

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In re: Request for Comments	:	
	:	
SeaTac Shuttle, LLC d/b/a	:	Docket No. TC-020497
Whidbey-SeaTac Shuttle	:	Passenger Transportation
	:	(Bus) Rulemaking
	:	March 8, 2006
	:	

Following are the comments of SeaTac Shuttle, LLC., C-1077:

We are encouraged that the current draft has taken into account many of the comments offered under the previous solicitation. The current draft of WAC 480-30 is in many ways a vast improvement over the previous version. However, there is still away to go before we feel that it will properly serve both the public and the passenger transportation companies. It is our hope that the Commission will seriously take into account our comments on the current draft and effect the changes we feel are necessary or explain how the draft language better serves the public and industry than that which we propose. When reviewing the draft we used the same criteria that we used in our previous review:

- Is** the proposed section applicable to current and future operations?
- Is** the proposed section clearly worded and unambiguous?
- Is** the proposed section redundant?
- Is** the proposed section contrary to or in conflict with RCW, WAC or precedent?
- Is** the proposed section an improvement over the existing section with regard to the operating environment?
- Is** the proposed section a reduction or increase in administrative or economic burden upon the companies?
- Does** the proposed section serve a useful purpose?
- Does** the proposed section increase or decrease the authority of the Commission?
- Does** the proposed section protect the interests of the companies?
- Is** the public properly served by the proposed section?
- Are** the current definitions adequately worded to reflect the true meaning and intent of the Commission and Legislature?

We have not sought to comment on "rates" here other than in the broadest terms.

We have also applied the criteria as described in Executive Order 97-02 and looked to Staff's Rulemaking Issues Paper, WUTC , July 31, 2002 in evaluating the current draft with the goals defined from the initial proposal of this re-write of WAC 480-30.

KEY ~~Strike through~~ is used to denote sections or words that we feel should be deleted.

Underline is used along with the color **Blue** to denote additions suggested.

Red is used where special emphasis is required.

Italics denote our comments on a particular section.

We offer the following thirty-two comments:

#1

WAC 480-30-036 Definitions, general.

"Cancellation" means:

(a) An act by the commission to terminate a company's charter and excursion carrier certificate or a company's auto transportation certificate; or

(b) An act by an auto transportation company to discontinue the application of a tariff, a tariff supplement, or a tariff item.

(c) An act by a customer to terminate a reservation either through affirmative action or passive action. ex. no-show

This term is used in Passenger Rules and Tariffs regarding acts by passengers and should be included in this section for clarity. Please add this definition.

#2

"Door-to-door service" means an auto transportation company service provided between a location identified by the passenger and a point specifically named by the company in its filed tariff and time schedule. Door-to-door service is a separate and distinct service from scheduled airporter service.

These two service types are mutually exclusive in the type of service that they provide and the customers that they serve. A distinction should be clearly articulated within this definition just as it has for premium and direct service.

#3

"Contract carrier" means a person holding a certificate issued by the commission authorizing transportation of passengers under special and individual contracts or agreements.

What type of certificate is the Commission authorized to issue for special or individual contracts or agreements? Please advise.

#4

"Ticket agent agreements" means a signed agreement between an auto transportation company and a second party other than a licensed travel agent in which the second party agrees, for compensation, to sell tickets to passengers on behalf of the auto transportation company. See WAC 480-30-391.

Under the current wording, we will need specific, approved contracts with each

travel agent around the county that we might do business with. It is industry standard to pay a commission on travel sales to travel agents and they are internal agreements that may be written or oral and are of no concern to the public or the Commission. They are a simple marketing expense understood in all other facets of the travel industry, of which we are an integral part.

#5

NEW SECTION

WAC 480-30-071 Reporting requirements.

(2) **Charter and excursion carrier annual safety reports.** An annual safety report is a summary of motor vehicle and safety operating information that each charter and excursion carrier is required to file with the commission.

(a) Each year the commission provides an annual safety report form and instructions to each company at its address of record. Failure to receive the form does not relieve a company of its obligation to complete and file its annual safety report. A company that does not receive an annual safety report form must contact the commission to obtain a copy of the form.

(b) A company must file a complete, accurate annual safety report showing all requested information by ~~December 31~~ February 1 of the year following the reporting year. Information provided on the annual safety report must agree with source documents maintained at company offices.

