

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

RIDE THE DUCKS OF SEATTLE,  
L.L.C. d/b/a SEATTLE DUCK TOURS,

Respondent.

DOCKET TE-151906

ORDER 09

ORDER DENYING PETITION TO LIFT  
SUSPENSION ON USE OF “STRETCH  
DUCKS”

**BACKGROUND**

- 1 On September 24, 2015, an incident occurred on the Aurora Bridge in Seattle involving a Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours (Ride the Ducks or Company) vehicle that resulted in the tragic deaths of five people and serious injuries to many others. On September 28, 2015, the Washington Utilities and Transportation Commission (Commission) conducted emergency adjudicative proceedings pursuant to RCW 34.05.479 and entered Order 01, Notice of Emergency Adjudication and Order Suspending Certificate (Order 01). Order 01 suspended Certificate No. ES-00146 to operate and provide excursion services (Certificate) held by Ride the Ducks pending the results of a Commission staff (Staff) investigation and inspection of Ride the Ducks’ entire fleet of vehicles, drivers, and operations.
- 2 On December 22, 2015, the Commission entered Order 05, which among other things, lifted the suspension of Certificate No. ES-00146 to operate and provide excursion services held by Ride the Ducks using its “Truck Duck” vehicles, but continued the suspension on its “Stretch Duck” vehicles “unless and until the Company demonstrates to

the Commission's satisfaction that those vehicles do not pose an immediate danger to public safety."<sup>1</sup>

3 On July 12, 2017, Ride the Ducks filed with the Commission a petition requesting to reinstate the Company's authority to provide excursion services using its Stretch Duck vehicles (Petition). The Petition claims that the manufacturer of the Stretch Ducks, Ride the Ducks International (RTDI), issued a recall for the front axle safety defect, as required by the National Highway Traffic Safety Administration, and will arrange to replace each of the front axles with one that has a coupler welded to the axle. The Petition further claims that RTDI notified Ride the Ducks that it will receive new axles compliant with the recall on or around July 12, 2017, that Ride the Ducks intends to install and maintain the axles to the requirements set by the safety recall, and that this demonstrates that the vehicles do not pose an immediate danger to public safety.

4 On July 21, 2017, Staff submitted its response to the Petition (Staff Response). Staff opposes the request to lift the suspension on the use of Stretch Duck vehicles as premature. Staff states that it would support the Company's requested relief if Ride the Ducks were to:

- Provide verification through a qualified third party, to the satisfaction of the Commission, that the new axle installation in each Stretch Duck vehicle meets or exceeds the applicable federal motor vehicle safety standards.
- Perform an annual inspection in accordance with 49 CFR 396.17 and correct any defects discovered during the inspections.<sup>2</sup>

Staff also "proposes to conduct a jurisdictionally mandated Level VII commercial vehicle inspection on each Stretch Duck vehicle the Company proposes to operate."<sup>3</sup>

5 On July 21, 2017, the Public Counsel Unit of the Washington Attorney General's Office (Public Counsel) submitted its response to the Petition (Public Counsel Response). Public

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<sup>1</sup> Order 05 ¶ 24.

<sup>2</sup> Staff Response at 2.

<sup>3</sup> *Id.*

Counsel states that it did not receive a copy of the Petition,<sup>4</sup> but based on the summary in the Commission’s Notice of Opportunity to Respond, Public Counsel also opposes the Petition. According to Public Counsel, “The Company’s intentions, while the first step in reinstating their certificate to operate, does not meet the Commission’s requirement that the Company demonstrate that the vehicles pose no danger to public safety.”<sup>5</sup> Public Counsel concurs with all the recommendations Staff made in its response.

**DISCUSSION AND DECISION**

- 6 The Commission acknowledges the efforts Ride the Ducks has made to improve the safety of its Stretch Duck vehicles. We nevertheless agree with Staff and Public Counsel that those steps are not sufficient to demonstrate to the Commission’s satisfaction that those vehicles do not pose an immediate danger to public safety. Promises of actions to be taken in the future do not ensure that the vehicles currently are safe to operate. Accordingly, we deny the Petition.
- 7 Our denial, however, is without prejudice to the Company to submit a subsequent request to lift the suspension if and when the Stretch Ducks comply with all applicable safety standards. To that end, we adopt Staff’s recommendations and require any future petition, at a minimum, (1) to demonstrate that the Company has satisfied the requirements Staff proposes, and (2) to be submitted to the Commission and served in compliance with WAC 480-07-360 and Order 07, Prehearing Conference Order.

**ORDER**

**THE COMMISSION ORDERS:**

- 8 (1) The Petition of Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours to lift the suspension on its authority to provide excursion services using its Stretch Duck vehicles is **DENIED** without prejudice.
- 9 (2) Any future petition Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours files to lift the suspension on its authority to provide excursion services using its

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<sup>4</sup> Public Counsel Response ¶ 1, n.1. We note that only Public Counsel submitted a certificate of service with its pleading as required in WAC 480-07-360, and no party copied the presiding administrative law judge on its electronic service as required in Order 07, Prehearing Conference Order, in this docket.

<sup>5</sup> *Id.* ¶ 3.

Stretch Duck vehicles, at a minimum, must demonstrate that the Company has satisfied the requirements in paragraph 4 above and must be filed and served in compliance with all applicable procedural requirements.

DATED at Olympia, Washington and effective July 25, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner