

Memo

To: Steve King, Executive Director and Secretary

From: Penny Ingram, Regulatory Services
Mike Young, Regulatory Services
Tina Leipski, Licensing Services
Cathy Kern, Records Center

Date: March 7, 2016

Subject: Application - Point to Point Shuttle LLC, Docket No. TC-160054

Summary

On January 6, 2016, Point to Point Shuttle LLC, dba Point to Point Shuttle (Point to Point), filed an application for a temporary certificate in Docket No. TC-160054 to provide auto transportation service to the following unserved locations:

Door to door passenger service between Fairchild Air Force Base and Spokane International Airport.

Scheduled passenger service between designated points within Fairchild Air Force Base and downtown Spokane.

Discussion

Last year, on November 20, 2015, the Utilities and Transportation Commission (Commission) notified the prior certificate holder, Stars & Stripes Shuttle Service, LLC, (Stars & Stripes) that its certificate to operate as a passenger transportation company in Washington would be cancelled if acceptable proof of insurance was not filed by December 20, 2015. It failed to file resulting in its certificate being canceled in Docket No. 152380.

The Commission informed Stars & Stripes of its right to contest the cancellation of the certificate by requesting a hearing. Stars & Stripes did not respond. With the cancellation, there are now no carriers providing the services proposed in the Point to Point application.

On January 6, 2016, Point to Point Shuttle LLC, dba Point to Point Shuttle (Point to Point), filed an application for a temporary certificate in Docket No. TC-160054 to provide auto transportation service to the following unserved locations.

In support of its application, Point to Point provided two support statements requesting the Commission approve first, a temporary certificate and then ultimately, a permanent certificate for the services applied for by the company. There exists a need for the services since there are no other transportation services available to students enrolled in the United States Air Force (USAF) Survival School located on Fairchild Air Force Base.

Staff has reviewed the Company's application for a temporary certificate, tariff and time schedule, and financial records and have determined the Company has met all of the requirements as outlined in WAC 480-30-156.¹ The Commission issued the Docket notice for the permanent application on February 5, 2016, as required by law.

On February 22, 2016, the Commission received a comment from Spokane Transit Authority indicating that it did not object to the application; however they wanted to inform the Commission that they operate a similar service, at a much lower cost, but does not currently serve the Survival School directly as proposed by Point to Point.

On the same day, the Commission received comments from SeaTac Shuttle, LLC (SeaTac), also indicating that the company was not opposing the application; however, it had a general opposition to the issuance of temporary certificates by the Commission. If an applicant is ready to provide service, it believes applicants should just file a permanent application. SeaTac worries that by issuing a temporary certificate it could lead the riding public to a false sense of security if the provider ends up non-compliant with regulations.

In addition, SeaTac expressed its disagreement with Staff's financial evaluation of Point to Point's operations and stated that it believes Staff does not understand the industry. It believes Staff's review of the applicant's listed vehicles failed to recognize that they are older and therefore may not be reliable. In response, Staff stands by its evaluation. It recognizes the age of the vehicles but it also weighs in its final recommendation that Point to Point's vehicles must undergo safety inspections and it is in the company's best interest to keep its vehicles in good working order. Staff remains comfortable with its analysis, the financial information provided, and believes the company has met its burden. Finally, Staff believes SeaTac's comments addressing the financial status of the applicant are in error. SeaTac's conclusion is possibly due to the fact that Point to Point had updated its financial information which SeaTac may not have realized prior to filing its comments.

Recommendation

Staff concludes the applicant is fit, has the financial wherewithal, and an unfulfilled need exists for service in the requested territory. Therefore, Staff recommends that the temporary application be granted for up to 180 days.

With your affirmation of the Staff's recommendation, Tina Leipski (664-1170, tleipski@utc.wa.gov) will forward the Temporary Certificate of Convenience and Necessity and the Order providing for its issuance for your signatures.

