease

34 BKA pays \$60,000 annually in rent for the facility out of which it operates in Port Orchard. BKA pays this rent to Mr. Asche and his wife, who own the real property and the buildings and improvements on this property. This transaction is a transaction with an affiliated interest within the meaning of RCW 81.16.010.

35 The Staff proposes adjustment RA-6, Affiliated Rent, to adjust the per-books lease payments paid by BKA to Mr. And Mrs. Asche to a cost-plus-return figure for regulatory purposes. The proposed Staff adjustment removes \$22,930 in operating expenses to reflect the \$37,070 figure Staff calculates as the actual costs plus return incurred by the investor.

36 The Company opposes the Staff's adjustment. The Company does, at page seven of its brief, present a revised adjustment of \$52,032. This represents a net increase of \$14,962 above the figure sponsored by Staff. This adjustment was made because in November, 2000, a new addition and improvements were made to the Company's terminal at an original cost of \$30,500. These improvements were put in service two months after the close of the test period. Since the new addition was placed in service after the test period, the Staff does not include a return or capital recovery in Staff's proposed adjustment for affiliated rent.

Discussion and Decision

37 The approach taken by Staff has been the Commission's standard ratemaking approach for many years, as the Company acknowledges at page 6 of its brief. Deciding this issue requires balancing fairness to both the owners of the facilities, who are also the stockholders of the Company, and the ratepayers. It is assumed in the cost plus fair return approach that, like utility property, if the owners are allowed full capital recovery plus a fair return on the investment at issue, the owners of the property are fairly treated.

38 An owner may choose to hold property and facilities separate from the business and lease it to the regulated utility. There may be tax advantages in doing so, if the lease expenses are allowed as a deduction for federal income tax purposes. However, the

concern the Commission has historically expressed is that an owner could keep all property separate from the regulated utility and charge a lease expense to the Company. The ratepayers could find themselves in a pay-forever situation, in which they would continue to pay the owner an amount for capital recovery on the property at issue long after the property has been fully depreciated and pay the owner, potentially, an excessive return on the property through the lease expense.

39 The standard to apply regarding this issue is that the ratepayers should pay for the full historical cost of service, no more and no less. Original cost ratemaking is the Commission's standard ratemaking approach, and is especially important in situations where there is less than arm's length transaction conditions involving lease payments paid by the regulated utility. The standard for a reasonable price is the lower of the competitive market price or the affiliate's cost plus a fair return.

40 There is no indication on the record that the new, post-test period addition is not used and useful and in service at the present time. It is not the Commission's usual practice to allow post-test-period additions in rate base or to otherwise consider them for ratemaking. This proceeding, however, is not a rate case in the usual sense, since no proposed tariff is at issue in this case. The Company's proposed rates, as detailed in Exhibit No. 3, were withdrawn. The only outcomes possible are that the Company's rates will remain the same or be reduced. This Order recommends, in this circumstance, that the Commission should take notice of the fact that the owner invested \$30,500 in a building addition in November 2000, a month or two after the close of the test period. The Commission should, therefore, allow a return on the new addition and allow a half-year of depreciation expense. The recalculation of the affiliated rent adjustment is attached as Appendix C to this Order.

41 This recommended Commission decision reduces the Company's test period operating expenses from the \$60,000 in lease expense proposed by the Company to \$42,115 for the leased land and buildings. This recommended Commission decision changes the WUTC Staff's adjustment from a removal of \$22,930, to a disallowance of \$17,885.

4. Industrial Insurance Premium Refund

42 During the test year, BKA received two refunds related to Labor & Industries Workers' Compensation premiums totaling \$10,767. The Company removes the entire refund amount from the test year revenues, claiming that the amount consists of premiums paid outside the test period and that there is no evidence that this refund is, or will be, recurring.

43 The Staff proposes to amortize these refunds over three years on the grounds that these refunds are on-going, "truing-up" premiums paid versus actual claim experience. Staff's adjustment leaves one third of the originally booked credit in the

test year. The remaining two thirds of the refunds are amortized at \$3,589 each year for the next two years.

