

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

)	DOCKET TC-121504
)	
SEATAC SHUTTLE, LLC d/b/a)	ORDER 01
WHIDBEY-SEATAC SHUTTLE)	
PETITION FOR)	DECLARATORY ORDER
RECONSIDERATION)	SUBJECT FOR RECONSIDERATION
Of the Declaratory Order)	
(01)Regarding the Definition of “New)	
Service” as Used in Both)	
Transportation Rule and Code)	

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Seatac Shuttle, LLC (Petitioner) requests reconsideration of Order No. 01 in Docket TC-121504 to resolve the still pending question and purpose of the initial Petition for Declaratory Relief. The Order (01) failed to answer the immediate question of the petition, *i.e.*, define the term New Service or New generically as used in both transportation rule and code with specific emphasis on WAC 480-30-301. This request is made under the provisions of RCW 34.05.470 and WAC 480-07-850.

BACKGROUND

Petitioner filed, on September 13, 2012 with the Commission, a Petition for Declaratory Relief seeking to resolve the definition of New or New Service as used in autotransportation statute and rule. Petitioner had been operating under one interpretation of the term historically and that interpretation had been accepted by the Commission. When Petitioner sought to implement service under the same historical procedure that had been acceptable in the past it was ordered to cease and desist serving the public resulting in a disruption of service. Prior to the cease and desist order, Petitioner spent hours trying to resolve the minor administrative issue to staff’s satisfaction to no avail. Absent a resolution and in light of the dynamic flight schedules that they sought to serve, it was determined that it was neither in the public’s or the Petitioner’s best interest to potentially provide service when no flight(s) existed. Further pursuit of a filing methodology that was rejected by the Commission was abandoned by the Petitioner.

Subsequently Petitioner attempted to file a compliant tariff that would serve to reinstitute service and satisfy the Commission by adding a new level of service by the addition of

service to a new area. This too was rejected by the Commission. The petitioner then filed a tariff which was rejected because of an insignificant administrative error, placing the wrong date on one space of the filing that was not challenged or pointed out by staff reviewing the tariff until it was too late to resume service for another extended period of time. As the Executive Secretary has stated that following administrative procedure takes precedence over serving the public, it is essential that we follow all of the dictates and interpretations of the Commission if we are to continue to be able to serve the public.

The Commission issued Order (01) on November 28, 2012 in response to the Petition of September 13, 2012.

DISCUSSION

Petitioner did not ask in its original petition for the commission to revisit the above discussed dockets, in fact it stated within the Petition that it (the Petition) had no application to those closed dockets. Reference to them within the Petition was for illustrative purposes, to show the need for a declaration by the Commission and was not argumentative. The Commission chose to focus the Order in revisiting the attempts by Petitioner to both be compliant and serve the public without fragmenting service or providing service that did not serve the public. The focus of the Commission is and has been to place the burden of service disruption on Petitioner while affording no responsibility to staff or itself. Economic considerations did not and do not apply as, with any new service, there is a period of time sometimes up to a year, that the company will not see any benefit from the new service provided. This is an investment by the company and is part of any rational business plan.

The thrust of the Order seeks to justify the actions of staff and the Commission retroactively and avoid the question of just what is new in the context of statute and rule. We know what the Commission does not consider new, but we remain in a quandary as to what qualifies as new under current interpretation. This remains unanswered. Petitioner, to the best of its ability, has sought over the years to be not only compliant but proactively so and to provide the highest level of service possible. The extreme prejudicial statements of the individual commissioners and the Commission as a whole at the open meeting of September 13, 2012 therefore bewilder Petitioner. This sentiment is carried through in Order (01).

The closest the Order comes to defining the term is by quoting from the vary statue that we seek definition in; 480-30-301 "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 Commission denied Petitioner's tariff providing a "new service level" (TC-121630) so the definition still remains unclear.

CONCLUSION

Order (01) did not address or define within the context of statute and rule the term NEW, NEW SERVICE LEVEL or NEW SERVICE OPTION. Referring to petitioner's previous tariffs it pointed out what it did not consider the definition of NEW to be. Absent a positive

definition in place of a negative citing, any company seeking to institute NEW SERVICE is at risk of being denied that service regardless of the consequences to the public. Petitioner requests that the Commission revisit the question at hand in the narrow context of future application impartially and without prejudice. It is a simple question easily resolved with a few affirmative sentences.

Submitted this 30th Day of November, 2012

By Seatac Shuttle, LLC

Michael Lauver, Member