

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. D-079116 of)	
)	DOCKET NO. TC-021402
CWA, INC., D/B/A CENTRAL)	
WASHINGTON AIRPORTER,)	FIRST SUPPLEMENTAL
)	ORDER:
for a Certificate of Public)	
Convenience and Necessity to)	VACATING HEARING;
Operate Motor Vehicles in)	GRANTING REQUEST TO
Furnishing Passenger and Express)	PROCEED ON A PAPER
Service as an Auto Transportation)	RECORD; AND ESTABLISHING
Company)	PROCEDURAL SCHEDULE
.....)	

MEMORANDUM

- 1 On October 30, 2002, CWA, Inc., doing business as Central Washington Airporter (“CWA”), filed an application (number D-079116) for a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in Furnishing Passenger and Express Service as an Auto Transportation Company (“Application”). Notice of the Application was published in the Commission’s weekly Docket of November 25, 2002.

- 2 The Application requests authority to provide passenger service between Yakima, Ellensburg, Cle Elum and Seattle-Tacoma International Airport and selected points in downtown Seattle, with service to intermediate points via State Route 97 and Interstate Highways 5, 82, 90 and 405, with no service between any points within King County. The Application also states that one other transportation provider currently furnishes similar service between the service points on or along a portion of the proposed route. The Commission received no protests within the 20 days required by WAC 480-30-032(1). RCW 81.68.040 requires that the Commission grant authority in a territory already served only after hearing.

- 3 On January 21, 2003, the Commission served to parties a notice of hearing to be convened on February 19, 2003, and stated that counsel and witnesses may

attend the hearing via teleconference. On or about February 4, 2003, CWA's counsel informally proposed that the Commission proceed on a paper record. Other parties are invited to comment regarding CWA's proposal no later than February 12, 2003.

- 4 On February 12, 2003, Commission Staff filed comments. Staff does not oppose the proposal that the Commission proceed on a paper record; however, Staff also states concerns regarding the veracity and sufficiency of the record that may result. Staff suggests that CWA be advised that it has the burden to demonstrate public support for any requested grant of operating authority, and that support statements must be signed and notarized. Staff also states a concern that the record contain sufficient evidence to allow the Commission to make all necessary determinations, and Staff outlines those points that it believes must be addressed. Commission Staff's comments are well-founded.
- 5 Based on the application materials and Commission Staff's comments, CWA's request to proceed on a paper record is granted and the evidentiary hearing previously scheduled on February 19, 2003, is vacated. A revised procedural schedule for the submission of evidence and written briefs is stated below.
- 6 Because it is CWA's burden of proof to establish a legal basis for the granting of the Application, CWA must satisfy the applicable legal standards and present a sufficient quantum of evidence to meet those standards. Staff's comments, in addition to relevant statutes, rules, and prior Commission Orders should be considered by CWA in making its submissions in this matter, just as it would if the Commission were to conduct a hearing. Any support statements that are submitted in place of sworn testimony must be signed and duly notarized.
- 7 The following procedural schedule is intended to facilitate an expedient and thorough review of all relevant issues in this case.

2/27 CWA to file all documentary evidence and notarized statements in support of the Application. CWA must also file a written brief stating the applicable legal standards and how the evidence submitted meets those standards, including a statement indicating whether CWA waives an initial order in this proceeding.

3/13 Commission Staff to file a brief responding to CWA's submissions.

- 8 Either party may file written comments regarding the procedural schedule no later than Wednesday, February 19, 2003. Specific extensions of time may be granted for good cause shown.

Dated at Olympia, Washington and effective this 14th day of February, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

LAWRENCE J. BERG
Administrative Law Judge

NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 5 days of the service of this Order pursuant to WAC 480-09-760.