

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In re Application No. D-078932 of)
) DOCKET NO. TC-001566
VALENTINETTI, STEVE & BRIAN)
HARTLEY, D/B/A SEATTLE SUPER)
SHUTTLE,)
) INITIAL ORDER GRANTING
for a Certificate of Public Convenience and) APPLICATION
Necessity to Operate Motor Vehicles in)
Furnishing Passenger and Express Service as)
an Auto Transportation Company)
.....)

1 **Synopsis.** This initial order recommends granting Seattle Super Shuttle authority to operate motor vehicles in furnishing passenger transportation service between SeaTac airport and points in the city of Seattle. The Applicant showed that the public convenience and necessity require the proposed service. The Applicant showed that the existing certificate holders whose authority encompasses the same territory do not provide service to the satisfaction of the Commission.

2 **Proceedings.** This is an application by Seattle Super Shuttle, LLC¹ (“SSS” or “the Applicant”) for a certificate of public convenience and necessity to operate motor vehicles in furnishing passenger service door-to-door, by reservation only between Seattle-Tacoma International Airport and points in the city of Seattle.² The authority requested overlaps that of Shuttle Express, Inc., d/b/a Super Shuttle (“Shuttle Express”)³ and Evergreen Trails, Inc., d/b/a Gray Lines of Seattle (“Gray Line”) (collectively “the Protestants”) who protest the application.

¹ The original application was docketed as Steve Valentinetti and Brian Hartley d/b/a Seattle Super Shuttle. Since that time the partnership was incorporated, and is now registered with the Secretary of State as Seattle Super Shuttle, LLC. Mr. Valentinetti testified that the Applicant is now the corporation, and this order will treat the application as made by, and grant authority to, the corporation.

² There was some confusion at the hearing on the scope of the authority the Applicant seeks. The answer to question seven of the application (Exhibit 2) identifies the geographic scope as “all points within 25 miles of SeaTac.” The last page of the application identifies the geographic scope as “door-to-door by reservation only between Seattle-Tacoma International Airport and points in the city of Seattle.” The Docket published by the Commission on October 23, 2000, gives notice of an application for authority to serve between SeaTac airport and points in the city of Seattle. The Applicant agreed at the hearing to limit the scope of its application that included in the Docket. TR 219.

³ Shuttle Express did not object to SSS’s use of the applicants’ proposed business.

- 3 **Parties.** Steven Valentinetti, President, represents SSS. Brooks Harlow and David L. Rice, attorneys, Seattle, represent Shuttle Express and Gray Line. Sally G. Johnston, Assistant Attorney General, appeared at the first prehearing conference on behalf of the staff of the Washington Utilities and Transportation Commission. On May 2, 2001, Ms. Johnston filed with the Commission notification of withdrawal as attorney of record for Commission Staff. The Commission Staff did not participate further in the proceeding.
- 4 **Procedural Background.** On October 11, 2000, the Applicant filed an application to provide airporter service between SeaTac airport and points in the city of Seattle. Notice of the application was published in the Commission Docket on October 23, 2000. The Protestants filed a protest against the application on October 27, 2000. A prehearing conference was held on March 13, 2001, with Administrative Law Judges William Hendricks and Marjorie R. Schaer presiding. On April 19, 2001, Judge Hendricks recused himself from further participation in the proceeding. A second prehearing conference was held on April 30, 2001. The Commission convened an evidentiary hearing in Burien before ALJ Schaer on May 3, 2001. The Commission heard SSS's application and received evidence from SSS's witnesses and witnesses called by the Protestants. The hearing produced a transcript of 325 pages and 28 exhibits, including testimony from six witnesses. Post-hearing briefs were filed on June 11, 2000.
- 5 **Factual Basis.** SSS wants to provide non-scheduled, door-to-door service picking up passengers from their homes or businesses and transporting them to SeaTac airport or picking them up at SeaTac and transporting them to points in the city of Seattle.
- 6 The Applicant presented four witnesses: Steven Valentinetti, president of SSS; Mathias Eichelberger, a travel agent; Ernest Rosengren, a driver for Airline Delivery Systems; and David Estes, the owner of Vashon Shuttle and VIP Shuttle.
- 7 Mr. Valentinetti will be in charge of daytime operations, and oversee hiring, maintenance, and make sure that the company runs smoothly. The Company will have a safety director who is in charge of safety for the drivers, and also have a maintenance person who is in charge of safety for the vehicles. Mr. Valentinetti testified that SSS is a start-up business that owns five Ford E-350 passenger vans. The corporation is currently using its vans to provide a crew delivery service for American Airlines under the name Flagship Crew Shuttle, and lost-luggage delivery service under the name Airline Delivery Systems. These businesses do not require authority from the Commission; the corporation is using its vans for these businesses pending the outcome of this application. The Company has vehicles and insurance but does not yet have employees or a setup at the airport.
- 8 The business started as a partnership, and the balance sheet on page three of the application (Exhibit 2) shows the assets and liabilities of the two partners, Mr.