(c) The commission may grant an extension of time allowing the company to file its annual safety report after the ~~December 31~~ February 1 due date if the commission receives a request for extension before ~~December 31~~ February 1.

Operators cannot provide data through December 31 if they are required to report as of that date. Please adjust the dates to one more realistic.

#6

NEW SECTION

WAC 480-30-136 Certificates, application hearings, auto transportation company.

(4) If an applicant requests a certificate or extension of certificate to operate in a territory already served by another certificate holder, the applicant must also show that the existing transportation company or companies ~~will~~ does not provide service in that territory to the satisfaction of the commission.

*The Commission has **Always** held that once an application is filed by an applicant to provide service in an area already authorized but not served by*

another company or not served to the satisfaction of the Commission, that company may not expand service into that area or enhance service in that area in an effort to comply with the terms of its authority after the fact. Any enhancements of this nature have been disregarded in the application process and hearings. To change the wording to will implies that an existing company can change its operation after the filing of an application by another party claiming that it will now begin providing satisfactory service to effectively block any new applicants. **This is critical wording.**

#7

WAC 480-30-136 Certificates, application hearings, auto transportation company.

(4)

~~(d) Whether the population density warrants additional facilities or transportation.~~

~~(e) The topography, character, and condition of the territory into which the proposed services are to be introduced, and the proposed territory's relation to the nearest territory through which transportation service is already provided.~~

~~(f) Whether a grant of the requested authority and the resulting increased competition will benefit the public.~~

(d) The Commission offers no parameters for determination of adequate population density which will then leave the door open to prolonged legal interpretation with subsequent additional financial burdens being placed upon the applicant. If the Commission is going to make this a requirement, narrow its scope to preclude frivolous and expensive challenges. Second, the only reason to consider population density is to determine the economic impact on an existing carrier. As economic impact on an existing operator **is not a consideration** of the Commission, this section has no application and is irrelevant.

(e) If a territory is unserved, regardless of topography or whether or not it is contiguous or near another territory is not and never has been a consideration of the Commission in the application process. If a territory is unserved, then it must perforce, be open to entry by an applicant.

(f) Competition within an area is only permitted if the existing operator is not serving to the satisfaction of the Commission. Economic impact on an existing company by the entrance of a new company has been specifically excluded from the application process. Competition in an underserved or poorly served market place is always to the benefit of the consumer. If one company cannot survive because of the competition then that is proof that the existing company was not performing to the satisfaction of the consumer or Commission.

#8

NEW SECTION

WAC 480-30-146 Certificates, name change. (1) A company must file a name change application under the provisions of WAC 480-30-096 to:

(3) If a name change results from a change in ownership, including addition or deletion of a partner, the company must file an application to transfer the certificate according to the

provisions of WAC 480-30-141.

I want to be very clear here that a Partnership is a legal entity and if no name change is effected with the addition or deletion of a partner this section will not apply. This issue was resolved with the recent application of Feet Wet Partners, LLC, (Doc 050443) (Also see 480-80-133) Please comment.

#9

NEW SECTION

WAC 480-30-196 Insurance cancellation. If a company's insurance filing is canceled, and a new filing that provides continuous coverage is not filed before the cancellation effective date, the commission may:

~~(1) Dismiss a company's application for a certificate;~~

(2)(1) Suspend or cancel a company's certificate under the provisions of WAC 480-30-171.

The Commission has never required that insurance filings be made while an application is pending or as part of the initial application filing. It has always been the established procedure to require a proper filing and coverage after the final order granting the application but prior to issuing the certificate. This section implies that coverage must be in place during the application process prior to the final order. This would place a real financial burden on applicants and cannot be the intention of the Commission. Please delete this section in order to bring it in line with actual practice and sound economics.

#10

NEW SECTION

WAC 480-30-216 Operation of motor vehicles, general.

(7) **Smoking on motor vehicles.**

(b) Each auto transportation company must post signs in its vehicles informing passengers that smoking is not permitted.

