

WAC 480-30-071 Reporting requirements. (1) **Auto transportation company annual reports.** An annual report is an end-of-the-year summary of financial and operational activity that each regulated auto transportation company is required to file with the commission.

(a) Each year the commission provides an annual 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 report. A company that does not receive an annual report form must contact the commission to obtain a copy of the form.

(b) A company must file a complete, accurate annual report showing all requested information by May 1 of the succeeding year. Information provided on the annual 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 report after the May 1 due date if the commission receives a request for extension before May 1.

(d) The commission may issue penalty assessments or take action to suspend or cancel a certificate if a company fails to file its required annual report.

(e) A company selling, canceling, transferring, or in some other manner discontinuing operations must submit an annual report for that portion of the year in which the company operated.

(f) The commission will provide an annual report form for companies charging flexible fares subject to WAC 480-30-420, requiring financial reporting only of the gross intrastate revenues reported to the state department of revenue for the previous calendar year, data to facilitate the commission's review under WAC 480-30-075, and such safety data as the commission may require.

(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))~~ May 1 of each 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))~~ May 1 due date if the commission receives a request for extension before ~~((December 31))~~ May 1.

(d) The commission may issue penalty assessments or take action to suspend or cancel a certificate if a company fails to file its required annual safety report.

(3) **Other reports.** The commission may require a company to file periodic or other special reports.

NEW SECTION

WAC 480-30-075 Review of the effects of adopted rule amendments.

(1) Beginning January 1, 2019, the commission will evaluate the effects of WAC 480-30-140, 480-30-420, and the amendments to WAC 480-30-071, 480-30-096, 480-30-116, 480-30-126, 480-30-136, and 480-30-286. The issues that may be considered include, but are not limited to:

(a) Whether the amendments increased opportunities to maintain and expand safe, fair, adequate, dependable and fairly priced auto transportation services to the public;

(b) Whether the amendments reduced the cost to the companies of complying with the tariff and application regulations in this chapter and the cost to the agency of enforcing the regulations;

(c) Whether the amendments reduced the duration of time required to process tariffs and applications;

(d) Whether the amendments increased opportunities for new and existing companies to provide service;

(e) A comparison of fares charged by companies under WAC 480-30-420 and fares charged by companies under the standard tariff rules, and by other public and private transportation service providers;

(f) Whether there has been an increase in consumer complaints about unreasonable or unfair fares; and

(g) Whether the changes have resulted in an increase in ridership.

(2) The commission will accomplish the evaluation required under subsection (1) of this section through a rule-making proceeding under chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-096 Certificates, application filings, general. (1) A ((company)) person must submit its certificate application on forms provided by the commission.

(2) Applications must include all requested information, attachments, signed statements, and filing fees.

(a) The commission may reject or defer consideration of an application until the applicant provides all required information;

(b) The commission may reject or defer consideration of an application until the applicant pays any outstanding fees, fines, or penalties; or

(c) The commission may reject or dismiss an application if it includes false, misleading, or incomplete information.

(3) Applications for auto transportation certificate authority must include, but are not limited to:

(a) A complete description of the proposed service including, but not limited to:

(i) The line, route, or service territory described in terms such as streets, avenues, roads, highways, townships, ranges, cities, towns, counties, or other geographic descriptions;

(ii) Whether the service will be:

• "Door-to-door service" - Service provided between locations identified by the passengers and points specifically named by the company in its filed tariff and time schedule. Door-to-door service requires a time schedule in compliance with WAC 480-30-281 (2)(c) and may be restricted to "by reservation only"; and/or

• "Scheduled service" - Service provided between locations specifically named by the company (e.g., the X Hotel at 4th and Main) and points specifically named by the company in its filed tariff and time schedule. Scheduled service requires the company to file a time schedule in compliance with WAC 480-30-281 (2)(b) and may be restricted to "by reservation only."