Valentinetti and Mr. Brian Hartley. The business incorporated during the interval between the filing of the application and the hearing. Exhibit 5 shows the balance sheet and the profit and loss statements for the corporation. The Applicant has capital: "Enough to maintain an operation such as this very safely and to have six months of reserves." TR 174.

9 Although the Company has not yet begun hiring drivers for the airporter service, the Applicant plans to have hiring policies and procedures, including drug screening and driver's record checks, in place. Mr. Valentinetti testified " We have a person that is more of an expert than myself on the drivers and the hiring policies;" Mr. Scotty White, owner of Knight Transport, is assisting the Applicant with regulatory compliance. TR 169.

10 The Company will have a central dispatcher, and phones and computers in the vehicles. The Applicant has software that will map and route trips to and from the airport.

11 The Applicants described their safety checklist, and safety inspections. Mr. Valentinetti and Mr. Hartley both will drive for the Company on occasion. Exhibit 7 includes information about their driving records. It discloses that Mr. Valentinetti received a speeding ticket for going 65 miles per hour in a 60 mile per hour zone in December 1998. He was cited for driving an overweight semi-trailer hauling a race car in Oregon in January, 2000. The most serious violation is a reckless driving charge in 1993 that resulted in a suspended sentence, and an arrest for failure to appear. Exhibit 9 discloses that the Applicant's non-regulated businesses have received parking tickets at SeaTac airport.

12 Mr. Valentinetti testified that both Protestants do a good job in providing the service they offer, but that they do not provide sufficient service at busy times to meet the public's needs. He also testified to growing traffic congestion in the Seattle area, and to the need for improved transportation options in order to improve the business climate in Seattle. He argues that multiple-occupancy vehicles will be a necessary component in meeting the future need for transportation in the Seattle area. In support of this, the Applicant provided Exhibit 28, which includes comments from the chairman of the Boeing Corporation regarding Washington's need to improve its business climate, stressing the problems caused by clogged freeways and highways: "Moving parts and pieces around the Puget Sound area is really tough." The article also discusses Governor Locke's transportation package, and the outcome of a blue-ribbon commission chaired by Boeing that looked at transportation for two years.

13 Three other witnesses testified to the needs of the traveling public, and the adequacy of the Protestants' services in meeting those needs. Mathias Eichelberger has twelve year's experience working for different airlines and travel agencies. Currently he is a

sales manager and sales representative for Northwest Airlines in Seattle. Mr. Eichelberger works outside sales, and as part of his job, visits travel agencies.

