

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper
Carrier Classification of, and Complaint
for Penalties against:

PUGET EXPRESS LLC d/b/a PUGET
EXPRESS

DOCKET TC-180624

ORDER 01

ORDER INSTITUTING SPECIAL
PROCEEDING; COMPLAINT
SEEKING TO IMPOSE PENALTIES;

and

NOTICE OF BRIEF ADJUDICATIVE
PROCEEDING
(Set for October 25, 2018,
at 9:30 a.m.)

I. INTRODUCTION

- 1 The Washington Utilities and Transportation Commission (Commission) institutes this special proceeding on its own motion, under Revised Code of Washington (RCW) 81.04.510, to determine whether Puget Express LLC d/b/a Puget Express (Puget Express or Company) is operating as an auto transportation company without a certificate of convenience and necessity (certificate) issued by the Commission under RCW 81.68.040.
- 2 The Commission has information from which it believes and therefore alleges that on or about May 24, 2018, Puget Express offered to provide auto transportation service without the necessary certificate.
- 3 Pursuant to RCW 81.04.510, upon proof of these allegations, the Commission is authorized to issue an order requiring Puget Express to cease and desist from activities subject to regulation under Title 81 RCW. In addition, RCW 81.04.110 authorizes the Commission to file a complaint on its own motion setting forth any act or omission by Puget Express that violates any law, or any order or rule of the Commission. Under RCW 81.04.380, the Commission may impose penalties of up to \$1,000 for each violation.
- 4 The hearing in this special proceeding will be conducted under Part IV of the Administrative Procedure Act (APA), chapter 34.05 RCW. At the hearing, notice of which is given here, the Commission will also consider its complaint against Puget Express alleging the violation of law specified below. The Commission will decide whether Puget Express should be penalized.

II. ORDER AND NOTICE OF BRIEF ADJUDICATIVE PROCEEDING

- 5 The Commission has jurisdiction to institute this special proceeding to determine whether Puget Express is conducting business requiring operating authority or has performed or is performing any act requiring Commission approval without securing such approval under RCW 80.01.040, RCW 81.01.010, and RCW 81.04.510. This matter also involves Title 81 RCW, including but not limited to RCW 81.04.020, RCW 81.68.010, and RCW 81.68.040. This matter also involves the administrative rules set forth in Washington Administrative Code (WAC) 480-07 and WAC 480-30.
- 6 Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determines that a brief adjudicative proceeding is appropriate for resolving the issues in this special proceeding.
- 7 **IT IS HEREBY ORDERED that Puget Express appear before the Commission in this special proceeding under RCW 81.04.510 at 9:30 a.m., on October 25, 2018, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, to give testimony and evidence under oath regarding its operations. Puget Express shall appear at the time and place set forth above unless the Commission, by notice of hearing, specifies a different time and place. The Commission has subpoena power under RCW 34.05.446, RCW 80.01.060(1), and RCW 81.04.510.**
- 8 **IT IS FURTHER ORDERED** that at the brief adjudicative proceeding, Puget Express has the burden to prove that its operations are not subject to regulation under Title 81 RCW.
- 9 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.
- 10 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 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.
- 11 **NOTICE IS GIVEN THAT ANY PARTY THAT FAILS TO ATTEND OR PARTICIPATE IN THE HEARING 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.**

12 If a limited English-speaking or hearing-impaired party or witness needs an interpreter, a form is attached to this notice to be filled out and returned as indicated, so that a qualified interpreter may be appointed at no cost to the party or witness.

13 The names and mailing addresses of all parties and their known representatives are:

Company: Puget Express LLC d/b/a Puget Express
3800 South 176th St.
Seattle, WA 98188

Commission: Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Harry Fukano
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1225

III. COMPLAINT SEEKING PENALTIES

PARTIES

14 Complainant, Washington Utilities and Transportation Commission, is an agency of Washington State, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including auto transportation companies, under the provisions of Title 81 RCW.

15 Respondent, Puget Express LLC d/b/a Puget Express is a company that does business in Washington State.

JURISDICTION

16 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 81.01.010, RCW 81.04.110, 81.04.160, and 81.04.460, and chapter 81.68 RCW.

