

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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| In the Matter of the Investigation of LEAVENWORTH SHUTTLE & TAXI, LLC For Compliance with WAC 480-30-221 | DOCKET TE-161021 <i>(Consolidated)</i> |
| In the Matter of the Penalty Assessment Against LEAVENWORTH SHUTTLE & TAXI, LLC In the amount of \$19,800 | DOCKET TE-161020 <i>(Consolidated)</i> COMMISSION STAFF’S MOTION TO IMPOSE SUPENDED PENALTIES |

I. INTRODUCTION

1 Commission Staff (Staff) of the Washington Utilities and Transportation
Commission (Commission) submits this Motion to Impose Suspended Penalties pursuant to
WAC 480- 07-375(1).

II. RELIEF REQUESTED

2 Staff requests that the Commission impose the \$10,000 suspended penalty amount
from Order 01 of consolidated Dockets TE-161020 and TE-161021 because Leavenworth
Shuttle and Taxi, LLC (“Leavenworth Shuttle” or “the Company”) has violated a condition
of Order 01.

III. STATEMENT OF FACTS

3 In Order 01, the Commission suspended \$10,000 in penalties against the Company.
That suspension was subject to several conditions, including the condition that the Company

not incur any repeat violations of WAC 480-30-221. WAC 480-30-221 sets forth vehicle and driver safety requirements and adopts Parts of Title 49 of the Code of Federal Regulations (C.F.R.) by reference, including Part 382 (Controlled Substance and Alcohol Use and Testing); Part 391 (Qualification of Drivers); Part 395 (Hours of Service of Drivers); and Part 396 (Inspection, Repair and Maintenance). Order 01 further stated that if the Company failed to comply with any condition of the order, the entire \$10,000 suspended penalty would become immediately due and payable without further Commission order.

4 On November 19, 2018, Staff completed a compliance investigation of the Company. In the course of this investigation, Staff discovered numerous safety violations, including repeat violations of WAC 480-30-221, in violation of the condition in Order 01.

5 Staff discovered one violation of 49 C.F.R. § 391.45(a), which arose from Leavenworth Shuttle's use of a driver not medically examined and certified. The Company allowed Michael Kaelin to drive on 24 occasions without a valid medical certificate. This is a repeat violation because it is a violation of the same regulation that the Commission found the Company violated in Order 01, namely 49 C.F.R. § 391.45(a).

6 Staff discovered 82 violations of 49 C.F.R. § 396.11(a), which arose from Leavenworth Shuttle's failure to require its drivers to prepare a driver vehicle inspection report. The Company allowed Michael Kaelin to operate a vehicle 15 times in July, 19 times in August, and 8 times in September 2018 without completing a driver vehicle inspection report. The Company allowed Dallas Grant to operate 6 times in July, 18 times in August, and 16 times in September 2018 without completing a driver vehicle inspection report. These are repeat violations because it they are violations of the same regulation that the Commission found the Company violated in Order 01, namely 49 C.F.R. § 396.11(a).

7 Staff discovered four violations of 49 C.F.R § 382.305(i)(2), which arose from
Leavenworth Shuttle’s failure to ensure that each driver subject to random alcohol and
controlled substances testing has an equal chance of being selected each time selections are
made. The Company did not have the correct employees in the controlled substance and
alcohol testing program for each quarterly draw in 2017. These are repeat violations because
they involve the kind of regulations that Staff found the Company violated in compliance
review within this consolidated docket, namely the controlled substance and alcohol use and
testing provisions in 49 C.F.R. Part 382.

8 At the conclusion of Staff’s compliance investigation, Staff recommended that the
suspended penalties in Order 01 be imposed against the Company due to these repeat
violations.

III. STATEMENT OF ISSUES

9 Should the Commission impose the \$10,000 penalty suspended in Order 01 given
that Leavenworth Shuttle failed to meet the conditions of the penalty suspension?

IV. EVIDENCE RELIED UPON

10 Staff relies upon the Declaration of Special Investigator Sandra Yeomans and her
Compliance Review (Attachment A to Ms. Yeomans’s Declaration) which is attached to this
motion. Staff also relies upon Exhibit SY-2, which on file in this docket

V. ARGUMENT

11 On October 24, 2016, the Commission suspended the \$10,000 penalty against the
Company subject to the condition that the Company not commit any repeat violations of
WAC 480-30-221. The four violations of 49 C.F.R. § 391.305(i)(2), the one violation of 49
C.F.R. § 391.45(a), and the 82 violations of 49 C.F.R. § 395.8(a)(1) that Staff discovered

during its most recent compliance review are all violations of WAC 480-30-221, which involve exactly the same or the same kind of federal regulations that the Commission found the Company violated in Order 01.

12 Staff recommends that the Commission impose the suspended penalty in Order 01 because the violations that Staff discovered are repeat violations. These repeat violations violate the conditions upon which the Commission suspended the penalty.

VI. CONCLUSION

13 Staff respectfully requests that the Commission grant its Motion to Impose Suspended Penalties and impose the full \$10,000 suspended penalty against the Company.

DATED this 11th day of January 2019.

Respectfully submitted,

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