



STATE OF WASHINGTON  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY (360) 586-8203

June 18, 2015

Steven V. King, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. S.W.  
P.O. Box 47250  
Olympia, Washington 98504-7250

RE: *In the Matter of the Suspended Penalty against Seventh Generation Charters, Inc.*  
Docket TE-140414

Dear Mr. King:

On June 18, 2014, the Commission issued Order 02 - Initial Order Approving Settlement Agreement (Order 02). Order 02 approved a Settlement Agreement and assessed a penalty against Seventh Generation Charters, Inc. (Seventh Generation or Company) in the amount of \$4,000 with \$2,400 suspended for one year.

The Commission suspended collection of the \$2,400 and waived enforcement or collection of that amount for one year, provided that Seventh Generation complied with the terms of the Settlement Agreement. Those terms were that the Company: (a) pay the \$1,600 penalty before July 1, 2014, (b) maintain its charter certificate in good standing for one year following the approval of the Settlement Agreement; and (c) receive a satisfactory safety rating if staff conducted a compliance review.

The Company paid the \$1,600 penalty payment on June 23, 2014.

Seventh Generation maintained its charter certificate in good standing until January 2015. On January 20, 2015, the Company submitted a voluntarily cancellation of its charter certificate, stating that the Federal Motor Carrier Safety Administration (FMCSA) had placed the company out of service in September 2014. The Commission issued an Order canceling the Company's certificate on January 22, 2015.<sup>1</sup> Seventh Generation has not applied for new authority from the FMCSA or the Commission. Staff believes the Company has gone out of business.

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<sup>1</sup> Docket TE-150105.

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Seventh Generation complied with the first condition in the Order 02 by paying the assessed penalty in a timely manner. While the Company did not technically comply with the condition of keeping its charter certificate in good standing for one year, Staff does not intend to seek enforcement on a company that is no longer operating. Accordingly, Staff requests that the Commission waive enforcement and collection of the \$2,400 suspended penalty in this docket.

Please contact Betty Young, Compliance Investigator, at (360) 664-1202 or [byoung@utc.wa.gov](mailto:byoung@utc.wa.gov) with any questions.

Sincerely,

A handwritten signature in cursive script that reads "David Pratt". The signature is written in dark ink and is positioned above the printed name.

David Pratt  
Assistant Director, Transportation Safety

Enclosure

**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).<sup>1</sup> Mr. David Hare, *pro se*, represents respondent Seventh Generation.

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<sup>1</sup> 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



BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

SEVENTH GENERATION,

Respondent.

DOCKET TE-140414

SETTLEMENT AGREEMENT

1           This settlement agreement (Agreement) is entered into by both parties to this  
proceeding for the purpose of resolving all issues raised in the above docket.

**I. PARTIES**

2           The parties to this Agreement are Seventh Generation (“Seventh Generation” or  
“Company”), and the Staff of the Washington Utilities and Transportation Commission  
3 (“Staff”) (collectively, “the Parties”).

**II. RECITALS**

3           Seventh Generation applied to the Commission for charter party and excursion  
service carrier authority on February 12, 2014, in Docket TE-140223. The Company’s  
application for new charter party and excursion service carrier authority was granted by the  
Commission on March 14, 2014. Seventh Generation previously held similar authority,  
which was cancelled on November 19, 2013.

4           On February 28 and March 3, 2014, Commission Licensing Services staff received  
complaints from two certificated charter party and excursion service carrier companies that

Seventh Generation had provided charter party services without operating authority from the Commission. Motor Carrier Safety staff contacted Mohan Skiing and Boarding (“Mohan Skiing”), a ski school for which Seventh Generation reportedly provided charter party carrier service. Mohan Skiing produced a copy of an invoice from Seventh Generation, dated March 1, 2014, showing that Seventh Generation completed two separate trips from Kent, Washington to Snoqualmie Summit East, in Washington, on February 14 and 28, 2014. The invoice showed that Seventh Generation charged \$800 for each of these trips such that \$1,600 was the total amount charged and received by Seventh Generation for the transportation services. Such charter party carrier services were provided when Seventh Generation did not have a charter party carrier certificate (charter certificate) from the Commission.

5           The Commission issued a Complaint and Notice of Prehearing Conference in this docket on April 17, 2014, and held a prehearing conference on May 19, 2014. Subsequently, the Parties entered into a settlement discussion and reached an agreement in principle. The settlement is memorialized in this Agreement.

### **III. AGREEMENT**

6           The Parties have reached agreement on the issues raised in the above docket and present their agreement for the Commission’s consideration and approval. The Parties therefore adopt the following Agreement, which the Parties enter into voluntarily to resolve the matters in dispute between them and to expedite the orderly disposition of this proceeding.

7           Seventh Generation admits two violations of RCW 81.70.220 – Engaging in business as a charter party carrier without a certificate from the Commission, and two

violations of RCW 81.70.260 – Engaging in business as a charter party carrier after cancellation of a certificate by the Commission, as set forth in the Complaint.

