



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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August 23, 2006

**RE: Utilities and Transportation Commission Conceptual Proposal
Auto Transportation Regulatory Flexibility Act**

Dear Auto Transportation Company Program Stakeholders:

The Commission is considering agency request legislation to provide increased opportunity for companies to enter transportation markets and to reduce regulatory requirements for companies operating in a competitive market. The legislation would have two parts: restricted entry zones and competitive classification.

Restricted Entry Zones

The Commission would be authorized to designate a territory or route a "restricted entry zone" if the Commission found that competition within a territory or over a route would be contrary to the interests of the consumer. This could be done on the Commission's own motion or at the request of a certificate holder or an applicant (if the territory or route is not currently served). The existing certificate holder within a restricted entry zone would, as now, have the right to protest entry by other parties and show it will provide service to the satisfaction of the Commission. Temporary certificates would only be issued to new entrants within a restricted entry zone if the existing certificate holder did not object or was not providing service.

The decision whether to designate a territory or route a restricted entry zone could be made with or without a hearing. Decisions would be reversible after a notice and opportunity for a hearing. The Commission could modify or revoke the restricted entry zone if it was in the public interest.

Any area of the state not designated as a restricted entry zone would be open to entry to as many companies as choose to serve the territory or route. A company seeking to serve the (open) territory or route would apply to the Commission for a certificate. The company would receive a certificate if it was "fit, willing and able" to provide service. The company would have to comply with the requirements of auto transportation certificate holders under Title 81 (e.g., tariffs) unless the Commission waived the requirements.



If a territory or route has not been designated a restricted entry zone, it could not be made so while an application for entry is pending. In other words, a party could not request that an area be designated as a restricted zone as a means to “protest” an application.

A certificate holder operating within a restricted zone would not be eligible to be classified as “competitive.”

Competitive Classification

The Commission would be authorized to classify a company as “competitive” if, on its own motion or in response to an application from the company, it found that the company was subject to effective competition. The legislation would define effective competition to mean the certificate holder’s customers have reasonably available and equivalent alternative transportation choices, and that competition, together with any requirements the Commission applies, will result in reasonable fares. Fares for competitively classified companies would be set by the market, not by regulation.

The Commission would be authorized to waive any regulatory requirement under Title 81, except for safety and insurance, for a certificate holder that was classified as competitive, if the Commission found that competition would serve the same purposes as public interest regulation. The Commission would be able to waive different regulatory requirements for different certificate holders if different treatment was in the public interest.

Certificate holders potentially affected by a classification proceeding could be required by the Commission to appear as parties. The Commission would be able to revoke any waiver it granted, and reclassify any certificate holder if the revocation or reclassification was necessary to protect the public interest.

The competitive company would be subject to minimal regulation, which would include:

- Compliance with all laws and regulations relating to safety and insurance.
- Keeping accounts according to regulations of the Commission for the competitive companies. This would not necessarily be in regulatory accounting format.
- Filing financial reports as required by the Commission.
- Cooperation with UTC investigations of consumer complaints.

Companies may apply for a restricted entry zone, or apply for a competitive classification, but not both.

The Commission seeks feedback from stakeholders regarding the above proposal. Interested parties may send correspondence to Chris Rose, Policy Office Director, at PO Box 47250, Olympia, WA 98504-7250, email Mr. Rose at crose@wutc.wa.gov, or phone him at 360-664-1206.