

[Service Date March 18, 2011]

March 18, 2011

**NOTICE OF STAFF RECOMMENDATION FOR FUEL SURCHARGES,
OPPORTUNITY TO FILE WRITTEN COMMENTS,
AND OPEN MEETING
(Set for 9:30 a.m., Thursday, April 14, 2011)**

RE: Fuel Surcharge Inquiry
Docket T-101661

TO: REGULATED AUTO TRANSPORTATION COMPANIES

This Notice is provided to advise companies of the Staff's recommendation to the commission, that companies can file additional written comments, which are due **April 1, 2011**, and that the commission will consider this matter at the April 14, 2011, open meeting.

SUMMARY

The commission opened an inquiry in Docket T-101661 to consider whether to adopt, by rule, methods for determining the circumstances under which it will permit auto transportation companies to impose a surcharge for fuel costs, and the methods of calculating any such fuel surcharge. The commission held two workshops attended by representatives from three auto transportation companies.

Order 04 in Docket A-042090 clarifies that Order 02 remains in effect and is now scheduled to expire May 2, 2011.

After considering written comments and the discussions at the two stakeholder meetings, staff recommends the commission:

1. Eliminate the current fuel surcharge methodology for auto transportation companies effective May 2, 2011, as scheduled.

2. Allow auto transportation companies to implement deferred accounting for fuel expense. Establish deferred accounting for fuel expense by separate order for each company.
3. Any company can file a proposed rate change using any other methodology. Those filings must comply with the commission's rules and regulations.

BACKGROUND

The following shows each company's revenue from its last rate case and its 2009 Annual Report. Three companies, CWA, Inc. (116 percent), SeaTac Shuttle, LLC (190 percent), and Bremerton-Kitsap Airporter, Inc. (32 percent), have grown significantly since their last rate case. Because of the length of time since the company's last rate case, the growth of the companies since the last rate case, and the operating ratios reported on their 2009 annual reports, staff has no confidence the current rates are fair, just, reasonable and sufficient.

Table 1
Growth Since The Company's Last Rate Case

<u>Company</u>	<u>Last Rate Case</u>		<u>2009 Annual Report</u>		<u>Increased</u>
	<u>Effective</u>	<u>Revenue</u>	<u>Revenue</u>	<u>Operating Ratio</u>	<u>Revenue Since Last Rate Case</u>
CWA, Inc.	March-04	\$ 449,569	\$ 971,848	56.5%	116%
SeaTac Shuttle, LLC	March-05	\$ 596,286	\$ 1,728,071	72.7%	190%
Wickkiser International Companies, Inc.	August-05	\$ 3,579,908	\$ 3,950,173	99.5%	10%
Capital Aeroporter	March-06	\$ 2,307,029	\$ 2,623,209	94.8%	14%
Bremerton-Kitsap Airporter, Inc.	April-06	\$ 1,234,440	\$ 1,628,679	92.9%	32%
Shuttle Express, Inc.	February-08	\$ 12,563,167	\$ 13,613,383	90.9%	8%

Annual report data is not audited and may not accurately reflect a company's financial position from a regulatory perspective. For example, Bremerton-Kitsap Airporter, Inc., filed a rate case in Docket TC-001846, using a twelve-month test period ending September 2000. The rate case filing showed a "per books" operating ratio of 107.9 percent.¹ After hearing, the commission concluded the company's per books operating ratio was 81.9 percent. The primary restating adjustment was to decrease officer salary from \$421,000 to \$82,500, a decrease of \$338,500.

¹ The 1999 Annual Report shows a 99.6 percent operating ratio and the 2000 Annual Report shows a 104.2 percent operating ratio.

