

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. D-079292 of)	
)	DOCKET NO. TC-041320
ALL-WAYS TRANSPORTATION,)	
INC.,)	ORDER NO. 02
)	FINAL ORDER
For a Certificate of Public)	
Convenience and Necessity to)	GRANTING APPLICATION
Operate Motor Vehicles in)	FOR A CERTIFICATE OF
Furnishing Passenger and Express)	PUBLIC CONVENIENCE AND
Service as an Auto Transportation)	NECESSITY
Company)	
.....)	

1 **Synopsis.** *This order grants All-Ways Transportation, Inc., a certificate of public convenience and necessity to provide door-to-door passenger and express transportation service by reservation only, from points in Clarkston, Washington, Pullman Washington and the Spokane International Airport to points in Clarkston, Washington, Pullman, Washington, and the Spokane International Airport.*

I. INTRODUCTION

2 **Proceedings.** This is an application by All-Ways Transportation, Inc. (All-Ways or Applicant) for a certificate of public convenience and necessity to operate motor vehicles in furnishing passenger and express services by reservation only, from points in Clarkston, Washington, Pullman Washington and the Spokane International Airport to points in Clarkston, Washington, Pullman, Washington, and the Spokane International Airport. The authority requested overlaps that of Wheatland Express, Inc. (Wheatland) in Certificate No. C-1078.¹

3 **Parties.** All-Ways is represented by its President, Delores M. Weza. No other party entered an appearance.

¹ Certificate C-1078 authorizes passenger transportation service between Pullman, Colfax, and the Spokane International Airport. Wheatland did not file a protest to the application.

- 4 **Procedural Background.** On July 21, 2004, All-Ways filed an application (Number D-079292) for a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in Furnishing Passenger and Express Service as an Auto Transportation Company (Application). Notice of the Application was published in the Commission's weekly Docket of August 30, 2004.
- 5 The Application requests authority to provide door-to-door passenger and express service, by reservation only, to points in Clarkston, Washington, Pullman, Washington, and the Spokane International Airport, to points in Clarkston, Washington, Pullman, Washington and the Spokane International Airport.
- 6 The Commission received no protests to the Application within the 20 days of its publication, as required by WAC 480-30-032(1).
- 7 RCW 81.68.040 requires that the Commission grant authority in a territory already served only after hearing. The locations All-Ways seeks to serve are currently served in part by Wheatland, which has authority to provide passenger service between Pullman, Washington and the Spokane International Airport.
- 8 The Applicant waived entry of an Initial Order in this proceeding, and stipulated to entry of a Final Order based on a paper record.
- 9 **Standard for Determination.** The fundamental standard governing this application is contained in RCW 81.68.040:

No auto transportation company shall operate for the transportation of persons, and baggage, mail and express on the vehicles of auto transportation companies carrying passengers, for compensation between fixed termini or over a regular route in this state, without first having obtained from the commission under the revisions of this chapter, a certificate declaring that public convenience and necessity require such operation ... The commission shall have power, after hearing, when the applicant requests a certificate to operate in a territory already served by a certificate holder under this chapter, only when the existing auto transportation company or companies

serving such territory will not provide the same to the satisfaction of the commission, and in all other cases with or without hearing, to issue said certificate as prayed for; or for good cause shown to refuse to issue same, or to issue it for the partial exercise only of said privilege sought, and may attach to the exercise of the rights granted by said certificate to such terms and conditions as, in its judgment, the public convenience and necessity may require.

10 In addition, consistent with the Commission's rules for auto transportation companies in Chapter 480-30 WAC, the Commission considers an applicant's financial fitness, and its fitness generally to provide the service for which it seeks authorization. We must address, then, two sets of questions with respect to the application:

- 1) Public convenience and necessity:
 - a) Do the public convenience and necessity require the proposed service?
 - b) Does an existing auto transportation company operating in the territory at issue provide service to the satisfaction of the Commission?
- 2) Financial Fitness:
 - a) Is the company financially fit and capable of providing the service?
 - b) Does the company exhibit regulatory fitness?

These questions are considered and answered below.

II. MEMORANDUM

A. Public convenience and necessity:

1. Do the public convenience and necessity require the proposed service?
2. Do existing auto transportation companies operating in the territory at issue provide service to the satisfaction of the Commission?

