

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

)	
In re Application No. D-07294 of)	DOCKET NO. TC-041340
)	DOCKET NO. TC-041593
PENNCO TRANSPORTATION, INC.)	<i>(consolidated)</i>
)	
For Extension of Authority under)	
Certificate No. C-01054, For a)	ORDER NO. 03
Certificate of Public Convenience and)	
Necessity to Operate Motor Vehicles)	
in Furnishing Passenger and Express)	ORDER RE-OPENING RECORD
Service as an Auto Transportation)	
Company.)	
)	NOTICE OF HEARING
.....)	(Monday, June 13, 2005 at
)	9:30 a.m.)
)	
In re Application No. D-079302 of)	
)	
HECKMAN MOTORS, INC., d/b/a)	
OLYMPIC BUS LINES)	
)	
For Extension of Authority under)	
Certificate No. C-992, For a)	
Certificate of Public Convenience and)	
Necessity to Operate Motor Vehicles)	
in Furnishing Passenger and Express)	
Service as an Auto Transportation)	
Company.)	
)	
.....)	

1 **NATURE OF PROCEEDING.** Docket No. TC-041593 is an application filed by Heckman Motors, Inc. d/b/a Olympic Bus Lines (Heckman Motors or the Applicant) for an extension of its authority to provide passenger service as an

auto transportation company. Docket No. TC-041340 is an application filed by Pennco Transportation, Inc. for an extension of its authority to provide passenger service as an auto transportation company.

2 **APPEARANCES.** Jack Heckman, President, represents Heckman Motors. Kevin Harris, President, represents Pennco. David L. Rice, Seattle, Washington, represents protestants Evergreen Trails, Inc. d/b/a Gray Line of Seattle (Gray Line) and Shuttle Express, Inc. (Shuttle Express). James K. Sells, attorney, Silverdale, Washington, represents protestant Bremerton-Kitsap Airporter, Inc. (Bremerton-Kitsap). Jonathan Thompson, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff ("Commission Staff" or "Staff").¹

3 **BACKGROUND.** The Commission convened an evidentiary hearing on these applications on March 11, 2005. The parties filed post-hearing briefs and additional documentation in support of their applications. An initial order has not yet been entered.

4 On May 17, 2005, Commission Staff filed a Motion to Reopen the Record (Motion), alleging that it had received evidence of statements made by Mr. Kevin Harris of Pennco Transportation, Inc. that the company would cease providing service. Mr. Harris responded to Staff's Motion, stating that Pennco's operations had been temporarily suspended; that Pennco hoped the Commission would grant the authority the company had requested; and that Pennco objected to reopening the record to allow additional comments from any party, including Staff.

¹ In formal proceedings, such as this case, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including Staff. RCW 34.05.455.

5 **DISCUSSION AND DECISION.** Pursuant to WAC 480-07-830, the Commission may reopen the record in a contested proceeding prior to entry of a final order. The Commission may reopen the record to receive evidence essential to a decision if the evidence was unavailable and not reasonably discoverable with due diligence at the time of the hearing.

6 The Commission Staff's motion raises allegations that, if true, may have a significant impact on the Commission's resolution of these applications for authority. Commission Staff alleges that it has evidence that Pennco stated, subsequent to the evidentiary hearing in this docket, that it will cease providing service. Pennco's response to Staff's motion states that Pennco has temporarily suspended operations.

7 Pursuant to RCW 81.68.040 and 480-30 WAC, the issue of Pennco's fitness and ability to provide service is one of the requirements the Commission must address in determining whether to grant Pennco's application for authority. The serious nature of Staff's allegations regarding Pennco's operating status and the potential impact on the Commission's decision, requires that the record be reopened to allow the parties an opportunity to provide additional evidence.

8 **NOTICE IS GIVEN That a hearing will be held on Monday, June 13, 2005 beginning at 9:30 a.m. in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington to receive additional evidence on the status of Pennco's operations and the affect of Pennco's status on the resolution of the Pennco and Heckman applications for authority. Persons who cannot attend the hearing in person may participate via the Commission's teleconference bridge line at 360-664-3846. Persons desiring to participate via the bridge line must make advance reservations by calling Margret Kaech at 360-664-1140 no later than noon on Friday, June 10, 2005.**

ORDER

9 It is ordered that the record in these applications is reopened and that a hearing will be held to receive additional evidence regarding the status of Pennco's operations and the affect of Pennco's status on its application for authority.

10 Dated at Olympia, Washington, and effective this 2nd day of June, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE
Administrative Law Judge