Discussion and Decision

44 The purpose of a test year is to develop a normal level of expenses that is expected to match the company's expenses in the rate year. The Commission follows a general rule against including out-of-period, non-recurring expenses in rates. The evidence shows that this is a prior period item that is non-recurring. The record also indicates that there is no expectation that this refund amount will recur prospectively. Hence, the Commission should adopt the Company's adjustment.

45 Table 3 shows the contested adjustments, reflecting the recommendations in this Order. All contested adjustments are operating expense adjustments.

TABLE 3: CONTESTED RATEMAKING ADJUSTMENTS - DECISION				
Ln#	Contested Oper. Exp. Adjustments	Company	Staff	Decision
1	Company Rate Case Costs	\$100,000	\$0	\$12,561
2	Executive Salary & Related Payroll Taxes Total Amount of Adjustment	(\$282,119) + (\$4,091) =(\$286,210)	(\$355,000) + (\$6,884) = (\$361,884)	(\$355,000 + (\$5,158) =(\$360,148)
3	Affiliated Interest Facility Lease	\$0	(\$22,930)	(\$17,885)
4	Industrial Insurance Premium Refund	\$10,767	\$7,178	\$10,767
5	Total Contested Adjusts - Decision	<u>(\$175,443)</u>	<u>(\$377,636)</u>	<u>(\$354,705)</u>

D. The Appropriate Operating Ratio

46 The Commission has used the operating ratio approach as the sole methodology for the setting of rates for auto transportation companies. The operating ratio is defined as the ratio of expenses to revenue. Thus, an operating ratio of 93 percent means that 93 percent of revenue is used to pay expenses, depreciation, and certain taxes, leaving seven percent of revenue to pay Federal income taxes, interest expense, plus a fair return to the investors. This residual seven percent is the complement of the operating ratio, that is, one minus the operating ratio. Both parties agree that auto transportation companies' rates have traditionally been set by the Commission at a 93 percent operating ratio.

47 The Staff argues that there is reason in this case, to depart from the 93 percent operating ratio. Staff would move to what it calls "the high end of the zone of

reasonableness,” within which the Commission may exercise its discretion to fix rates, claiming that this is an appropriate way of taking account of five years of excess earnings by the company. Staff proposes that BKA’s rates be set using an authorized operating ratio of 97% (but after rounding the proposed rate changes to the nearest quarter, the effective operating ratio proposed by Staff is only 97.58%, which would give the Company a margin of only 2.42%).

48 Although Staff acknowledges that the auto transportation industry is and has been regulated by this Commission at a standard 93% operating ratio, it argues that RCW 81.04.360 justifies use of a higher ratio. Staff also proposes to cap BKA’s margin at three percent for the next three years, and to require the Company to put any amounts in excess in an account to be used to offset future rate increases.

49 RCW 81.04.360 (titled “Excessive earnings to reserve fund”) provides the following:

If any public service Company earns in the period of five consecutive years immediately preceding the commission order fixing rates for such Company a net utility operating income in excess of a reasonable rate of return upon the fair value of its property used and useful in the public service, the commission shall take official notice of such fact and of whether any such excess earnings shall have been invested in such Company’s plant or otherwise used for purposes beneficial to the consumers of such Company and may consider such facts in fixing rates for such Company.

50 This statute directs the Commission to take “official notice” of a five-year period of excess earnings, and whether those excess earnings were invested “for purposes beneficial to the consumers of such Company.”

51 Staff claims this statute presents an exception, in the event of exceptional gains by a Company, to the rule against retroactive ratemaking. Staff acknowledges that the rule against retroactive ratemaking ordinarily would bar the Commission, when it determines each of the terms of the revenue requirement formula or when calculating the amount of revenue to be collected under proposed rates, from adjusting for past losses or gains to the utility or consumers. Staff argues that there can be a statutory exception to the rule against retroactive ratemaking because the rule itself derives from statute. Staff also indicates that it would not object to the Company filing for rates based on a 93 percent operating ratio after the expiration of three years.

