

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Amending)	DOCKET TC-060177
)	
WAC 480-30-306)	
)	GENERAL ORDER NO. R-539
Relating to Auto Passenger)	
Transportation Tariffs and Time)	
Schedules, One Calendar Day Notice)	ORDER AMENDING RULE
of Fare Reductions)	PERMANENTLY
)	
.....)	

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (Commission) takes this action under Notice WSR # 06-16-135, filed with the Code Reviser on August 2, 2006. The Commission brings this proceeding pursuant to RCW 80.01.040 and RCW 80.04.160.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 **DATE OF ADOPTION:** The Commission adopts this rule on the date that this Order is entered.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325(6) requires the Commission to prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must identify the Commission’s reasons for adopting the rule, a description of the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), a summary of the comments received regarding the proposed rule changes, and the Commission’s responses to the comments reflecting the Commission’s consideration of them.

5 In this docket, to avoid unnecessary duplication, the Commission designates the discussion in this Order, including appendices, as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda preceding the filing of the CR-102 proposal and the adoption hearing. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

6 **REFERENCE TO AFFECTED RULES:** This Order amends the following section of the Washington Administrative Code:

Amend WAC 480-30-306 Tariffs and time schedules, one calendar day notice to the commission.

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**

THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on February 15, 2006, at WSR # 06-05-114.

8 The statement advised interested persons that the Commission was considering entering a rulemaking to propose rules in chapter 480-30 WAC relating to rates (fares) and ratemaking for passenger transportation companies regulated under chapter 81.68 RCW, and consider whether the Commission should adopt rules and/or recommend statutory changes to the legislature. The Commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3), the Commission's list of all auto transportation companies, persons interested in transportation issues, as well as attorneys representing these companies, and by posting all information on the Commission's Web site at www.wutc.wa.gov/060177.

9 **MEETINGS OR WORKSHOPS; ORAL COMMENTS:** SeaTac Shuttle, LLC, Washington State Department of Transportation (WSDOT), and Bremerton-Kitsap Airporter, Inc., submitted written comments during the inquiry phase.

- 10 The Commission held a rulemaking workshop on April 27, 2006, June 1, 2006, and June 16, 2006. The following companies and organizations participated in one or more of the stakeholder workshops: Mike Lauver and John Solin, SeaTac Shuttle; Dick Asche and Jim Sells, Bremerton-Kitsap Airporter; Richard Johnson and Larry Wickkiser, Airporter Shuttle; James and Shirley Fricke, Capital Airporter; John Rowley, Jimmy Sherrell, Steve Salins and Connie Jones, Shuttle Express; Dan Wayne, WSDOT; Fred Fravel, consultant to WSDOT; Peg Motley, Wheatland Express; Andy Frank, Port of Seattle; David Beagle, Evergreen Trails; David Rice, Miller Nash LLP; and Harum Tolbert, Department of Licensing.
- 11 On July 17, 2006, Chairman Mark Sidran sent a letter to all interested persons stating that “making a finding of effective competition within the transportation market is an important precursor to being more flexible in our approach to approving fares.” In addition, the letter states that the Commission has decided to pursue legislation to give the Commission the flexibility needed to tailor entry and fare-setting standards to the market conditions within specific geographic areas. The Commission therefore does not at this time consider some proposed rule changes discussed in this docket.
- 12 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on August 2, 2006 at WSR # 06-16-135. The Commission scheduled this matter for oral comment and adoption under Notice WSR # 06-16-135 at 1:30 p.m., Wednesday, September 13, 2006, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice provided interested persons the opportunity to submit written comments to the Commission.
- 13 **WRITTEN COMMENTS:** The Commission received written comments from SeaTac Shuttle, LLC and Bremerton-Kitsap Airporter, Inc., regarding its legislation proposal, however, there were no comments received regarding the specific rule proposal.
- 14 The Commission received a motion from SeaTac Shuttle on September 13, 2006, asking that the Commission postpone the adoption hearing for ninety days to give Staff additional time to consider comments regarding ratemaking (fare) methodologies. The Commission declines to extend the schedule. The agency's

adjudicative rules do not apply to rulemaking proceedings. As noted above, the agency will suggest legislative changes to promote flexibility with fares. Further review of methodologies is not necessary at this time. After extensive discussion among commenters, we believe that this approach is adequate for current regulatory purposes.

15 **RULEMAKING HEARING:** The Commission considered the proposed rule for adoption at a rulemaking hearing on Wednesday, September 13, 2006, before Chairman Mark H. Sidran, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones. The Commission heard oral comments from John Solin on behalf of Whidbey SeaTac Shuttle, LLC.

16 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend the rule as proposed in the CR-102 at WSR # 06-16-135.

17 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-30-306 should be amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

ORDER

18 **THE COMMISSION ORDERS:**

19 (1) The Commission amends WAC 480-30-306 to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the Code Reviser pursuant to RCW 34.05.380(2).

20 (2) This Order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, November __, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

Note: The following is added at Code Reviser request for statistical purposes:

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.