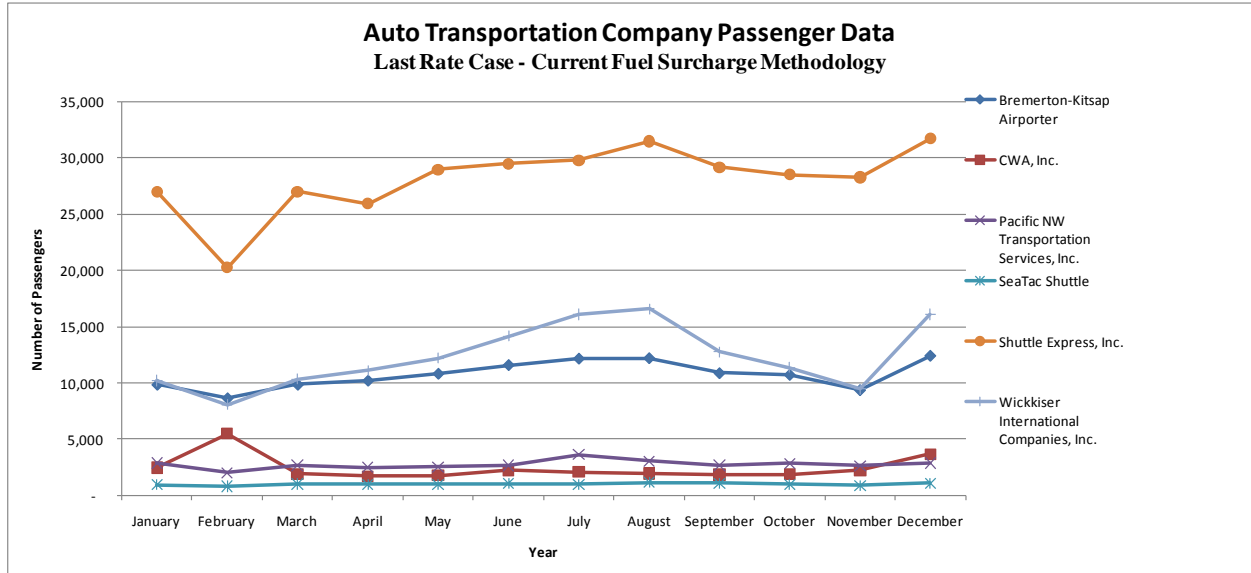
Table 2
Bremerton - Kitsap Airporter, Inc. – Docket TC-001846

Bremerton-Kitsap Airporter, Inc. - Docket TC-001846			
<u>Company</u>	<u>Per Books</u>	<u>Restating Adjustments</u>	<u>Per Books Restated</u>
Total Revenue	\$ 1,653,071	\$ 15,923	\$ 1,668,994
Officer Salary	\$ 421,000	\$ (338,500)	\$ 82,500
Fuel	\$ 189,282	\$ (22,984)	\$ 166,298
Depreciation	\$ 124,076	\$ (33,086)	\$ 90,990
Rent	\$ 60,000	\$ (17,885)	\$ 42,115
Other	\$ 989,474	\$ (4,204)	\$ 985,270
Total Operating Expense	\$ 1,783,832	\$ (416,659)	\$ 1,367,173
Net Operating Income	\$ (130,761)	\$ 432,582	\$ 301,821
Operating Ratio	107.9%		81.9%

Auto Transportation companies operate primarily to and from the airport. The customer base does not generally use the service with consistent frequency. This is different from the solid waste industry where haulers generally serve the same customers, or at least the same addresses, daily, weekly, or every-other-week.

The number of passengers transported varies by time of year (e.g. December is a high travel period with the holidays), and is affected by external factors such as concerns with security, the price of airline tickets, the general economy, concerns with the level of discretionary income, etc. The following data is taken from the companies' last rate case, which are dated.

Table 3
Passenger Data – Company’s Last Rate Case



Fuel expense, as a percent of total revenue, varies by company. The following table shows the fuel expense used in the company’s last rate case as a percent of revenue and the average fuel price for each company. Bremerton-Kitsap reported that its fuel expense, as a percent of revenue, increased from 11.0 percent in its April 2006 rate case, to 18.1 percent in 2008 and 15.3 percent in 2009.

