

**TC 121328 – Auto Transportation Rulemaking  
Stakeholder Comments on Proposed Rules and Commission Response  
(July 19, 2013)**

<b>Company</b>	<b>WAC Section</b>	<b>Comment</b>	<b>Commission Response</b>
<b>SeaTac Shuttle, LLC June 21, 2013</b>			
	WAC 480-30-096 (2)(a), (b), (c)	The company objects that the proposed rule will allow the Commission to process an application that is incomplete, by stating that the Commission “may” reject or defer consideration of an application until the applicant provides all required information.	The Commission disagrees. The language the company objects to is in the existing rule, and is not a proposed change. The Commission is satisfied that the current language is working and has not resulted in staff processing applications that are missing substantive information.
	WAC 480-30-116(2), (3)	The company objects that the proposed rule excludes objections by companies not serving the proposed territory and limits the scope of the objection to exclude regulatory and financial fitness. The company believes the Commission will not have vital information as a result.	The Commission disagrees. The Commission’s proposal aligns the rule to RCW 81.68.040, which only allows objections from companies that are providing service in the territory in question, and only to show that the company is providing the same service to the satisfaction of the Commission. The Commission is confident the staff will adequately investigate an applicant’s fitness prior to bringing forward the application for Commission action.
	WAC 480-30-140(2)(f)	The company objects to the language on the grounds that it ignores territories and elevates routes to primary consideration. The company is concerned that the proposed rule ignores the distinction between scheduled service, which provides service at an optimal location at a lower price, and door-to-door	The Commission disagrees that the language eliminates the concept of territories. Consistent with WAC 480-30-036, the proposed amendment to WAC 480-30-096 defines “scheduled service” as service provided between a location specifically named by the company and a point specifically named by the company. In response to the company’s concern about language in the first version of WAC 480-30-XXX(2)(f) in draft rule

		service, which provides a premium service at a higher fare.	that territories did not exist, the Commission added the phrase “for scheduled route service” to make it clear that the provision would not apply to door-to-door service. “Location to point” service necessarily requires a route, even if it serves a “territory” or geographic market. This provision is based on the Commission’s long-standing policy of examining whether the company’s choice of pick-up locations and the company’s choice of travel routes provides service to the satisfaction of the Commission. The Commission understands that the companies object to certain prior decisions by the Commission regarding the application of satisfaction standard, while in other cases the companies have benefited from the standard. Some companies would not have a certificate today if the Commission had not applied the standard in this way.
	WAC 480-30-140(3)(a)(ii)	The company objects to the language on the grounds that it requires a company to provide service beyond what the market demands.	The Commission disagrees. The proposed rule only requires a company to make a reasonable effort to expand and improve its service. Whether the company is meeting market demands is a question of fact that will be determined when a potentially competing application is adjudicated.
	WAC 480-30-140(3)(a)(iii)	The company objects to the requirement in WAC 480-30-140(3)(a)(iii) that the company be responsive to consumer requests, on the grounds that RCW 81.68 and WAC 480-30 preclude the satisfaction of every request.	The Commission disagrees. The proposed rule only requires that a company be responsive to consumer requests by reviewing the company’s tariff and certificate in response to request, and when reasonable, propose changes to the Commission.

	480-30-ZZZ (WAC 480-30-075)	The company believes a section from the draft rules was not included in the proposed rule. The company expects the Commission to continue to pursue legislation to deregulate the industry, making this section moot.	The Commission disagrees. The draft rule was codified as WAC 480-30-075 and is included in the proposed rule near the front of the proposal.
<b>Bremerton-Kitsap Airporter (June 19, 2013)</b>			
	WAC 480-30-096	The company expressed concern that rural areas or communities are not responsive to door-to-door service, but the rule provides that a company may apply for either scheduled service, door-to-door service, or both. Authorizing a new company to provide door-to-door service in competition with an existing scheduled service carrier may force both companies to reduce service.	The Commission disagrees. If a company applies for door-to-door service within a rural territory, the Commission will evaluate whether there is an unmet need for door-to-door service. Further, other provisions in the draft rules address the concern about the effects of competition on an existing company.

<p><b>Pacific Northwest Transportation Services (Capitol Aeroporter) (July 10, 2013)</b></p>			
		<p>The company reiterates its proposal from May 17, 2013, that the Commission adopt a policy statement in the rules to guide interpretation of the rules.</p>	<p>The Commission disagrees. The existing rules in WAC 480-30 include a statement on policy in WAC 480-30-001. The rule language is appropriate and does not require amendment. The Commission will address in the adoption order any explanation of the policy or intent of the changes in rules.</p>
		<p>The company reiterates its position that the rule changes should streamline and make more efficient the certificate application process while maintaining the stability and sustainability of existing transportation services. The Commission should weigh, during the application process, the potential adverse impact on passengers of existing services vs. the potential benefits to new passengers.</p>	<p>The Commission agrees and believes that the proposed rules will streamline the application process while providing adequate opportunity to evaluate whether an existing certificate holder is providing the same service to the satisfaction of the Commission as an applicant. The proposed rule provides the opportunity for the Commission to consider impacts on the companies and customers in the market.</p>
	<p>WAC 480-30-420</p>	<p>The company reiterates its comment from May 17, 2013, that the rules should allow consumer-driven fares rather than provide the 25 percent cap with the five percent annual increase. The company believes that once the maximum fares are reached the five percent per annum increase will probably be insufficient during generally high inflation periods or if direct competition is authorized.</p>	<p>The Commission disagrees. While the Commission appreciates the company’s assessment of possible future cost increases, they are speculative in nature. The initial increase of 25 percent plus five percent additional each year is sufficient for this new program. The evaluation after five years will give the companies and the Commission a better sense of whether additional flexibility is needed going forward. Further, the companies retain the ability to file a new tariff proposing a new set of “base” fares, if the proposed adjustments prove inadequate.</p>