BACKGROUND

- 17 The following facts, set forth in the Staff Investigation Report of this matter, establish probable cause for the Commission to complain against the activities of Puget Express and support seeking penalties under applicable laws.
- 18 At all relevant times, Puget Express lacked certificate authority from the Commission to operate as an auto transportation company.
- 19 Under Washington law, an auto transportation company shall not operate without a Commission-issued certificate of convenience and necessity. RCW 81.68.040.
- 20 In June 2011, the Commission granted Puget Express a charter and excursion certificate. In July 2017, Beeline Tours filed a formal complaint against Puget Express for operating as an auto transportation company without the required certification under RCW 81.68.040. The Commission imposed penalties on Puget Express for exceeding the authority of its charter certificate and for failing to produce requested documents. In September 2017, the Commission notified Puget Express that it intended to cancel Puget's charter certificate because the Company had received a proposed unsatisfactory safety rating. On October 18, 2017, the Commission imposed additional penalties on Puget Express, canceled Puget Express's charter certificate, and directed Puget Express to cease and desist all operations in the absence of a certificate.
- 21 On April 24, 2018, Beeline Tours emailed Commission Staff (Staff) to report that Puget Express was offering scheduled cruise ship transfers from SeaTac hotels to cruise piers. On May 1, Beeline Tours again emailed Staff stating that Puget Express was operating as an auto transportation company without the required authority from the Commission.
- 22 On May 23, Staff, posing as a potential customer, emailed Puget Express requesting transportation for six people and luggage from the SeaTac Doubletree Hotel to Seattle Pier 91. Puget Express responded to Staff's email and offered to provide transportation at the rate of \$17 per person.

APPLICABLE LAW AND REGULATIONS

- 23 RCW 81.68.010(3) defines an "auto transportation company" as "every corporation or person . . . owning, controlling, operating, or managing any motor-propelled vehicle used in the business of transporting persons and their baggage on the vehicles of auto transportation companies carrying passengers, for compensation over any public highway in this state between fixed termini or over a regular route, and not operating exclusively within the incorporated limits of any city or town."
- 24 RCW 81.68.010(2) defines a "person" as "an individual, firm, or copartnership."

- 25 RCW 81.68.010(5) defines “between fixed termini or over a regular route” as “the termini or route between or over which any auto transportation company usually or ordinarily operates any motor-propelled vehicle, even though there may be departures from the termini or route, whether the departures are periodic or irregular.”
- 26 RCW 81.04.010(11) defines “common carriers” in part as “all . . . auto transportation companies.” RCW 81.04.010(16) defines “public service company” to include “every common carrier.”
- 27 RCW 81.68.040 states in part “An auto transportation company shall not operate for the transportation of persons and their baggage for compensation between fixed termini or over a regular route in this state, without first having obtained from the commission under this chapter a certificate declaring that public convenience and necessity require such operation.”
- 28 RCW 81.04.380 states, in part, that “Any public service company which shall violate or fail to comply with any provision of this title . . . shall be subject to a penalty of not to exceed the sum of one thousand dollars for each and every offense.”
- 29 RCW 81.04.110 states, in part, that “Complaint may be made by the commission of its own motion . . . setting forth any act or thing done or omitted to be done by any public service company or any person, persons, or entity acting as a public service company in violation, or claimed to be in violation, of any provision of law or of any order or rule of the commission.”

COMPLAINT

- 30 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 11 through 26 above.
- 31 Puget Express has violated RCW 81.68.040 at least one (1) time by operating as an auto transportation company without first having obtained the required certificate of public convenience and necessity from the Commission.

REQUEST FOR RELIEF

- 32 Staff requests that the Commission, pursuant to its authority under RCW 81.04.380, assess penalties of up to \$1,000 against Puget Express for the violation alleged in this Complaint. Staff further requests that the Commission, pursuant to its authority under RCW 81.04.510, order Puget Express to cease and desist from all activities subject to regulation under Title 81 RCW.

PROBABLE CAUSE

33 Based on a review of the Staff Investigation Report of this matter, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this Complaint.

IV. NOTICE OF BRIEF ADJUDICATIVE PROCEEDING

34 **THE COMMISSION GIVES NOTICE THAT it will conduct a brief adjudicative proceeding concerning this Complaint concurrently with the special proceeding noticed above, which will commence at 9:30 a.m. on Thursday, October 25, 2018, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

35 Administrative Law Judge Laura Chartoff, from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, is designated to preside at the hearing of these matters.

DATED at Olympia, Washington, and effective September 11, 2018.

/s/ Rayne Pearson

Rayne Pearson
Administrative Law Judge
Director, Administrative Law Division

Inquiries should be addressed to:

Executive Director and Secretary
Washington Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or 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.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Mark L. Johnson, 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.: (_____)_____