52 To provide additional assurance that customers will receive the benefit of the 97 percent operating ratio, Staff proposes ordering the Company to maintain an escrow account into which it would be required to deposit earnings that exceed a three percent operating margin over a three-year period. The account would be used to offset what would otherwise be the Company’s revenue requirements when the Company next files to increase its fares.

- 53 To prevent the Company from evading compliance with this requirement by simply raising Mr. Asche's compensation (and therefore overall expenses for purposes of calculating its operating ratio), Staff asks that the Company be prohibited from paying executive compensation greater than \$66,000 per year while the account requirement is in effect.
- 54 The Company proposes that the Commission use the standard operating ratio of 93%. BKA claims that Staff's proposals would violate restrictions on retroactive ratemaking. From BKA's standpoint, the Staff's theory of RCW 81.04.360 and claimed over earnings has a number of legal flaws. The Company also argues that Staff has not presented sufficient facts to allow the Commission to analyze whether BKA's rates meet the factual prerequisites to application of the statute.
- 55 BKA argues that broad and controlling principle in Washington is that rates cannot be given effect retroactively beyond the date of filing of a complaint, relying on *Standard Oil Co. of California v. Department of Public Works*, 185 Wash. 235, 239, 53 P.2d 318 (1936), and *Puget Sound Navigation Co. v. Department of Public Works*, 157 Wash. 557, 289 Pac. 1006, 1008 (1930). The Company's analysis is that RCW 81.04.250 requires that rates be just and reasonable. RCW 81.28.040 prescribes that rates be filed and published with the Commission before their effective date, so that (1) everyone concerned may have notice with an opportunity to challenge them, and (2) the Commission may suspend them. Rates are also subject to challenge after their effective date by affected parties. So long as they remain effective and unchallenged, they are presumed to be reasonable. *Standard Oil*, 185 Wash. at 238. All carriers are mandated to charge rates as specified in their filed schedules in effect at the time and are prohibited from charging or collecting other or different rates. *Puget Sound Navigation Co. v. Department of Public Works*, 157 Wash. 557, 289 Pac. 1006, 1008 (1930).
- 56 BKA argues that the U.S. Supreme Court has applied these principles in the context of the Federal Energy Reserve Commission and recognized it as the "filed rate doctrine." In *Arkansas Louisiana Gas Co. v. Hall*, 453 U.S. 571, 578, 69 L. Ed. 2d 856, 101 S. Ct. 2925 (1981), the Supreme Court held that "[n]ot only do courts lack authority to impose a different rate than the one approved by the Commission, but the Commission itself has no power to alter a rate retroactively. The Court further held that "[w]hen the Commission finds a rate unreasonable, it shall determine the just and reasonable rate . . . to be *thereafter* observed and in force." *Id.* BKA note that RCW 81.04.360 does not sanction retroactive ratemaking, contrary to staff's view, but instead provides for an upward adjustment of the carrier's rate for a reserve fund to cover new plant and consumer benefits investments going forward, to ensure adequate service to consumers. This Commission has found in a recent proceeding that adjusting current rates to make up for past deficiencies in tariffed rates is

prohibited as retroactive ratemaking, citing *In re the Application of Puget Sound Energy*, UE-010410, 2001 Wash. UTC LEXIS 396, pp. 3-4, (November 9, 2001).

57 Factually, BKA observes that the figures used by Staff to arrive at its conclusion that BKA had been over earning, are based on Staff's restating adjustments. The Company also argues that Staff has not supplied the analysis of "whether any such excess earnings shall have been invested in such Company's plant or otherwise used for purposes beneficial to the consumers of such Company." RCW 81.04.360. BKA argues that, properly understood, RCW 81.04.360 does not sanction retroactive ratemaking, contrary to Staff's view, but instead provides for an upward adjustment of the carrier's rate for a reserve fund to cover new plant and consumer benefits investments going forward, to ensure adequate service to consumers.