*Smoking has been banned for years by statute on regulated vehicles. The public clearly understands that smoking is not permitted in these public indoor situations. We are not currently required this posting and smoking is and has not been a problem. We cannot cite one example of a passenger attempting to smoke on one of our vehicles. Additionally, it is now state law, RCW, that smoking is banned in **ALL** public places. This new section addresses an issue that **does not exist**. This section imposes an additional administrative and economic burden on the operators to no purpose. If in the final analysis, we are required to actually post all of the notices required under this draft in our vehicles, we will find ourselves in the untenable position of not having enough surfaces on which to affect the postings. We will look like some cheap transit bus with all their advertising placards on every surface, hardly the "Premium" service that we now provide. Please consider the need for and consequences of these new sections before proposing them.*

#11

NEW SECTION

WAC 480-30-241 Commission compliance policy. (1) The commission is authorized to administer and enforce laws and rules relating to passenger transportation companies. The commission may delegate authority to the commission staff to inspect equipment, drivers, records, files, accounts, books, and documents. The commission may also delegate to its staff authority to place vehicles and drivers out-of-service and to arrest without warrant, or issue citations to any person found violating this chapter in the presence of its staff as provided under ~~RCW 81.04.460~~ RCW 80.04.470.

RCW 81.04.460 is not the applicable statute. As stated in our comments under the CR-101, we are very uncomfortable with this section. First RCW 81.04.470 provides It shall be the duty of the commission to enforce the provisions of this title and all other acts of this state affecting public service companies, the enforcement of which is not specifically vested in some other officer or tribunal. We believe the WSP has full enforcement authority here and therefore no delegation is authorized. If this is not the case, then anyone delegated by the Commission must be designated in writing and meet the qualifications of a peace officer with arrest authority within the State of Washington, which are clearly defined within the body of RCW. Anyone who has been delegated and meets all of the qualification should be clearly identified by the Commission to the operators.

It shall be the duty of the commission to enforce the provisions of this title and all other acts of this state affecting public service companies, the enforcement of which is not specifically vested in some other officer or tribunal.

Further, Proposed NEW SECTION -246 recognizes that "other law enforcement agency(s)" already have the same powers which this section seeks to confer.

WAC 480-30-246 Sanctions for operating without a valid certificate.
(1) **Operating without a certificate.**

(a) If a representative of the commission **or other law enforcement agency** observes a company operating as a passenger transportation company without a certificate from the commission, that company is subject to a gross misdemeanor citation, for which the company must appear in court.

#12

NEW SECTION

WAC 480-30-291 Tariffs, ~~rates~~ fares, general
WAC 480-30-311 Tariffs and time schedules, requiring thirty calendar day notice to the commission.
WAC 480-30-316 Tariffs and time schedules, customer notice requirements
WAC 480-30-366 Tariffs and time schedules, supplements.

"Rate" means an amount in a company's tariff approved by the commission or allowed to become effective by operation of law, for services provided by an auto transportation company. For

example: Passenger fares, ticket prices, additional baggage charges.

I'm not going to flog this issue to death here as a CR-101 has been issued for the reform of "rates". However, I do not understand the tenaciousness that the Commission exhibits here with regard to retaining the misapplied term "rates". I am encouraged that in some instances it has been replaced, at long last, with the appropriate term "fares". There still exists scattered throughout the code at random, however, "rates". Once again, we ARE NOT a utility with RATE payers, we are in the travel industry and our customers pay us "fares". We must end this notion of airporters as a utility with all its negative ramifications.

#13

NEW SECTION

WAC 480-30-316 Tariffs and time schedules, customer notice requirements

(2) **Thirty-day notice to public.** At least thirty days prior to the stated effective date, the company must post a notice in a conspicuous place for each affected route or routes. The published notice must remain posted until the commission takes action on the request. The notice must be posted:

- (a) In each vehicle;
- (b) At each passenger facility; and
- ~~(c) On the internet, if the company maintains an internet web site accessible to the public through which it sells its transportation services, posts its rates, or time schedules.~~

*The posting will be in the vehicle(s) and at each passenger facility. Updating a WEB SITE with a notice, which would be in addition to the normal schedule and fare previews that we post, creates an economic burden imposed only on those operators who maintain a WEB SITE. **This is discriminatory.** WEB SITES already contain far more information than most consumers would like. They are in general cluttered. To add yet more information that is already available at the passenger facilities, in the vehicles and on the WUTC web site is over kill. Enough already.*

