

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper
Carrier Classification of, and Complaint
for Penalties Against

TO THE MOUNTAIN SHUTTLE, LLC

DOCKET TE-250055

ORDER 02

APPROVING SETTLEMENT
AGREEMENT SUBJECT TO
CONDITIONS

1 **Nature of Proceeding.** On February 13, 2025, the Washington Utilities and Transportation Commission (Commission) entered Order 01, Instituting Special Proceeding; Complaint Seeking to Impose Penalties; Notice of Virtual Hearing (Order 01). Order 01, among other things, alleged that To The Mountain Shuttle, LLC (To The Mountain or Company) violated Revised Code of Washington (RCW) 81.70.260(1) at least 11 times between May 21, 2024, and January 27, 2025, by:

- (1) providing charter party or excursion carrier services by transporting passengers to and from the Snoqualmie Pass Ski Area at least twice after its certificate was cancelled by the Commission;
- (2) offering to provide charter party or excursion carrier service to transport passengers after its certificate was cancelled by the Commission at least once; and
- (3) advertising to provide charter party or excursion carrier service to transport passengers at least eight times after its certificate was cancelled by the Commission

without first obtaining the necessary certificate required for such operation from the Commission.

2 **Procedural History.** Order 01 scheduled a virtual hearing concerning the complaint for 9:30 a.m. on March 26, 2025, before Administrative Law Judge (ALJ) Harry Fukano.

3 **Hearing Waiver.** On March 3, 2025, the Company filed a signed hearing waiver with the Commission, waiving its right to a hearing in this matter, admitting to the violations alleged in Order 01, and requesting the Commission render a decision without a hearing.

- 4 **Settlement Agreement.** On March 3, 2025, the parties filed a settlement agreement (Settlement) that resolves all contested issues in this proceeding. On March 5, 2025, the parties filed a revised settlement agreement.
- 5 On March 25, 2025, the presiding ALJ contacted the parties to clarify how many violations the Company was admitting to in the admission contained in paragraph 4 of the Settlement. The same day, Commission staff (Staff)¹ clarified that the admission in paragraph four was intended to reflect an admission to the 11 violations alleged in Order 01. On March 26, 2025, the Company also confirmed that the admission in paragraph four was intended to reflect an admission to the 11 violations alleged in Order 01.
- 6 **Appearances.** Kathryn McPherson, Passenger Carrier Compliance Investigator, Lacey, Washington, represents Staff. Meghann White, Seattle, Washington, represents the Company, *pro se*.

DISCUSSION

- 7 **Applicable Law.** WAC 480-07-750(2) states in part “[t]he commission will approve a settlement if it is lawful, supported by an appropriate record, and consistent with the public interest in light of all the information available to the commission.” Thus, the Commission considers the individual components of the Settlement under a three-part inquiry, asking:
- Whether any aspect of the proposal is contrary to law;
 - Whether any aspect of the proposal offends public policy; and
 - Whether the record evidence supports the proposed elements of the proposal as a reasonable resolution of the issue(s) at hand.

In considering a settlement, the Commission must determine one of three possible results:

- Approve the proposed settlement without condition;
- Approve the proposed settlement subject to conditions; or
- Reject the proposed settlement.

¹ In formal proceedings such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

- 8 **Settlement.** Pursuant to the Settlement, To The Mountain admits that it violated RCW 81.70.260 on two occasions by (1) offering to provide, (2) providing, and (3) advertising to provide charter party and excursion carrier service without first obtaining the necessary certificate required for such operation from the Commission. Both Staff and To The Mountain clarified that this admission encompasses the 11 violations alleged in Order 01. Consequently, To The Mountain admits that it committed 11 violations of RCW 81.70.260. The Company also admits that it operated as a charter party or excursion service carrier subject to the jurisdiction of the Commission.
- 9 The parties further agree that the Company should be assessed a \$55,000 penalty, \$50,000 of which should be suspended for a period of two years and waived, provided that the Company does not operate as a charter party or excursion service carrier without authority from the Commission. The remaining \$5,000 penalty would be due and payable by the Company upon the Commission's approval of the Settlement, subject to a payment plan of \$500 per month as identified in the Settlement. The parties agree that if To The Mountain misses a payment, the entire amount of the penalty, including the \$50,000 suspended portion of the penalty, would become due and payable the day after the missed penalty was due. The parties further agree that any prepayment of the penalty amount will be credited to the last date an installment is due and will not relieve the Company of its obligation to make its next scheduled payment.
- 10 Finally, the parties agree that Staff will conduct compliance reviews of the Company every six months to ensure To The Mountain has no ongoing violations. To The Mountain further agrees to: 1) notify both the Department of Revenue and the Secretary of State offices that the Company is no longer operating and close its business; 2) surrender vehicle registration to the Department of Licensing for vehicle plates CLM2945, D6255E, CFU9988, and D62202B, as the Company does not have current liability insurance required to operate; and 3) close all advertising platforms, including www.tothemountainshuttle.com, Facebook page, Instagram page, and any other marketing formats currently used to offer services.
- 11 **Decision.** The Commission approves the Settlement subject to three conditions. First, the Settlement indicates that Staff may seek to impose the suspended portion of the penalty if the Company operates as a charter party or excursion carrier without obtaining the required authority to do so from the Commission but does not expressly impose a similar condition with respect to the Company's other obligations under the Settlement. In the interest of having appropriate incentives for compliance with the terms of the Settlement, the Commission modifies the terms of the penalty, such that Staff may seek to impose the

suspended portion of the penalty in the event that the Company fails to comply with its obligations under the Settlement.