- 14 Mr. Eichelberger sees a strong need for a shuttle service to sell its product by offering a commission to travel agencies. He believes that marketing efforts should be made through the travel agencies to encourage travelers to purchase a “transfer” from their homes to the airport. He notes that currently 75% of the people who purchase travel buy through travel agencies. An airporter that pays a commission to travel agencies would provide the traveling public the opportunity to purchase more transfers. Mr. Eichelberger thinks more use of airporter service would reduce some of the traffic congestion that Northwest Airlines and the Port of Seattle are concerned about during high traffic times.
- 15 Mr. Eichelberger compared his experiences in Seattle to those in other cities in which he has worked, including Washington, D. C. and cities in Europe. In his experience in other locations companies providing shuttle service have worked closely with travel agencies promoting shuttles and transfers by offering commissions and working closely with travel agencies. These efforts have gotten many people away from driving their own car and parking at the airport. He expressed surprise that in Seattle there is not a shuttle vendor promoting use of shuttles by offering commissions and incentives to travel agents. He notes that selling transfers creates additional time-consuming work for travel agents, for which they require compensation. Customers like to be able to purchase transfers as part of a whole travel package.
- 16 Mr. Eichelberger also testified about his personal experience with Shuttle Express. He booked a trip for a houseguest who did not speak English. He arranged for a very early morning pick up, and was told that his guest was to go outside and wait to be picked up. When the reservation was made, Mr. Eichelberger was assured that his guest would be picked up right in front of his building. The morning of the pick-up, after Mr. Eichelberger’s guest was already outside waiting for the shuttle, Mr. Eichelberger was awakened by a call from Shuttle Express telling him that Shuttle Express would not pick up his guest in front of the building, and that he would be required to walk to an intersection about a block away. Mr. Eichelberger had to get up, get dressed, and go outside to tell his friend to walk up another block to meet the driver.
- 17 David Estes is one of the owners of Pacific Northwest Distributing, a limited liability corporation that does business as Vashon Shuttle and VIP Shuttle and, until recently, as Pacific Northwest Motor Coach. His company holds Passenger Charter, Excursion Service, and Auto Transportation certificates from the Commission. Mr. Estes personally spends time at SeaTac Airport, and is familiar with Gray Line and Shuttle Express. His customers have shared complaints of Shuttle Express showing up too early, of missing their flights, and of failure to show up for reserved service at the

Fauntleroy ferry dock. Mr. Estes testified that during the ice storm of 1996 Gray Line and Shuttle Express did not show up at the airport, which caused the whole airport to be backed up. He testified that the luggage was stacked up higher than his head (he is five foot ten). His own shuttle service was mobbed by customers begging for a ride.

18 Mr. Estes thinks there is a need for additional shuttle service in Seattle. He notes that the market is huge and growing. He sees customers stranded at the airport. He has potential customers who approach him outside the airport asking for rides. When his company has to refuse service, he hears that they have been waiting for Shuttle Express, and “they aren’t here.” TR 151. Gray Line, Shuttle Express and cabs do not meet the demand. Mr. Estes views Gray Line as a bus service from the airport to hotels that has a very narrow focus, and is “pretty much out of the equation.” TR 150. Shuttle Express can be overwhelmed at busy times and does not, in his opinion, have the capacity to serve the needs of Seattle.

19 Ernest Rosengren was a part-time driver for Shuttle Express for approximately seven months in the fall and winter of 1996-1997. Mr. Rosengren is currently a driver for a transportation company owned by Mr. Valentinetti. Mr. Rosengren drove on Fridays, Saturdays and Sundays from four or six in the evening to midnight to two in the morning. Most of his experience was in taking people from the airport home. Mr. Rosengren described how he would often pick up one group of passengers, who would then wait until he picked up a second group of passengers, and would sometimes get a call to wait for even a third passenger before his van would leave the airport. He testified that the average wait time was 20 to 30 minutes. He also described one night during the Thanksgiving weekend when people had been waiting two hours, and sometimes as long as three hours. Mr. Rosengren also described a personal experience riding Shuttle Express home from the airport in which his wait time was more than an hour, closer to an hour and a half. Mr. Rosengren testified that he would not take Gray Line service because he would not ride a bus.

20 Gray Line presented the testimony of David Gudgel, its Seattle General Manager. Mr. Gudgel described the dispatch, safety and training, equipment, and facilities of Gray Line. He sponsored Exhibits 10-16, which show the facilities, Commission permit, equipment list, airport concession agreement, repair facility, and insurance certificate of Gray Line, Exhibits 17 and 18 which show kudos his company has received, and Exhibit 19, a utilization report for Gray Line’s fleet. Gray Line provides airport express service and charter services. Gray Line provides a scheduled service using 53-passenger, 40-foot MCI motor coaches. His buses run between the Seattle convention center and major downtown hotels. His company also has smaller vans that serve the ferry terminal, Amtrack station, and other downtown hotels (including the Inn at Virginia Mason), and transport passengers to one of the large, scheduled motor coaches. The vans do not serve residential neighborhoods or outlying business areas. Mr. Gudgel indicated that such customers would likely use

Shuttle Express. His company uses six full-size motor coaches and two vans on a daily basis.