#14

NEW SECTION

~~WAC 480-30-321 Tariffs and time schedules, notice verification and assistance. (1) Within five days of making a filing requiring posting of a customer notice under WAC 480-30-316, but no sooner than the date the filing is submitted to the commission, a company must file a statement with the commission's records center that the required notice has been posted. The declaration must include:~~

- ~~(a) Description of where the notice was posted;~~
- ~~(b) Date the notice was posted; and~~
- ~~(c) A copy of the customer notice.~~

~~(2) A company may request assistance from the commission's consumer affairs section in preparing notice.~~

WUTC or Department of Redundancy Department Department? Just how many times do we need to post and notify on the same issue? In section -316 we are required to post notice and the content of that notice is very clearly specified. Sections -241 and -246 mandate compliance with the Commission's rules and penalties for non-compliance to which all operators have subscribed by virtue of accepting their authority from the Commission. Now comes section -321 which requires us to provide documentation that we have done that to which we have already agreed. If we are required to notify the Commission every time we do something that we are required to do, we won't have time to operate our business. I doubt that the Senate and House Transportation Committees or the Governor for that matter would see any merit in this provision. It is just a "make work" provision. Who is to pay for all of this? Delete 480-30-321 in its entirety

#15

NEW SECTION

WAC 480-30-326 Tariffs and time schedules, less than statutory notice handling.

(4) Notice requirements. An auto transportation company requesting LSN handling of a filing must post notice in its offices, passenger facilities, ~~and on all vehicles~~ concurrent with submitting the filing to the commission. The company must file a copy of its public notice with the application for LSN handling.

The LSN process is most commonly use for fuel surcharges. These are produced as often as every two weeks. They are merely a request to shorten the statutory period for notice and are routinely granted on the consent agenda without public comment. The Commission seems to think we are some kind of rolling kiosk that exists only to be a public display of arcane documents. The public is not served in any fashion by this section. If in some very unusual circumstance a customer wanted to see a LSN, they are already available at numerous other locations and through the Commission. Not one in ten thousand customers even knows what an LSN is and for those very few customers who know what an LSN is, they will have the expertise and knowledge to obtain a copy through the normal historical sources. Please, if you are going to make changes, make them meaningful and not frivolous, redundant and detrimental to the traveling experience and company economics. We have waited four years for this re-write, don't waste this opportunity with this type of senseless language.

#16

NEW SECTION

WAC 480-30-356 Tariffs and time schedules, tariff rules.

(c) Transportation of animals. Rules must state that service animals, ~~such as~~ dogs traveling with sight or hearing impaired passengers, will be transported free of charge if they lie at the feet of their master and do not occupy passenger seats.

We cannot be required to accommodate guide horses, guide pigs or guide llamas. We operate limited capacity vehicles with no provision for bizarre animals. We have physical space limitations. The general public is accustomed to guide dogs but cannot be expected to travel with other such animals. This requirement must be limited to dogs. There is no room for compromise here.

#17

WAC 480-30-356 Tariffs and time schedules, tariff rules.

(d) Refunds for unused and partially used tickets.

(i) Rules must state, "Unused tickets will be redeemed at the purchase price. Unused portions of round-trip or commutation tickets will be redeemed by charging the regular fare or fares for the portion or portions used, and refunding the balance of the purchase price."

This section still has not been addressed by the Commission and needs to be done so here. Section -266(1) removes WAC 480-149 from consideration or application to auto transportation companies, however, this bit of language is imported from it. It creates a false impression for the consumer. There are many instances where a ticket is not refundable, (see ex. in Sec.(3)(d)(ii),(iii). This creates confusion for the consumer and wastes staff and company time in producing tariffs that have to deal with this language. At the very least this section must include language that clearly states to the consumer that under certain circumstances, fares are not refundable. We suggest the following language:

"Unused tickets will be redeemed at the purchase price when qualified under the company's rules. In such cases unused portions of round-trip or commutation tickets will be redeemed by charging the regular fare or fares for the portion or portions used, and refunding the balance of the purchase price less any applicable administrative fees."

or more simply;

(d) Refunds for ~~unused and partially used~~ tickets.

(i) Rules must state, "Tickets that qualify for a refund ~~tickets~~ will be redeemed at the purchase price. Unused portions of round-trip or commutation tickets will be redeemed by charging the regular fare or fares for the portion or portions used, and refunding the balance of the purchase price."

