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January 25, 2016

Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. S.W.
P.O. Box 47250
Olympia, Washington 98504-7250

RE: *WUTC v. Ride the Ducks of Seattle, L.L.C. d/b/a Seattle Duck Tours*
Docket TE-151906
Review of Safety Management Plan

In December 2015, Staff completed a compliance review investigation of Ride the Ducks of Seattle. The compliance review investigation resulted in a proposed *unsatisfactory* safety rating for Ride the Ducks on December 15, 2015.

The factors that contributed to the proposed rating include one violation of an acute regulation and six violations of a critical regulation, as well as two recordable accidents in 2015.

Commission Staff also found 131 violations of five other critical regulations, but the violations found for each of those regulations did not establish a pattern and therefore were not a factor in determining the proposed safety rating. Staff also found 304 recordkeeping violations of 17 non-acute/non-critical regulations.

Carriers that receive a proposed unsatisfactory safety rating have 45 days to request and receive a change to the proposed unsatisfactory safety rating. The request must be based upon evidence that the company has taken corrective actions to address the violations identified and that company operations currently meet the safety fitness standards, as specified in 49 CFR Parts 385.5 and 385.7.

In its December 2015 compliance review investigation report, Commission Staff made several recommendations regarding the proposed unsatisfactory safety rating, including requiring the company to develop and submit a safety management plan to address the violations found during the review. On December 22, 2015, the Commission issued Order 05 adopting Staff's recommendations.

Commission Staff's Recommendations as set forth in Recommendation 2 of Order 05:

By Jan. 29, 2016, Ride the Ducks must request and receive a change to its proposed unsatisfactory safety rating. The request must include a written safety management plan that provides a detailed description of the corrective actions taken to address each specific violation and outlines how the company will stay in compliance with each requirement in the future. The plan must also include:

- a. Identification and designation of company personnel with overall responsibility for ensuring Ride the Ducks is in compliance with USDOT requirements and that safety policies, practices, and rules are being followed. Ride the Ducks must ensure that this person (or persons) is fully trained on the safety requirements and is authorized and required to hold staff accountable for following safety requirements.
- b. A description of company expectations for its staff related to safety requirements.
- c. A statement verifying the review of the company's current training programs and a description of any updates. Staff recommends Ride the Ducks provide refresher training for all staff, including drivers, mechanics, office staff, and other support staff, focusing on the areas where violations were discovered and emphasizing the importance of compliance.
- d. A statement verifying the review and update of the company's policies and procedures to ensure a corrective action plan for staff that do not comply with safety requirements.

When Commission Staff confirms that Ride the Ducks' safety management plan meets these requirements, the company's safety rating will be upgraded to "conditional" and that rating will stay in place until the next rated compliance review investigation.

On January 22, 2016, Ride the Ducks submitted its final safety management plan. Staff reviewed and evaluated the plan and makes the following conclusions and recommendations:

Ride the Ducks' safety management plan meets the requirements of Order 05 in this docket. The plan itself is thorough and comprehensive, consisting of 693 pages.

- ✓ The safety management plan was submitted on time and contains all required information.
- ✓ The plan addresses each of the conditions listed in recommendation 2 of Order 05.
- ✓ The plan contains a detailed description of the corrective actions taken to address each specific violation and outlines how the company will stay in compliance with each requirement in the future.
- ✓ The plan provides names and titles of company personnel who have responsibility to ensure compliance with safety rules and regulations. It also clarifies that these personnel are authorized and required to hold staff accountable for following safety requirements.
- ✓ The plan spells out the expectations of company staff related to safety requirements. Updated safety policies and procedures are included.
- ✓ The plan contains a statement indicating that the company reviewed and updated its training programs and provides a description of the updated training that focuses on the

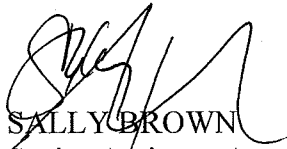
areas where violations were discovered. Annual safety training requirements have been established for all personnel. Updated training plans are included.

- ✓ The plan contains a statement verifying the review and update of the company's policies and procedures to ensure a corrective action plan for staff that do not comply with safety requirements. Updated policies and procedures are included.
- ✓ The plan includes a description of an internal auditing program that will help ensure ongoing compliance with USDOT requirements.

Staff believes the company's safety management plan meets the requirements of Order 05, and 49 CFR Part 385, and recommends that Ride the Ducks of Seattle's safety rating be upgraded to conditional. We request the Commission issue the attached letter to Brian Tracey of Ride the Ducks of Seattle, LLC prior to January 29.

Thank you for your consideration.

Sincerely,



SALLY BROWN
Senior Assistant Attorney General

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Enclosures:

RTDS Plan

Commission Staff letter to RTDS

cc: Parties