

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Investigation of
LEAVENWORTH SHUTTLE & TAXI,
LLC

For Compliance with WAC 480-30-221

In the Matter of the Penalty Assessment
Against

LEAVENWORTH SHUTTLE & TAXI,
LLC

In the amount of \$19,800

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,
v.

LEAVENWORTH SHUTTLE & TAXI,
LLC

Respondent.

DOCKET TE-161021
(*Consolidated*)

DOCKET TE-161020
(*Consolidated*)

DOCKET TE-181030
(*Consolidated*)

SETTLEMENT AGREEMENT

I. INTRODUCTION

1 This settlement agreement (“Agreement”) is entered into by both parties to these consolidated proceedings for the purpose of resolving all issues raised in the above Dockets. The Agreement is a “full settlement” as defined in WAC 480-07-730(1) because it is entered into by all parties and resolves all issues raised in these dockets.

2 This Agreement is subject to the review and disposition by the Washington Utilities and Transportation Commission (“Commission”) to determine whether it complies with the

applicable legal requirements and whether approval of the Agreement is consistent with the public interest. WAC 480-07-740–750.

II. PARTIES

³ The parties to this Agreement are Leavenworth Shuttle and Taxi, LLC (“Leavenworth Shuttle” or “Company”), and Staff of the Washington Utilities and Transportation Commission (“Staff”) (collectively, “the Parties”).

III. BACKGROUND

⁴ On January 11, 2019, Staff filed with the Commission a Motion to Impose Suspended Penalties requesting that the Commission impose the \$10,000 suspended penalty entered in Order 01 of consolidated Dockets TE-161021 and TE-161020 against Leavenworth Shuttle.

⁵ On February 27, 2019, the Commission served a complaint for penalties against Leavenworth Shuttle for violations of the Commission’s vehicle and driver rules in WAC 480-30-221, which adopts by reference specific provisions of Title 49 C.F.R. The complaint was filed in Docket TE-181030 and alleged the following violations:

- a) 4 violations of 49 C.F.R. § 382.305(i)(2) (alcohol and controlled substances testing)
- b) 24 violations of 49 C.F.R. § 391.45(a) (medical certificate)
- c) 25 violations of 49 C.F.R. § 395.8(a)(1) (record of duty status)
- d) 82 violations of 49 C.F.R. § 396.11(a) (preparation of driver vehicle inspection report)
- e) 3 violations of 49 C.F.R. § 396.13(c) (signature on driver vehicle inspection report)
- f) 3 violations of 49 C.F.R. § 396.17(a) (periodic vehicle inspection)

6 On February 27, 2019, the Commission also issued a notice to consolidate Dockets
TE-161021, TE-161020, and TE-181030, and scheduled a brief adjudicative proceeding to
hear these matters on April 10, 2019.

7 On April 2, 2019, the Parties agreed to the terms of the Agreement and notified the
Commission that they had reached a settlement in principle.

IV. AGREEMENT

8 The Parties have reached an agreement on the issues raised in the above docket and
present this Agreement for the Commission's consideration and approval. The Parties
therefore adopt the following Agreement, which the Parties enter into voluntarily, to resolve
the matters in dispute between them and to expedite the orderly disposition of this
proceeding.

9 Leavenworth Shuttle agrees to pay the \$10,000 suspended penalty from consolidated
Dockets TE-161020 and TE-161021.

10 Leavenworth Shuttle admits to the following violations from Docket TE-181030,
and the Parties agree that \$25,800 in penalties should be assessed for these violations:

- a) \$400 penalty for 4 repeat violations of 49 C.F.R. 382.305(i)(2) for failing to ensure that each driver subject to random alcohol and controlled substances testing has an equal chance of being selected each time a selection is made.
- b) \$12,000 penalty for 24 repeat violations of 49 C.F.R. 391.45(a) for using a driver not medically examined and certified.
- c) \$5,000 penalty for 25 repeat violations of 49 C.F.R. 395.8(a)(1) for failing to require a driver to prepare a record of duty status using the appropriate method.
- d) \$8,200 penalty for 82 repeat violations of 49 C.F.R. 396.11(a) for failing to ensure that drivers prepare a driver vehicle inspection report.
- e) \$100 penalty for 3 repeat violations of 49 C.F.R. 396.13(c) for failing to ensure that drivers sign the last vehicle inspection report when defects or deficiencies were noted.