If it is the Commission's intention that refunds will be issued under all circumstances, which is what this section states, make that very clear to the operators as this would be an absolutely unacceptable restriction on the industry. See RCW 81.28.080, it speaks for its self ; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified excepting upon order of the commission as hereinafter provided...

The legislature clearly did not intend for transportation companies to be required to issue refunds on a broad basis.

#18

WAC 480-30-356 Tariffs and time schedules, tariff rules.

(d) Refunds for unused and partially used tickets.

(iii) A customer who has made a ~~door-to-door~~ reservation but

fails to appear at the designated pick-up point by the scheduled departure time is not eligible for a refund unless the failure was caused by an airline delay or cancellation.

Published rates to be charged – Exceptions.

RCW 81.28.080

No common carrier shall charge, demand, collect or receive a greater or less or different compensation for transportation of persons or property, or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in its schedules filed and in effect at the time; **nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified excepting upon order of the commission as hereinafter provided...**

The above speaks for its self. The legislature clearly did not intend for transportation companies to be required to issue refunds on a broad basis. As has already been acknowledged in sec (d)(ii) of -356, "Door-to-Door" and "By reservation only" are faced with the same reservation seating limitations and expenses. Neither of these types of operations send shuttles to passenger locations unless there is a reservation for that location. The "By reservation only" operators must be included along with the "Door to Door" operators in this section. To exclude them from reference here would imply that if a "By reservation only" passenger caused a shuttle to be dispatched to his location and he failed to show, we would still have to refund his fare. We will have incurred the full cost of the shuttle trip for a reserved seat that we would not otherwise be able to sell and have no recovery. This loss must then be passed on to our other customers, an unfair, inequitable and economically unviable situation. Remember, if we have but one reservation at SeaTac, we MUST still send a shuttle to Seatac to service that passenger. If that passenger is a no-show or cancels without reasonable notice we lose the entire cost of that trip. Even the carriers that are not "By reservation only" but who have reserved a seat for a passenger are being damaged here. Once they have sold that seat they cannot sell it to anyone else. You are already forcing us to pay for airline caused delays and cancellations over which we have no control and are not at fault, just how much does the Commission expect us bleed?

#19

WAC 480-30-356 Tariffs and time schedules, tariff rules

(h) Alternate means of transport that will be provided by the company if it is unable to provide transportation to a customer at the time and place specified in a reservation that the company has accepted for that passenger. ~~for whom a reservation has been accepted.~~

This is a follow-on to section (d) above. On one hand the Commission is saying that the customer has no obligation to the company even though the company has reserved a seat for that customer to the exclusion of others and a contractual relationship exists between the two parties but the company has an absolute obligation to the customer to have a seat available. The language of this section must make it absolutely clear that the company's obligation is for a specific reservation at a specific time and place. If the customer is not available and or does not present himself at the time and place called for in the reservation, the company shall have no further liability to that customer.

#20

NEW SECTION

WAC 480-30-381 Tariffs and time schedules, filing procedures.

The Transmittal Letter via this section has essentially become a submission. It is a duplicate of the papers and documents that are required to be submitted. The Transmittal Letter has been traditionally been an instrument to indicate, in a very brief format, the purpose of the attached documents, not a complete detailed explanation and line item justification for them. We would be happy to just submit a detailed Transmittal Letter and forego all of the attached documents in an effort to streamline the process. This new language just adds more work to the companies with no particular benefit to the Commission as each document attached must be reviewed, analyzed and commented on by the Commission with or without this new expanded TL format. Who is to pay for this increased work load? We do have customers to serve, leave us a little time and man power to do so.

#21

WAC 480-30-381 Tariffs and time schedules, filing procedures.

(c) Rate increase filings.

Our concern with "rates" and "rate filings" is or should be well known to the Commission. All I will state here is that the current situation is unsatisfactory and a change is long over due. We will address this issue most vigorously under the new CR-101 concerning rates.

#22

NEW SECTION

WAC 480-30-391 Tariffs and time schedules, ticket agent agreements must be filed and approved

(3) Ticket Agent Agreements with licensed travel agents are exempt from the provisions of this section.