(b) A map of the proposed line, route, or service territory that meets the standards described in WAC 480-30-051;

(c) A statement of the applicant's assets and liabilities;

(d) A proposed tariff and time schedule for the proposed service;

(e) A statement of conditions from the applicant and statements from members of the public that ((justify)) demonstrate that public convenience and necessity requires the proposed service;

(f) Ridership and revenue forecasts for the first twelve months of operation;

(g) A ~~((pro-forma))~~ projected balance sheet and income statement for the first twelve months of operation;

(h) A list of equipment currently owned or leased, or proposed to be purchased or leased, to be used in providing the proposed service; ~~((and))~~

(i) A statement of the applicant's prior experience and familiarity with the commission's statutes and rules, specifically safety requirements that govern the operations it proposes; and

(j) Evidence of compliance with state tax, labor, employment, business, and vehicle licensing laws and rules. The commission will accept valid, verifiable account numbers showing the applicant has established accounts with other state agencies.

(4) The provisions of this rule do not apply to applications for auto transportation company certificate authority to provide intra-state service over an interstate regular route under a federal grant of authority. Refer to WAC 480-30-101.

(5) An application for new authority filed by a person not currently holding a certificate may propose a tariff that in addition to the applicant's proposed fares includes a request that the company be granted flexible fare authority under WAC 480-30-420 with the proposed maximum fares shown in compliance with the rule. Before the commission grants such authority, it will determine that the proposed base fares are fair, just, reasonable, and sufficient.

(6) A person holding a certificate applying for a name change or mortgage is not required to comply with WAC 480-30-096(3).

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-116 Certificates, application docket, ~~((protests,))~~ and ~~((intervention))~~ objections, auto transportation company. (1) **Application docket.** The commission publishes a notice of pending certificate applications in the application docket. The commission mails the application docket to each existing auto transportation company cer-

tificate holder, to each person with a pending auto transportation company certificate application(~~(, to affected local jurisdictions or agencies,)~~) and to any other interested person who has asked to receive copies of the application docket. It includes notice of auto transportation company certificate applications for:

- (a) New certificate authority.
- (b) Extension of existing certificate authority.
- (c) Transfer or lease of all or a portion of certificate authority.

(2) **((Protests)) Objections.** An existing auto transportation company (~~certificate holder may file a protest to an application published in the application docket~~) may object to an application for new authority or an extension of authority published in the application docket only if the company holds a certificate that authorizes the same service and the company provides the same service published in the application docket. No company may file an objection to applications for transfers or lease of all or a portion of certificate authority.

(a) **Form of ((protests)) objections.** ((Protests)) Objections must:

(i) Be filed within thirty days of the date the commission mailed the application docket.

(ii) Be filed according to the provisions of WAC 480-07-370.

(iii) Be served on the applicant and the applicant's attorney, if ~~((one is identified in the application docket))~~ the attorney has filed with the commission a notice of appearance.

(iv) Specify ~~((the reasons for the protest))~~ why the company believes it is providing the same service to the satisfaction of the commission and why it is filing the objection.

~~(v) ((Specify the protestant's interest in the proceeding.~~

~~(vi))~~ Specify the approximate number of witnesses the ~~((protestant))~~ objecting company intends to present and an estimate of hearing time required for the ~~((protestant's))~~ objecting company's presentation(~~(+~~
~~(vii))~~).

(vi) Include the name and address of each person on whose behalf the ((protest)) objection is filed including that person's certificate number, a copy of the certificate authority, and identification of the portion or portions of the ((protestant's)) objector's certificate that is the basis for the ((protest)) objection, and specifically identify the portion or portions of the objector's certificate that authorizes the same service requested by the applicant.

~~((viii))~~ (vii) Describe any restrictive amendment that could eliminate the ((protestant's)) objecting company's interest in the application.

(b) **Failure to file ((protest)) objection on time.** A person who fails to file ~~((a protest))~~ an objection within the thirty-day ~~((protest))~~ notice period may not in any way participate further in the proceeding, unless that person can show that the commission did not provide proper notice of the pending application, or that good cause exists for the failure to make a timely ~~((protest))~~ objection.

(3) ~~**Intervention.** Any person, other than the applicant and protestants to an application, who desires to appear and participate, and who does not desire to broaden the issues of the proceeding, may petition to be an intervener. Refer to WAC 480-07-355 for information on intervention))~~ The adjudication of applications subject to an objection filed under RCW 81.68.040 will be accomplished in the simplest

and most expeditious manner consistent with state law. The adjudication will be limited to the question of whether the objecting company holds a certificate to provide the same service in the same territory, whether the objecting company provides the same service, and whether an objecting company will provide the same service to the satisfaction of the commission.

(4) Applications not subject to the docket and ((protest)) objection provisions of this rule. This rule does not apply to:

(a) Applications for charter and excursion carrier certificates;

(b) Applications to reinstate a certificate canceled for cause under the provisions of WAC 480-30-181, when the application is filed within thirty days of the certificate cancellation date;

(c) Applications for name change;

(d) Applications to mortgage an auto transportation company certificate; and

(e) Applications for an auto transportation company certificate under a federal grant of authority to provide intrastate service over an interstate route(~~(; and~~

~~(f) Applications for temporary certificate authority)).~~

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-126 Certificates, applications, auto transportation company. (1) A person applying for a certificate to provide auto transportation company services must have the knowledge, experience, and resources to conduct the service it proposes in its application. The applicant must be fit, willing and able to comply with state law and the requirements of this chapter.

(2) The commission must determine that the public convenience and necessity, as defined in WAC 480-30-140(1), requires the proposed service when considering an application for a new certificate or extension of an existing certificate. An applicant must support its application with statements by independent members of the public who need the service or are knowledgeable about the need for service in the territory in which the applicant seeks authority, or a statement by a representative of a city, county or regional transportation planning organization who is knowledgeable about the need for service in the territory in which the applicant seeks authority.

(3) Auto transportation company certificate applications are subject to the application docket notice and ((protest)) objection provisions of WAC 480-30-116.

(4) The commission may set for hearing any auto transportation company certificate application.

(5) ~~((The commission must provide the opportunity for a hearing and determine that an existing auto transportation company is not providing service to the satisfaction of the commission before it may grant a new certificate or extension of an existing certificate to provide service in a territory already served by another auto transportation company, unless the existing auto transportation company or companies do not object to the application by filing a protest under the provisions of WAC 480-30-116.))~~ If no existing company files an objection under RCW 81.68.040, the commission may grant an original application or an extension of authority, if:

(a) The applicant demonstrates a need for service not provided by an existing auto transportation company holding a certificate by filing statements by independent members of the public who need the service or are knowledgeable about the need for service in the territory in which the applicant seeks authority, or a statement by a representative of a city, county or regional transportation planning organization who is knowledgeable about the need for service in the territory in which the applicant seeks authority;

(b) The applicant demonstrates the financial ability to provide the proposed service. "Financial ability" means that the applicant has sufficient financing or assets to begin operations and continue them for a reasonable period while developing business. This determination does not require a comprehensive analysis of cost and revenue estimates of the full scope of proposed operations and balancing start-up and long-run operating costs over an extended period; and

(c) The applicant demonstrates that it is willing and able to comply with commission laws and rules.

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-136 ((Certificates, application hearings, auto transportation)) Procedure for applications subject to objection, information required of applicant and objecting company. ((1) Auto transportation company certificate application hearings are governed by the provisions of chapter 480-07 WAC.

~~(2) When an application has been protested, the commission will generally not consider written statements from witnesses that have not been available for cross examination at hearing.~~

~~(3) An applicant must be prepared to present information at hearing, through documents or the testimony of witnesses, including but not limited to, the following:~~

~~(a) A description of the service proposed and the cost of that service for the area to be served;~~

~~(b) An estimate of the cost of the facilities to be used in providing the proposed service;~~

~~(c) The condition of the applicant's equipment and the applicant's program for maintenance and repair;~~

~~(d) A statement of the assets available to the applicant that will be used to provide the proposed service;~~

~~(e) Prior experience, if any;~~

~~(f) Familiarity with the statutes and rules that govern the proposed operations;~~

~~(g) The public need for the proposed service.~~

~~(i) The commission will not accept as support an applicant's own statements that its proposed service is needed by the public.~~

~~(ii) The applicant must support its application with independent witnesses who actually require the service or are knowledgeable about the need for service in the territory in which the applicant seeks authority.~~

~~(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 transpor-~~

~~tation company or companies will not provide service in that territory to the satisfaction of the commission.~~

~~(5) When determining if the territory at issue is already served by another certificate holder the commission may, among other things consider:~~

~~(a) The authority of existing companies and whether or not they are serving to the full extent of that authority.~~

~~(b) The kinds, means, and methods of service provided.~~

~~(c) Whether the type of service provided reasonably serves the market.~~

~~(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.)~~ (1) The commission will consider applications for which an objection has been received through brief adjudicative proceedings under WAC 480-07-610, unless the presiding officer determines, based on the facts and circumstances presented, that a hearing or different process is required.

