



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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October 10, 2006

Mr. Mike Lauver  
SeaTac Shuttle, LLC  
P.O. Box 2895  
Oak Harbor, Washington 98277

Mr. Lauver:

Thank you for your letters of September 21 and October 4, 2006, to Penny Hansen. I apologize for our delay in responding.

Your letter asks questions regarding the commission's adoption hearing on September 13, 2006. The only issue before the commission at the adoption hearing was the change in WAC 480-30-306. Staff's memo, copy attached, briefly described the background of the rulemaking and noted the commission received no comments on the proposed rule change. The memo did not discuss issues, such as rate setting methodology, that were not part of the adoption hearing.

Both staff and the commissioners agree that all parties have invested a lot of time and resources in exploring various issues and specifically regarding rate setting methodologies. The commissioners and staff heard and carefully considered the regulated companies' perspective, concerns and recommendations expressed through extensive discussions at stakeholder meetings, individual conversations and numerous written comments. Staff and the commissioners do not believe your proposal is in the best interest of the public. However, the fact that staff and the commissioners do not agree with you does not mean we have not heard and carefully considered what you said.

The commission opened a rulemaking on February 16, 2006, to consider whether it should propose rules relating to rates (fares) and ratemaking. After three stakeholder meetings and carefully considering all of the discussion and written comments, the commissioners reached five main conclusions, set forth in greater detail in Chairman Sidran's letter of July 17, 2006, (copy attached).



1. The commissioners decided that making a finding of “effective competition” within a transportation market is an important precursor to being more flexible in our approach to approving fares. The commission would seek legislation to allow the commission flexibility in regulating entry.
2. The commissioners decided to use the operating ratio methodology, with a 93 target operating ratio, to set rates (fares).
3. The commissioners decided to not codify the rate setting methodology in rule.
4. The commissioners decided to propose a change to the fuel surcharge methodology, which staff will circulate to industry for comment later this month.
5. The commissioners decided to issue a CR-102 rulemaking proposal (issued August 4, 2006) to reduce the filing requirement for rate (fare) reductions from seven days notice to one day notice (WAC 480-30-306).

The proposed rule change was the only matter before the commission at the September 13, 2006, hearing. During the adoption hearing, Chairman Sidran commented that the commissioners view the proposed legislation as part of the process of looking at how the commission sets rates. The commission posted an audio recording of the adoption hearing and Chairman Sidran’s comments on our web site under Docket TC-060177.

The commission submitted proposed legislation to the Office of Financial Management (OFM) for consideration by Governor Gregoire. Your concerns have been conveyed to OFM. Given that we made changes to the proposal in an attempt to alleviate at least some of your concerns, we would appreciate receiving your comments on the draft we sent to you on September 30.

I urge you and the rest of the regulated auto transportation companies to continue participating in both the legislative and commission processes. If you have additional questions regarding the proposed legislation, please let me know. For all other matters, please continue working with Mr. Gene Eckhardt (360-664-1249) and his staff.

Sincerely,




Chris Rose  
Director  
Regulatory Services

Attachment

# MEMORANDUM

September 13, 2006

TO: Mark Sidran, Chairman  
Patrick Oshie, Commissioner  
Phil Jones, Commissioner

FROM: Penny Hansen, Regulatory Analyst 

SUBJECT: Rulemaking to reduce the advance notice for filing a rate decrease for passenger transportation (bus) companies in Chapter 480-30, Docket No. TC-060177

RE: Adoption Hearing, September 13, 1:30 p.m.

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## Background

On January 11, 2006, the commission issued a Notice of Further Proceedings to inform stakeholders of the status of Docket TC-020497 (passenger carrier chapter rewrite rulemaking). The notice advised stakeholders of the commission's intent to start a new rulemaking inquiry to consider rules for ratesetting and the need for and potential alternatives to continued economic regulation of passenger transportation service.

On February 16, 2006, the commission filed with the Code Reviser a CR-101, Preproposal Statement of Inquiry, and opened a rulemaking to consider whether it should propose rules in chapter 480-30 WAC relating to rates (fares) and ratemaking for passenger transportation companies regaled under chapter 81.68 RCW.

The commission asked for stakeholder comments addressing the level of competition in the industry and the need for continued regulation of entry, rates and service quality standards. The commission hosted three workshops to discuss the various issues with stakeholders in April, May and June.

## Discussion

On July 17, 2006, Chairman Mark Sidran sent a letter to all participants in the passenger transportation rulemaking stating that "making a finding of effective competition with in the transportation market is an important precursor to being more flexible in our approach to approving fares." The letter also indicated the commission will pursue legislation to give the commission the flexibility to tailor entry and fare-setting standards to the market conditions within specific geographic areas.

On August 4, 2006, the commission issued a CR-102 to seek comments on a proposed rule (WAC 480-30-306 Tariffs and time schedules) that would reduce the advance notice for filing rate decreases from seven days notice to one day. The purpose of the rule change is to allow companies more flexibility to adjust rates to respond to market conditions.

AMENDATORY SECTION (Amending General Order No. R-533, Docket No. TC-020497, filed 6/8/06, effective 7/9/06)

**WAC 480-30-306 Tariffs and time schedules, ((seven)) one calendar day notice to the commission.** A company must provide at least ((seven)) one calendar ((days<sup>1</sup>)) day's notice to the commission for filings whose only purpose is to implement decreases in rates.