Discussion and Decision

58 In this Initial Order, the standard 93% operating ratio is recommended to be used in this case to measure the Company's prospective revenue requirement. When an entire industry is regulated based upon one standard, the 93% operating ratio, it is expected that some companies will achieve actual operating ratios below this standard and some will achieve operating ratios above this standard. This can occur for many reasons; e.g., a company may simply be operating in a more favorable service territory or one company may be able to achieve operating efficiencies that another company cannot because of its size, location or use of cost cutting measures.

59 That the Company did not voluntarily come forth and offer to have its rates reduced because of excessive earnings is not behavior unique to BKA. Regulated companies generally only volunteer to lower their rates when there are competitive pressures, or when the supply and demand equation maximizes profits at a lower rate. The tool provided to the Commission in this situation is the complaint, as appropriately pursued by Staff in this proceeding.

60 There is evidence in Exhibit No. 15 that in past years BKA has realized an operating ratio, after excluding bonuses, that was below its authorized operating ratio of 93%. The 93% operating ratio is the standard used by this Commission to regulate this industry. Presumably the additional earnings realized by the Company below a 93% operating ratio for these past years were available to Mr. and Mrs. Asche to dispose of in a manner they deem proper. There is testimony in the record that much of this profit was reinvested in the Company; Mr. Asche testified that he has used bonuses to pay off Company debt on equipment.

61 As shown on Exhibit No. 8 and in Commission Staff adjustment RA-2, "Remove Non-Operating Income," the Company realized other income of \$77,748 during the test period. Although this amount is classified as non-operating, it is quite likely that

the investments upon which these incomes were derived came from revenues paid by ratepayers. It is also true that the Company might not have had as large an amount of non-operating income from investments, had the Company not achieved healthy earnings in prior years. Additionally, it appears that the Company avoids paying large amounts of income taxes because Mr. Ashe takes large bonuses which are claimed as compensation for income tax purposes, but Mr. Ashe then has to pay personal income tax on this large amount of compensation.

- 62 The authorized operating ratio, 93% for this industry, is intended to produce a revenue margin that will enable the Company to pay income taxes, interest expense plus a fair return on its investment. Exhibit No. 44, page 8 shows that the Company's effective federal income tax rate has been very small or negative for the years 1996 through 2000. This is no doubt the result of the Company's aggressive income tax reduction strategies. Mr. Ashe testified in his direct testimony, Exhibit No. T-24, page 4, "We have no debt." The record simply does not include sufficient evidence from which to determine "whether any such excess earnings shall have been invested in such Company's plant or otherwise used for purposes beneficial to the consumers of such Company." RCW 81.04.360. Lacking this information, one cannot complete the analysis required by the statute. As Staff notes, neither legislative history nor case law casting light on the proper application of this statute is available.
- 63 The outcome of this Initial Order recommends an overall revenue reduction for BKA. The Staff should continue to monitor the margin earned by the Company following the reduction to see what effect the reduction has on BKA's revenue margin. If the margin exceeds seven percent by a material amount then perhaps further investigation will be warranted. The changes in rates authorized in this case, will not be fully embedded in the Company's results of operations for 12 months after the effective date.
- 64 Table 4 below, summarizes the Company's results of operations for the 12 months ended September 30, 2000, and incorporates the recommendations made to the Commission regarding all contested issues having a revenue requirement impact, and the decisions recommended in this Order.

