

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of

Commission order granting forbearance from rate and service regulation as an auto transportation company under RCW 81.68 and granting an application to provide transportation under RCW 81.70 to:

HOPESOURCE

DOCKET NO. TC-111928

PETITION FOR
RECONSIDERATION OF ORDER
01

I. INTRODUCTION

Pursuant to WAC 480-07-375 and WAC 480-07-395, CWA, Inc., d/b/a Central Washington Airporter, Airporter Shuttle, Certificate Number C-1073 (CWA) files this petition for reconsideration of Order 01 in this case.

On November 7, 2011, HopeSource filed an application for an auto transportation authority in Docket TC-111928. HopeSource has operated as a Private, Non-profit Transportation Provider (RCW 81.66) under Commission Certificate No. C-905 issued to HopeSource in Docket TN-061083 on April 20, 2007.

Included in HopeSource's application, was a petition seeking forbearance from rate and service regulation as an auto transportation company citing the criteria specified in RCW 81.68.015, sub-paragraph five.

HopeSource, in its application of November 7, 2011, HopeSource proposed to provide auto transportation services for low-income, seniors, and disabled citizens as well as students of rural Kittitas County to access jobs, educational opportunities, medical facilities and recreation. The service will be almost entirely funded through grants from the Washington Department of Transportation, Central Washington University and Yakima Transit. HopeSource will not

charge anyone for its service. However, HopeSource will solicit donations from passengers on its Yakima to Ellensburg Commuter route.

RCW 81.68.015 allows the Commission to find, with or without a hearing, that a company's service is provided pursuant to a contract with a state agency, or funded by a grant issued by the department of transportation, and that exemption from RCW 81.68 is otherwise in the public interest.

Commission Staff's analysis determined that HopeSource's proposed service met the criteria for forbearance specified above. At its regularly scheduled meeting of November 23, 2011, the Commission granted the Company relief from rate and service regulation as an auto transportation company. The Company began service on November 27, 2011, and was granted and issued an application a charter certificate pursuant to RCW 81.70.

II. ARGUMENT

CWA has been operating a scheduled bus service along the same route that Hope Source is proposing for the past 7 years. CWA made application for this route under RCW 81.68.040 and was granted a certificate (number 1073) of convenience and necessity by the UTC.

Accordingly CWA, has invested its private capital in this authority and is being financially harmed by the commissions decision to grant Hope Source the approval to run their scheduled service directly on top and through our territory.

Further, the Commission and Staff failed to follow the directions of RCW 81.68.040 in that they granted Hope Source their approval to provide service in CWA's territory without a hearing.

The RCW reads, " the commission may, after notice and an opportunity for a hearing, when the applicant requests a certificate to operate in a territory already served by a certificate holder under this chapter, only when the existing auto transportation company or companies serving

such territory will not provide the same to the satisfaction of the commission or when the existing auto transportation company does not object.....". CWA was not contacted by UTC staff as they considered Hope Source's November 7th application.

Hope Source is operating this service in conjunction with Yakima Transit. Hope Source's statement to staff is incorrect to say that they are not charging for the service. The grant application, the press releases and the practice all indicate that they are charging \$3 per passenger. This dishonesty brings into question Hope Source's entire testimony to staff about their Yakima to Ellensburg scheduled service and should encourage the Commission to review the facts through a formal hearing.

Finally, no attempt was made by Hope Source / Yakima Transit to coordinate, cooperate, collaborate or compliment their proposal with our existing service schedule. It appears that their intention was to back door the legal process that is available to auto transportation companies interested in running scheduled service in Washington State, by providing half hearted information to the UTC.

Hope Source is not operating this service entirely on grants from the DOT which is a requirement for forbearance from the rule, RCW 81.68.015. Given that the DOT grant is not funding the total cost of operation we question whether forbearance is correctly used.

RCW 81.68.015 gives the Commission permission to grant an authority if it is in the public's interest to do so. It simply can not be in the public's interest to disregard the financial investment of the private sector and to have a public agency compete against it.

Our Federal laws support this necessity and have well documented them in the Charter Rules , Title 49 Part 604.

The UTC regulates scheduled service and in return assigns protected territories. CWA's protected territory is being infringed upon by transit and the UTC has incorrectly supported this infringement. Please note that transit has defined it's territory within cities and the private sector can not provide service within these boundaries. The Commission has not met its mandate to protect the geographies that have been assigned to us and are ignoring the Federal Charter rules that are meant to protect the financial investment of the private sector.

III. CONCLUSION

CWA, Inc is operating a scheduled bus service along the I-82 corridor in full accordance with its UTC granted certificate of convenience and necessity. The commission granted Hope Source/Yakima Transit permission to operate on top of our service. They gave this permission without following the rules in RCW 81.68.040 that describe how the Commission should process such a request. Further, some of the facts that Hope Source/Yakima Transit provided staff in support of their request are not true.

For these reasons, CWA respectfully requests that the Commission reconsider its Order 01 in Docket TC-111928.

DATED this 16th day of December, 2011.

Richard Johnson, General Manager
CWA, Inc.
