

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of)	DOCKET TC-140399
)	
SANI MAHAMA MAUROU d/b/a)	
SEATAC AIRPORT 24)	ORDER 01
)	
For a Certificate of Public Convenience)	
and Necessity to Operate Motor)	INITIAL ORDER SUSTAINING
Vehicles in Furnishing Passenger and)	IN PART AND OVERRULING IN
Express Service as an Auto)	PART OBJECTIONS TO
Transportation Company)	APPLICATION FOR NEW
.....)	AUTHORITY

BACKGROUND

- 1 On March 11, 2014, Sani Mahama Maurou d/b/a SeaTac Airport 24 (SeaTac Airport 24 or Applicant) filed an application with the Washington Utilities and Transportation Commission (Commission) for a certificate of public convenience and necessity to operate as an auto transportation company. SeaTac Airport 24 proposes to provide scheduled passenger service between the Tulalip Casino in Marysville and Seattle-Tacoma International Airport (SeaTac Airport), with one stop at the Westin Hotel in Seattle. The Applicant also proposes to provide nonstop scheduled passenger service between the Snoqualmie Casino in North Bend and SeaTac Airport, and nonstop scheduled passenger service between the Best Western Hotel in Monroe and SeaTac Airport.

- 2 On June 9, 2014, Wickkiser International Companies, Inc. d/b/a Airporter Shuttle (Airporter Shuttle) filed a letter with the Commission objecting to SeaTac Airport 24’s application on the grounds that the Applicant seeks to provide the same service Airporter Shuttle currently provides. On June 18, 2014, Shuttle Express, Inc. (Shuttle Express) also filed a letter with the Commission objecting to SeaTac Airport 24’s application on those same grounds. Pursuant to Washington Administrative Code (WAC) 480-30-116, the Commission scheduled a hearing on the application for September 8, 2014.

3 On September 8, 2014, the Commission conducted a brief adjudicative proceeding at
the Commission's offices in Olympia, Washington, before Administrative Law Judge
Rayne Pearson. Under WAC 480-30-116(3), the hearing was limited to the question
of whether the objecting companies hold certificates to provide the same service in
the same territory as the Applicant seeks to provide, whether the objecting companies
provide the same service, and whether the objecting companies will provide the same
service to the satisfaction of the Commission.¹

4 Michael A. Fassio, Assistant Attorney General, Olympia, Washington, represented
Commission Staff (Staff).² Sani Mahama Maurou, owner and president, Seattle,
Washington, represented SeaTac Airport 24. Richard Johnson, President, Ferndale,
Washington, represented Airporter Shuttle. Wesley Marks, Accounting Manager,
Renton, Washington, represented Shuttle Express.

5 At hearing, Mr. Maurou presented general testimony about traffic congestion in the
Seattle area and what he perceived to be a corresponding need for increased
transportation options. He admitted, however, that he had no knowledge of whether
Airporter Shuttle or Shuttle Express currently provide the same service he seeks to
provide, and, if so, whether that service is adequate.

6 Richard Johnson testified for Airporter Shuttle that the Company currently provides
daily scheduled service between the Tulalip Casino and SeaTac Airport.

7 Wesley Marks testified for Shuttle Express that the Company provides daily
scheduled passenger service between the Westin Hotel in Seattle and SeaTac Airport.
Mr. Marks also testified that Shuttle Express currently provides door-to-door service
between North Bend and SeaTac Airport, and between Monroe and SeaTac Airport,

¹ WAC 480-30-116(3). The revisions to WAC 480-30-116, effective September 21, 2013,
provide greater specificity than the prior rule by identifying the narrow issues the Commission
will consider in an adjudicated application for new certificate authority.

² In a formal proceeding 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 not discuss the merits of the proceeding with the regulatory staff, or any other party, without
giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

which Shuttle Express contends should preclude the Applicant from operating along the proposed routes in those areas.

DISCUSSION AND DECISION

- 8 On September 21, 2013, the Commission amended its rules governing the Commission's review of applications for authority to operate a passenger transportation company in Washington.³ The changes clarify and streamline the application process for companies seeking to provide such service.⁴ Existing companies may file objections to new applications on limited grounds that, if sustained, will result in denial of the application. If the objections are overruled, the application proceeds through a Commission staff review of fitness and compliance with the other prerequisites for obtaining a certificate of convenience and public necessity.
- 9 WAC 480-30-116(3) provides that adjudications of auto transportation applications are "limited to the question of whether the objecting company holds a certificate to provide the same service in the same territory, whether the objecting company provides the same service, and whether an objecting company will provide the same service to the satisfaction of the Commission." All three elements must be present for the Commission to deny an application to serve a given route.
- 10 Under WAC 480-30-140(2) the Commission may consider a number of factors to determine whether service applied for is the same as existing service. Those factors include, but are not limited to: whether existing companies are providing service to the full extent of their authority; the type, means, and methods of service provided; whether the type of service provided reasonably serves the market; and, for scheduled service, the proposed route's relation to the nearest route served by an existing certificate holder. The Commission views routes narrowly for the purpose of determining whether service is the same. Alternative routes that may run parallel to an objecting company's route, but which have a convenience benefit to customers,

³ *In re Amending and Adopting Rules in WAC 480-30 Relating to Passenger Transportation Companies*, Docket TC-121328, General Order R-572, Order Amending and Adopting Rules Permanently (2013), *codified at* WAC 480-30 (General Order R-572).