TABLE 4: RESULTS OF UNCONTESTED AND CONTESTED ADJUSTMENTS FOR THE 12 MONTHS ENDED SEPTEMBER 30, 2000					
Ln#	Description	Total Operating Revenues	Total Operating Expenses	Net Operating Income	Oper. Ratio - %
	(A)	(B)	(C)	(D)	(E)
1	Actual Results of Operations	\$1,653,071	\$1,783,832	(\$130,761)	107.91%
2	Total Uncontested Adjustments	890	(37,381)	38,271	
3	Total Contested Adjustments	0	(354,704)	354,704	
4	Results Before Rate Changes	\$1,653,961	\$1,391,747	\$262,214	84.15%
5	Operating (Excess) / Deficiency	(\$150,052)	(\$3,490)	(\$146,562)	
6	Results at Commission Decision	\$1,503,909	\$1,388,257	\$115,653	92.31%

65 Although the recommended operating ratio in this Order is 93.0%, the above 92.31% operating ratio occurs because of the rounding of the recommended rate changes to the nearest quarter of a dollar. This rounding was recommended by Staff and was not contested by the Company

66 Table 5 below reflects the revenue requirement calculation for the adjusted results of operations of BKA for the test period based upon the decisions recommended in this proposed Order.

TABLE 5: REVENUE REQUIREMENT CALCULATION - DECISION		
Ln#	Description	Amount \$
	(A)	(B)
1	Total Pro Forma Operating Expenses	\$1,391,747
2	Authorized Operating Ratio - %	93.0%
3	Operating Revenue Requirement (Ln 1 x (Ln 2/100))	\$1,496,502
4	Pro Forma Operating Revenue	\$1,653,961
5	Revenue (Excess) or Deficiency Before Gross Up (Ln 3 – Ln 4)	(\$157,459)
6	Pre-Federal Income Tax Conversion Factor	0.976740
7	Revenue (Excess) or Deficiency After Gross Up (Ln 5 / Ln 6)	(\$161,052)
8	Revenue (Excess) or Deficiency After Gross Up and Rounding Rates to Nearest Quarter	(\$150,052)
9	Percentage Increase (Decrease) in Overall Operating Revenues	-9.15%

67 The recommended revenue requirement calculation reflects a revenue excess of \$161,052, and a revenue excess, after rounding rates to the nearest quarter of a dollar, of \$150,052. The indicated overall recommended reduction in operating revenues is 9.15%.

E. Recovery of Staff Investigation Costs

68 Staff also asks the Commission to assess BKA the Commission's costs in this proceeding, pursuant to RCW 81.10.020. The Order Allowing Withdrawal of Rate Filing; Converting Proceeding to Complaint by Commission; Establishing Schedule in this proceeding previously indicated that Staff could pursue recovery of these costs. In support of this request, Staff again notes that BKA has a long history of unsupported rate applications, and that the Staff has not sought nor received its costs in any of the previous filings. Staff seeks recovery of \$16,634, which is one percent of the Company's gross revenues in the year 2000. *See*, chapter 81.20 RCW, particularly 81.20.020 and .060. This amount was reported to the Commission by BKA in its 2000 Annual Report; this Order will take judicial notice of that official filing.

Discussion and Decision

69 BKA should be required to pay the recoverable portion of the Commission's cost of
investigation of \$16,634. When the Commission decides it is necessary "to
investigate the books, accounts, practices and activities" of a public service company
"and the cost thereof to the commission exceeds in amount the ordinary regulatory
fees paid by such public service company during the preceding calendar year," RCW
81.20.020 directs the public service company to pay the expenses that are reasonably
attributable to the investigation.

F. Appendices to the Order

70 The following appendices have been attached to this proposed Order to provide more
detail of the numeric calculations of the proposed decisions.

71 **Appendix A** is a recast of the Company's pro forma results of operations for the 12
months ended September 30, 2000, and incorporates the above discussions and
recommended decisions in this Initial Order.

72 **Appendix B** separates the company's expenses using the Staff's separation
methodology, and demonstrates that the result of the adjustments approved in this
Order would require a \$2.00 per passenger rate reduction in the Company's
Bremerton-Kitsap operations, and require a \$2.50 per passenger rate increase in the
Company's Ft. Lewis, McChord operations. The increase in the later operating area
occurs because of the cost of service differences in the two operating areas and the
Company's historical rate levels.

73 **Appendix C** is a summary of the recommended recalculation of the Commission
Staff's Affiliated Interest Adjustment for Lease Expense.

74 These appendices are a part of this Order, and are incorporated into the memorandum
portion of the Order by this reference.