Affirmed  Dated 3/7/16
Steve King, Executive Director

Attachments: Letter from Seatac Shuttle, LLC
Letter from Spokane Transit Authority

ⁱ WAC 480-30-156, Certificates, temporary, auto transportation requires

(1) **Temporary certificates prohibited.** The commission is prohibited from granting a temporary certificate to operate in territory that is:

- (a) Contained in an existing certificate, unless the existing certificate holder is not providing service to the satisfaction of the commission or does not object to the temporary certificate.
- (b) Contained in a pending certificate application unless the temporary certificate application filing is made by the applicant or the applicant does not object to the temporary certificate.

(2) **Requirements.** Temporary certificate applications must meet the requirements of WAC [480-30-096](#).

(3) **Public interest.** The commission may grant a temporary certificate after determining that granting the requested authority is consistent with the public interest. In determining if the requested temporary authority is consistent with the public interest, the commission may consider factors including, but not limited to:

- (a) The fitness of the applicant.
- (b) The need for the requested service.
- (c) Availability of existing service.
- (d) Any other circumstances indicating that a grant of temporary authority is consistent with the public interest.

(4) **Support statements required.** Applicants for temporary certificates must include signed support statements from potential customers identifying all pertinent facts relating to need for the proposed service.

(5) **Investigation of applications.** Commission staff will investigate the facts surrounding an application and need for the proposed service before making a recommendation that the commission grant or deny an application for temporary certificate.

(6) **Special terms, conditions, and limitations.** The commission may impose special terms, conditions, and limitations in connection with the grant of any temporary certificate.

(7) **Length of service allowed under temporary certificate.** The commission may grant a temporary certificate for up to one hundred eighty days based on an estimate regarding how long it will take to complete review of the permanent certificate application. If a company files an auto transportation company certificate application and a temporary certificate application within thirty days of each other or files an auto transportation company certificate application within thirty days of the order granting the temporary certificate, then the temporary certificate will continue until the commission grants, denies, or dismisses the parallel certificate application, or until the temporary certificate is otherwise canceled, whichever happens first.

(8) **Docketing.** The commission will publish on its application docket a list of temporary certificate applications that the commission has received.

(9) **Objections.** An existing auto transportation company or applicant for certificate may file an objection opposing the grant or denial of a temporary certificate.

(10) **Form of objections.** Objections must:

- (a) Be filed with the commission in writing within twenty days after the date the commission mails its notice;
- (b) Contain a statement of the specific grounds on which the objection is made;
- (c) Contain a statement of the objecting company's interest in the proceeding;
- (d) Be served on the applicant; and
- (e) Be served on the applicant's representative, if one is stated in the notice.



BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Seatac Shuttle, LLC. C-1077 : Docket No. TC-160054
Commenter : Comments of Seatac Shuttle, LLC
February 22, 2016 WAC 480-30-36, -086, -281(2), -456, -461, -466, -
471, -476; RCW 81.68.046

SEATAC SHUTTLE, LLC. (Seatac) offers the following comments for the record in the above captioned Docket.

1 As a matter of record, Seatac again states its general opposition to the issuance of TEMPORARY CERTIFICATES by the Commission. If an applicant is unable to complete and fulfill the terms of an Application for Permanent Authority to the satisfaction of the Commission it should NOT be on the road carrying the public as paying passengers. The provision of the RCW and WAC permitting these certificates provide in essence non-compliant operators the stamp of approval of the Commission and a false sense of security to the public.

2 The financial viability of the applicant is in question. Mr. Young's (UTC) analysis reflects a lack of knowledge of the actual operation of a shuttle company. Ten year old vehicles are not reliable vehicles. Seatac operates a fleet of vehicles that are purchased new and are generally released from service at the four year mark. At any given time an average of two vehicles are being serviced, either for scheduled maintenance, unscheduled maintenance or regulatory inspections. Seatac maintains a fleet that is 100% in excess of capacity requirements in order to ensure that all customer needs are met. No such surplus, demonstrated ability to procure more vehicles or provision for out-of-service vehicles is provided in the application. The \$84.00 per month projected for vehicle maintenance has no connection to reality.

