

**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 10

ORDER GRANTING IN PART AND
DENYING IN PART PETITION TO
LIFT SUSPENSION ON USE OF
STRETCH DUCKS VEHICLES

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 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.”¹

¹ Order 05 ¶ 24.

- 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. On July 21, 2017, Staff submitted its response opposing the request to lift the suspension on the use of Stretch Duck vehicles as premature until the Company had demonstrated they satisfy certain safety and inspection requirements.
- 4 On July 25, 2017, the Commission entered Order 09 denying Ride the Ducks' petition without prejudice. The Commission agreed with Staff and required any future petition to satisfy the following requirements:
- 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; and
 - Pass a jurisdictionally mandated Level VII commercial vehicle inspection on each Stretch Duck vehicle the Company proposes to operate.
- 5 On December 20, 2017, Ride the Ducks filed another Petition for Reinstatement of Stretch Duck Vehicles (Second Petition). The Company asserts that it has met all of the benchmarks the Commission established in Order 09 for reinstatement of Stretch Duck #4, Washington License Number DUCK 4 (Stretch Duck #4). The Second Petition includes verification from a qualified third party that the new axle installation in Stretch Duck 4 meets and exceeds applicable federal motor vehicle safety standards; a representation that Ride the Ducks has inspected that vehicle in accordance with 49 CFR 396.17; and evidence that Staff conducted a Level VII commercial vehicle inspection on Stretch Duck #4 and that the Company corrected the two deficiencies Staff identified. The Second Petition also details additional steps Ride the Ducks has taken to ensure the safety of this and its other vehicles.
- 6 Ride the Ducks requests that the Commission immediately reinstate Stretch Duck #4. The Company acknowledges that it has not yet satisfied the requirements in Order 09 for the remaining Stretch Duck vehicles but requests that the Commission reinstate them conditioned on a demonstration that the Company has satisfied the requirements for those

vehicles. Ride the Ducks claims that such conditional reinstatement now “would prevent the Commission from hearing a wholly duplicative Petition seeking reinstatement for vehicles that will be in the same remedied and inspected state as Stretch Duck #4.”² Alternatively, the Company seeks leave to petition for full reinstatement of the other vehicles once they have been brought into the same condition as Stretch Duck #4.

- 7 On January 4, 2018, Staff filed its response to the Second Petition. Staff states that it is satisfied Ride the Ducks has complied with the requirements in Order 09 with respect to Stretch Duck #4 and recommends that the Commission allow the Company to resume operations of that vehicle. Staff, however, opposes pre-approval of the remaining Stretch Duck vehicles. Rather, Staff recommends that the Commission reinstate those vehicles only after Ride the Ducks has submitted acceptable proof that they satisfy the requirements in Order 09.

DISCUSSION AND DECISION

- 8 The Commission grants in part, and denies in part, the Second Petition. We agree with the Company and Staff that Ride the Ducks has complied with the requirements in Order 09 with respect to Stretch Duck #4. A qualified third party has verified that the new axle installation in Stretch Duck #4 meets and exceeds applicable federal motor vehicle safety standards; Ride the Ducks has inspected that vehicle in accordance with 49 CFR 396.17; and Staff conducted a Level VII commercial vehicle inspection on Stretch Duck #4, after which the Company corrected the two deficiencies Staff identified. Ride the Ducks has also taken additional steps to ensure the safety of its operations when using this vehicle. We concur with the Staff’s assessment and are satisfied that the Company now may safely operate Stretch Duck #4. Thus, we lift the suspension on Ride the Ducks’ use of that vehicle to provide excursion services.
- 9 However, the same cannot be said of the remaining Stretch Duck vehicles. As we observed in Order 09, promises of future action are insufficient to justify lifting the suspension on these vehicles with their prior safety defects, even conditionally. The Commission’s responsibility to protect and ensure public safety far outweighs any administrative burden that results from the Commission reviewing petitions demonstrating each such vehicle’s actual compliance with the requirements in paragraph 4 above and in Order 09. Accordingly, we deny the Second Petition with respect to

² Second Petition ¶ 24.

Stretch Duck vehicles other than Stretch Duck #4, without prejudice to the Company filing one or more subsequent petitions demonstrating that those vehicles are safe to operate.

ORDER

THE COMMISSION ORDERS:

- 10* (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 **GRANTED** in part with respect to Stretch Duck #4, Washington License Number DUCK 4. The Commission lifts the suspension on the Company's use of that vehicle to provide excursion services.
- 11* (2) 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** in part, without prejudice, with respect to all Stretch Duck vehicles other than Stretch Duck #4. Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours must submit one or more petitions for the remaining Stretch Duck vehicles demonstrating that the Company has satisfied the requirements in paragraph 4 above and in Order 09 for each of those vehicles before the Commission will consider lifting the suspension on their use.

DATED at Olympia, Washington and effective January 22, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner