

Service Date: September 29, 2016

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper
Carrier Classification of, and Complaint for
Penalties against:

A+ PACIFIC LIMOUSINE, INC.

DOCKET TE-160460

ORDER 01

ORDER INSTITUTING SPECIAL
PROCEEDING; COMPLAINT SEEKING
TO IMPOSE PENALTIES

and

NOTICE OF HEARING

(Set for November 30, 2016, at 10 a.m.)

INTRODUCTION

- 1 The Washington Utilities and Transportation Commission (Commission), pursuant to RCW 81.04.510, institutes this special proceeding on its own motion to determine whether A+ Pacific Limousine, Inc. (A+ Pacific) is operating as a charter party or excursion service carrier for transportation of passengers for compensation between points in the state of Washington and on the public highways of Washington State without the necessary certificate required for such operations by RCW 81.70.220.
- 2 The Commission has information from which it believes and therefore alleges that A+ Pacific is operating as a charter party carrier or excursion service carrier, transporting passengers for compensation on the public highways of the State of Washington without the necessary certificate required for such operations by RCW 81.70.220. Specifically, the Commission has evidence that A+ Pacific advertised its services on at least three different online websites and offered charter party carrier transportation two times when Commission Staff, posing as a consumer, inquired whether A+ Pacific could provide such transportation.
- 3 Pursuant to RCW 81.04.510, upon proof of these allegations, the Commission is authorized to issue an order requiring A+ Pacific to cease and desist activities subject to regulation under Title 81 RCW. In addition, RCW 81.04.110 authorizes the Commission to file a complaint on its own motion, setting forth any act or omission by A+ Pacific that

violates any law, or any order or rule of the Commission. Under RCW 81.70.220(2), the Commission may impose financial penalties of up to \$5,000 for each violation.

- 4 At the hearing in this special proceeding that will be conducted pursuant to Part IV of the Administrative Procedure Act (APA), RCW 34.05, of which notice is given here, the Commission will also consider its Complaint against A+ Pacific alleging the violations of law as specified below and decide whether A+ Pacific should be penalized.

ORDER AND NOTICE OF HEARING

- 5 The Commission has jurisdiction to institute a special proceeding to determine whether A+ Pacific is conducting business requiring operating authority, or has performed or is performing any act requiring Commission approval without securing such approval pursuant to RCW 80.01.040, RCW 81.01.010, RCW 81.04.510, and RCW 81.70.220. In addition to the foregoing statutes, this matter involves Title 81 RCW, including but not limited to RCW 81.04.020, RCW 81.70.020, RCW 81.70.310, and RCW 81.70.360. This matter also involves the administrative rules set forth in WAC 480-30 and WAC 480-07.

- 6 **THE COMMISSION ORDERS That A+ Pacific appear before the Commission in this special proceeding conducted under the authority of RCW 81.04.510 at 10 a.m. on Wednesday, November 30, 2016, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, to give testimony and evidence under oath as to its operations. A+ Pacific shall appear at the time and place set forth above unless the Executive Director and Secretary of the Commission, by notice of hearing, specifies a different time and place. This order is pursuant to the subpoena powers granted in RCW 34.05.446, RCW 80.01.060(1), and RCW 81.04.510.**

- 7 **THE COMMISSION FURTHER ORDERS** that at the hearing in this special proceeding the burden of proving that the alleged operations are not subject to the provisions of Title 81 RCW shall be upon A+ Pacific as provided by RCW 81.04.510.

- 8 **THE COMMISSION GIVES FURTHER NOTICE THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC 480-07-450.**

- 9 If a limited English-speaking or hearing-impaired party needs an interpreter, a form is attached to this notice to be filled out and returned as indicated, so that a qualified interpreter may be appointed at no cost to the party or witness.

10 The names and mailing addresses of all parties and their known representatives are shown as follows:

Carrier: A+ Pacific Limousine, Inc.
Mr. Aleksandr Polyukh
1625 S. Rainier Street
Kennewick, WA 99337

Representative: Unknown

Commission: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Brett P. Shearer
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1192

COMPLAINT SEEKING PENALTIES

PARTIES

11 Complainant, the Washington Utilities and Transportation Commission, is an agency of the State of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including charter party carriers, under the provisions of Title 81 RCW.

12 Respondent, A+ Pacific Limousine, Inc. (A+ Pacific) is a company that does business in the state of Washington.

JURISDICTION

13 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 81.04.110, RCW 81.01.010, RCW 81.04.160, RCW 81.04.460, and RCW 81.70.

BACKGROUND

14 The following facts, set forth in a Commission Staff Investigation Report of this matter, establish probable cause for the Commission to complain against the activities of A+ Pacific Limousine and to seek penalties in accordance with applicable law.

15 At all times pertaining to this matter, A+ Pacific has not held certificate authority from the Commission to provide charter party and excursion carrier services.

16 In November 2015, Commission Staff identified A+ Pacific as a potentially non-certificated company offering regulated services. Staff sent letters providing technical assistance to A+ Pacific on three occasions from November 25, 2015, to April 15, 2016. A+ Pacific did not respond to any of Staff's communications.

17 Staff's subsequent investigation confirmed that A+ Pacific was engaged in the business of a charter party carrier without a certificate from the Commission to do so. Staff discovered multiple advertisements for these services at A+ Pacific's website. A+ Pacific also offered to provide charter party or excursion carrier service on two occasions during Staff's investigation.

18 On three occasions - November 13, 2015, March 13, 2016, and April 14, 2016 - Staff reviewed A+ Pacific's website (www.limo01.com). On each of those three occasions, the Company's website advertised a limo bus service for up to twenty passengers:

Enjoy the newest in limo fashion with the newest addition to our fleet. This beautiful limo bus, seating up to 20 passengers, is a truly luxurious coach complete with air ride suspension, new custom leather interior seats, fiber optic sealing lights, storage for over 26 boxes of wine, bars, coolers, 2 flat screen TV's, DVD-CD player and a premium sound system including two amplifiers surging with 4000 watts of power!

19 On March 4, 2016, Commission Staff posed as a consumer and emailed A+ Pacific about reserving the limo bus service for transportation to an event March 19, 2016. A+ Pacific responded to Staff's inquiry the same day and offered the limo bus service for six hours at a price of \$805.00.

- 20 On March 30, 2016, Commission Staff again posed as a consumer and emailed A+ Pacific and inquired about booking the limo bus service for 20 passengers in June 2016. A+ Pacific again responded to Staff the same day and offered the limo bus transportation service for six hours at a price of \$805.00.
- 21 On April 22, 2016, Commission Staff reviewed A+ Pacific's Facebook page. The Facebook page lists the Company's business telephone number, address, and company website. The Facebook page contains a photograph of a white Blue Bird bus.
- 22 On April 22, 2016, Commission Staff confirmed that A+ Pacific is listed on a subscription-based website for limousine and charter excursion companies (www.rentalimo.com). A+ Pacific's advertisement on that subscription-based site includes an option for reserving the Company's 20-passenger bus for \$171 per hour.
- 23 Washington State Department of Licensing Records show that a white 1996 Blue Bird bus is registered to Mr. Aleksandr Polyukh at 1625 S. Rainier Street, Kennewick, Washington. Mr. Polyukh is also listed as a governing person for A+ Pacific Limousine, Inc. on the Company's business license.
- 24 A+ Pacific previously submitted an application for charter and excursion authority from the Commission on February 1, 2010. Aleksandr Polyukh signed that application as the owner of A+ Pacific and listed 1625 S. Rainier Street, Kennewick, Washington, as the Company's mailing and physical addresses. The 2010-application also lists a 1996 Blue Bird bus. The vehicle identification number for the 1996 Blue Bird bus on that 2010 application matches the 1996 Blue Bird bus registered to Aleksandr Polyukh at 1625 S. Rainier Street, Kennewick, Washington, in the 2016 Washington State Department of Licensing records.