III. FINDINGS OF FACT

75 Having discussed in detail both the oral and documentary evidence concerning all
material matters inquired into, and having previously stated findings and conclusions
based thereon, the following summary of the facts is now made. The portions of the
proceeding detailing findings and discussion pertaining to the ultimate facts are
incorporated herein by this reference.

76 (1) The Washington Utilities and Transportation Commission (the Commission)
is an agency of the state of Washington vested by statute with the authority to

regulate rates, rules, regulations, practices, accounts, securities, and transfers of public service companies, including auto transportation companies as such companies are defined in RCW chapter 81.68 and related statutes.

- 77 (2) Bremerton-Kitsap Airporter, Inc. (the Company), is an auto transportation company, operating as such in this state, under a certificate of public convenience and necessity issued by the Commission. The Company is authorized to provide airporter service between points in Kitsap and Pierce Counties and the Seattle-Tacoma International Airport.
- 78 (3) The Company filed proposed revisions to its tariffs on November 27, 2000.
- 79 (4) By order of the Commission entered December 27, 2000, the tariff revisions filed on November 27, 2000, by Bremerton-Kitsap Airporter, Inc., were suspended pending investigation and decision on such filing.
- 80 (5) On September 18, 2001, the Commission issued an order granting the Company's request to withdraw its tariff filing and converting the proceeding to a complaint proceeding by the Commission Staff against the Company, with Staff bearing the burden of proof as to what constitute just and reasonable rates for the transportation of persons by the Company.
- 81 (6) The twelve-month period ending September 30, 2000, is an appropriate test year to examine for ratemaking purposes in these proceedings.
- 82 (7) The statistics set forth in Exhibit No. 6, columns (a) and (b), which set out the accounts prescribed by the uniform system of accounts for auto transportation companies and the Company's test year "per books" figures for those accounts, are correct.
- 83 (8) Bremerton-Kitsap Airporter, Inc.'s rate case expense in the amount of \$62,609 is adequately supported by the record and should be allowed. All other figures for Company rate case expenses are either estimates or are referenced in the Company's brief but are not in the record. Five years is a reasonable period over which to amortize this expense.
- 84 (9) The \$355,000 that the Company paid in bonuses during the test year to Richard E. Asche for his work as the Company's executive are properly viewed as a distribution of profits, not operating expenses, for ratemaking determinations. The \$66,000 paid to Mr. Asche in ordinary wages for his services as the company's chief executive is an appropriate level of executive compensation for Bremerton-Kitsap Airporter and supports Staff's restating adjustment of (\$355,000) to test year executive compensation. The effect on

payroll taxes of this adjustment is (\$5,158). The Company's proposed adjustment of (\$282,119) does not remove enough from test year executive compensation, and results in a level of compensation that is excessive.

- 85 (10) Staff's restating adjustment of (\$22,930) to Bremerton-Kitsap Airporter's facilities lease expense, with an addition of an adjustment for new post test period additions to the Company's terminal, is appropriate based on the Commission's established practice of disallowing payments made by a regulated company to an unregulated affiliate to the extent that the payments exceed the lower of fair market value or the affiliate's cost plus a fair return. Staff's adjustment correctly excludes from expenses, for ratemaking purposes, the amounts included in the Company's unadjusted results of operations for the test period which are in excess of Mr. and Mrs. Asche's (the property owners') actual costs incurred in purchasing the building and real estate and the associated depreciation expense, the interest associated with that investment, and a fair return on the net depreciated investment. In is appropriate, in this proceeding to include expenses associated with the Company's new addition, which was placed in service two months after the close of the test period.
- 86 (11) The Company's proposed restating adjustment to remove from expenses \$10,767 the Company received as a refund or premium adjustment from the Washington Department of Labor and Industries (DLI) and C3HRM is appropriate because the premiums paid are outside the test year and there is no evidence that additional Labor and Industries insurance premium refunds are known and measurable.
- 87 (12) A 93% operating ratio is the appropriate ratemaking methodology to use for determining the Company's revenue requirement for the provision of regulated auto transportation services.
- 88 (13) The special reserve account tied to prospective rates and a 97% operating ratio advocated by Staff should be rejected.
- 89 (14) In order for the Company to achieve a 93 percent operating ratio on both of its routes, it is necessary for the Company to increase its fares by \$2.50 on the Ft. Lewis/McChord route and reduce its fares by \$2.00 on the Bremerton/Tacoma route.
- 90 (15) This Order takes notice of the fact that \$16,634 is one percent of the Company's gross revenues in the year 2000. *See*, chapter 81.20 RCW, particularly 81.20.020 and .060. The gross revenues were reported to the Commission in BKA's year 2000 Annual Report.