Table 4
Fuel Data – Company’s Last Rate Case

Company	Base Revenue	Base Fuel Expense	Base Fuel Expense as Percent of Revenue	Base Period Average Fuel Price (Rate Case)
Bremerton-Kitsap Airporter	\$2,019,303	\$222,978	11.0%	\$1.61
CWA, Inc.	\$189,255	\$40,100	21.2%	\$1.38
Pacific NW Transportation Services, Inc.	\$1,003,173	\$123,032	12.3%	\$2.32
SeaTac Shuttle	\$319,060	\$20,944	6.6%	\$1.969
Shuttle Express, Inc.	\$11,407,332	\$1,208,310	10.6%	\$2.74
Wickkiser International Companies, Inc.	\$3,203,469	\$300,726	9.4%	\$2.008

Fuel expense is related to the type of fuel used (gasoline, diesel, CNG, electric), units consumed (gallons, cubic feet, watts) and unit price. As companies upgrade fleets to vehicles that use alternate fuels, the relationships become more complex.

The commission currently uses an operating ratio methodology (operating expense ÷ total revenue), with a 93 percent target, to calculate a company's revenue requirement. The last commission decision that set rates for an auto transportation company was issued in docket TC-001846², and the commission used a 93 percent operating ratio in that docket.

CURRENT METHODOLOGY

The current fuel surcharge method is flawed in the following respects.

- It is not a surcharge. A surcharge is intended to address a significant change in a significant cost element, not otherwise offset by other factors, over a short period of time. Base fuel cost, the relationship of fuel expense to revenue, customer counts, etc. are “frozen” at the levels in the company's last rate case. Companies that have not filed a rate case for more than five years receive monthly fuel surcharges that increase rates to customers.
- It allows fuel surcharges using calendar year 2004 as the base fuel period.
- Companies file voluntarily. Companies are not required to file when fuel costs fall below the level that would require the company to provide customers a credit.
- There is no updating mechanism. Companies can rely on fuel surcharges to provide additional revenue instead of filing a rate case.

There has been continuing controversy regarding the following elements of the fuel surcharge methodology:

- Sharing risk between the company and the customers. The current methodology uses a one percent of total revenue threshold or “dead band”. Companies are allowed to recover the amount of fuel increase that exceeds the “dead band”. The “dead band” increases the amount that the price of fuel would need to increase for a company to become eligible to file a fuel surcharge. Companies want to eliminate, or at least decrease, the one percent threshold, which would allow companies to qualify for more frequent, higher fuel surcharges, and earn more revenue and higher profits.
- Filing frequency. Current practice is to allow companies to file fuel surcharges whenever they wish, but limit the length of the surcharge to 30 days. Staff thinks monthly changes are too frequent. A six-month period would level out fuel fluctuations and require fewer resources for the company to file changes and for staff to review the filings.

² 5th Supplemental Order, Docket TC-001846, II: Discussion and Decision, (F) Operating Ratio, at page 15.

The current methodology also has suffered from numerous administrative problems which require staff resources to correct:

- Companies not making timely filings.
- Companies not properly counting weekends, holidays and, most recently, temporary layoff days when publishing the effective date on their tariffs.
- Continuing errors with preparing tariff pages and LSN orders that frequently require staff to contact the company to file corrections and replacement tariff pages.

INDUSTRY PROPOSALS

SeaTac Shuttle, LLC

Continue to use the current surcharge methodology with the following adjustments:

1. Use the most recent surcharge calculation as the base surcharge.

Staff Response: Staff believes the current methodology is fundamentally flawed because it uses data from the company's last rate case. SeaTac Shuttle LLC's last rate case was in 2005, when its total revenue was \$596,286, compared to \$1,728,071 reported on the company's 2009 annual report.

2. Effective for a calendar month.

Staff Response: Staff agrees. Time periods different than a month have caused many problems with filing petitions in a timely manner and calculating the correct expiration dates.

3. Use the EIA western Index instead of actual invoice prices.

Staff Response: Staff agrees that using an index is appropriate. Staff has used the OPIS Western and Eastern fuel indexes for the solid waste companies and found them to be accurate for the purpose of calculating the effect of price changes. Staff has not completed an analysis of the EIA index.

4. Use a six-month average for passenger count.

Staff Response: Staff recognizes that customer counts vary by month or season and are impacted by external factors. Passenger data from the last rate case shows that, for most companies, six-month average passenger counts vary from 12-month average passenger counts by about plus or minus five percent. However, one company's data

varies by about plus or minus 12 percent and another by about plus or minus 21 percent. We agree that using monthly data is unwarranted, and suggest that a 12-month average would be more representative than a six-month average.