(2) After one or more companies file an objection to an application, the commission will issue a notice of brief adjudication to the objecting company and the applicant, and request the filing of additional information to determine the nature of the objection proceeding. This information may include, but is not limited to:

(a) Statements from independent witnesses provided by an objecting company to demonstrate that the objecting company is providing the same service as the proposed service, to the satisfaction of the commission.

(b) Statements from independent witnesses provided by an objecting company to demonstrate that the traveling public will be harmed by the granting of the application.

(c) Additional supplementary information, evidence or testimony provided by the applicant to demonstrate that public convenience and necessity requires the proposed service.

(3) In considering an objection filed by a company holding a certificate, the commission will determine whether or not the objecting company will provide the same service to the satisfaction of the commission.

(a) If the commission determines that the objecting company holds a certificate to provide the same service in the same territory, that the service is the same as proposed in the application, and that the objecting company is providing the same service to the satisfaction of the commission, the commission will not issue a certificate.

(b) If the commission determines that the objecting company will not provide the same service to the satisfaction of the commission, the commission may grant the application.

NEW SECTION

WAC 480-30-140 Standards for determining "public convenience and necessity," "same service," and "service to the satisfaction of the commission." (1) Public convenience and necessity.

(a) In the context of auto transportation services, "public convenience and necessity" means that every member of the public should be reasonably afforded the opportunity to receive auto transportation service from a person or company certificated by the commission.

(b) In reviewing applications under this chapter, the commission may, among other things, consider differences in operation, price, market features, and other essential characteristics of a proposed auto transportation service, tailoring its review to the individual circumstances of the application in evaluating whether the public convenience and necessity requires the commission to grant the request for the proposed service and whether an existing company is providing the same service to the satisfaction of the commission. The commission will also consider whether increased competition will benefit the traveling public, including its possible impact on sustainability of service.

(2) Same service. When determining whether one or more existing certificate holders provide the same service in the territory at issue, the commission may, among other things, consider:

(a) The certificate authority granted to the existing companies and whether or not they are providing service to the full extent of that authority;

(b) The type, means, and methods of service provided;

(c) Whether the type of service provided reasonably serves the market;

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

(e) The topography, character, and condition of the territory in which the objecting company provides service and in which the proposed service would operate;

(f) For scheduled service, the proposed route's relation to the nearest route served by an existing certificate holder. The commission views routes narrowly for the purpose of determining whether service is the same. Alternative routes that may run parallel to an objecting company's route, but which have a convenience benefit to customers, may be considered a separate and different service; and

(g) Door-to-door service and scheduled service in the same territory will not be considered the same service.

(3) Service to the satisfaction of the commission.

(a) The determination of whether the objecting company is providing service to the satisfaction of the commission is dependent on, but not limited to, whether the objecting company:

(i) Holds authority to provide, and provides, the same service as proposed by the applicant in the same territory or the same subarea within the territory, for door-to-door service, or along the same route, for scheduled service, in which the service is proposed;

(ii) Has made a reasonable effort to expand and improve its service to consumers within the same territory or the same subarea within the territory, for door-to-door service, or along the same route, for scheduled service, in which the service is proposed;

(iii) Provides the service in a manner that is convenient, safe, timely, direct, frequent, expeditious, courteous and respectful, meets

the advertised or posted schedules, fulfills commitments made to customers, meets consumer preferences or needs for travel, is responsive to consumer requests by reviewing the company's tariff and certificate in response to requests and when reasonable, proposing changes to the commission, and meets other reasonable performance expectations of consumers;

(iv) Has provided the same service as proposed by the applicant in the same territory or the same subarea within the territory, for door-to-door service, or along the same route, for scheduled service, in which the service is proposed, at fares competitive with those proposed by the applicant.

