

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

DULOGLO TRANSPORT LLC d/b/a
ELITE AUTO CARRIERS,

Petitioner,

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

DOCKET TV-190300

ORDER 01

GRANTING PETITION FOR
EXEMPTION

BACKGROUND

- 1 On April 8, 2019, Duloglo Transport LLC d/b/a Elite Auto Carriers (Elite Auto Carriers or Company) filed with the Washington Utilities and Transportation Commission (Commission) an application for a common carrier permit that included a certificate of insurance for auto liability issued by United Specialty Insurance Company (United Specialty). The Company currently operates interstate and seeks intrastate common carrier authority from the Commission.
- 2 Under WAC 480-14-250(1), each applicant for common carrier authority must file with the Commission evidence of currently effective liability and property damage insurance written by a company authorized to write such insurance in the state of Washington.
- 3 On April 23, 2019, the Company filed a Petition for an exemption from WAC 480-14-250(1)(a), the Commission's insurance rule for vehicles with gross vehicle weight ratings of 10,000 pounds or more. The Company requests to retain insurance from a surplus lines insurer that is not authorized to write insurance in Washington. Surplus lines insurance is used when licensed insurers in the standard market will not provide coverage because the risk is too high, too unfamiliar, or does not otherwise meet the insurers' guidelines. Surplus line insurers have more flexibility to design and price their policies and generally charge higher premiums because they insure risks that are usually more costly to cover.
- 4 While the specific requirements of Commission rules can be exempted, under RCW 81.80.190, the Commission must "require the carriers to either procure and file liability and property damage insurance from a company licensed to write such insurance in the

State of Washington, or deposit security, for the limits of liability and on terms and conditions that the Commission determines are necessary for the reasonable protection of the public against damage and injury for which the carrier may be liable by reason of the operation of any motor vehicle.” Because this is a statutory requirement, the Company cannot be exempted from the obligation to purchase its insurance from a company licensed in Washington. The Office of the Insurance Commissioner (OIC) authorizes insurance companies to write insurance in Washington. RCW 48.15.040 allows surplus lines coverage under certain conditions if insurance from authorized insurers cannot be procured. The licensing requirements for surplus line brokers are found in RCW 48.15.070.

- 5 Hylant Group Inc. (WAOIC #197735) is a broker registered with the OIC and authorized to write surplus lines insurance on behalf of United Specialty in Washington. Effective March 18, 2019, Elite Auto Carriers secured auto liability insurance from United Specialty through its broker, the Hylant Group Inc.
- 6 Elite Auto Carriers requests an exemption from WAC 480-14-250(1)(a) so that it can operate with insurance from United Specialty, a “non-admitted” surplus lines insurer who offers insurance unique to the smaller auto haulers. Carriers routinely drive the cars in and off trailers, in dealer lots and ports, and for ultimate delivery. United Specialty’s program provides this specific coverage to small auto haulers, thereby providing protection to the public. The Company has attempted to find similar admitted coverage after its most recent authorized insurance carrier declined coverage. The Company has been unable to find another admitted insurance carrier that provides the same coverage as United Specialty.
- 7 Commission Staff (Staff) supports the Company’s Petition. The Federal Motor Carrier Safety Administration (FMCSA) accepts surplus lines insurance (CFR Title 49 Part 387.315) and accepted the Company’s filing with United Specialty effective March 18, 2019. Staff is willing to recommend the use of surplus lines insurance subject to the condition that the Company buys insurance from a highly-rated surplus line company (AM Best A- or above rating). United Specialty’s financial strength rating is A for excellent and its long term issuer rating is A+, also excellent.

DISCUSSION

- 8 We grant the Company’s Petition subject to the condition that Staff recommends. Under WAC 480-07-110(1) the Commission may grant an exemption from any of its rules if

doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. We find that the Company's Petition meets this standard subject to the condition that the Company buy insurance from a highly-rated surplus lines company (AM Best A- or above rating). The purpose of the insurance rule is to protect the public from loss or damage caused by the Company while providing service. Surplus lines insurance responds to that need and is a viable option for high-risk or unique lines of business where risk is less certain. In addition, the FMCSA accepts surplus lines insurance and has accepted the Company's filing with United Specialty. Accordingly, we find that the Petition for exemption is consistent with the public interest, the purposes underlying regulation, and applicable statutes, and conclude that it should be granted.

FINDINGS AND CONCLUSIONS

- 9 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rules, regulations, and practices of motor carrier companies relating to acquiring common carrier permit and insurance requirements.
- 10 (2) Elite Auto Carriers is an applicant for common carrier authority, and, once approved, will be a common carrier company and a public service company subject to Commission jurisdiction.
- 11 (3) This matter came before the Commission at its regularly scheduled meeting on May 30, 2019.
- 12 (4) On April 23, 2019, Elite Auto Carriers filed a Petition for Exemption from the Commission's insurance rule, WAC 480-14-250(1)(a), so that it may purchase surplus lines insurance with an unauthorized insurer, United Specialty Insurance Company, consistent with the requirements of RCW 48.15.
- 13 (5) Pursuant to WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 14 (6) After reviewing Elite Auto Carriers' Petition and giving due consideration to all relevant matters and for good cause shown, the Commission finds that granting Elite Auto Carriers' Petition subject to the condition that it buys insurance from a highly-rated surplus lines company (AM Best A- or above rating) is consistent

with the public interest, the purposes underlying regulation, and applicable statutes.

ORDER

THE COMMISSION ORDERS:

- 15 (1) Duloglo Transport LLC d/b/a Elite Auto Carriers' Petition for exemption from WAC 480-14-250(1)(a) is granted subject to the condition that Duloglo Transport LLC d/b/a Elite Auto Carriers purchases insurance from a highly-rated surplus line insurance company (AM Best A- or above rating).
- 16 (2) The Commission retains jurisdiction over the subject matter and Duloglo Transport LLC d/b/a Elite Auto Carriers to effectuate the terms of this Order.

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

DATED at Olympia, Washington, and effective May 30, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON, Executive Director and Secretary