5. For each company, calculate the applicable surcharge for a range of price increases and prepare a table that shows a range of fuel prices and the applicable surcharges.

Staff Response: Staff agrees this extra step to create a look-up table would avoid the need for repeated calculations and simplify the process. However, companies would still need to file surcharge supplements and the commission would still need to issue orders allowing rate changes on less than statutory notice.

If the commission decides to allow fuel surcharges, staff will work with the companies to incorporate some of these elements into the methodology.

Bremerton-Kitsap Airporter, Inc.

As stated in its January 12, 2011, letter:

“In summary, I recommend the current methodology for determining the amount of fuel surcharge remain intact and further recommend dropping the 1% factor from the worksheet. If alternate considerations are to be made, then we propose that banded rates similar to another regulated state (Illinois) be considered as shown on enclosure. Retain the base charge in the company’s last rate case.”

1. Maintain the current methodology.

Staff Response: Staff disagrees. As previously stated, staff believes the current methodology is fundamentally flawed.

2. Drop the 1% factor from the worksheet.

Staff Response: Staff disagrees. The one percent factor ensures a sharing of risk between the company and customers.

3. Banded rate – 25% net change over a year set forth in Illinois statute.

Staff Response: Staff disagrees. Staff’s investigation into this issue during the commission’s Auto Transportation Rate Making Rulemaking, Docket TC-060177, found that Illinois regulated fixed route carriers and scheduled operations to and from the airport. Illinois issues certificates to any company that applies and provides insurance, so-called “open entry”. That is similar to this commission’s entry standard for household goods carriers, for which the commission uses a 25 percent rate band.

However, Washington statutes prevent the commission from granting a competing operating authority for auto transportation service unless the commission finds that the existing company will not provide service to the satisfaction of the commission, or when the existing auto transportation company does not object. (RCW 81.68.040) Staff recommends the commission's rate regulation appropriately matches the level of rate regulation with the restricted entry provisions.

Capital Airporter

Capital Airporter proposed the following:

1. Use previous year's total fuel gallons. Multiply by the difference in current and base year fuel prices to determine total increased fuel cost—divide by 12 for average monthly increased fuel cost.

Staff Response: The difference in current and base year fuel price may be a decrease.

2. Divide by average of last year's current and following month's number of passengers (reflects more accurate seasonal changes and dampens significant month to month changes)

Staff Response: Staff recognizes that customer counts vary by month or season and are impacted by external factors. Passenger data from the last rate case shows that, for most companies, six-month average passenger counts vary from 12-month average passenger counts by about plus or minus five percent. However, one company's data varies by about plus or minus 12 percent and another by about plus or minus 21 percent. We agree that using monthly data is unwarranted, and suggest that a 12-month average would be more representative than a six-month average.

3. Divide average monthly fuel cost increase by 2-month average number of passengers to determine the average cost per passenger.

Staff Response: Staff recommends using a 12-month average passenger count.

4. Round to \$.25, or optionally \$1 or \$.05.

Staff Response: Staff believes that the company should decide if, and how, to round fares.

5. Eliminate the 14% (1 of 7%--93% ratio) since rounding already requires over 50% before fuel surcharge can be applied, especially if \$1 rounding is opted.

Staff Response: Staff disagrees.

Rounding is independent of the threshold or “dead band”. Fares are rounded up (e.g. 12.7 cents rounds to 25 cents) and down (e.g. 12 cents rounds to zero), and offset each other.

Staff continues to believe the current one percent threshold, “dead band”, is appropriate. The threshold shares risk between the company and customers. With no threshold, the company bears little, or no, risk. Risk is the basis for reward. With no risk, the company should earn no reward on fuel expense. That would transform the current fuel surcharge methodology, which was designed to provide companies relief from large changes in fuel prices (so-called “spikes”), into a fuel expense guarantee methodology.

THRESHOLD REQUIREMENT

Staff recommends that the commission not allow fuel surcharges for carriers that have not had a rate case within the last three years. A rate case typically uses data that is about a year old, which means that a three-year old rate case is based on four-year old operations of the test period.

Immediately after a rate case, staff has a high degree of confidence that the rates are fair, just, reasonable and sufficient. That confidence decreases as time passes.