- 91 (16) In order for the Commission to carry out the duties imposed upon it by law with respect to Bremerton-Kitsap Airporter, Inc., it is necessary for the Company to pay \$16,634 toward the Commission's costs in this proceeding. This amount represents one percent of the Company's 2000 revenues of \$1,663,452 as reported in its annual report to the Commission. As of December of 2001, the month in which hearing in this matter was held, the Commission had incurred \$35,983.60 in agency-wide costs in this proceeding. This amount exceeds the \$6,633.90 that the Company paid in regulatory fees in 2000.
- 92 (17) This Order takes notice of the fact that the owner invested \$30,500 in a building addition at BKA's terminal facility in Port orchard in November 2000, a month or two after the close of the test period.

IV. CONCLUSIONS OF LAW

- 93 Having discussed above in detail all matters material to this decision, and having stated general findings and conclusions, the following provides summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Order are incorporated by this reference.
- 94 (1) The Washington Utilities and Transportation Commission has jurisdiction over the parties and subject matter of this proceeding.
- 95 (2) The uncontested adjustments shown in Table 1 constitute an appropriate basis for setting rates.
- 96 (3) The Commission should reject the staff-recommended modification of the operating ratio methodology earnings target of 97% for this Company. The Commission should continue to use the 93% operating ratio to calculate the Company's revenue requirements for its regulated auto transportation services. (4) The appropriate test year period for this proceeding is the 12-month period ended September, 2000.
- 97 (5) The adjustments to the agreed "per books" of the Company cited in Findings of Fact Nos. 8-11, above, meet ratemaking procedures and are necessary in view of required ratemaking procedures in this state.
- 98 (6) The fares that result from the changes set forth in Finding of Fact No. 14 should be fixed by order as the just, reasonable, and sufficient rates and should be observed and put in force in accordance with the terms of this Order.

- 99 (7) It is necessary, in order for the Commission to carry out the duties imposed upon it by law with respect to Bremerton-Kitsap Airporter, Inc., for the Company to pay \$16,634 toward the Commission's costs in this proceeding.

V. ORDER

IT IS ORDERED That

- 100 (1) The Commission has jurisdiction over the subject matter and the Parties to these proceedings.
- 101 (2) Bremerton-Kitsap Airporter is authorized and required to make appropriate compliance filings and such other filings as are necessary to effectuate the terms of this Order no later than April 30, 2002. The Commission Staff shall examine the compliance filing, and shall provide its analysis of whether the compliance filing meets the requirements of this Order no later than May 10, 2002.
- 102 (3) The Commission should retain jurisdiction over the subject matter and the parties to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective this fifteenth day of April, 2002

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARJORIE R. SCHAER
Administrative Law Judge

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial Order is not effective until entry of a final order by the Utilities and Transportation Commission. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below.

WAC 480-09-780(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-09-780(3). WAC 480-09-780(4) states that any *Answer* to any Petition for review may be filed by any party within (10) days after service of the Petition.

WAC 480-09-820(2) provides that before entry of a Final Order any party may file a *Petition to Reopen* a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

One copy of any Petition or Answer filed must be served on each party of record, with proof of service as required by WAC 480-09-120(2). An Original and nineteen copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia Washington 98504-7250.