

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

SEVENTH GENERATION,

Respondent.

DOCKET TE-140414

NARRATIVE SUPPORTING
SETTLEMENT AGREEMENT

I. INTRODUCTION

1 This Narrative Supporting Settlement Agreement (Narrative) is filed pursuant to Washington Administrative Code (WAC) 480-07-740(2)(a) on behalf of both Seventh Generation (“Seventh Generation” or “Company”), and the Staff of the Washington Utilities and Transportation Commission (“Staff”) (collectively, “the Parties”). Both parties have signed the settlement agreement (Agreement), which is being filed concurrently with this Narrative. This Narrative summarizes the Agreement. It is not intended to modify any terms of the Agreement.

II. PROPOSALS FOR REVIEW PROCEDURE

2 The Parties submit that this matter is considerably less complex than a general rate proceeding and request that review proceed on a timetable for less complex matters, as

provided in WAC 480-07-740(1)(b). To the knowledge of either party, there are no opponents of the settlement. Because of the less complex nature of this matter and the uncontested status of the settlement, the Parties concur that a formal settlement hearing along with the opportunity for public comment are unnecessary in this case.

3 The Parties do not intend to file documentation supporting the Agreement, with the exception of the Agreement itself and this Narrative. If the Commission requires supporting documents beyond the Agreement, Narrative, and the other documents on file in this docket, the Parties will provide documentation as needed.

4 In keeping with WAC 480-07-740(2)(b), the Parties are prepared to present one or more witnesses each to testify in support of the proposal and answer questions concerning the Agreement's details, and its costs and benefits, should such testimony be required. In addition, representatives of both Parties are available to respond to any questions regarding the proposed settlement that the Commission may have.

5 The Parties request a streamlined review of the proposed settlement. To that end, the Parties would prefer an informal review on a paper record. In accordance with WAC 480-07-730, the Parties propose the foregoing procedural alternatives for review of the proposed settlement agreement.

III. SCOPE OF THE UNDERLYING DISPUTE

6 The underlying dispute concerns a Complaint issued by the Commission against Seventh Generation on April 17, 2014, seeking to impose penalties for two violations of RCW 81.70.220 – Engaging in business as a charter party carrier without a certificate from

the Commission, and two violations of RCW 81.70.260 – Engaging in business as a charter party carrier after cancellation of a certificate by the Commission.

7 The Commission held a prehearing conference on May 19, 2014. Subsequently, the Parties negotiated and reached a full settlement of the dispute.

IV. DESCRIPTION OF PROPOSED SETTLEMENT

8 The settlement resolves all of the issues in dispute. Seventh Generation admits that it violated the Commission statutes set forth in the Complaint. Furthermore, the settlement provides for payment of a \$1,600 penalty, which represents the amount of revenue Seventh Generation collected for the two charter trips it provided without authority from the Commission, and suspension of a \$2,400 penalty for a limited period of time on condition of compliance. The settlement provides that Staff will recommend the suspended penalty be waived after one year if the Company maintains its current charter party and excursion service carrier certificate (charter certificate) in good standing and achieves a “Satisfactory” Safety Rating if Staff conducts a compliance review of the Company during the year.

V. STATEMENT OF PARTIES’ INTERESTS AND THE PUBLIC INTEREST

9 As stated in the Agreement, the settlement represents a compromise of the positions of the Parties. The Parties find it is in their best interests to avoid the expense, inconvenience, uncertainty, and delay inherent with a litigated outcome. Likewise, it is in the public interest that this dispute conclude without the further expenditure of public resources on litigation expenses. Finally, Staff is satisfied that the settlement is consistent with its efforts to protect public safety. The penalty and suspended penalty in this settlement

recognize the seriousness of the violations that were found as well as provide a financial incentive for future compliance. Seventh Generation currently holds a charter certificate from the Commission and has committed to keeping the certificate in good standing, including maintaining proof of the required liability and property damage insurance on file with the Commission, and timely filing all required annual reports and regulatory fees. If Commission staff conducts a safety compliance review of Seventh Generation within the one-year compliance period, the Company must achieve a "Satisfactory" Safety Rating as a result of that review. A compliance review is a comprehensive, onsite examination of operations to determine whether a motor carrier meets the safety fitness standard. To meet the safety fitness standard, a motor carrier must demonstrate that it has adequate safety management controls in place to ensure compliance with the applicable safety requirements.

VI. LEGAL POINTS THAT BEAR ON PROPOSED SETTLEMENT

10

In WAC 480-07-700, the Commission states its support for parties' informal efforts to resolve disputes without the need for contested hearings when doing so is lawful and consistent with the public interest. The Parties have resolved all of the issues in dispute between them, and their resolution complies with Commission rules and, as explained above, is consistent with the public interest.

VII. CONCLUSION

11 Because the Parties have negotiated a compromise on all of the issues in this dispute and because the settlement is in the public interest, the Parties request that the Commission issue an order approving the Agreement in full.

Respectfully submitted this 26 of May 2014.

ROBERT W. FERGUSON
Attorney General



MICHAEL A. FASSIO
Assistant Attorney General
Counsel for the Washington Utilities and
Transportation Commission



DAVID HARE
Owner
Seventh Generation