(b) Whether an objecting company will provide service to the satisfaction of the commission is based on the objecting company's performance regarding the criteria in (a) of this subsection prior to the date an application for proposed service is filed with the commission. The consideration period will depend on the circumstances, but will generally be for no more than one year. The commission will take into consideration extraordinary events, such as severe weather or unforeseeable disasters, when weighing the performance of an objecting company and consumer response to that performance. The commission will also take into consideration whether the testimony shows a pattern of behavior and whether the company has policies and procedures in place to mitigate or resolve alleged or actual service issues.

(c) In considering whether the objecting company has provided service to the satisfaction of the commission, the commission will consider statements or testimony from members of the public that they choose not to use the objecting company's services because the company fails to meet any of the satisfaction criteria identified in (a) of this subsection to the witness' satisfaction, unless the service failure was caused by extraordinary events as determined by the commission. Objecting companies may present witnesses to counter claims of an applicant and to substantiate the level of service and customer satisfaction provided.

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-156 Certificates, temporary, auto transportation company. (1) **Temporary certificates prohibited.** The commission is prohibited from granting a temporary certificate to operate in territory that is:

(a) Contained in an existing certificate, unless the existing certificate holder is not providing service to the satisfaction of the commission or does not object to the temporary certificate.

(b) Contained in a pending certificate application unless the temporary certificate application filing is made by the applicant or the applicant does not object to the temporary certificate.

(2) **Requirements.** Temporary certificate applications must meet the (~~general filing~~) requirements of WAC 480-30-096.

(3) **Public interest.** The commission may grant a temporary certificate after determining that granting the requested authority is consistent with the public interest. In determining if the requested temporary authority is consistent with the public interest, the commission (~~will~~) may consider factors including, but not limited to:

- (a) The fitness of the applicant.
- (b) The need for the requested service.
- (c) Availability of existing service.

(d) Any other circumstances indicating that a grant of temporary authority is consistent with the public interest.

(4) **Support statements required.** Applicants for temporary certificates must include signed ~~((and sworn))~~ support statements from ~~((one or more))~~ potential customers identifying all pertinent facts relating to need for the proposed service.

(5) **Investigation of applications.** Commission staff will investigate the facts surrounding an application and need for the proposed service before making a recommendation that the commission grant or deny an application for temporary certificate. ~~((The staff investigation will include notice of the temporary certificate application to those companies identified in subsection (1) of this section, and allow twenty days for those companies to object to the temporary certificate application.))~~

(6) **Special terms, conditions, and limitations.** The commission may impose special terms, conditions, and limitations in connection with the grant of any temporary certificate.

(7) **Length of service allowed under temporary certificate.** The commission may grant a temporary certificate for up to one hundred eighty days based on an estimate regarding how long it will take to complete review of the permanent certificate application. If a company files an auto transportation company certificate application and a temporary certificate application within thirty days of each other or files an auto transportation company certificate application within thirty days of the order granting the temporary certificate, then the temporary certificate will continue until the commission grants, denies, or dismisses the parallel certificate application, or until the temporary certificate is otherwise canceled, whichever happens first.

(8) **Docketing.** The commission will publish on its application docket ~~((+~~

~~((a+))~~ a list of temporary certificate applications that the commission ~~((considered and granted, including any terms and conditions attached to the grant of such authorities; and~~

~~((b) A list of temporary certificate applications the commission considered and denied))~~ has received.

(9) ~~((Protests))~~ **Objections.** An existing auto transportation company or applicant for certificate may file ~~((a protest))~~ an objection opposing the grant or denial of a temporary certificate.

(10) **Form of ~~((protests))~~ objections.** ~~((Protests))~~ Objections must:

(a) Be filed with the commission in writing within ~~((ten))~~ twenty days after the date the commission mails its notice;

(b) Contain a statement of the specific grounds on which the ~~((protest))~~ objection is made;

(c) Contain a statement of the ~~((protestant's))~~ objecting company's interest in the proceeding;

(d) Be served on the applicant; and

(e) Be served on the applicant's representative, if one is stated in the notice.