- 21 Gray Line had a travel agency incentive program that commissions sales through travel agencies (both locally and internationally), and to hotel bellmen and concierges. Gray Line's pamphlets are also available via the certificated rack system.
- 22 Gray Line has a concession agreement (Exhibit 13) with the Port of Seattle that allows exclusive use of a zone of the baggage claim level. Gray Line is an interstate carrier. Because any of its drivers, at any given time, can be called on to go outside of an one-hundred mile radius, they are required to maintain log sheets. Gray Line has on-line ticketing procedures that allow travelers to view its schedule and order tickets over the Web.
- 23 Mr. Gudgel does not see a need for additional capacity and additional buses on the airporter routes that his company serves. Gray Line, however, does not provide door-to-door service or a van service other than its connector service.
- 24 Shuttle Express presented the testimony of John Douglas Rowley, Jr. its Vice-President and General Manager. He described Shuttle Express's call center, dispatch office, training room, administrative offices, and van lot. Shuttle Express provides three kinds of transportation: a door-to-door ride-share service (90 percent); scheduled airporter service to the eastside (5 percent); and an unregulated town car service that offers nonstop direct service. Shuttle Express receives about 1500 calls per day, and uses 117 Dodge Ram vans to provide its door-to-door service.
- 25 Mr. Rowley, Jr. sponsored Exhibits 20-27 that include the Protestant's Commission permit, van and facility photos, a dispatch printout, advertising material, an airport concession agreement with the Port of Seattle, an insurance certificate, and a utilization report.
- 26 Exhibit 27, the utilization report, provides a simple calculation of how many seats (eleven) are available on each van times the number of vans, as compared to how many seats are occupied. By this measure, Shuttle Express's utilization rate is about 20 percent. On cross-examination, Mr. Rowley, Jr. clarified the meaning of this exhibit, noting that the chart shows a monthly number of people carried compared with the equipment that the Protestant has for the month. Actual utilization "varies on the peak of the day and year, that sort of thing." TR 293.
- 27 Mr. Rowley, Jr. testified "we have all the capacity in the world to carry share ride customers. If people are not willing to wait, there are other services like taxis and town cars" TR 288. He testified that scheduling outbound from the airport can be difficult when airplanes arrive late, and "should a peak hit, that tends to take all the

vans we have at the airport at that particular time, and until the next wave of vans come, then people are waiting.” TR 286.

28 In situations where customers call Shuttle Express to make a reservation, and it does not have sufficient capacity, it will take a name and number for the customer, and try to fit them in when there are cancellations. In an overload situation the Protestant’s door-to-door service will also shift customers to its town car division. Shuttle will sometimes charge its door-to-door fare to customers who are diverted. In others “If they don’t have a reservation on door-to-door and they haven’t called with enough time to get on one of our vans, in that case, we would charge the town car service price.” TR 308. In terms of what constitutes “enough time” Mr. Rowley, Jr. testified “There is often times people will try to call the day before, and we need a little more time than that sometimes to book everybody.” TR 311. Shuttle Express will also use some other companies as backup: Mr. Rowley, Jr. identified Farwest and Everett Yellow, cab companies, and also Northwest Cabulance for persons with disabilities. TR 300.

29 Mr. Rowley, Jr. identified his company’s biggest competitors as people who take themselves or other people to the airport, and his biggest commercial competitors as the cabs.

30 Shuttle Express provides local travel agents with brochures that advertise its services. It has a program that gives about 400 travel agents half-price coupons for their trips on Shuttle Express. Shuttle Express does not have a program to pay commissions to travel agents.

31 **Standard for Determination.** The fundamental standard upon which this applications is considered is that stated in RCW 81.68.040, as follows:

The commission shall have power, after hearing, when the applicant requests a certificate to operate in a territory already served by a certificate holder under this chapter, only when the existing auto transportation company or companies serving such territory will not provide the same to the satisfaction of the commission, and in all other cases with or without hearing, to issue said certificate as prayed for; or for good cause shown to refuse to issue same, or to issue it for the partial exercise only of said privilege sought, and may attach to the exercise of the rights granted by said certificate to such terms and conditions as, in its judgment, the public convenience and necessity may require.