APPLICABLE LAW AND REGULATIONS

- 25 It is illegal for any person to:

[E]ngage in the business of a charter party carrier or excursion service carrier of passengers over any public highway [within the state of Washington] without first having obtained a certificate from the Commission to do so or having registered as an interstate carrier. For the purposes of this section, "engage in the business of a charter party carrier or excursion service carrier" includes advertising or soliciting, offering, or entering into an agreement to provide such service. Each advertisement

reproduced, broadcast, or displayed via a particular medium constitutes a separate violation under this chapter.

RCW 81.70.220(1).

26 The term “person” includes an “individual, a corporation, association, joint stock association, and partnership, their lessees, trustees, or receivers.” RCW 81.70.020(9). *See also* WAC 480-30-036.

27 Under state law, the definition of “charter party carrier” includes every person:

[E]ngaged in the transportation over any public highways in this state of a group of persons who, pursuant to a common purpose and under a single contract, acquire the use of a motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after leaving the place of origin.

RCW 81.70.020(1); WAC 480-30-036.

28 The term “common purpose” is defined as “a group of persons [that] is travelling together to achieve a common goal or objective.” WAC 480-30-036.

29 Under state law, the definition of “party bus” is:

[A]ny motor vehicle whose interior enables passengers to stand and circulate throughout the vehicle because seating is placed around the perimeter of the bus or is nonexistent and in which food, beverages, or entertainment may be provided. A motor vehicle configured in the traditional manner of forward-facing seating with a center aisle is not a party bus. A person engaged in the transportation of persons by party bus over any public highway in this state is considered engaging in the business of a charter party carrier or excursion service carrier.

RCW 81.70.020(7).

30 The Commission has the authority to regulate charter party carriers. RCW 81.70.270; RCW 81.70.220.

31 When used by a charter party carrier, motor vehicles with a seating capacity of eight or more passengers, including the driver are subject to regulation by the Commission. *See* RCW 81.70.270; WAC 480-30-036.

32 Charter party carriers are common carriers. RCW 81.04.010(11). For the purposes of
Title 81 RCW, every common carrier is a public service company. RCW 81.04.010.

33 By law, “any person who engages in the business of a charter party carrier or excursion
service carrier in violation of [RCW 81.70.220(1)] is subject to a penalty of up to five
thousand dollars per violation.” RCW 81.70.220(2).

34 The Commission is authorized to file a complaint on its own motion setting forth any act
or omission by any public service company that violates any law or any order or rule of
the Commission. RCW 81.04.110; RCW 81.70.310.

COMPLAINT

35 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 11
through 34 above.

36 A+ Pacific has violated RCW 81.70.220 five (5) times by engaging in the business of a
charter party carrier without first having obtained a certificate from the Commission to do
so. Specifically, A+ Pacific operated as a charter party carrier of passengers when it
advertised on its website, advertised on its Facebook page, advertised through a
subscription-based service, and twice offered to provide charter party carrier
transportation to Staff when Staff posed as a customer.

REQUEST FOR RELIEF

37 Staff requests that the Commission, pursuant to its authority under RCW 81.70.220 and
RCW 81.70.310, assess penalties of up to \$5,000 per violation against A+ Pacific.

PROBABLE CAUSE

38 Based on a review of the Staff Investigation Report of this matter, and consistent with
RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to
issue this Complaint.

NOTICE OF HEARING

39 **THE COMMISSION GIVES NOTICE THAT it will conduct a hearing concerning
this Complaint concurrently with the special proceeding noticed above, which will
commence at 10 a.m. on Wednesday, November 30, 2016, in Room 206, Richard
Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

40 An Administrative Law Judge from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, will be designated to preside at the hearing of these matters.

DATED at Olympia, Washington, and effective September 7, 2016.

GREGORY J. KOPTA
Administrative Law Division

Inquiries should be addressed to:

Executive Director and Secretary
Washington Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes) _____ (No) _____

Do you need a certified sign language interpreter?

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (_____) _____