~~((11) Disposition of protests. The commission may grant or deny a protest without hearing.~~

~~((12) Brief adjudicative proceedings. The commission may order a brief adjudicative proceeding on its own motion or at the request of a party.~~

~~(13) **Intervention.** Any person, other than the applicant and protestants to an application, who desires to appear and participate, and who does not desire to broaden the issues of the proceeding, may petition to be an intervener. Refer to chapter 480-07 WAC for information on intervention.)~~

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-261 Tariffs and time schedules, definitions used in. Definitions of general terms and terms specific to driver and equipment safety are contained in WAC 480-30-036 and 480-30-216, respectively. Unless the language or context indicates that a different meaning is intended, the following definitions apply:

"Charge" means a fare or rate assessed by an auto transportation company for providing a service other than the transportation of a passenger(s). For example: The charge for carrying extra baggage on board the bus.

"Checked baggage" means passenger baggage that is accepted for transportation but is not carried in the passenger compartment of the vehicle.

~~(**"Fare"** or **"ticket price"** means a rate assessed by an auto transportation company for the transportation of a passenger(s).)~~

"Fare" means an amount in the company's tariff assessed for services provided by an auto transportation company. The term "rate" has the same meaning.

"Joint fare" means a fare or rate ((charged)) assessed by an auto transportation company for the transportation of a passenger(s) that applies from a point located on one auto transportation company's route to a point located on another auto transportation company's route, made by agreement or arrangement between the companies. A joint fare agreement is also known as a through-ticketing agreement.

"Local fare" means a fare or rate charged by an auto transportation company for the transportation of a passenger(s) between stations within a single company's authority.

"Long and short haul clause" means a clause that prohibits an auto transportation company from charging more for a shorter than for a longer haul over the same route.

"Rate" means an amount in a company's tariff ~~((approved by the commission or allowed to become effective by operation of law,))~~ assessed for services provided by an auto transportation company. ~~((For example: Passenger fares, ticket prices, additional baggage charges))~~ The term "fare" has the same meaning.

"Sales commission" means a fee paid to an agent for selling tickets on behalf of an auto transportation company.

"Seasonal fares and seasonal time schedules" means ~~((filing of))~~ tariffs or time schedules naming different fares, routes, or arrival and/or departure times for different periods of the year. For example: A company may offer more scheduled routes during certain periods than it does in others; or, a company may assess different fares in heavily traveled months than it does during off-peak months.

"Through fare" means a single fare or rate applying from point of origin to point of destination that combines two or more fares or

rates in one auto transportation company's tariff or fares or rates from two or more auto transportation companies.

"Ticket price" means a fare or rate assessed by an auto transportation company for the transportation of a passenger(s).

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-276 Tariffs and time schedules, companies must comply with the provisions of filed tariffs and time schedules. (1) **Tariffs.** Except as authorized by the commission pursuant to WAC 480-30-420, no auto transportation company may assess rates that are higher, lower, or different from those contained in the company's filed tariff. Further, no auto transportation company may accept a payment for service provided that is higher, lower, or different from the rates contained in the company's filed tariff.

(2) **Time schedules.** An auto transportation company must provide service along all routes, and to all points, listed on the company's filed time schedule. Further, an auto transportation company must make a good faith effort to operate in compliance with the times of arrival and/or departure shown on the company's filed time schedule.

AMENDATORY SECTION (Amending WSR 06-13-006, filed 6/8/06, effective 7/9/06)

WAC 480-30-286 Tariffs and time schedules, posting. An auto transportation company must maintain a copy of its filed tariff and its filed time schedule in the company's offices and at each passenger facility. Each vehicle operated must carry a copy of the schedule and fares for each route served by that vehicle. The company must make these documents available to customers for inspection on request during the company's regular business hours. Vehicles operated by an auto transportation company operating subject to flexible fares under WAC 480-30-420 must carry a copy of the flexible fare tariff and current time schedule, subject to the requirements of WAC 480-30-420(7).

NEW SECTION

WAC 480-30-420 Fare flexibility. (1) It is in the public interest to provide flexibility to auto transportation companies to charge fares for service.

(2) For the purposes of this section, the following definitions apply:

(a) "Base fare" means the fares set forth in the company's tariff, except for tariff supplements, in effect on the date the company files a proposed tariff for flexible fares as a means to establish maximum fares.

(b) "Flexible fares" means the authority to charge, at the company's discretion, fares in any amount at or below the maximum fares.

