SEATAC SHUTTLE, LLC
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March 11, 2012

Re: **Docket TC-120276**

Mr. Eckhardt,

Thank you for your response of March 8, 2012 on behalf of Mr. Mickelson, though we must admit it is not the response we were anticipating. Your acknowledgment that "Staff agrees that a rate filing for less than three percent increase is not a "**general rate increase filing**" under WAC 480-30-421(1)(a) and that the company is not required to submit with its original filing the work papers set forth in WAC 480-30-426." This states our position and we are glad that you agree with it. Following this interpretation we submitted our annual report to substantiate the less than three percent threshold of our request. If additional reasonable documentation is needed to substantiate the three percent threshold we will provide it.

We informed Mr. Mickelson of the Commission's current position regarding regulation of autotransportation in an effort to suggest that the extreme, detail oriented documentation requests of the past are no longer applicable and that in the case of a -421 filing the process should certainly be one that is streamlined and not burdensome to the company filing the request. Unfortunately he immediately fell back on the unsupportable 93/7 ratio methodology that has been incorrectly applied to autotransportation for decades and in this case has no application whatsoever under -421. As Mr. Mickelson's supervisor we thought you would correct this misinterpretation. Instead you characterized the Commission's position as "those statements (of the Commission) were made in discussions about possible statutory changes, which have not been enacted by the legislature. Therefore, staff must analyze this filing using current statutes and rules." Once again you have taken a position that reinforces your personal policy denying any attempt by autotransportation operators to keep pace with the cost of living and the economic realities of surviving in business today. These were not in fact "statements in discussion" as you suggest and I suspect you fully are aware of, but were contained in the required document issued by the commission pursuant to seeking legislative changes. Whether or not those changes were enacted during this most current session has no bearing on the statements contained in the document. So that there can be no misinterpretation I refer you to:

An Act Relating to Commercial Passenger Carriers
Z-0596.4/11 4th Draft

Statement of Need

Paragraph 3

"The UTC believes that the rationale for economic regulation of this industry is no longer valid. The capital investment of bus and airporter companies is low, and the equipment purchased (buildings and vehicles) can be more easily converted to other uses or sold. The ease with which companies can enter and leave the market undermines the premise that the public will not be served because companies who compete may drive each other out of business and leave the market without service."

As demonstrated in this document, this is no mere discussion, but a document explaining and proclaiming the position of the Agency with regard to deregulation. Without this statement of need the agency may not even propose legislation. The reasoning and statements are not dependent upon the actions of the legislature. They are the current position of the Commission, of which you as a staff member should be supporting.

You further state that the "The company has the burden to demonstrate that the proposed rates will be fair, just, reasonable and sufficient." We agree and feel that this burden has been met.

There has not been a single complaint to the commission from our customers in our eight and one half year operating history regarding our rates. Ergo they are "**fair**".

Our rates are "**just**" and are more that "just". We operate with one of the lowest passenger mile costs in the country and one of the lowest in the state. The requested increase would not change that position.

Is it **reasonable** to pay the same price for a commodity for seven years in an economy in which all other costs have gone up by more than twenty percent? We think that it is unreasonable and that we need to start looking to rectify this situation and bring our fares back up to a "reasonable" level. We have decided to do this in very small increments over time so as not to impact the consumer on any appreciable level.

When you operate a multi-million dollar business providing 40 jobs and a vital service to the community at a very high individual risk, what is **sufficient**? In a business where one lapse in attention by an employee could result in an accident and bankrupt the company and put the owners/investors at very high personal risk, is a three percent return sufficient? Or, does it demand a return based not only on investment but exposure, liability and risk? The regulatory model that the commission has now rejected provided no such return but seeks through its interpretation and implementation by you and your staff to find the path of lowest possible return. You deny taxes as expenses, you deny interest as expenses, and you refuse to factor in market factors or other circumstances all of which are called for under RCW. You have implemented a policy of selective interpretation and implementation designed to severely

limit the profitability of all companies. One can only speculate as to the reasons behind this policy as it is clearly and unequivocally not called for in RCW. This was not the intent of the legislature. **In short, our rates are not sufficient.** They do not meet the risk analysis test. Yes we can still buy fuel and pay our employees, but we could loose it all by two seconds of inattention.

In your response you further state "Staff does not interpret WAC 480-30-421 to allow automatic rate increases. The rule sets a lower threshold filing requirement for rate increase filings that are less than three percent". We agree with this statement but not you interpretation of it. First, it has never been suggested that a -421 filing is "automatic" or automatically granted. The less than three percent threshold must be demonstrated and we have provided all the documentation to that effect. Second, the lower threshold is just that. It is not license to fall back on a methodology that is nowhere alluded to in the statute. A methodology that I might add, that you, Mr. Eckhardt, sat before the commission in open meeting and explained how it penalizes good, efficient operators and rewards inefficient poor operators. It is conundrum that we have been seeking for years to unravel, why you persist in the punitive policy while current law provides you with other options that permits reasonable regulation of the companies and still fosters a healthy, growing industry.

Is it the policy of you and your staff to fall back on "rule" when you find it convenient and to ignore or produce a "creative" interpretation of rule or even law when it serves to stiffen the regulatory position of the agency? The commission has spoken on that policy and position clearly and it is our expectation that you will follow that instruction.

Finally, Mr. Mickelson suggested that we send you his canned list of figures, counts, and etcetera or withdraw our request. The hammer is of course, the specter of a full blown rate hearing on this -421 request. We have neither the time, the inclination, nor the money for a rate hearing. If we did we would not be asking for the paltry less than 3% amount that we are. We note that you and your staff have never supported or approved any submission under -421 since its creation in 2005. Hence, when would you ever approve a -421 filing? Therefore, if you are unwilling to support this rate request on its merits and under the clear dictates of -421 we will withdraw it and seek other avenues of resolution.

Mr. Eckhardt, there has been a long overdue "sea of change" at the agency as proclaimed by the commissioners. It is time that you and your staff looked at our businesses in light of the real world and not through the same old, arcane, outdated and misapplied methodology. Change hurts but ultimately it is for the common good.

If you are not willing to support this request for rate increase, please advise us no later than March 16, 2012 and we will withdraw this filing at that time.

Thank you,

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Copy to Records

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