

December 26, 2003

Carol Washburn
Secretary;
Betty Young
Staff Investigator
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Whidbey-SeaTac Shuttle
P.O. Box 2895
Oak Harbor, WA 98277

STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

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RECORDS MANAGEMENT
03 DEC 30 AM 8:23

Re: Penalty Assessment No: TC-031704
Continuing Violations

Dear Ms. Washburn and Young:

I have reviewed all of the documents relating to the above referenced penalty assessment for violations committed by Wickkiser International Companies, Inc. (WIC). Of particular interest is the letter from Mr. Richard Johnson, General Manager, WIC, undated but received on December 1, 2003 by Records. In it Mr. Johnson prays for relief from properly assessed penalties resulting from eighteen (18) individual violations of (6) categories which were uncovered during a staff investigation upon complaint. The argument and logic presented by Mr. Johnson in his letter only serve to support staff's findings and the Commission's penalty assessment. His basic argument is that because WIC has been in business for eighteen (18) years, has in depth experience in the field, qualified personnel and is a large multi-million dollar company they should be exempt from violations or at leased excused from any responsibility for any such violations.

By this logic only small, inexperienced operators should be subject to regulation. Obviously quite the reverse is true. Mr. Johnson, in testimony before the Commission, has gone to great lengths to promote his managerial skills and the long experience and expertise level of WIC. *In re: application of SeaTac Shuttle, LLC TC-030489 Testimony of Richard Johnson Vol III pg 390-453* Mr. Johnson has earned a Masters Degree in Business / Finance and has an extensive background in transportation management. In addition he is the co-holder of an airporter certificate issued by the WUTC and is also manger of that operation. With this experience level and background, there is no excuse for the violations committed. WIC lacks neither the talent nor resources to comply with all of the rules and regulations regarding the operations conducted under their certificate.

As to Mr. Johnson's assertion that the Commission pursued the violations aggressively, that the initial complaint was lodged by a competitor and therefore carries little weight and that WIC "has always been willing to correct errors we have made..." I strongly take issue. First, the initial complaint was for a few specific violations, however, upon investigation of the initial allegations staff uncovered a pattern of problems resulting in the eighteen violations. Apparently, the fact that staff uncovered unreported violations is interpreted by Mr. Johnson as an aggressive posture rather than staff doing a through job. Second, the source of the complaint is not at issue. In Mr. Johnson's view unless you are

a customer of WIC you have no right to observe and report blatant violations. By this logic only bank customers would be permitted to report a bank robbery. Third and most importantly, Mr. Johnson's claim that WIC is and has been willing to work with WUTC to remedy any identified "errors" is patently false. To this date many of the violations identified have not been corrected nearly one and a half months after the conclusion of the investigation and nearly four months after they were brought to the attention of WIC. Mr. Johnson even acknowledges in his letter that he has not caused the WIC WEB site to be brought in to compliance, despite his assurances of September 15, 2003 WUTC Staff Investigation into the business practices of Wickkiser International Companies, Inc. TC-031704 appendix C and the requirement of the Commission in its penalty assessment. WIC has not been cooperative, but rather has exhibited a pattern of delay, non-compliance and misleading the Commission.

Far from the penalty assessed being excessive, it is extremely lenient. For one or two or even perhaps as many as six violations, if they had occurred inadvertently, a penalty of \$100.00 per violation would seem appropriate. However, for a company with the resources and experience level of WIC, such a penalty of \$100.00 per violation in the face of eighteen (18) separate violations should be viewed as a gentle warning to WIC to clean up its management practices and policies.

As to specifics:

1. Despite the finding of violation and the filing of WN. T. NO. 9 second revision PAGE 2 para. 2, the WIC WEB site continues to define children and child fares in contradiction to the tariff and requirements of the Commission as does the printed material that WIC offers the public. No correction has been made. This is a continuing violation and constitutes a new violation as WIC has been advised of the violation in the proper manner, has acknowledged the violation in its letter and has refused to make corrections.
2. Same as above.
3. There is no provision for an unaccompanied minor fee in the above tariff rev. no. 9 as required by the finding. WIC continues to claim this charge via its Unaccompanied Minor Release Form. Still in violation. See WEB site.
4. The violation occurred and a penalty has been assessed. If you get a parking ticket *and then* move your car the fine is not waived. In addition, in a move that places expenses over compliance, WIC continues to distribute flyers with the non-compliant tariff to the public.
5. WIC is not just a "vendor" to Central Washington Airporter (CWA) as claimed by Mr. Johnson. Rather it is a venture co-owned by WIC or its President, Larry Wickkiser and Mr. Johnson. In addition, Mr. Johnson is the general manager of CWA. CWA holds WUTC permit NO. C-1073. Both CWA and WIC are in violation. To date, WIC has made no effort to correct

this violation on its WEB site and continues to display CWA's route map as part of the WIC system on some of its vehicles. A clear disregard for the finding of the Commission.

6. WIC made these changes to its schedule without any notice to the Commission and contrary to its stated intentions in sworn testimony in recent hearings. Further, in a pleading before the Commission, Petition for Administrative Review of Wickkiser International Companies, Inc. Doc. No. TC-030489 after changing the schedule and route and without notification to the Commission, WIC represented to the Commission that the original route was integral and necessary to its economic viability, and in fact used it as an excuse to the Commission for its unsatisfactory service. This was false and misleading.

In its response to the Commission regarding its discontinuation of service to NAS Whidbey Island, WIC claimed that it was necessary do to increased security measures. WN. T. NO. 9 second revision PAGE 2 para. 17 Security measures had not changed immediately before they dropped the route nor have they changed since. This was a matter of convenience to WIC and not due to any recent changes. The implication is misleading.

In addition to the above, WIC continues advertise in print media, radio and electronically that they offer service to SeaTac International Airport from Oak Harbor in two and one half (2 ½) hours which is contrary to any and all their published and approved schedules. This is false and misleading to the public.

In summary, any pleading by WIC for relief from the assessed penalty is without merit. If anything the penalties were light and forgiving. WIC's failure to comply with the findings and requirements at even this late date constitute an arrogant disregard for the Commission and the regulations. Therefore, please consider this letter as supplemental information to Mr. Johnson's letter of December 1, 2003 and deny WIC's request for relief. **Also, this letter is to serve as a notification of ongoing violations by WIC and a formal complaint.** It is our position that these violations constitute new violations and as a result new penalties should be assessed in an amount commensurate with the pattern of willful disregard shown by WIC.

Sincerely,



Michael Lauven
General Manager

CW ✓
BY