11 An applicant for an auto transportation certificate must establish that the public convenience and necessity require the proposed operations. *RCW 81.68.040*. Order M. V. C. No. 1892, *In re Lloyd's Connection, Inc. d/b/a Airport Connection*

Airporter, Hearing No. D-2556 (December 1990). Public convenience and necessity require the services of an additional carrier if existing carriers cannot meet the needs of the traveling public. *RCW 81.68.040*. Order M. V. C. No. 1892, *Id.*

- 12 Testimony by public witnesses in support of All-Ways' Application shows that there is a public need for the Applicant's proposed service. Ms. Brenda Grove, Dialysis Supervisor at Tri-State Memorial Hospital in Clarkston, Washington, stated that the Dialysis Center frequently needs short-notice transportation for patients going to and from dialysis treatments. Because of the schedule for dialysis, Ms. Grove stated that service is required at times when other transportation is not available. Sometimes, patients require non-emergency transportation to other out-of-town hospitals, usually in Spokane, Washington. Ms. Grove declared that, other than volunteers, All-Ways is the only transportation resource available for this. Ms. Grove also indicated that she has called on the Applicant for other services in the past and has found them very reliable.
- 13 Horizon Air's Customer Services Managers, Michael Chalich and Sarah Hill, also provided support for All-Ways' Application. Both witnesses stated that Horizon Air is the only air carrier that serves the Lewiston/Clarkston valley and the Pullman, Washington and Moscow, Idaho areas. They indicated that during the winter, and on other occasions, when flight cancellations occur, Horizon Air requires ground transportation for its customers to and from the Spokane International Airport. Horizon Air stated that there are few ground transportation companies in the area that would provide such service. Mr. Chalich stated that Link Transportation, an Idaho company that did so, went out of business last year. Neither Mr. Chalich nor Ms. Hill has relied on the existing carrier, Wheatland, for this type of service. Both stated they had relied on All-Ways for other services in the past and found the applicant's work exceptional.
- 14 RCW 81.68.040's requirements promote the public interest in having regular and dependable passenger transportation services available at fair rates. When an applicant shows that existing transportation companies will not serve the territory in question to the satisfaction of the Commission, and that no good cause has been shown to deny the application, a grant of authority for the territory is consistent with the public interest and required by the public

convenience and necessity. *RCW 81.68.040*. Order M. V. C. No. 1809, *In re San Juan Airlines, Inc., d/b/a Shuttle Express*, App. No. D-2566 (April 1989).

Convenience, directness, and timeliness are essential characteristics of airporter passenger service. The Commission will give substantial weight to those factors in its satisfactory service determination and in its public convenience and necessity determination in an application for overlapping authority. *RCW 81.68.040*. Order M. V. C. No. 2057, *In re Sharyn Pearson & Linda Zepp, d/b/a Centralia Sea-Tac Airport Express*, App. No. D-76533 (June 1994).

- 15 Failure to meet the real needs of travelers is a sufficient basis for finding that a carrier has failed to provide service to the Commission's satisfaction under *RCW 81.68.040*. *Id.*
- 16 In this case, three witnesses have expressed a real and imminent need for Applicant's services. The only problem with the expressions of need relates to Tri-State Memorial Hospital's requirement for service to other out-of-town hospitals. We note that, under the proposed authority, the Applicant would not be able to provide service to or from locations other than Pullman, Clarkston and the Spokane International airport.
- 17 With regard to the overlap of the proposed authority with that of Wheatland, none of these witnesses was aware of, or relied upon, the services of the existing carrier, Wheatland. In sum, there is substantial competent evidence in the record to support a finding that the public convenience and necessity require All-Ways' proposed service.

B. Fitness:

1. Is the company financially fit and capable of providing the service?

- 18 The Commission's examination of an applicant's financial fitness must be commensurate with the responsibilities of the public service that the firm seeks to provide, the risks to the public of failure, and the firm's financial history. *RCW 81.68.040*. Order M. V. C. No. 1899, *In re San Juan Airlines, Inc., d/b/a Shuttle Express*, App. No. D-2589 (March 1991); *modified*, Order M. V. C. No. 1909 (May 1991). However, the Commission does not consider an applicant's financial condition to be a critical element in a grant of authority, if there is credible

evidence that the applicant has sufficient financing to begin operations and continue them for a reasonable period while its business is building. Commission Decision and Order, *In re Application of Valentinetti*, App. No. D-78932, Docket No. TC-001566 (2002).

19 In this proceeding the Applicant has provided a balance sheet dated November 15, 2004, and a statement of Profit and Loss for the period January through June 2004. These financial statements show that the Applicant's total assets as of November 15, 2004 total \$175,966.81, that the Applicant has six vehicles available to transport passengers, and that the Applicant received income of \$139,466 and experienced a loss of approximately \$25,000 for the period from January through June 2004. Although we are concerned about the Applicant's financial loss for the first half of this calendar year, such a loss may be reversed with a full year's operations. The evidence shows that the Applicant has the resources to begin and to continue operations under the proposed authority. We find that the financial documentation Applicant has submitted is sufficient to assure us that All-Ways will be able to provide the service it proposes.

