



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
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September 21, 2017

**NOTICE DENYING REQUEST FOR HEARING AND
DENYING CHALLENGE TO CERTIFICATE CANCELLATION**

RE: *In re Cancellation of Certificate CH 065602 Due to Insufficient Proof of Insurance*
Docket TE-170953

BACKGROUND

On July 26, 2017, the Washington Utilities and Transportation Commission (Commission) received notice from the insurance carrier for Exploration Coach Lines LLC (Company) that its insurance would be cancelled on September 6, 2017. On July 26, 2017, the Commission's licensing staff (Staff) notified the Company that the Commission would cancel the Company's certificate and authority to provide regulated passenger transportation service if it did not provide proof of insurance by September 6, 2017. The Commission received no response to this notice.

On September 1, 2017, Staff emailed the Company a courtesy reminder to provide proof of insurance by September 6, 2017, to avoid cancellation of its certificate. The Company responded the same day informing Staff that the Company had asked its insurance agent to provide the requisite proof of insurance.

The Commission did not receive proof of insurance for the Company by the close of business on September 6, 2017. The Commission, therefore, served a letter on the Company on September 8, 2017, cancelling its certificate.

On September 15, 2017, the Company's insurance agent submitted proof of insurance, an application to reinstate the Company's certificate, and the \$200 reinstatement application fee. The Commission reinstated the Company's certificate the same day.

Also on September 15, 2017, the Company requested a hearing "asking that all actions and public records concerning this issue be eradicated and my original UTC Charter Operations

certificate and number be restored without penalty.” The Company contends that it paid its insurance agent before the policy expired and sent reminders to the agent on September 5 and 6 concerning the need to provide proof of insurance to the Commission by September 6. The Company attributes the agent’s failure to timely submit proof of insurance to the agent’s location in a coastal community in Florida that was under mandatory evacuation orders and suffered damage due to Hurricane Irma.

On September 20, 2017, Staff submitted its response to the Company’s request. Staff does not support the Company’s request. Staff states that it followed established procedures, including providing the Company with six weeks advance notice of the cancellation and a subsequent courtesy reminder. Staff does not believe that the Company has presented any extenuating circumstances that warrant departure from the Commission’s standard practice.

DISCUSSION AND DECISION

“A company must file and maintain a Uniform Motor Carrier Bodily Injury Property Damage Certificate of Insurance (Form E) as a condition of being issued and maintaining a certificate to operate as a passenger transportation company.”¹ The Commission may suspend or cancel a company’s certificate if the company operates without proof of proper insurance.² “When the commission believes cause exists to suspend or cancel a certificate, it will issue a notice to the . . . company of the commission’s intention to suspend or cancel the authority.”³ The Commission may reinstate a certificate if the company corrects the cause of the cancellation and files an application for reinstatement with the proper application fee within 30 days of the cancellation.⁴

Staff followed those procedures in this case. Staff notified the Company on July 26, 2017, of the Commission’s intent to cancel the Company’s certificate if the Company did not provide the requisite proof of insurance by September 6 – six weeks later. Staff also sent a courtesy reminder to the Company on September 1. The Company nevertheless failed to provide the proof of insurance by September 6, and according to Commission records, the Company was operating without insurance as of September 7, 2017. The Commission, therefore, cancelled the Company’s certificate on September 8, and subsequently reinstated the Company’s authority on September 15 when the Commission received the requisite proof of insurance, application for reinstatement, and application fee.

¹ WAC 480-30-191(3).

² WAC 480-30-171(2)(a).

³ WAC 480-30-171(3).

⁴ WAC 480-30-181(1).

The Company requests a hearing. The letter cancelling the Company's certificate confirms the Company's right to a hearing but states, "At the hearing the only issue the Commission will address is whether you had proof of insurance on file to avoid cancellation." The Company does not claim that it had proof of insurance on file with the Commission on September 8, 2017, when it cancelled the Company's certificate. The Commission conducts hearings to resolve disputed issues, and because the only issue the Commission would address in this case is undisputed, no basis exists for conducting a hearing.

The Company nevertheless requests the opportunity to contest the Commission's actions. The Company believes that the Commission should reverse the cancellation based on the Company's explanation for why it did not have proof of insurance on file with the Commission. We disagree.

Even if all the facts the Company alleges are true, they do not support the relief the Company requests. The Commission notified the Company six weeks before the date on which the Commission intended to cancel the Company's certificate. The Company nevertheless did not request proof of insurance from its agent until it received a reminder email from Staff five days before the deadline. The Commission is sympathetic to the plight of those affected by Hurricane Irma, but there would have been no impact on the Company if it had arranged for its agent to provide proof of insurance promptly after Staff's July 26 notification. By waiting until the last minute, the Company risked running out of time to comply with its regulatory obligations, and it must accept the consequences of taking that risk.

We note, moreover, that the Company has not suffered any harm. The Commission reinstated the Company's authority, and its insurance agent paid the reinstatement application fee. The Commission has not taken, and does not intend to take, any enforcement action against the Company for continuing to operate during the time between cancellation and reinstatement of its certificate. No tangible benefit would result from granting the Company's request.

No disputed issues of fact exist, and the Company has not alleged any grounds on which it would be entitled to the relief it seeks. Accordingly, the Commission denies the Company's request for a hearing and denies its challenge to the cancellation of its certificate.

Dated at Olympia, Washington, and effective September 21, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Director, Administrative Law Division