Fuel surcharges are a simplified method to change rates with no consideration of need, no consideration of other factors that might offset the need for additional revenue, and no burden to demonstrate that the resulting rates are fair, just, reasonable, and sufficient.

The length of time since the last rate case is not the issue. The issue is whether or not there have been changes in the company’s operations. Some companies may operate in a very stable market, with very constant operating characteristics. However, as the length of time since the last rate case increases, changes are more likely, and the rate case data and operations are less representative of current operations: Newer vehicles may have greater capacity and get better fuel mileage, number of customers change, etc.

Three companies, CWA, Inc. (116 percent), SeaTac Shuttle, LLC (190 percent), and Bremerton-Kitsap Airporter, Inc. (32 percent), have grown significantly since their last rate case.

If the commission adopts a threshold time period since a company's last rate case, staff recommends that it be used only as a guideline and that it be three years.

STAFF RECOMMENDATION - DEFERRED ACCOUNTING

Staff recommends that the commission require each company to implement deferred accounting for fuel expense during the company's next rate case.

The purpose of a surcharge or deferral is to address changes in fuel cost. The total cost to the customer – base fare plus any surcharge or deferral - must still be fair, just, reasonable and sufficient. For the auto transportation companies, staff has no confidence that the current rates are fair, just, reasonable and sufficient, let alone rates that are increased due to a surcharge or deferral.

Auto transportation companies must demonstrate that the current rates are fair, just, reasonable and sufficient before the commission approves surcharges or deferral to increase those rates.

Deferred accounting ensures that companies recover actual expenses and that customers pay what they should. Because deferral guarantees recovery, the company bears no risk. Because there is no risk, the company should not earn any profit on fuel expenses and the commission should remove fuel expense from the calculation of the company's revenue requirement as follows:

$$\begin{array}{r}
 \text{Net Operating Expense} \\
 - \text{Fuel Expense} \\
 \text{Net Operating Expense – Fuel} \\
 \div \underline{.93} \\
 \text{Revenue Requirement without Fuel Expense} \\
 + \text{Fuel Expense} \\
 \text{Total Revenue Requirement}
 \end{array}$$

WRITTEN COMMENTS

Written comments addressing fuel surcharges as listed above must be filed with the Commission no later than 5:00 pm, **Friday, April 1, 2011**. The Commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be submitted via the Commission's Web portal

(www.utc.wa.gov/e-filing) or by electronic mail to the Commission's Records Center at records@utc.wa.gov. Please include:

- The docket number of this proceeding (T-101661)
- The commenting party's name
- The title and date of the comment or comments

An alternative method for submitting comments is by mailing or delivering an electronic copy to the Commission's Records Center on a 3-1/2 inch, IBM formatted, high-density disk, in .pdf Adobe Acrobat format or in .doc Word 97 or later format. Include all of the information requested above. The Commission will post on its web site all comments that are provided in electronic format. The web site is <http://www.utc.wa.gov/101661>.

If you are unable to file your comments electronically or to submit them on a disk, the Commission will always accept a paper document. Questions may be addressed to David Gomez at (360) 664-1240 or e-mail at dgomez@utc.wa.gov.

Your participation is welcomed via written comments. Information about the schedule and other aspects of the proceeding, including comments, will be posted on the commission's web site as it becomes available. If you would like to receive further information on this proceeding you may 1) call the Commission's Records Center at 360-664-1234, 2) e-mail the Commission at records@utc.wa.gov, or 3) mail written comments to the address below. When contacting the Commission, please refer to Docket T-101661 to ensure that you are placed on the appropriate service list. The Commission's mailing address is:

Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, Washington 98504-7250

NOTICE

Persons filing comments will be included on the distribution list for future information about this proceeding. If you want to receive such information but do not want to comment now, you may notify the Executive Director and Secretary in one of the ways described above and ask to be included on the distribution list for Docket T-101661. If you do not file comments or request to be included on the distribution list, you might not receive further information about this proceeding.

OPEN MEETING CONSIDERATION

The commission will consider Staff's recommendation and the comments of interested parties at its regularly scheduled Open Meeting on April 14, 2011.

Sincerely,

DAVID W. DANNER
Acting Executive Director and Secretary