*See comments under: WAC 480-30-036 Definitions, general.
Ticket Agent agreements, Comment #4 of this document.*

#23

NEW SECTION

WAC 480-30-396 Tariffs and time schedules, free and reduced rates.

(2) An auto transportation company wishing to provide service at free or reduced rates must first publish those free or reduced ~~rates~~ fares in its filed tariff unless those free or reduced fares are permitted by RCW 81.28.080.

Published rates to be charged — Exceptions.

RCW 81.28.080

..... No common carrier shall, directly or indirectly, issue or give any free ticket, free pass or free or reduced transportation for passengers between points within this state, **except** its employees and their families, surgeons and physicians and their families, its officers, agents and attorneys at law; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals, charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge; to necessary caretakers of livestock, poultry, milk and fruit; to employees of sleeping car companies, express companies, and to linemen of telegraph and telephone companies; to railway mail service employees, post office inspectors, customs inspectors and immigration inspectors; to newsboys on trains; baggage agents, witnesses attending any legal investigation in which the common carrier is interested; to persons injured in accidents or wrecks and physicians and nurses attending such persons; to the National Guard of Washington when on official duty, and students going to and returning from state institutions of learning: PROVIDED, That this provision shall not be construed to prohibit the interchange of passes for the officers, attorneys, agents and employees and their families, of railroad companies, steamboat companies, express companies and sleeping car companies with other railroad companies, steamboat companies, express companies and sleeping car companies, nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation: AND PROVIDED, FURTHER, That this provision shall not be construed to prohibit the exchange of passes or franks for the officers, attorneys, agents, employees, and their families of such telegraph, telephone and cable lines, and the officers, attorneys, agents, employees, and their families of other telegraph, telephone or cable lines, or with railroad companies, express companies or sleeping car companies: PROVIDED, FURTHER, That the term "employee" as used in this section shall include furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed or dying in the employment of a carrier, those entering or leaving its service and ex-employees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this section shall include the families of those persons named in this proviso, also the families of persons killed and the surviving spouses prior to remarriage and minor children during minority, of persons who died while in the service of any such common carrier: AND PROVIDED, FURTHER, That nothing herein contained shall prevent the issuance of mileage, commutation tickets or excursion passenger tickets: AND PROVIDED, FURTHER, That nothing in this section shall be construed to prevent the issuance of free or reduced transportation by any street railroad company for mail carriers, or policemen or members of fire departments, city officers, and employees when engaged in the performance of their duties as such city employees.

So do we now list all of these exclusions in our tariff? All of these persons are already permitted free or reduced passage by law. The inclusion of this required exemption in the wording of this section is the only acceptable construction short of just deleting the entire section.

#24

NEW SECTION

WAC 480-30-406 Tariffs and time schedules, withdrawing a filing. (1) When withdrawing a tariff or time schedule filing, an auto transportation company must submit a letter that includes the following:

(a) The name and address of the auto transportation company;

(b) Docket number of the filing being withdrawn;

(c) The name of the company's contact person;

(d) An explanation of why the company is requesting the withdrawal; and

(e) A statement certifying that the submitting person has authority to withdraw the filing on behalf of the auto transportation company.

~~(2) The commission may deny withdrawal of a filing when denial is in the public interest.~~

*In light of WAC 480-80-131 (see below), sec (2) of -406 is **discriminatory**. The Commission has specifically permitted other regulated entities to withdraw filed tariffs without prejudice. There is a history of the Commission using filed, but not approved, tariffs as weapons against airporters. When a company files a proposed tariff, it uses the best information available to it at the time. Many variables are factored into a tariff filing and those variables may change over short time intervals. New information or interpretation may become known to the filing party which causes it to reevaluate the necessity or viability of the filing. The mere act of filing should not confer upon the Commission the right to force a company into a situation which they proposed but then find not acceptable for reasons that it alone determines subsequent to that filing but prior to approval. **This language is unacceptable under any circumstances and must be removed.***

WAC 480-80-131

Withdrawing a tariff filing

When withdrawing a filing, a utility must submit a letter that includes the following:

(1) The name and address of the utility;

(2) Docket number;

(3) Advice number, if applicable;

(4) The name of the contact person for the withdrawal;

(5) An explanation of why it is requesting the withdrawal; and

(6) A statement certifying that the submitting person has authority to withdraw the filing on behalf of the utility.

