

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET TC-121504
)	
SEATAC SHUTTLE, LLC d/b/a)	ORDER 01
WHIDBEY-SEATAC SHUTTLE)	
)	DECLARATORY ORDER
For a Declaratory Order Regarding the)	
Definition of “New Service” as Used in)	
Both Transportation Rule and Code)	
)	
.....)	

1 The Washington Utilities and Transportation Commission (Commission) has developed this declaratory order in response to the Petition of Seatac Shuttle, LLC d/b/a Whidbey-Seatac Shuttle (Seatac Shuttle or Company) for a declaratory order on the meaning of “new service” as that term is used in WAC 480-30-301 (Petition). Seatac Shuttle asks that we interpret the rule to permit the Company to file on one business-day notice a revised schedule for a service that expires the next day. We decline to do so. Rather, we conclude that the one business day notice exception in WAC 480-30-301(3) applies only to new *options* and service levels, not to renewals of expired services in their entirety.

BACKGROUND

2 The statute governing tariff changes for transportation companies provides in part,

Unless the commission otherwise orders, a change may not be made to any classification, rate, fare, charge, rule, or regulation filed and published by a common carrier subject to regulation by the commission as to rates and service, except after thirty days’ notice to the commission and to the public.¹

¹ RCW 81.28.050.

- 3 Commission rules echo this requirement² but allow a company to “provide at least one business-day notice to the commission for . . . [t]ariff and time schedule filings whose only purpose is to add a new service option or a service level which has not been previously included in the company’s tariff.”³
- 4 Seatac Shuttle provides auto transportation service between Whidbey Island and Bellingham International Airport (BLI), among other services. BLI is a regional airport with relatively few flights, which frequently may be subject to revised arrival and departure times on short notice. The Company’s last effective rate and time schedules for service on this route had a stated effective period of July 16, 2012, through August 31, 2012.
- 5 On August 29, 2012, Seatac Shuttle made filings seeking to eliminate the existing temporal limitations on this service and establishing revised time schedules to be effective September 1-30, 2012. The Company takes the position that because the service in the existing tariff expired on August 31, 2012, initiating the same service with revised times the next day constitutes a new filing requiring only one business-day notice before becoming effective under WAC 480-30-301(3). Seatac Shuttle nevertheless withdrew its revised time schedules and discontinued the service.
- 6 On September 13, 2012, Seatac Shuttle filed a Petition for Declaratory Order seeking the Commission’s interpretation of WAC 480-30-301(3) in these circumstances. Both Seatac Shuttle and Commission Staff filed statements of fact and law in response to the Petition on September 28, 2012.

DISCUSSION

- 7 The statute and Commission rules require companies to provide the public and the Commission with 30 days’ notice of any changes to existing regulated service rates, terms, or conditions. As authorized in RCW 81.28.050, the Commission promulgated WAC 480-30-301, which establishes an exception to the Commission notice requirement. Such exceptions are construed narrowly, and we do so here. The rule permits companies “to add a new service option or a service level which has not been previously included in the company’s tariff” to become effective the next business day. The rule is expressly limited to a new service option or a new service level, and we interpret that language to mean what it says and no more.

² WAC 480-30-316.

³ WAC 480-30-301(3).

- 8 Seatac Shuttle’s interpretation of the rule is inconsistent with its language. The Company believes “that filings (tariff time tables) replacing previously filed **expired tariffs** [are] in fact new filings and that the notice requirements of 480-30-301(3) are the proper and correct notification procedures.”⁴ The rule authorizes shortened notice for “a new service offering or [new] service level,” not for new *filings*. Indeed, virtually all filings are “new,” and an exception for “new filings” would swallow the generally applicable notice requirements. We will not read into WAC 380-30-301 an exception that is not there.
- 9 Seatac Shuttle’s arguments fare no better if they are construed to apply to a “new service,” rather than a “new filing.” A service does not become “new” simply because its rates, terms, and conditions expire and the service is resurrected the next day, even with a modified time schedule. The transportation service the Company provided between Whidbey Island and BLI is the same service both before and after the expiration of the existing rates and time schedules applicable to that service.
- 10 More fundamentally, WAC 480-30-301(3) does not authorize a shortened notice period for a new *service* but applies to new service *options* or service *levels*. The rule if applicable to car sales, for example, would authorize a one business-day notice for adding the option of including satellite radio or an extended warranty but not for offering to sell a different automobile entirely.
- 11 The rule is intended to allow passenger transportation companies to add new features to their existing services or to develop enhanced levels of service with only brief notice to the Commission. Those companies, however, still must provide at least 30 days’ notice of these additions to the public. This dichotomy permits companies to investigate consumer demand for additional options or higher service levels before formalizing its proposals in a tariff. The rule was never intended to be used as Seatac Shuttle proposes to make changes to rates, time schedules, or other fundamental aspects of existing service without adequate notice to customers and the Commission.
- 12 We appreciate the Company’s dilemma of swiftly adapting to BLI scheduling changes or other market conditions as a regulated company. The Commission continues to support reduced regulation of auto transportation companies and encourages Seatac Shuttle to work with Commission Staff (Staff) to resolve this issue within the existing regulatory framework.

⁴ Comments of Seatac Shuttle, first page (emphasis in original).

- 13 The Commission, however, does not approve of Seatac Shuttle’s recent refusal to provide the service at all. The Commission authorized Seatac Shuttle to offer auto transportation services between Whidbey Island and BLI. After working with Staff, the Company apparently has resumed service to BLI on a reservation basis. However, should such service be jeopardized in the future due to SeaTac Shuttle’s failure to proactively navigate the required administrative processes, the Commission would entertain a petition from other companies to serve that route, as SeaTac’s service may very well not be “to the satisfaction of the commission” as required by statute.⁵

CONCLUSION

- 14 An existing service that is scheduled to expire does not become a “new service option” immediately after that expiration date for purposes of WAC 480-30-301(3). Absent a waiver of Commission rules, Seatac Shuttle or any other company that seeks to make changes to the rates, terms, or conditions of existing service regulated by the Commission must provide the Commission and the public with notice of the proposed changes at least 30 days before they are scheduled to become effective.

DATED at Olympia, Washington, and effective November 28, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

⁵ RCW 81.68.040.

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.