3 The revenue forecast is based upon 2350 customers purchasing \$60.00 "punch cards" that entitle the purchaser to eight one-way trips. Applicant further projects a median cost of \$15.00 per trip. The average length (mileage) of the twelve trips listed in the submitted Time Schedule is 5.74 miles. This yields a per mile cost to the customer of \$2.61. If the punch card is only used once, as suggested in the application, then that per mile charge becomes \$10.45. At hearing this company has observed the Commission castigate individual certificated operators for charge rates that amounted to less than \$1.00 per passenger mile, stating that they were overcharging the public.

4 The projected wages (dividend and salary) on the pro-forma amounted to \$45,000.00; however there is another entry for "contract labor" of \$43,700.00 which Mr. Young has characterized as "wages" to the exclusion of the \$45,000.00 entry. The issue of contract labor with regard to shuttle operations has been argued before the Commission and resolved, contract drivers must obtain their own certificates and contractors providing other services must meet the

state definition of a contractor. Most importantly, in the analysis no factoring of the additional \$45,000.00 is accounted for.

5 According to the documents submitted by the applicant apparently it plans not pay any taxes. The submitted expenses clearly show \$0.00 allocated for taxes in the column so labeled.

6 In the staff analysis provided for on 2/3/16 it is stated "This application is for temporary service in an area that had been served by a company no longer doing business, so there is a public need for this service". There are buggy whip companies no longer doing business, is there a public need for a new one? Did the previous company go out of business for lack of customers? Was the previous service needed? The logic behind the staff's statement is without basis or merit.

7 The WAC provides clear guidance for the preparation and contents of the required tariff. Even a cursory review finds that the tariff submitted with the application does not meet in any substantive way the requirements of the Commission. This brings into question not only the review and vetting process by commission staff but the veracity of the signed application wherein the applicant states that he is familiar with the OPERATIONAL RESPONSIBILITIES WAC 480-30-251 through 480-30-436.

8 From the application provided there is no evidence of application for "limited door-to-door service" as stated by Mr. Young in his analysis.

IN CONCLUSION, while Seatac has no objection to the service applied for as such, we have strong reservations about the process. It is our concern that before starting service a company should be fully compliant with the rules and regulations of the Commission and that the Commission need be more diligent in vetting applicants and determining if they are viable within the real world. Supposition and questionable estimates on a pro-forma do not engender confidence. The public safety should be our paramount concern; it would appear that in its haste to create more operators the process of application has been compromised.



February 22, 2016

Washington State Utilities and Transportation Commission
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STATE OF WA
UTIL AND TRAN
COMMISSION

RE: **DOCKET TC-160054**

To Whom It May Concern:

Spokane Transit Authority is in receipt of the referenced docket for temporary auto transportation authority submitted by Point to Point Shuttle, LLC.

Spokane Transit does not object to the filing; however, we believe it is important to note that the proposed shuttle service would, at least in part, duplicate existing fixed route bus service provided by Spokane Transit via its Route 61 Highway 2 via Browne's Addition route, and do so at a higher rate to the customer.

Point to Point Shuttle, LLC indicates in their initial application that their primary purpose will be to serve students attending the United States Air Force Survival School located on Fairchild Air Force Base at a minimum cost of \$7.50 per ride. Point to Point Shuttle, LLC indicates that students are limited to taxis as their primary means to leave the base.

While Spokane Transit does not serve the Survival School directly, Route 61 is available from the Fairchild front gate every half hour during weekdays and hourly on nights and weekends. The Route 61 also serves the Base Exchange (BX) on select trips during weekdays. Existing STA bus service provides direct service to the City of Airway Heights, Northern Quest Casino, the Rusty Moose and downtown Spokane; all destinations Point to Point indicates they intend to serve. Additionally, passengers may transfer to connect with the Route 60 which serves Spokane International Airport. Spokane Transit charges a one-way cash fare, with two-hour pass, for \$1.50. A day pass may also be purchased for \$3.50.

Spokane Transit Authority thanks the Utilities and Transportation Commission for this opportunity to comment on Docket TC-160054.

Regards,

Karl Otterstrom, AICP
Director of Planning