[Statutory Authority: RCW 80.01.040 and 80.04.180. 02-11-081 (Docket No. U-991301, General Order No. R-498), § 480-80-131, filed 5/14/02, effective 6/17/02.]

#25

NEW SECTION

WAC 480-30-421 Tariffs, general rate increase filings.

WAC 480-30-426 Tariffs, general rate increase filings, work papers.

All sections concerning "rates" will be examined in comments under CR-101 Doc #061277.

#26

WAC 480-30-426 Tariffs, general rate increase filings, work papers

(1) (C) Ratemaking - ratemaking adjustments modify the records of the company to reflect **proper ratemaking theory**, such as removing expenses that were incurred by the company but are not generally allowed to be passed on to ratepayers, or converting from accelerated depreciation to straight line depreciation.

The heart of the problem is with "proper rate making theory", a term which has no fixed definition to the Commission. We are forced to deal with a "moving target" anytime we deal with the rate issue. This issue will be vigorously examined in the new proposed CR-101 inquiry into rates.

#27

NEW SECTION

WAC 480-30-436 Tariffs, special or promotional fare tariff filings. (1) The commission encourages auto transportation companies to explore innovative rates and rate structures including special or promotional fares intended to:

*The concept of promotional or special fares has been proposed, promoted and supported by airporters for quite sometime. The only problem that we have with this is the possible threat to the company by the filing of a promotional fare within a supplemental tariff. History has graphically shown us that the Commission **will** file complaint against a company for filing a proposed tariff. Until the code specifically permits the withdrawal of filings without the threat of complaint, this section is just so much verbiage and won't be used by anyone. See comment# 24.*

#28

NEW SECTION

WAC 480-30-446 Availability of information. (1) **Company information.** A company that provides auto transportation company service must have a:

(3) **Responding to customer inquiries.**

(a) A company must respond to all nonwritten messages within twenty-four hours excluding weekends and holidays, as defined in the company's tariff.

(b) A company must acknowledge and respond to a customer's written inquiry within two weeks of receipt.

This is an appropriate business policy. I feel strongly that the Commission should adopt the same rules for its self. If not, why not? As a public/state agency you should be held to at least private industry standards if not higher and we are, after all, your customers.

#29

WAC 480-30-446 Availability of information. (1) **Company information.** A company that provides auto transportation company service must have a:

(4) **Information that must be available.** A company must make the following items available to customers for inspection upon request at no charge during the company's regular business hours:

~~(a) The commission's passenger transportation company rules in chapter 480-30 WAC;~~

(a)~~(b)~~ The company's current tariff and time schedule;

(b)~~(c)~~ The company's current certificate; and

(c)~~(d)~~ Any current, proposed, or most recently canceled tariff page that relates to the customer's service.

Items (4)(b)(c)(d) are all quite reasonable and should be available for inspection by customers. However, we are not a law library, if someone wants to research WAC and transportation law they have numerous facilities available to them, not the least of which is the WUTC. In order for us to obtain copies of the WAC we rely on the WUTC, local libraries and the legislature's web site. We would not object to being required to advise those customers who inquire where they may obtain a copy of 480-30 WAC.

#30

NEW SECTION

WAC 480-30-456 Fair use of customer information

We agree with this section whole heartedly. WSS is a strong advocate of customer privacy. We would like a clear explanation from the Commission however, as to why this consumer friendly provision is reversed for other regulated utilities. If this section is pro-consumer by virtue of precluding airports from utilizing this information, it must therefore follow that placing the burden of confidentiality on the consumer through "opt-out" programs afforded other regulated industries must be anti-consumer. This bipolar logic escapes us, clarification is in order.

#31

NEW SECTION

**WAC 480-30-461 Service or rate complaints. (1)
Company responsibility.**

All well and good, but there is no facility what-so-ever for passenger transportation companies that have a complaint against the Commission or its staff for resolution or tracking. You take the pay, you must be accountable. The WAC has always been a one-way check valve; it's time to show that you stand behind your work product and your staff. If issues arise, we need a mechanism to address them. It is very appropriate at this time to include language that will formalize the process for passenger transportation companies.

#32

NEW SECTION

WAC 480-30-476 Baggage liability and claims for loss or damage. (1) Baggage liability. An auto transportation company must include provisions in its filed tariff relating to its liability for loss or damage to baggage checked by the passenger.