32 In addition, consistent with the Commission’s rules for auto transportation companies in Chapter 480-30 WAC, the Commission considers an applicant’s financial fitness, and its fitness generally to provide the service for which it seeks authorization. We must address, then, two sets of questions with respect to the application:

- 1) Public convenience and necessity:
 - a) Do the public convenience and necessity require the proposed service?
 - b) Does an existing auto transportation company operating in the territory at issue provide service to the satisfaction of the Commission?

These questions are considered and answered below.

Public convenience and necessity:

A. Do the public convenience and necessity require the proposed service?

B. Do existing auto transportation companies operating in the territory at issue provide service to the satisfaction of the Commission?

- 33 An applicant for an auto transportation certificate must establish that the public convenience and necessity require the proposed operations. RCW 81.68.040. Order M. V. C. No. 1892, *In re Lloyd's Connection, Inc. d/b/a Airport Connection Airporter*, Hearing No. D-2556 (December 1990). Public convenience and necessity require the services of an additional carrier if existing carriers cannot meet the needs of the traveling public. RCW 81.68.040 (need). Order M. V. C. No. 1892, *Id.*
- 34 Testimony of Mathias Eichelberger, Ernest Rosengren, and David Estes established that there is a need for more door-to-door service at the airport, and that there is a need for a door-to-door service in Seattle that is available for booking by travel agencies in other cities. Although the Protestants have challenged the quantity or reliability of their evidence, the testimony of Mr. Rowley, Jr. confirms the testimony of these witnesses that additional door-to-door service is needed at the airport, and that Shuttle Express does not offer a compensation program to such travel agencies.
- 35 The Protestants argue that there is no evidence of any unserved need for additional service between downtown Seattle hotels served by Gray Line. The Commission views the service offered by Gray Line as a different kind of service from that offered by Shuttle Express or proposed to be offered by the Applicant. The service offerings are sufficiently different to appeal to discrete segments of the market, and approving the SSS's application will expand the options available to the traveling public generally. Giving more choices to riders will optimally serve their needs. See, *In re Heckman Motors, Inc. d/b/a Olympic Bus Lines*, Docket No. TC-000835, and *In re Jeffrey Lynn Porter d/b/a Pennco Transportation*, Docket No. TC-000676, Third Supplemental Order (February 2001). Thus, evidence that Gray Line provides adequate service of its kind to the traveling public does not vitiate the need for more door-to-door service of the kind offered by the Applicant.

36 While the Applicant's proposed services are of the same kind offered by Shuttle Express, the record makes it clear that Shuttle Express is not meeting all of the public need for door-to-door service from SeaTac airport to Seattle. Shuttle Express must at times divert potential customers of the regulated company to its non-regulated division, or to other unregulated forms of transportation. Shuttle Express cannot meet all demands at busy times even for reservations called in 24 hours ahead of need; it is unable with this amount of lead time to put sufficient vans and drivers into service. Shuttle Express at times fills all of its capacity of van seats at the airport and customers must wait until other vans reach the airport. Shuttle Express does not have a program to work with travel agencies outside of the Seattle area to make convenient transfers available to the traveling public.³ RCW 81.68.040's requirements promote the public interest in having regular and dependable passenger transportation services available at fair rates. The restriction on entry is not a barrier behind which poor service, or service that is unresponsive to the changing requirements of the market, is shielded from competition. RCW 81.68.040. Order M. V. C. No. 2041, *In re Sharyn Pearson & Linda Zepp, d/b/a Centralia-SeaTac Airport Express*, App. No. D-76533 (March 1994).

