

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET TE-140414
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	ORDER 02
)	
v.)	
)	
SEVENTH GENERATION,)	INITIAL ORDER APPROVING
)	SETTLEMENT AGREEMENT
Respondent.)	
)	
.....)	

1 **NATURE OF PROCEEDING.** Docket TE-140414 arises out of a formal Complaint filed by Commission Staff on April 17, 2014, against Seventh Generation alleging that Seventh Generation engaged in business as a charter party carrier in February 2014 by completing two trips from Kent to Snoqualmie Summit East for Mohan Skiing and Boarding. The Complaint’s first cause of action alleges that Seventh Generation completed the two trips when it did not hold a certificate from the Commission, in violation of RCW 81.70.220 and WAC 480-30-086. The Complaint’s second cause of action alleges that Seventh Generation completed the two trips after the Commission had cancelled its prior certificate on November 19, 2013, in violation of RCW 81.70.260. The Complaint seeks a penalty of up to \$2,000 for each count, for a total penalty of up to \$4,000.

2 **PARTY REPRESENTATIVES.** Brett Shearer, Assistant Attorney General, Olympia, represents the Commission’s regulatory staff (Commission Staff or Staff).¹ Mr. David Hare, *pro se*, represents respondent Seventh Generation.

¹ In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do

3 **PROCEDURAL HISTORY.** The Commission held a prehearing conference in this matter on May 19, 2014, and adopted a procedural schedule. The Commission scheduled an evidentiary hearing for Monday, July 14, 2014.

4 **SETTLEMENT AGREEMENT.** On May 29, 2014, the parties filed with the Commission a Settlement Agreement and a Narrative Supporting Settlement Agreement. The Settlement Agreement includes (1) the Company's admission that it violated RCW 81.70.220 on two occasions by engaging in business as a charter party carrier without a certificate from the Commission; (2) the Company's further admission that it violated RCW 81.70.260 on two occasions by engaging in business as a charter party carrier after cancellation of its certificate by the Commission; (3) a requirement that Seventh Generation pay a monetary penalty of \$1,600 due on the first of the month following Commission approval of the settlement; (4) imposition of a suspended \$2,400 penalty subject to waiver on conditions that (a) the Company maintain its current charter certificate in good standing for one year after the date of approval of the settlement and (b) the Company earn at least a "Satisfactory" rating when Staff conducts a compliance review during that year.

5 **DISCUSSION AND DECISION.** WAC 480-07-750(1) states in part: "The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission." Thus, the Commission considers the individual components of the Settlement Agreement under a three-part inquiry, asking:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.
- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

6 The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to conditions.
- Reject the proposed settlement.

7 We approve the Settlement Agreement without condition. The Settlement Agreement ensures that Seventh Generation pays a penalty for operating without a certificate and puts a suspended penalty in place to ensure the Company continues to maintain its operating certificate, liability insurance, and all other required documentation for the coming year. The Agreement serves the public interest by promoting continuing compliance with Commission statutes and rules going forward without imposing an unwarranted financial burden on the Company in penalizing Seventh Generation for its failure to comply fully in the past with all applicable statutory requirements.

8 The settlement represents a compromise of the parties' original positions that concludes this matter without delay and without requiring expenditure of additional Commission resources to litigate the case. Further, the terms in the Settlement Agreement are not contrary to law or public policy and reasonably resolve all issues in this proceeding. We find that the Settlement Agreement is consistent with the public interest and should be approved as filed and without condition.

ORDER

THE COMMISSION ORDERS:

- 1 (1) The Settlement Agreement attached as Exhibit A to this Order, and incorporated into this Order by this reference, is approved without condition and adopted as the final resolution of the issues in this docket.
- 2 (2) Seventh Generation must pay a penalty of \$1,600 to the Commission no later than July 1, 2014.

- 3 (3) Seventh Generation must comply with all terms of the Settlement Agreement for one year following the date of this order or be subject to a further penalty of \$2,400. This suspended penalty will be waived one year following the date of this Order without further action by the Commission being required, assuming full compliance.
- 4 (4) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective June 18, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and **five (5)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

**Exhibit A
Settlement Agreement**