At the risk of being redundant I must restate all of our objections to this section as previously offered: There appear to be major problems with this section. By any measure the Commission is requiring auto transportation companies to conduct business in contradiction to RCW. By definition we would be "insurers" selling "insurance" which would require a "License" issued by the Insurance Commissioner. If companies were to comply with this section they would be in violation of RCW and subject to fines and imprisonment for committing a gross misdemeanor.

*If the Commission can put forth a reasonable and logical argument for this provision placing liability on the company then it is a good idea to define a limit on liability, but **we cannot offer excess liability** protection for a fee. As we have no realistic way of assessing true value of any particular piece of baggage short of inspecting and inventorying each and every piece, a liability limit of \$100 per passenger is more realistic. Airporters are generally a direct, premium service. The customer hands the baggage to the driver and it is immediately loaded on the vehicle. The reverse takes place at the termination of the route. We are not airlines with massive baggage handling systems and connecting flights with opportunities for lost or destroyed baggage. This really is not a problem with our industry. By our estimation **we have transported over 100,000 pieces of baggage and have NEVER lost a single piece or had a claim for damage.** This is another very minor and insignificant issue that the Commission is trying to over manage. We suggest limits of \$100 per customer (\$50 per child) and double those limits on connecting, joint or through routes. **We cannot sell additional insurance to the customers.***

Additionally, we now have the issue of increasing "rates". If by some mechanism it were possible for us to sell insurance for increased liability, how would we account for the new income? Would it affect our "rates" and the rate hearing process? Will we have to file a new tariff with a general rate increase to comply with this section? How can we possibly anticipate what the effect on our pro forma would be as we have absolutely no data to rely on in an industry that we are completely unfamiliar with? How will the Commission handle losses incurred through

the payment of claims or excess claims? Who determines the true value of a claim? Who pays for the increased staffing burden? Please let us get on with our jobs, we don't sell insurance, we don't deliver pizzas nor do we teach people to ice skate, we provide transportation.

(3) **Claims.** Auto transportation companies must make claim forms available to their passengers upon request at each of the company's offices, ~~passenger facilities, and from the driver of each vehicle operated.~~ The forms must be prepared in duplicate. The company will retain one copy. The second copy will be given to the passenger filing the claim.

The commission has once again exhibited a propensity towards a paper work explosion. Forms at the office, forms at passenger facilities and forms on the vehicles, this is overkill. If the commission were to study the current tariffs of the existing operators they would see that most passenger facilities are hotels, convenience stores, gas stations, transit bus facilities and other such similar venues sited to be the most convenient locations for our customers. These do not offer unlimited space for forms and copies of other documents which are readily available from the company at its business office, the Commission or on the WEB. We have administrative staff to handle customer service issues such as these; we do not need to further burden our drivers with more forms. They need to keep our shuttles on schedule in a safe and professional manner, let them do their job and let our office staff do theirs.

(4) **Loss or damage to carry-on items.** The company shall not be held responsible for loss or damage to baggage carried on board the vehicle unless it can be shown that the company was in some way negligent. Each company shall have a written policy detailing the manner in which items, articles, or baggage left on board a company's vehicles will be handled and the way in which the company will make efforts to return the articles to their rightful owners and listing any fees that may be charged for this service.

Just like "change fees" to cover administrative costs, companies must be able to apply a handling fee for processing and or returning carry-on items left onboard the company's vehicles by customers.

Summary: The current draft is an improvement over the previous draft. We are disappointed that the Commission did not address the main reason for the issuance of the CR-101 in the first place, rates. As we near the end point of this particular process of four years we strongly urge that the Commission accept the above comments in the spirit in which they are offered, as constructive changes and comments designed to clarify, simplify, streamline and make the whole process more efficient to the benefit of the consumer and the industry. We are not an essential industry; our customers have many options open to them outside of our services. We must be efficient, safe and well managed to provide a product that is attractive to the public. The WUTC should be our partner in that effort, we should be working toward that common goal, not in

opposition.

Let the new WAC 480-30 reflect that partnership. We, as your customers will do our part, meet us half way.

Michael Lauver
Seatac Shuttle, LLC

March 8, 2006