

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of

CHENEY CARE FOUNDATION D/B/A
CHENEY CARE CENTER

For Compliance with WAC 480-31-130 and
WAC 480-31-139

DOCKET TN-170809

NOTICE OF INTENT TO CANCEL
CERTIFICATE AS A PRIVATE,
NONPROFIT TRANSPORTATION
PROVIDER

NOTICE OF BRIEF ADJUDICATIVE
PROCEEDING; SETTING TIME FOR
ORAL STATEMENTS
(Set for October 2, 2017, at 1 p.m.)

- 1 Pursuant to RCW 81.66.030, the Washington Utilities and Transportation Commission (Commission) has authority to regulate private, nonprofit transportation providers with respect to the safety of vehicles and operations. In support of its regulation of private, nonprofit transportation providers, the Commission has adopted by reference portions of Title 49 of the Code of Federal Regulations (C.F.R.) in WAC 480-31-100 and WAC 480-31-130, the Commission's rules governing equipment safety and the operation of motor vehicles by private, nonprofit transportation providers and RCW 81.66.060 authorizes the Commission to cancel the certificate of any private, nonprofit transportation provider that refuses to observe Commission rules. The Commission may cancel private, nonprofit transportation provider certificates "for cause" under WAC 480-31-052(2).
- 2 Cheney Care Foundation d/b/a Cheney Care Center ("Cheney Care Center" or "Company") holds private, nonprofit transportation provider authority from the Commission and operates under Certificate C-1069.
- 3 In June 2017, the Commission's staff (Staff) conducted a review of Cheney Care's compliance with the safety requirements in chapter 480-31 WAC. As a result of the compliance review, Staff documented a total of 198 critical violations of WAC 480-31-100 and WAC 480-31-130. Based on these violations, Staff proposed an "unsatisfactory" safety rating for Cheney Care and notified the Company of the proposed rating on August 16, 2017.
- 4 Federal law incorporated into WAC 480-31-130 prohibits motor carriers transporting passengers in a commercial motor vehicle from operating beginning on the 46th day after

the date of the notice of a proposed unsatisfactory rating.¹ A carrier may request a change in its safety rating based on evidence that the company has taken corrective actions to address the identified violations and that company operations currently meet the safety fitness standard as specified in 49 C.F.R. §§ 385.5 and 385.7.

- 5 Cheney Care Center must come into compliance with applicable laws and rules by obtaining Commission approval of a safety management plan no later than Monday, October 2, 2017. If the Company fails to come into compliance by that date, the Commission will cancel its private, nonprofit transportation provider certificate effective October 2, 2017. Thereafter as an unregistered company, Cheney Care Center would be prohibited from providing private, nonprofit transportation provider services in the state of Washington.
- 6 **THE COMMISSION GIVES NOTICE That it intends to cancel the certificate and authority of Cheney Care Center to provide private, nonprofit transportation provider services effective October 2, 2017, unless the Company obtains Commission approval of a safety management plan prior to that date.**
- 7 The Company has the right to request a hearing in this matter. Due to the short time-frame determined by the upcoming deadline, and pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission schedules a hearing on its own initiative and determines that a brief adjudicative proceeding is appropriate to determine whether the Commission should cancel Cheney Care Center's private, nonprofit transportation provider certificate.
- 8 If the Company is able to obtain Commission approval of its safety management plan and its safety rate is upgraded from unsatisfactory prior to October 2, 2017, the Commission may exercise its discretion to cancel or postpone the hearing.
- 9 **THE COMMISSION GIVES FURTHER NOTICE that it will hold a brief adjudicative proceeding in this matter at 1 p.m. on October 2, 2017, in Room 139, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**
- 10 The record in this case will consist of any documents regarding the matter that are considered by or prepared for the presiding officer for the brief adjudicative proceeding and a transcript of any oral statements given at the hearing, which statements will be given under oath.
- 11 Written notice of any other stage in the proceeding or other formal proceedings that the Commission may deem appropriate will be given during the course of this case. The

¹ See 49 C.F.R. § 385.13(a)(1).

Commission will provide at its offices in Olympia, Washington, copies of documents in the current record for use by the parties or others who may want to review them.

- 12 **Cheney Care Center must submit its proposed safety management plan no later than 3 p.m. on Friday, September 22, 2017.** Parties wishing to submit any other documents for consideration at the brief adjudicative proceeding must file with the Commission a list enumerating and describing any such documents **no later than 5 p.m. on September 25, 2017**, and bring an original and three (3) copies of those documents to the hearing. Filing shall be in accordance with WAC 480-07-140 and -145.
- 13 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the brief adjudicative proceeding set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**
- 14 The names and mailing addresses of all parties and their known representatives are shown as follows:

Commission: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250

Representative: Jeff Roberson
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1188
jroberson@utc.wa.gov

Respondent: Cheney Care Foundation d/b/a Cheney Care Center
2219 North 6th Street
Cheney, WA 99004-2199

- 15 Administrative Law Judge Greg Kopta, from the Commission's Administrative Law Division, will preside during this proceeding.

DATED at Olympia, Washington and effective August 17, 2017.

STEVEN V. KING
Executive Director and Secretary

NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out this form and return it to Washington State Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket : _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____) _____