

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET TE-151906
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	[Proposed]
)	FIRST AMENDED COMPLAINT
v.)	FOR VIOLATIONS OF VEHICLE
)	SAFETY RULES
RIDE THE DUCKS OF SEATTLE, L.L.C.)	
d/b/a SEATTLE DUCK TOURS,)	
)	
Respondent.)	
.....)	

1 The Washington Utilities and Transportation Commission (Commission) on its own motion, and through its Staff, alleges as follows:

I. BACKGROUND

2 On September 24, 2015, a vehicle owned and operated by Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours (Ride the Ducks of Seattle or Company) was involved in a collision in Seattle, Washington. The collision resulted in five deaths.

3 On September 28, 2015, the Commission entered Order 01, Notice of Emergency Adjudication and Order Suspending Certificate. This order suspended the Company's operating authority pending an investigation by the Commission's staff (Staff) of the Company's vehicle fleet, drivers, and operations.

4 On September 29, 2015, the Commission filed a complaint alleging that the Company violated safety regulations contained in Title 49 CFR and operated at least one vehicle in an unsafe manner. The adjudication initiated by the September 29 complaint is related to, but separate from, the emergency adjudication initiated on September 28.

5 On December 15, 2015, Staff filed its investigation report. Staff found that Ride the Ducks committed 442 violations of motor carrier safety rules or laws. Seven of these violations established that the Company conducted commercial motor vehicle operations with a noncompliant drug and alcohol testing program contrary to RCW 81.04.530

(bringing the total number of violations to 443). Staff recommended that the Commission impose monetary penalties.

6 On December 21, 2015, the Commission held an evidentiary hearing as part of the emergency adjudication. The Commission entered Order 05 on December 22. Order 05 authorized the Company to resume operation of its "Truck Duck" vehicles but maintained in force the Commission's suspension of the Company's "Stretch Duck" operations.

7 On January 6, 2016, the Commission scheduled a prehearing conference regarding the September 29 complaint. The prehearing conference is set for January 27, 2016.

8 On January 19, 2016, Staff moved to amend the complaint filed on September 29, 2015. The Commission granted Staff's motion and now issues this First Amended Complaint for Violations of Vehicle Safety Rules.

II. PARTIES

9 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 passenger charter carriers, under the provisions of Title 81 RCW.

10 Ride the Ducks of Seattle is a passenger charter carrier subject to regulation by the Commission pursuant to RCW 80.01.040(2) and RCW 81.70.

III. JURISDICTION

11 The Commission has jurisdiction over the subject matter pursuant to the provisions of chapters 81.01 RCW, 80.01 RCW, 81.04 RCW, and 81.70 RCW, chapter 480-30 WAC, chapter 480-07 WAC, and chapter 34.05 RCW.

IV. APPLICABLE LAW AND REGULATION

12 Passenger charter carriers operating under the Commission's authority must comply with the parts of Title 49 CFR listed in WAC 480-30-221.

13 Under RCW 81.04.380, the Commission may assess penalties of up to \$1,000 for each violation of any Commission rule by a passenger charter carrier. Each rule violation constitutes a separate and distinct offense.

- 14 RCW 81.04.530 provides, "A person or employer who begins or conducts commercial motor vehicle operations without having a controlled substance and alcohol testing program that is in compliance with the requirements of Title 49 C.F.R. Part 382 is subject to a penalty, under the process set forth in RCW 81.04.405, of up to one thousand five hundred dollars and up to an additional five hundred dollars for each motor vehicle driver employed by the person or employer who is not in compliance with the motor vehicle driver testing requirements."

V. FIRST CAUSE OF ACTION
(Violations of vehicle safety and recordkeeping regulations)

- 15 The Commission alleges that Ride the Ducks of Seattle committed 435 violations of WAC 480-30-221 by committing 435 violations of the regulations in Title 49 CFR.

VI. SECOND CAUSE OF ACTION
(Driver noncompliance with drug or alcohol testing requirements)

- 16 The Commission alleges that Ride the Ducks of Seattle committed seven violations of RCW 81.04.530 by employing seven motor vehicle drivers who failed to comply with controlled substance or alcohol testing requirements.

VII. THIRD CAUSE OF ACTION
(Noncompliant drug and alcohol testing program)

- 17 The Commission alleges that Ride the Ducks of Seattle committed one violation of RCW 81.04.530 by conducting commercial motor vehicle operations without a controlled substance and alcohol testing program that complies with Title 49 CFR Part 382.

VIII. REQUEST FOR RELIEF

- 18 Staff requests that the Commission impose monetary penalties in an amount to be determined by further proceedings in this docket.

IX. PROBABLE CAUSE

- 19 Based on Staff's investigation report filed on December 15, 2015, and consistent with RCW 80.01.060, the Commission finds probable cause exists to issue this Complaint.

DATED at Olympia, Washington, and effective January ____, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Administrative Law Judge

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