2. Does the company exhibit regulatory fitness?

20 To qualify for authority, an applicant must establish that it is willing and able to comply with Washington laws and Commission rules. Order M. V. C. No. 1892, *In re Lloyd's Connection, Inc. d/b/a Airport Connection Airporter*, Hearing No. D-2556 (December 1990). The Applicant has been providing common carrier, charter and special operations services, in Idaho, under US Department of Transportation certificate MC-478662 and has been providing taxi service in southeastern Washington. Applicant's President, Delores Weza, has cooperated fully with the Commission in providing the documentation required to support this application.

21 The Applicant has established both the willingness and the ability to comply with Washington laws and Commission rules, and the Applicant is fit.

22 **Conclusion.** All-Ways has shown that the public convenience and necessity require the service proposed in this application and that a carrier whose authority partially overlaps the requested authority is not providing adequate service. All-Ways has also shown that it is fit, willing, and able to provide the

service it requests. The application should be granted for these reasons in accordance with RCW 81.68.040.

III. FINDINGS OF FACT

- 23 (1) On July 21, 2004, All-Ways filed Application No. D-079292 for a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in Furnishing Passenger Service as an Auto Transportation Company. The Application requests authority to provide passenger and express services by reservation only, from points in Clarkston, Washington, Pullman Washington and the Spokane International Airport to points in Clarkston, Washington, Pullman, Washington, and the Spokane International Airport.
- 24 (2) Wheatland is an existing auto transportation company that serves, in part, the same territory as requested by Applicant under Certificate No.C-1078.
- 25 (3) Wheatland did not file a protest to the application within 20 days of publication in the Commission's weekly docket of August 30, 2004, and did not request permission to intervene in this docket.
- 26 (4) All-Ways possesses appropriate equipment and has sufficient financial resources to conduct operations under the authority it requests. Based on the evidence presented, All-Ways will comply with the laws and rules governing auto transportation companies under Chapter 81.68 of the Revised Code of Washington.
- 27 (5) The testimony of Brenda Grove, Michael Chalich and Sarah Hill establishes that there is a need for All-Ways' proposed service.
- 28 (6) Wheatland does not provide service to the satisfaction of the Commission because the company is not certificated to provide service between Clarkston, Washington and the Spokane International Airport and because the public does not appear to be aware of, nor does it rely on, Wheatland's service between Pullman, Washington and the Spokane International Airport.

IV. CONCLUSIONS OF LAW

- 29 (1) The Washington Utilities and Transportation Commission has jurisdiction
over the parties to and subject matter of this application.
- 30 (2) All-Ways is fit, willing and able to provide the services requested under
chapter 81.68 RCW and chapter 480-30 WAC.
- 31 (3) The existing certificate holder serving the requested territory does not
provide service to the satisfaction of the Commission where All-Ways
proposes to operate and it, therefore, is proper to grant overlapping
authority to All-Ways under RCW 81.68.040.
- 32 (4) It is consistent with the public interest and required by the public
convenience and necessity that the Commission issue a Certificate of
Public Convenience and Necessity to Operate Motor Vehicles in
Furnishing Passenger and Express Service as an Auto Transportation
Company to All-Ways Transportation, Inc. after the company submits a
“Form E” certificate of insurance. All-Ways should be authorized to
provide passenger and express services by reservation only, from points
in Clarkston, Washington, Pullman Washington and the Spokane
International Airport to points in Clarkston, Washington, Pullman,
Washington, and the Spokane International Airport.

V. ORDER

THE COMMISSION ORDERS That:

- 33 (1) Application No. D-079292, All-Ways Transportation Inc. for a Certificate
of Public Convenience and Necessity to Operate Motor Vehicles in
Furnishing Passenger and Express Service as an Auto Transportation
Company is granted.

- 34 (2) A Certificate of Public Convenience and Necessity will issue after All-Ways files proof of insurance with the Commission. All-Ways' certificate will read in accordance with Appendix A, which is attached to and, by this reference, made a part of this Order.

DATED at Olympia, Washington, and effective this 20th day of December, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

APPENDIX A

All-Ways Transportation, Inc.
931 Bryden Avenue, Suite B
Lewiston, Idaho 83501

2.
 1. Passenger and express services by reservation only, from points in Clarkston, Washington, Pullman Washington and the Spokane International Airport to points in Clarkston, Washington, Pullman, Washington, and the Spokane International Airport.

TC-041320
ORDER NO. 01

(December 10, 2004)