

Agenda Date: June 3, 2021
Item Numbers: B1

Docket: TE-210118

Company: Alaska Amphibious Tours, LLC. d/b/a Seattle Splash Tours Petition for Exemption

Staff: Patrick Remfrey, Transportation Specialist 3

Recommendation

Commission staff (Staff) recommends the Commission grant the petition for exemption of Alaska Amphibious Tours, LLC d/b/a Seattle Splash Tours (Alaska Amphibious or Company), waive the requirements of Washington Administrative Code (WAC) section 480-30-191(1)(a), and authorize the use of surplus lines insurance for the Company with this exemption. Staff believes the exemption is consistent with the public's interest and the purposes underlying the applicable statute and the Commission's regulations implementing that statute.

Discussion

On February 2, 2021, the Washington Utilities and Transportation Commission (Commission) received an application for charter and excursion carrier services in the State of Washington from Alaska Amphibious.

Alaska Amphibious is a company providing tours both on land and water using amphibious vehicles in the Ketchikan area for 20 years. During that time, the Company has operated as many as five Hydra Terra amphibious vehicles. The Company's application to the Commission lists three 49 seat, Hydra Terra amphibious vehicles built between 2002 and 2004 which they propose to use in the Seattle area.

On May 11, 2021, the Company filed a Petition for Exemption from WAC section [480-30-191\(1\)\(a\), insurance](#). An excursion service carrier may provide regularly scheduled transportation from a point of origin and returning to that point of origin provided that no other passengers are picked up or dropped off after leaving and before returning to the point of origin.

WAC 480-30-191(1) - Insurance

[WAC 480-30-191\(1\)](#) requires each applicant for charter/excursion authority and each charter/excursion company to file with the Commission evidence of currently effective liability and property damage insurance written by a company authorized to write insurance in Washington. The insurance must cover each motor vehicle as defined in Revised Code of Washington (RCW) [81.70.280](#) used or to be used under the permit. WAC [480-30-191\(2\)](#) requires minimum coverage of \$5,000,000 for vehicles which have a passenger seating capacity of 16 or more persons including the driver.

Alaska Amphibious has secured a quote for \$5,000,000 in commercial liability coverage from Prime Insurance Company (Prime). Prime is not on the admitted list with the Office of the Insurance Commissioner (OIC). Prime is on the list of eligible surplus lines carriers and possesses an A.M. Best Rating Services credit rating of "A". A.M. Best Rating is a credit rating agency that provides comprehensive information for anyone interested in the creditworthiness of insurance companies. For Alaska Amphibious to be certificated as a charter/excursion carrier in the State of Washington while being underwritten by Prime, a rule exemption must be granted.

While the specific requirements of Commission rules can be exempted, under RCW [81.70.280](#), the Commission must "require the carriers to either procure and file liability and property damage insurance from a company licensed to write such insurance in the State of Washington, or deposit security, for the limits of liability and on terms and conditions that the Commission determines are necessary for the reasonable protection of the public against damage and injury for which the carrier may be liable by reason of the operation of any motor vehicle." Because this is a statutory requirement, the Commission cannot grant the Company an exemption from the obligation to purchase its insurance from a company licensed in Washington. The OIC authorizes insurance companies to write insurance in Washington.

RCW [48.15.040](#) allows surplus line coverage under certain conditions if insurance from authorized insurers cannot be procured. Amongst other requirements, RCW [48.15.040](#) allows for the use of surplus line coverage provided that the insurance must be procured through a licensed surplus line broker. Alaska Amphibious' surplus line broker is Worldwide Facilities, LLC (Worldwide Facilities), which is licensed by the OIC to produce surplus line insurance in Washington. RCW [48.15.040](#) also requires that the insurance must not be procurable after a diligent effort has been made to do so from a majority of the insurers who are authorized to transact the necessary insurance in this state. Staff confirmed with Worldwide Facilities as well as received an independent confirmation from Land and Sea Tours of Santa Barbara, California that Prime is currently the only company within the United States that will insure amphibious tour operators.

Staff believes granting this exemption is consistent with the purposes underlying regulation and applicable statutes, which is to ensure that carriers have sufficient insurance to cover any injuries or property damage caused by their operations. Alaska Amphibious' coverage meets the Commission's requirements, and it is underwritten by a highly rated agency which should ensure they are able to pay any claim arising against the Company.

In summary, Staff supports the petition for exemption and recommends the Commission grant the petition to allow Alaska Amphibious to retain surplus line coverage for the purpose of completing the charter/excursion certificate application process.

Conclusion

Staff recommends the Commission grant Alaska Amphibious an exemption from WAC [480-30-191\(a\)](#) to specifically allow the company to retain liability insurance from a highly rated surplus line insurer. This exemption is consistent with the public's interest, the purposes underlying regulation, and applicable statutes.