- 12 Second, the Commission notes that the Settlement does not indicate the period of time over which Staff will conduct six-month compliance reviews of the Company. The Commission determines that it is reasonable to limit the compliance reviews to a period of two years following the effective date of this Order, to occur at 6, 12, 18, and 24 month intervals. This period is consistent with the two-year term of the suspended penalty provided for in the Settlement. To clarify, this condition should not be interpreted as otherwise limiting Staff's authority to investigate the Company in the event that other violations are reported or discovered.
- 13 Third, given the timing of this Order, the Commission observes that the Company will not be able to make the first anticipated payment plan deadline under the Settlement, as the initial order will not become effective until after April 1, 2025. Therefore, the Commission conditions its acceptance of the Settlement on removing the April 1, 2025, deadline, and adding an additional deadline of March 2, 2026, the first business day of the first month following the last month of the parties' proposed payment plan schedule.
- 14 The Commission finds that the parties made concessions relative to their respective litigation positions to arrive at end results that are supported by the evidence in the record. To The Mountain admits that its conduct violated Commission statutes and has agreed to cease operations as a charter party or charter excursion carrier unless it obtains required authority from the Commission to do so. The Company has also committed to removing the advertisements that were the basis for some of the violations alleged in the Complaint. The Settlement further supports the Commission's goal of compliance by allowing the Company to pay a reduced penalty of \$5,000 and suspending, then waiving after two-year compliance, the \$50,000 suspended portion of the penalty conditioned on the Company complying with the terms of this Order and timely pay the \$5,000 portion of the penalty.
- 15 The terms of the Settlement are lawful, supported by the record, and consistent with the public interest in light of all of the information available to the Commission. Accordingly, the Commission should approve the Settlement as filed, subject to the conditions described above.

FINDINGS AND CONCLUSIONS

- 16 (1) The Commission is an agency of the state of Washington vested by statute with authority to regulate persons engaged in the business of providing charter party and excursion carrier service for compensation over public roads in Washington.
- 17 (2) The Commission has jurisdiction over the subject matter of this proceeding and over To The Mountain.
- 18 (3) The Settlement proposed by the parties is not complex and is unopposed.
- 19 (4) The Settlement is not contrary to law or public policy, is supported by the record developed in this proceeding, is consistent with the public interest, and reasonably resolves all issues in this proceeding.
- 20 (5) The Commission should approve the Settlement, subject to the three additional conditions set out in paragraphs 11 to 13 above, and order the penalty amount, conditions, and other terms as proposed by the parties in the Settlement.

ORDER

THE COMMISSION ORDERS:

- 21 (1) The settlement agreement, attached as Exhibit A to, and incorporated into, this Order, is approved and is adopted as the final resolution of all issues in this proceeding subject to the conditions set out in paragraphs 11 to 13 above.
- 22 (2) To The Mountain Shuttle, LLC is classified as a charter party and excursion carrier.
- 23 (3) To The Mountain Shuttle, LLC is ordered to immediately cease and desist operations as a charter party and excursion carrier within the state of Washington without first obtaining the required certificate from the Commission.
- 24 (4) The Commission assesses a penalty of \$55,000 against To The Mountain Shuttle, LLC for 11 violations of RCW 81.70.260. A \$50,000 portion of the penalty is suspended for a period of two years from the effective date of this Order, and waived thereafter, provided that the Company complies with the terms of this

Order, including the terms and obligations of the settlement agreement incorporated into this Order.

- 25 (5) To The Mountain Shuttle, LLC must pay the \$5,000 portion of the penalty that is not suspended in 10 equal monthly installments as set forth in the payment schedule included in the settlement agreement and incorporated into this Order, as modified in paragraph 13. Failure to make a payment pursuant to this schedule will result in the entire penalty amount, including the suspended portion, being immediately due and payable.
- 26 (6) Within 10 days of the effective date of this Order, To The Mountain Shuttle, LLC and Staff must notify the Commission of whether they accept the conditions imposed by this Order
- 27 (7) The Commission retains jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective April 2, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Harry Fukano

HARRY FUKANO

Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-610(7) provides that any party to this proceeding has twenty-one (21) days after the entry of this Initial Order to file a *Petition for Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-610(7)(b). WAC 480-07-610(7)(c) states that any party may file a *Response* to a Petition for review within seven (7) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

Any Petition or Response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5). Any Petition or Response filed must also be electronically served on each party of record as required by WAC 480-07-140(1)(b).