(c) "Maximum fare" means a fare set initially at twenty-five percent above the company's base fare, as published in the company's effective tariff, except for tariff supplements. After a maximum fare has been published and become effective, the maximum fare will increase annually by five percent.

(3) A company may file a tariff with the commission to charge flexible fares. Because the filing authorizes the company to increase or decrease any fare at any time, singly or in any combination, the tariff must be filed on thirty days' notice to the commission under RCW 81.28.050. The tariff must show the base fares in effect on the date of the tariff filing and the maximum fares the company may charge. Once the commission approves a flexible fare tariff, the base fare used to establish the maximum fare does not operate as a minimum fare.

(4) A company's tariff filing to charge flexible fares under this section is not subject to a review under WAC 480-30-421 or 480-30-426.

(5) If a company seeks to charge fares above the maximum fare, the company must file tariff revisions in compliance with WAC 480-30-421 or 480-30-426 and all other filing requirements, including tariff publication rules and notice requirements.

(6) If a company seeks to offer free fares, the company must file tariff revisions, if not already contained in the tariff, in compliance with WAC 480-30-396 and all other filing requirements, including tariff publication rules and notice requirements.

(7) Any change in the fares charged by a company at or below the maximum fares is not considered a tariff change and is not subject to tariff filing rules, publication rules and notice requirements under this chapter. Companies may provide notice of changes in fares that the company will charge by posting their actual fares on the company's web site, or notices or brochures provided to customers, subject to the requirements in subsections (8) and (14) of this section.

(8) If a company changes the fare it charges, at or below the maximum rate, it must honor the fares charged for tickets previously sold. However, the company may refund the amount paid for a ticket above the new fare.

(9) A tariff filing whose only purpose is to add a new service option or a service level which has not been previously included in the company's tariff must be filed on at least one business-day notice to the commission in compliance with WAC 480-30-301.

(10) A tariff filing that changes the fare design that results in an increase in the effective base fare must be filed on at least thirty calendar days' notice to the commission as required by WAC 480-30-311 and must comply with filing requirements in WAC 480-30-421 or 480-30-426, as well as tariff filing, publication and notice requirements under this chapter. A company may request an exemption from the tariff filing, publication or notice requirements. An example of a change in the fare design would be current fares published by zip code and proposed fares published by mileage.

(11) A company authorized to charge flexible fares must use the fares to recover all costs associated with providing passenger service, including, but not limited to, fuel costs, tolls, ferry fares, surcharges, and taxes. Any fuel surcharge in effect at the time the company is authorized to charge flexible fares will be canceled and not included in the base fare. A company may not impose any charge on any customer other than a single fare for passenger service provi-

ded. This would not affect the company assessing charges for accessorial services (e.g., baggage, cancellation fees, or refund transaction fees) published in the company's tariff at the time the commission approves a flexible fares tariff.

(12) Effective May 1, 2014, and each May 1st thereafter, a company's maximum fare will increase by five percent. Each company will implement the adjusted flexible fare by filing the appropriate tariff pages at least thirty days before the effective date of the change.

(13) If a company seeks to change the base fare upon which the commission has approved flexible fares, the proposed tariff filing will be subject to an earnings review or rate case under WAC 480-30-421 or 480-30-426, and all tariff publication rules and notice requirements.

(14) In providing notice to consumers or in its advertising, the company may not state that the commission approved or established a specific fare, but may state that the fare is set pursuant to a flexible fare tariff.

(15) An example of the maximum fare calculation follows:

Year	Base Fare	Maximum Fare	Explanation
0	\$41.00	\$41.00	
1	\$41.00	\$51.25	25% above Base Fare
2	\$41.00	\$53.81	5% increase in Maximum Fare
3	\$41.00	\$56.50	5% increase in Maximum Fare
4	\$41.00	\$59.33	5% increase in Maximum Fare
5	\$41.00	\$62.29	5% increase in Maximum Fare
6	\$41.00	\$65.41	5% increase in Maximum Fare

Note: Rounding: Fares are rounded to \$.01.
 If the value of the number to the right of the rounding digit is less than five, the rounding digit is left unchanged.
 If the value of the number to the right of the rounding digit is five or higher, the rounding digit is raised by one.