



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
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December 14, 2015

NOTICE OF DETERMINATION NOT TO AMEND ORDER 04

RE: *In re the Application of Speedishuttle Washington, LLC d/b/a Speedishuttle Seattle
For a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in
Furnishing Passenger and Express Service as an Auto Transportation Company,
Docket TC-143691*

TO ALL PARTIES:

On October 10, 2014, Speedishuttle Washington, LLC d/b/a Speedishuttle Seattle (Speedishuttle or Company) filed with the Washington Utilities and Transportation Commission (Commission) an application for a certificate of public convenience and necessity to operate as an auto transportation company (Application).

On November 12, 2014, Shuttle Express, Inc. (Shuttle Express) filed a letter objecting to the application, and on November 20, 2014, Pacific Northwest Transportation Services, Inc. d/b/a Capital Aeroporter Shuttle (Capital Aeroporter) also filed an objection. On January 12, 2015, the Commission conducted a brief adjudicative proceeding at the Commission's offices in Olympia, Washington. On January 22, 2015, the Commission entered Order 02, Initial Order Overruling Objections to New Authority. Shuttle Express and Capital Aeroporter filed petitions for administrative review of Order 02. On March 30, 2015, the Commission entered Order 04, the final order affirming Order 02.

On August 13, 2015, the Commission issued a bench request seeking information from Speedishuttle about the type of service it provides from its recently-installed kiosk at SeaTac International Airport (SeaTac). On August 17, 2015, Speedishuttle responded and provided information about the kiosk's function for providing "walk-up" service, which serves customers who have not made any arrangement with the Company for shuttle service prior to arriving at the airport.

On August 28, the Commission issued a second bench request seeking information about the number of passengers that used Speedishuttle's "walk-up" kiosk in the first 30 days of its operation. The Commission amended that request on August 30 to require only a summary of the requested data.

On September 2, 2015, Speedishuttle filed an objection to the second bench request. On September 9, the Commission issued Order 05, Order Overruling Objection to Bench Request and Requiring Production of Information. On September 15, the Company responded that 669 – or nearly one-third – of its 1,971 total passengers obtained "walk-up" service at the Company's SeaTac kiosk in the kiosk's first 30 days of operation.

This data conflicts with representations that Speedishuttle's CEO, Cecil Morton, made at the January 12, 2015, hearing that the Company would not offer "walk-up" service:

Q: And in terms of reservation, door-to-door service, is there a distinction to be made about prearranged service that you proposing to limit yourself to and, shall we say, walk-up service?

A: Well, the distinction between walk-up service, or on-demand service, is what Shuttle Express operates at the airport today under the concession agreement, which you and I can arrive at the airport and decide what we want to take. Maybe a taxi, black car – excuse me, or shuttle, or a rental car for that matter.

We will not have that service. We would only have prearranged, so that's why we would have greeters in the baggage claim greeting, at the baggage claim, prearranged guests.¹

On November 4, 2015, the Commission issued a Notice of Intent to Amend Order 04 to address this conflict. The Notice cited the Commission's concerns that Order 04 could be interpreted to grant Speedishuttle broader authority than the Company stated at hearing that it intended to provide. The Notice also solicited comments from the parties. On November 25, 2015, Speedishuttle and Commission staff (Staff) filed comments opposing an amendment to Order 04, and Shuttle Express filed comments supporting it.

¹ Morton, TR 48:2-15.

Staff argues in its comments that the Commission's proposed amendment is unnecessary because Speedishuttle is operating within its applied-for authority. It notes that the Company's Application sought authority to operate "DOOR TO DOOR PASSENGER SERVICE BETWEEN Seattle International Airport and points within King County,"² without limiting its Application to exclude prearranged services. Because Speedishuttle's current operations constitute such "door-to-door passenger service," the Company is operating within its authority, and has not attempted to enlarge its authority.

In its comments, Speedishuttle notes that the term "walk-up service" does not appear in the definitions section of WAC 480-30. Rather, the only classes of service defined in the regulation are "door-to-door service," defined in WAC 480-30-036 as "auto transportation company service provided between a location identified by the passenger and a point specifically named by the company in its filed tariff and time schedule," and "on-call service," defined as "unscheduled auto transportation company service provided only to those passengers that have by prior arrangement requested service prior to boarding." The Company argues that neither definition precludes "walk-up" service by a "door-to-door" provider, and that a restriction on "walk-up" service would be unenforceable in light of these definitions.

The Commission has reviewed the parties' comments and has determined that amending Order 04 is unwarranted. We agree with Staff and Speedishuttle that our current rules make no distinction between "prearranged" and "walk-up" door-to-door service. Instead, Commission rules define "door-to-door" service and "scheduled" service only; "door-to-door" service, which Speedishuttle is authorized to provide, encompasses both "prearranged" and "walk-up" service.

We remain troubled by Speedishuttle's representation at hearing that it would not provide "walk up" service, especially as the Commission granted the Application based in part on that testimony. The Commission cannot make fully-informed decisions without parties' complete candor to the tribunal. The Company's subsequent explanation of its testimony as "made in passing" serves to heighten, rather than relieve, our concerns. Indeed, it serves as a warning to the Commission to make certain that, in the future, proper conditions are placed on companies to ensure they adhere to their representations.

² *In re the Application of Speedishuttle Washington, LLC d/b/a Speedishuttle Seattle*, Docket TC-143691, Docket Notice (Oct. 21, 2014).

That said, we recognize that the rules do not prohibit Speedishuttle from offering “walk-up” service, and, once a certificate has been issued, the rules do not permit us to attach conditions to it retroactively. Should the Commission decide to further define “door-to-door” service to distinguish between “prearranged” and “walk-up” service, it will do so in a forum separate from this proceeding.

THE COMMISSION GIVES NOTICE That it has determined not to amend Order 04 in Docket TC-143691.

STEVEN V. KING
Executive Director and Secretary