37 When the Applicant shows a *prima facie* case that the Protestants will not serve the territory in question to the satisfaction of the Commission, and that no good cause has been shown to deny the application, a grant of authority for the territory is consistent with the public convenience and necessity. RCW 81.68.040. Order M. V. C. No. 1809, *In re San Juan Airlines, Inc., d/b/a Shuttle Express*, App. No. D-2566 (April 1989). Convenience, directness and speed are essential characteristics of airporter service. The Commission will give substantial weight to those factors in its satisfactory service determination and in its public convenience and necessity determination in an application for overlapping airporter authority. RCW 81.68.040. Order M. V. C. No. 2057, *In re Sharyn Pearson & Linda Zepp, d/b/a Centralia Sea-Tac Airport Express*, App. No. D-76533 (June 1994). Failure to meet the real needs of travelers is a sufficient basis for finding that a carrier has failed to provide service to the Commission's satisfaction under RCW 81.68.040. *Id.* In sum, there is substantial competent evidence in the record to support a finding that the public convenience and necessity require the proposed service.

Fitness:

A. Is the company financially fit and capable of providing the service?

³ The Protestants also argue that there is no need for the Applicant's service because the Applicants do not have a concession agreement from the Port of Seattle. Brief, p. 3. Lack of such an agreement does not go to need; at most it will factor into whether the Applicant will be able to meet the need the Commission finds to exist. Possession or lack of such an agreement is not an issue before the Commission. When the Applicant has received a certificate from the Commission, then it will be able to approach the Port of Seattle to resolve this issue.

38 The Commission's examination of an applicant's financial fitness must be commensurate with the responsibilities of the public service that the firm seeks to provide, the risks to the public of failure, and the firm's financial history. RCW 81.68.040. Order M. V. C. No. 1899, *In re San Juan Airlines, Inc., d/b/a Shuttle Express*, App. No.D-2589 (March 1991); *modified*, Order M. V. C. No. 1909 (May 1991). In this proceeding the Applicant has provided a balance sheet and profit and loss statement for the newly established corporation. Exhibit 5. These establish that the Applicant's business is currently profitable, and that the corporation has reserves to draw on. The Applicant's President, Mr. Valentinetti, also testified that he is willing and able to invest additional funds, if necessary to support the corporation through its start up. TR 174. The Applicant is financially fit.

B. Does the company exhibit regulatory fitness?

39 To qualify for authority, an applicant must establish that it is willing and able to comply with Commission laws and rules. RCW 81.68.040 (fitness). Order M. V. C. No. 1892, *In re Lloyd's Connection, Inc. d/b/a Airport Connection Airporter*, Hearing No. D-2556 (December 1990). The Applicant's President, Mr. Valentinetti, testified that the Applicant is currently operating two non-regulated services: a luggage delivery service, and an airline crew shuttle. Thus, even though the Applicant testified that it had acquired its fleet of vans in order to provide airporter service, the Applicant has learned and followed the rules while its application is pending. Although the Protestants challenge Mr. Valentinetti's knowledge of the Commission's laws and rules, the Applicant demonstrated that it has and will consult with persons such as Mr. White, who possess such expertise, in order to follow the rules when its operations start.

40 The Protestants also attack Mr. Valentinetti's personal driving record, and the Applicant corporation's record of compliance. Exhibit 7 includes information about his driving record, and discloses that Mr. Valentinetti received a speeding ticket for going 65 miles per hour in a 60 mile per hour zone in December 1998. He was cited for driving an overweight semi-trailer hauling a race car in Oregon in January, 2000. The most serious violation is a reckless driving charge in 1993 that resulted in a suspended sentence, and an arrest for failure to appear. While not admirable, none of these indicate an unwillingness to follow Commission laws and rules. None would disqualify Mr. Valentinetti as a driver under current rules. Exhibit 9 discloses that the Applicant's non-regulated businesses have received parking tickets at SeaTac airport. Again, while regrettable, these do not rise to a level of concern that would trigger a finding that the applicant has not made a good faith commitment to comply with Commission laws and rules.

41 To qualify for authority, an applicant must establish that it is willing and able to comply with Commission laws and rules. RCW 81.68.040 (fitness). The applicant has shown both the willingness, and the ability—through obtaining appropriate help when needed—to comply. The Applicant is fit.

42 **Conclusion.** SSS showed by substantial competent evidence that the public convenience and necessity require the proposed service. SSS showed by substantial

competent evidence that Gray Line of Seattle and Shuttle Express, the existing certificate holders whose authority encompasses the same territory, do not provide service to the satisfaction of the Commission. SSS is fit, willing and able to provide the proposed service. The application is granted for these reasons in accordance with RCW 81.68.040.

