

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Penalty Assessment
Against

2C CAPTAINS, INC. DBA LET'S
TOUR SEATTLE

In the Amount of \$7,900

DOCKET TE-131923

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 2C Captains, Inc. d/b/a Let's Tour Seattle ("2C Captains" 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. In its Notice of Suspension of Hearing and Requirement to File

Settlement Agreement, the Washington Utilities and Transportation Commission (Commission) did not indicate that a settlement hearing would be necessary for the Commission to issue an order. 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 penalties assessed by the Commission against 2C Captains on October 15, 2013, for violations of WAC 480-30-221, which requires passenger transportation companies to comply with Title 49 Code of Federal Regulations (CFR), and

specifically 49 CFR Part 391 related to qualifications of drivers, and 49 CFR Part 396, related to inspection, repair, and maintenance.

7 2C Captains requested mitigation of the penalty, Staff responded to that request, and the Commission scheduled a hearing. 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. 2C Captains admits that it violated the Commission rule and the federal regulations set forth in the penalty assessment. Furthermore, the settlement provides for payment of a \$2,500 penalty, which represents approximately 30 percent of the amount of the penalty assessment, and suspension of a \$5,400 penalty for a limited period of time on condition of compliance. The settlement provides that the penalty be paid in monthly installments over six months. The settlement also provides that Staff will recommend the suspended penalty be waived if the Company is in full compliance with the rules and regulations at issue in the penalty assessment at its compliance review in April 2014, and also achieves a satisfactory safety rating as a result of that review.

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. 2C Captains has committed to correcting the violations at issue and to achieving a satisfactory safety rating. During compliance reviews, conducted at the carrier's terminal, Staff uses 49 CFR Part 385 (Safety Fitness Procedures), adopted by the Commission under WAC 480-30-221, to determine the overall safety fitness of motor carriers. 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. 2C Captains' last compliance review resulted in a "conditional" safety rating. If the Company achieves a "satisfactory" safety rating at the next compliance review in April 2014, it means that the Company has improved its safety management controls.

VI. LEGAL POINTS THAT BEAR ON PROPOSED SETTLEMENT

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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

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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 30th of December, 2013.

ROBERT W. FERGUSON
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Charles Russell 23 Dec 2013

CHARLES RUSSELL
Owner
2C Captains, Inc. d/b/a Let's Tour Seattle