

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of	)	DOCKET TV-111247
	)	
KAT TRANSPORTATION LLC	)	ORDER 02
	)	
For a Permit to Operate as a Common	)	
Carrier	)	INITIAL ORDER OF DEFAULT AND
	)	DISMISSAL OF BRIEF
	)	ADJUDICATIVE PROCEEDING
.....	)	

- 1 On July 11, 2011, KAT Transportation LLC (KAT or Company) filed with the Washington Utilities and Transportation Commission (Commission) an application for authority to operate as a common carrier in the state of Washington under RCW 81.80 and WAC 480-14.
  
- 2 By notices dated July 11, July 27, August 10, and October 4, 2011, the Commission notified KAT of deficiencies in its application and the requirements needed in order to process its application.
  
- 3 On October 21, 2011, the Commission entered Order 01 – Order Dismissing Application (Order 01). Order 01 dismissed the application filed by KAT for common carrier authority for failure to meet the application requirements in RCW 81.80 and WAC 480-14, specifically failure to register with the Washington Secretary of State as a limited liability company.
  
- 4 On November 2, 2011, KAT filed with the Commission a request for a brief adjudicative proceeding. KAT states that it has been in contact with Commission Staff, has been working with the Secretary of State to obtain the necessary registration, and was unaware that the Company was required to complete that process by a particular deadline to maintain its application.

- 5 On November 9, 2011, the Commission issued a Notice of Brief Adjudicative Proceeding in which it determined pursuant to RCW 34.05.482, WAC 480-14-190, and WAC 480-07-610, that a brief adjudicative proceeding (BAP) would be appropriate for determining whether KAT's application should be reinstated for processing. The Commission scheduled the BAP for November 30, 2011.
- 6 On November 30, 2011, the Commission issued a Notice Rescheduling Brief Adjudicative Proceeding (Second Notice) in response to an informal request the Commission received from KAT on November 29, 2011. KAT requested that the Commission reschedule the BAP because KAT would not be able to attend the BAP in person on November 30, 2011, due to unforeseen circumstances. The Commission rescheduled the BAP to December 14, 2011, at 1:00 p.m., but stated in the Second Notice, "Failure of KAT Transportation to appear in person at this date and time will result in dismissal of the Brief Adjudicative Proceeding."
- 7 On December 14, 2011, at 1:00 p.m., the Commission convened a hearing, as duly noticed, to conduct a BAP. Michael Fassio, Assistant Attorney General, Olympia, Washington, appeared for Commission Staff. KAT did not appear at the hearing. The presiding officer represented on the record that the Commission's Administrative Law Division received a voice mail message at 12:36 p.m. that day from a representative of KAT stating that she had forgotten about the hearing, her car was being repaired, and she was unable to attend the hearing.
- 8 Commission Staff moved that the Commission hold KAT in default for failure to appear and that Order 01 remain in full force and effect. The presiding officer orally granted the motion and adjourned the hearing.
- 9 RCW 34.05.440(2) and WAC 480-07-450 allow the Commission to enter a default or other dispositive order if a party fails to attend a scheduled hearing. The Second Notice expressly notified KAT that the BAP it requested would be dismissed if KAT did not appear. KAT did not appear, apparently because its representative forgot about the hearing – information conveyed in a voice mail message less than half an hour before the hearing was scheduled to begin. Having failed to attend the hearing without adequate cause, therefore, KAT is in default and the BAP it requested is dismissed.

**ORDER**

THE COMMISSION ORDERS THAT:

- 10 (1) KAT Transportation LLC is held in default due to failure to attend the brief  
adjudicative proceeding.
- 11 (2) The brief adjudicative proceeding KAT Transportation LLC requested to  
determine whether its application for a permit to operate as a common carrier  
should be reinstated for processing is DISMISSED. Order 01 remains in full  
force and effect.

DATED at Olympia, Washington, and effective December 15, 2011.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA  
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 480-07-450(2) states that a party held in default has 10 days after service of a default order to file a written motion requesting the order be vacated and the proceeding reopened for further process. The party held in default must state the grounds relied upon, including its reasons for failing to appear.**

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) 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.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An original and **seven (7)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250