FINDINGS OF FACT

- 43 (1) On October 11, 2000, Seattle Super Shuttle, LLC (“SSS”) filed with the Commission an application for a certificate of public convenience and necessity to operate motor vehicles in furnishing passenger service door-to-door, by reservation only between Seattle-Tacoma International Airport and points in the city of Seattle. Shuttle Express, Inc., d/b/a Super Shuttle (“Shuttle Express”) and Evergreen Trails, Inc., d/b/a Gray Lines of Seattle (“Gray Line”) (collectively “the Protestants”) protested the application.
- 44 (2) SSS possesses appropriate equipment to perform the services for which it requests authority in this proceeding. Its maintenance program is currently sufficient; it will have to establish maintenance programs for its vans when they are no longer under warranty, and more permanent facilities as its start up business is more fully established. SSS has sufficient financial resources to allow it to provide the proposed service. Based on the evidence presented, SSS, if the application is granted, will comply with the laws and rules governing auto transportation companies under Chapter 81.68 of the Revised Code of Washington.
- 45 (3) The testimony of Mathias Eichelberger, Ernest Rosengren, and David Estes establish that there is a need for SSS’s proposed service. Their testimony is bolstered by the testimony of Mr. Rowley, Jr. that Shuttle Express is not able to meet the demand for door-to door service, and that Shuttle Express does not offer a compensation program to travel agencies.
- 46 (4) Gray Line of Seattle does not provide service to the satisfaction of the Commission because the scope and nature of its services do not meet the public needs for more door-to-door service from SeaTac Airport to the city of Seattle.
- 47 (5) Shuttle Express does not provide service to the satisfaction of the Commission because it does not provide a program of compensation for travel agencies that allows the traveling public to arrange for transfers at SeaTac Airport from remote locations. Shuttle Express does not provide service to the satisfaction of the Commission because it does not have sufficient capacity to meet the demand for door-to-door service from SeaTac to the city of Seattle in an adequate and timely manner.

CONCLUSIONS OF LAW

- 48 (1) The Washington Utilities and Transportation Commission has jurisdiction over the parties and subject matter of this application.
- 49 (2) SSS is fit, willing and able to provide the services requested under chapter 81.68 RCW and chapter 480-30 WAC.
- 50 (3) The existing certificate holders serving the requested territory do not provide service to the satisfaction of the Commission in the territory in which SSS proposes to operate and it therefore is proper to grant overlapping authority to SSS under RCW 81.68.040.
- 51 (4) It is in the public interest and required by the public convenience and necessity that SSS be granted a certificate to authorize service as an auto transportation company to provide:

PASSENGER SERVICE: Door-to-door, by reservation only between Seattle-Tacoma International Airport and points in the City of Seattle.

52 Based on the above findings of fact and conclusions of law, the undersigned administrative law judge makes and enters the following order.

ORDER

53 IT IS ORDERED That Application No. D-078932 of Seattle Super Shuttle, LLC for a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in Furnishing Passenger and Express Service as an Auto Transportation Company is granted; and that contingent on the applicant’s compliance with chapter 81.68 RCW and the rules of the Commission governing auto transportation companies, a Certificate of Public Convenience and Necessity shall be issued to read in accordance with Appendix A, which is attached and, by this reference, made a part of this order.

DATED at Olympia, Washington, and effective this.....day of September, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARJORIE R. SCHAER
Administrative Law Judge

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial Order is not effective until entry of a final order by the Utilities and Transportation Commission. 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.

WAC 480-09-780(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 480-09-780(3). WAC 480-09-780(4) states that any *Answer* to any Petition for review may be filed by any party within (10) days after service of the Petition.

WAC 480-09-820(2) 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.

One copy of any Petition or Answer filed must be served on each party of record, with proof of service as required by WAC 480-09-120(2). An Original and nineteen copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia Washington 98504-7250.

Appendix A

Seattle Super Shuttle, LLC
1224 153rd Street South
Spanaway, WA 98387

PASSENGER SERVICE: Door-to-door, by reservation only between Seattle-Tacoma International Airport and points in the City of Seattle.

ORDER NO. TC-001566

(September 13, 2001)