8           The Parties agree that Seventh Generation will pay to the Commission a penalty of \$1,600, with a \$2,400 penalty suspended and subject to waiver on the conditions that (1) the Company is maintains its current charter certificate in good standing for one year following the approval of this Agreement, and (2) if Staff conducts a compliance review during that year, the Company achieves a “Satisfactory” Safety Rating in the compliance review. These conditions are further described below.

9           The Parties agree that Seventh Generation will pay the \$1,600 penalty, due on the first day of the month following Commission approval of this Agreement. If Seventh Generation fails to pay the penalty as outlined in this Agreement, the remaining penalty, including the suspended amount, shall be due and payable immediately.

10          The Parties agree that Seventh Generation will keep its current charter certificate in good standing, including maintaining proof of the required liability and property damage insurance on file with the Commission, and timely file all required annual reports and pay regulatory fees. If Commission staff conducts a safety compliance review of the Company within the one-year compliance period, Seventh Generation must achieve a “Satisfactory” Safety Rating as a result of that review. Upon completion of the one-year compliance period, Staff will recommend, by a filing in this docket, that the Commission waive the suspended penalty if (1) the Company maintained its charter certificate in good standing, and (2) any compliance review conducted by Staff results in a “Satisfactory” Safety Rating for the Company. If these conditions are not met, Staff will recommend that the Commission impose the suspended penalty.

#### IV. GENERAL PROVISIONS

11           The Parties agree that this Agreement is in the public interest. The Parties further agree that this Agreement reflects the settlement of all contested issues between them in this proceeding. The Parties understand that this Agreement—including the admissions contained herein—is not binding unless and until accepted by the Commission. If the Commission does not accept this Agreement, including all of its terms and conditions without change, then the Parties shall be free to assert their pre-settlement positions and agree that neither this Agreement nor any statements or admissions contained herein shall be admissible or used for any purpose in this docket or any other proceeding for any purpose.

12           The Parties agree to cooperate in submitting this Agreement promptly to the Commission for acceptance. The Parties agree to support adoption of this Agreement in proceedings before the Commission. No party to this Agreement or its agents, employees, consultants, or attorneys will engage in advocacy contrary to the Commission's adoption of this Agreement.

13           The Parties agree (1) to provide each other the right to review in advance of publication any and all announcements or news releases that the other party intends to make about the Agreement (with the right of review to include a reasonable opportunity to request changes to the text of such announcements) and (2) to include in any news release or announcement a statement that the Staff's recommendation to approve the settlement is not binding on the Commission itself.

14           Nothing in this Agreement shall limit or bar any other entity from pursuing legal remedies against Seventh Generation or Seventh Generations' ability to assert defenses to such claims.

15           The Parties have entered into this Agreement to avoid further expense, inconvenience, uncertainty, and delay. The Parties recognize that this Agreement represents a compromise of the Parties' positions. As such, conduct, statements, and documents disclosed during negotiations of this Agreement shall not be admissible as evidence in this or any other proceeding, except in any proceeding to enforce the terms of this Agreement or any Commission order fully adopting those terms. This Agreement shall not be construed against either party because it was a drafter of this Agreement.

16           By executing this Agreement, no Party shall be deemed to have approved, admitted, or consented to the facts, principles, methods, or theories employed in arriving at the terms of this Agreement, nor shall any Party be deemed to have agreed that any provision of this Agreement is appropriate for resolving issues in any other proceeding, except to the extent expressly set forth in the Agreement.

17           The Parties have negotiated this Agreement as an integrated document to be effective upon execution. This Agreement supersedes all prior oral and written agreements on issues addressed herein. Accordingly, the Parties recommend that the Commission adopt this Agreement in its entirety.

18           The Parties may execute this Agreement in counterparts and as executed shall constitute one agreement. A signed signature page sent by facsimile or email is as effective as an original document.

19           The Parties shall take all actions necessary as appropriate to carry out this Agreement.

20           In the event that the Commission rejects all or any portion of this Agreement, or accepts the settlement upon conditions not proposed in this Agreement, each party reserves

the right to withdraw from this Agreement by written notice to the other party and the Commission. Written notice must be served within 10 business days of the Order rejecting part or all of this Agreement or imposing conditions not proposed in this Agreement. In such event, neither party will be bound or prejudiced by the terms of this Agreement, and the Parties agree to request the prompt reconvening of a prehearing conference and to cooperate in developing a procedural schedule.

**WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

**SEVENTH GENERATION**

ROBERT W. FERGUSON  
Attorney General

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MICHAEL A. FASSIO  
Assistant Attorney General  
Counsel for the Washington Utilities and  
Transportation Commission

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DAVID HARE  
Owner  
Seventh Generation

Dated: \_\_\_\_\_, 2014.

Dated: \_\_\_\_\_, 2014.