

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

BEELINE TOURS LTD. d/b/a SEATTLE EXPRESS	DOCKET TC-170824
Complainant,	ORDER 01
v.	
PUGET EXPRESS, LLC	INITIAL ORDER
Respondent.	

BACKGROUND

- 1 On July 28, 2017, Beeline Tours LTD. d/b/a Seattle Express (Beeline or Company) filed with the Washington Utilities and Transportation Commission (Commission) a Formal Complaint against Puget Express, LLC (Puget Express). Beeline alleges, among other things, that Puget Express provides scheduled passenger transportation service that infringes on Beeline's certificated authority.
- 2 Specifically, the Complaint alleges that Puget Express transports groups of unrelated passengers between the Comfort Inn and Suites in SeaTac, Washington, the Hampton Inn Seattle-Airport in SeaTac, and Cruise Terminals 66 and 91 in Seattle. Beeline argues that Puget Express holds a charter and excursion carrier certificate issued by the Commission, which does not permit it to transport unrelated groups of passengers between fixed termini. Accordingly, Beeline alleges that Puget Express is operating as an auto transportation company without the authority required for such operations in violation of Revised Code of Washington (RCW) 81.68.020 and RCW 81.68.040. Moreover, Beeline asserts that it is the only carrier authorized by the Commission to provide auto transportation service between hotels in the City of SeaTac and Cruise Terminals 66 and 91.
- 3 On August 9, 2017, Puget Express filed a response to Beeline's Formal Complaint (Response). In its Response, Puget Express asserts that it provides only the service it is authorized to provide, and expressly denies that it transports unrelated passengers.
- 4 On September 29, 2017, the Commission issued a Notice of Brief Adjudicative Proceeding; Setting Time for Oral Statements (Notice of BAP), set for November 2, 2017. The Notice of BAP requested that Puget Express produce any and all trip reports, invoices, schedules, statements, and documents relating to trips between the Comfort Inn,

the Hampton Inn, and Cruise Terminals 66 and 91 for the Commission's consideration at the hearing.

5 On November 2, 2017, the Commission conducted a brief adjudicative proceeding before administrative law judge Rayne Pearson.

6 Beeline presented testimony and exhibits documenting Puget Express's scheduled passenger service between the Comfort Inn, the Hampton Inn, and Cruise Terminals 66 and 91. Michael Rogers, Company owner, testified that he contacted the Comfort Inn to inquire about auto transportation service to the cruise piers and was told that shuttles depart daily at 9:45 a.m. and 11:15 a.m. Mr. Rogers explained that on May 21, 2017, he boarded a shuttle with a number of other customers and rode to Pier 66, making one stop at the Hampton Inn to pick up additional passengers. Mr. Rogers further testified that he contacted both hotels to discuss providing auto transportation and was told they have an existing relationship with another carrier.

7 Isaiah Fikre, company owner, testified on behalf of Puget Express. Mr. Fikre conceded that he "occasionally" provides scheduled service to unrelated passengers between the Comfort Inn, the Hampton Inn, and Cruise Terminals 66 and 91.¹ Mr. Fikre explained that he owns three buses that seat 25 passengers or more, and did not dispute that the bus shown in the photos sponsored by Mr. Rogers belongs to Puget Express.² Mr. Fikre did not produce any of the documents requested in the Notice of BAP.

8 Finally, Mr. Fikre explained that he was unaware his conduct was unlawful and apologized for providing service his company was not authorized to provide.

DISCUSSION AND DECISION

9 **Complaint.** We find that Puget Express operated as an auto transportation carrier without the authority required to conduct such operations on at least two occasions. Mr. Fikre acknowledged, and the evidence unequivocally shows, that Puget Express transported unrelated passengers between the Comfort Inn, the Hampton Inn, and Cruise Terminals 66 and 91. Although Puget Express held a certificate to provide charter and excursion carrier service at the time the violations occurred,³ these operations exceeded that authority.

¹ Fikre, TR 47:14-25; 50:24-51:5.

² See Exh. MR-2, Exh. MR-3, Exh. MR-5, Exh. MR-6, and Exh. MR-7.

³ Following an investigation that resulted in an unsatisfactory safety rating, Puget Express's charter and excursion carrier certificate was cancelled by the Commission on October 27, 2017, in Docket TE-170951.