- f) \$100 penalty for 3 violations of 49 C.F.R. 396.17(a) for using a commercial motor vehicle not periodically inspected.

11 The Parties further agree that Leavenworth Shuttle will pay the Commission \$5,800 of the \$25,800 penalty, and the remainder will be suspended on the conditions set out in paragraph 13, below.

12 The Company will work with Staff to establish a mutually agreeable payment arrangement to pay the total \$15,800 penalty (the \$10,000 from Dockets TE-161020 and TE-161021 and the \$5,800 from Docket TE-181030). The Parties commit to file a letter describing the mutually agreed payment arrangement to the Commission within ten (10) days of an order approving the Agreement.

13 The Parties agree that the remaining \$20,000 of the \$25,800 penalty assessed in Docket TE-181030 should be suspended for a period of two years after an order approving the Agreement, and then waived upon the Company's compliance with the following conditions:

- a) The Company maintains a conditional safety rating.
- b) The Company does not incur any repeat critical violations of WAC 480-30-221 discovered during the November 2018 safety investigation upon re-inspection within two years.
- c) The Company pays the \$10,000 suspended penalty assessed in consolidated Dockets TE-161020 and TE-161021 and the new remaining \$5,800 penalty that is not suspended.
- d) The Company complies with each step of any payment plan that the Parties file or the Commission orders.

14 Leavenworth Shuttle agrees to continue to work with Staff to develop a safety management plan. Once this safety management plan has been completed and agreed to by both Parties, the Parties will file the safety management plan in this Docket. Thereafter,

Leavenworth Shuttle commits to comply with the terms of the safety management plan to ensure future regulatory compliance.

V. GENERAL PROVISIONS

15 The Parties agree that this Agreement is in the public interest. The Parties further agree that this Agreement constitutes a settlement of all contested issues between them in this proceeding. The Parties understand that this Agreement is not binding unless and until accepted by the Commission. If the Commission does not accept this Agreement, including all of its terms and conditions without change, then the Parties shall be free to assert their pre-settlement positions.

16 The Parties agree to cooperate in submitting this Agreement promptly to the Commission for acceptance. The Parties agree to support adoption of this Agreement in proceedings before the Commission. No party to this Agreement or its agents, employees, consultants, or attorneys will engage in advocacy contrary to the Commission's adoption of this Agreement.

17 The Parties have negotiated this Agreement as an integrated document to be effective upon execution. This Agreement supersedes all prior oral and written agreements on issues addressed herein. Accordingly, the Parties recommend that the Commission adopt this Agreement in its entirety.

18 The Parties may execute this Agreement in counterparts and as executed shall constitute one agreement. A signed signature page sent by facsimile or email is as effective as an original document.

19 In the event that the Commission rejects all or any portion of this Agreement, or accepts the settlement upon conditions not proposed in this Agreement, each party reserves

the right to withdraw from this Agreement by written notice to the other party and the Commission. Written notice must be served within the (10) business days of service of the Order rejecting part or all of this Agreement or imposing conditions not proposed in this Agreement. In such event, neither party will be bound or prejudiced by the terms of this Agreement, and the Parties agree to request the prompt reconvening of a prehearing conference and to cooperate in developing a procedural schedule.

Respectfully submitted this 11th day of April 2019.

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

ROBERT W. FERGUSON
Attorney General



JOE DALLAS, WSBA No. 54506
Assistant Attorney General
Counsel for Utilities and Transportation
Commission Staff

Dated: April 11, 2019

LEAVENWORTH SHUTTLE AND TAXI,
LLC

DAVID WITT
Owner/Representative

Dated: April _____, 2019.

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Respectfully submitted this _____ day of April 2019.

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

ROBERT W. FERGUSON
Attorney General

JOE DALLAS, WSBA No. 54506
Assistant Attorney General
Counsel for Utilities and Transportation
Commission Staff

Dated: April _____, 2019

LEAVENWORTH SHUTTLE AND TAXI,
LLC


DAVID WITT
Owner/Representative

Dated: April 8, 2019.