



Bob Ferguson

ATTORNEY GENERAL OF WASHINGTON

Utilities and Transportation Division

1400 S Evergreen Park Drive SW • PO Box 40128 • Olympia WA 98504-0128 • (360) 664-1183

July 28, 2016

Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, Washington 98504-7250

RE: *In the Application TC-143691 of Speedishuttle Washington, LLC, d/b/a Speedishuttle
Seattle*
Docket TC-143691

Dear Mr. King:

Enclosed for filing in the above-referenced docket are the original and three copies of Commission Staff's Response to Shuttle Express's Motion to Strike, and Certificate of Service.

Sincerely,

JULIAN BEATTIE
Assistant Attorney General

JB/emd
Enclosures
cc: Parties w/enc.

Docket TC-143691
CERTIFICATE OF SERVICE

I hereby certify that I have this day served the attached Response to Motion to Strike upon the persons and entities listed on the Service List below by depositing a copy of said document in the United States mail, addressed as shown on said Service List, with first class postage prepaid.

DATED at Olympia, Washington this 28th day of July 2016.



ELIZABETH M. DeMARCO

For SpeediShuttle:

Dave Wiley
Williams, Kastner & Gibbs, PLLC
601 Union Street, Suite 4100
Seattle, WA 98101-2380
Phone: (206) 628-6600
Email: dwiley@williamskastner.com

For Shuttle Express:

Brooks Harlow
Lukas, Nace, Gutierrez & Sachs, LLP
8300 Greensboro Dr. Suite 1200
McLean, VA 22102
Phone: (703) 584-8680
Email: bharlow@fcclaw.com

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re Application TC-143691 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

COMMISSION STAFF'S RESPONSE
TO SHUTTLE EXPRESS'S MOTION
TO STRIKE

1 Shuttle Express has moved to strike Staff's response (filed June 7, 2016) to its Petition for Rehearing. Shuttle Express argues that Staff's response is "more in the nature of a post-hearing brief,"¹ and that Staff failed to admit or deny each of the factual allegations in Shuttle Express's petition, as required by WAC 480-07-370(c)(i).²

2 Shuttle Express is placing form over substance in a manner that is not helpful to the Commission. In its petition, Shuttle Express asked the Commission to reopen last year's protest adjudication to examine whether its now-competitor, Speedishuttle, made material misstatements under oath. Shuttle Express relied on RCW 81.04.200, which gives the Commission discretion to rehear a matter resolved within the past two years.³ The issue is now whether the Commission should exercise its discretion in favor of holding further proceedings. In this light, Staff's response properly discussed whether, given all that has

¹ Shuttle Express's Motion to Strike, p. 2, ¶ 1.

² WAC 480-07-370(c)(i) provides in relevant part, "Answers must admit or deny specifically, and in detail, all material allegations of the formal complaint or petition."

³ Generally, RCW 81.04.200 requires public service companies to wait two years before petitioning for rehearing of an adverse Commission order. However, the Commission "may, in its discretion, permit the filing of a petition for rehearing at any time." In this case, Shuttle Express filed its petition for rehearing less than two years after the Commission issued its final order (petition filed on May 16, 2016; Final Order 04 issued on March 30, 2015). Therefore, the Commission should rehear the matter only if it determines that the issues warrant departure from the general two-year waiting period. As the Commission knows, Staff has advocated for rehearing on a limited basis.


occurred in this docket, Shuttle Express has demonstrated good cause for further proceedings. This discussion necessarily took the form of a brief. Perfunctory “admissions” and “denials” would not have been helpful to the Commission because they would not have addressed the extent of the Commission’s discretion in the present situation.

3 Shuttle Express claims that Staff’s response is “premature and should be stricken or reserved for filing at a more appropriate time in this proceeding.”⁴ Staff wonders: When would be a more appropriate time to weigh in on the threshold issue of whether the Commission should exercise its discretion to reopen this docket? The appropriate time is obviously now, at the outset, before the parties initiate a potentially lengthy adjudication.

4 In the event the Commission agrees with Shuttle Express that Staff must file a “true answer,”⁵ with specific admissions and denials, Staff recommends that the Commission invoke its authority under WAC 480-07-110(1)⁶ to relax the definition of “answer” in relation to Staff’s response. The Commission can then read Staff’s response and decide for itself whether Staff has provided any helpful perspectives.

RESPECTFULLY SUBMITTED July 28, 2016.

ROBERT W. FERGUSON
Attorney General



JULIAN H. BEATTIE
Assistant Attorney General
Counsel for Commission Staff

⁴ Shuttle Express’s Motion to Strike, p. 6, ¶ 17.

⁵ *Id.*

⁶ WAC 480-07-110(1) provides: “The commission may grant an exemption from or modify the application of its rules in individual cases if consistent with the public interest, the purposes underlying regulation, and applicable statutes. The commission may modify the application of procedural rules in this chapter during a particular adjudication consistent with other adjudicative decisions, without following the process [governing requests for exemptions/modifications] identified in subsection (2) of this section.”