- 10 WAC 480-30-036 defines “charter carrier” as “every person engaged in the transportation over any public highways in this state of a group of persons who, pursuant to a common purpose and under a single contract, acquire the use of a motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartering group after leaving the place of origin.” Because Puget Express’s passengers were unrelated and paid separately, the company’s conduct does not fall within the scope of charter carrier operations.
- 11 Similarly, Puget Express’s operations do not qualify as “excursion service,” defined as “every person engaged in the transportation of persons for compensation over any public highway in the state from points of origin within any city, town, or area, to any other location within the state of Washington and returning to that origin. The service must not pick up or drop off passengers after leaving and before returning to the area of origin.” Mr. Fikre conceded that Puget Express made multiple stops and both picked up and dropped off passengers.
- 12 WAC 480-30-036 defines auto transportation companies as “every corporation or person . . . owning, controlling, operating, or managing any motor-propelled vehicle used in the business of transporting persons and their baggage on the vehicles of auto transportation companies carrying passengers, for compensation over any public highway in this state between fixed termini . . . and not operating exclusively within the incorporated limits of any city or town.” The rule defines “between fixed termini” as the fixed points between which an auto transportation company provides service. Accordingly, we find that Puget Express’s scheduled service between the Comfort Inn, the Hampton Inn, and Cruise Terminals 66 and 91 violates RCW 81.68.020 and RCW 81.68.040, which prohibit carriers from providing auto transportation service without first obtaining a certificate of public convenience and necessity from the Commission.
- 13 RCW 81.04.380 provides that every public service company “shall obey, observe and comply with every order, rule, direction or requirement made by the commission under authority of this title.” A public service company that violates any provision of Title 81 RCW is subject to penalties of up to \$1,000 per violation. Here, Beeline submitted uncontested evidence that Puget Express violated RCW 81.68.020 and RCW 81.68.040 when it transported a group of unrelated passengers between the Comfort Inn, the Hampton Inn, and Pier 66 on May 21, 2017. Moreover, Mr. Fikre admitted that he has provided this same service on at least one other occasion. Accordingly, we assess a \$2,000 penalty for two violations of RCW 81.68.020 and RCW 81.68.040.
- 14 **Production of Documents.** Pursuant to RCW 81.04.070, the Commission has the authority to inspect the accounts, books, papers, and documents of any public service company. To assist the Commission with determining whether Puget Express has operated, or continues to operate, as an auto transportation carrier without the required

authority, the Notice of BAP required the company to produce records of its trips between the Comfort Inn, the Hampton Inn, and Cruise Terminals 66 and 91. As noted above, Puget Express did not bring any documents to the hearing. We find that Puget Express's failure to produce the requested information violates RCW 81.04.380. Accordingly, we assess a \$1,000 penalty for Puget Express's failure to comply with the requirement to produce certain documents as set out in the Commission's Notice of BAP.

- 15 Because Puget Express failed to provide information for the Commission's consideration at hearing, the Commission directs its regulatory staff (Staff) to conduct an investigation into Puget Express's operations to determine the extent to which the company violated RCW 81.68.020 and RCW 81.68.040, or otherwise exceeded the scope of its charter and excursion carrier authority. Once the investigation is complete, Staff may bring a formal complaint instituting a special proceeding to classify Puget Express as an auto transportation carrier and recommend penalties based on the number of additional violations discovered during its review.
- 16 Puget Express is advised that future violations of RCW 81.68.020 and RCW 81.68.040 will be subject to further enforcement action, including additional penalties of up to \$1,000 per violation.

FINDINGS AND CONCLUSIONS

- 17 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates, rules, regulations, and practices of passenger transportation companies, including auto transportation companies and charter and excursion carriers.
- 18 (2) On July 28, 2017, Beeline filed a Formal Complaint against Puget Express alleging that it was providing auto transportation service without first obtaining a certificate of convenience and public necessity from the Commission, as required.
- 19 (3) Puget Express held charter and excursion carrier authority subject to Commission regulation at the time the violations alleged in the Complaint occurred.
- 20 (4) Beeline presented undisputed evidence that Puget Express transported unrelated passengers between fixed termini on May 21, 2017.
- 21 (5) Puget Express acknowledged that it transported unrelated passengers between fixed termini on multiple occasions.
- 22 (6) Puget Express violated RCW 81.68.020 and RCW 81.68.040 on at least two occasions.

- 23 (7) Puget Express failed to produce documents related to its trips between the Comfort Inn, the Hampton Inn, and Cruise Terminals 66 and 91, as the Commission directed in its Notice of BAP.
- 24 (8) Puget Express's failure to produce the requested documents violates RCW 81.04.380.
- 25 (9) Puget Express should be penalized \$3,000 for three violations of Title 81 RCW.
- 26 (10) Commission Staff should be directed to initiate an investigation into Puget Express's operations to determine the extent to which they exceeded the Company's authority.

ORDER

THE COMMISSION ORDERS:

- 27 (1) The Commission assesses a penalty of \$2,000 against Puget Express, LLC for violating RCW 81.68.020 and RCW 81.68.040 when it provided auto transportation service on at least two occasions without first obtaining a certificate of convenience and necessity from the Commission to provide such service.
- 28 (2) The Commission assesses a penalty of \$1,000 against Puget Express, LLC for violating RCW 81.04.380 when it failed to produce documents as required by the Commission.
- 29 (3) The \$3,000 penalty is due and payable with 10 days of the effective date of this Order.
- 30 (4) Commission Staff will initiate an investigation into the operations of Puget Express, LLC.

DATED at Olympia, Washington, and effective November 28, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON
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 480-07-610(7) provides that any party to this proceeding has twenty-one (21) days after the entry of this Initial Order to file a *Petition for Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-610(7)(b). WAC 480-07-610(7)(c) states that any party may file a *Response* to a Petition for review within seven (7) 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.

Any Petition or Response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5). Any Petition or Response filed must also be electronically served on each party of record as required by WAC 480-07-140(1)(b).