⁴ *Id.* ¶7 and ¶13.

may be considered a separate and different service. Door-to-door and scheduled service in the same territory are not considered the same service.

- 11 **Route 1: Scheduled service between the Tulalip Casino in Marysville and SeaTac Airport.** Mr. Johnson testified that Airporter Shuttle holds a certificate to provide nonstop scheduled service between Marysville and SeaTac Airport. Mr. Johnson established through recitation of the schedule in Airporter Shuttle's tariff that it provides this service along the Applicant's proposed route, absent the stop at the Westin Hotel in downtown Seattle. Three of Airporter Shuttle's 11 trips in either direction include one stop at the Seattle Convention Center; the remaining eight trips are nonstop.
- 12 Here, the Applicant's proposed route runs parallel to Airporter Shuttle's existing route, and provides no distinct convenience benefit to customers. Although the Applicant proposes to begin service one-half hour earlier than Airporter Shuttle – and runs on the hour for its southbound trips, whereas Airporter Shuttle runs on the half hour – these factors alone do not disqualify the Applicant's proposed service from being considered the same as Airporter Shuttle's existing service. We find that the Applicant proposes to offer the same service as that offered by Airporter Shuttle.
- 13 We turn now to the question of whether Airporter Shuttle provides service to the satisfaction of the Commission. To make this determination, the Commission may consider factors including, but not limited to, whether the existing company provides service in a manner that is convenient, safe, timely, direct, frequent, expeditious, and meets customer preferences or needs for travel.
- 14 The Applicant offered no evidence at hearing that the existing service provided by Airporter Shuttle is inadequate or unsafe, that Airporter Shuttle's customers are dissatisfied, or that the area is underserved. Mr. Maurou submitted 19 statements in support of his application,⁵ but none of them addresses the need for additional service along the route between Marysville and SeaTac Airport. Moreover, the Commission

⁵ Exh. SM-1.

has received no complaints about the adequacy, safety, or quality of Airporter Shuttle's service along this route.

15 We therefore conclude that Airporter Shuttle serves the proposed route to the Commission's satisfaction. Accordingly, we sustain Airporter Shuttle's objection and deny SeaTac Airport 24's application with respect to the proposed route between the Tulalip Casino in Marysville and SeaTac Airport.

16 **Route 2: Scheduled service between the Westin Hotel in Seattle and SeaTac Airport.** Mr. Marks testified at hearing that Shuttle Express holds a certificate to provide scheduled service between these two points and provides this service. This service, however, includes seven other stops in downtown Seattle made prior to departing Seattle and upon return from SeaTac Airport. The Applicant proposes to offer nonstop service between the Westin Hotel and SeaTac Airport, which Shuttle Express does not currently offer.

17 Under the criteria set out in WAC 480-30-140(2)(f), alternative routes that may run parallel to an objecting company's route, but which have a convenience benefit to customers, may be considered a separate and different service. Here, nonstop service between the Westin Hotel and SeaTac Airport provides a convenience benefit over the existing service, which includes multiple stops in either direction.

18 Moreover, the Commission has previously concluded in comparable circumstances that multiple-stop transportation service is not the same as nonstop service.⁶ We reach the same conclusion here. Accordingly, we overrule Shuttle Express' objection to this route and will allow SeaTac Airport 24's application to provide nonstop scheduled service between the Westin Hotel and SeaTac Airport.

19 **Route 3: Scheduled nonstop service between the Snoqualmie Casino in North Bend and SeaTac Airport.** Mr. Marks testified that Shuttle Express holds a certificate to provide service in North Bend. Mr. Marks explained that door-to-door service, which requires a reservation at least four hours in advance, is available.

⁶ See, e.g., *In re Application of McNamara, Sean d/b/a Bellingham Water Taxi*, Dockets TS-121253, et al., Order 04, Final Order Denying Petition for Administrative Review, ¶¶ 14-17 (July 17, 2013).

Shuttle Express does not, however, currently offer scheduled service in its North Bend service territory. WAC 480-30-140(2)(g) expressly provides that door-to-door service and scheduled service in the same territory will not be considered the same service. Even prior to the rule change, the Commission has held in past cases that door-to-door service and scheduled service are not the same service.⁷

20 Accordingly, we overrule Shuttle Express' objection to this route and allow SeaTac Airport 24's application to provide nonstop scheduled service between the Snoqualmie Casino in North Bend and SeaTac Airport.

21 **Route 4: Scheduled nonstop service between the Best Western Hotel in Monroe and SeaTac Airport.** Mr. Marks testified that Shuttle Express holds a certificate to provide service between Monroe and SeaTac Airport. Mr. Marks explained that door-to-door service, which requires a reservation at least four hours in advance, is available; Shuttle Express does not, however, currently offer scheduled service in Monroe. Consequently, we reach the same conclusion here as we do with respect to the route between North Bend and SeaTac Airport. We overrule Shuttle Express' objections to this route and allow SeaTac Airport 24's application to provide nonstop scheduled service between the Best Western Hotel in Monroe and SeaTac Airport.

FINDINGS AND CONCLUSIONS

22 (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 auto transportation companies.

⁷ See *Application of Pacific Northwest Transportation Services*, Order M.V.C. No. 1458, Commission Order on Reconsideration at 3 (Sep. 20, 1984); *Application of San Juan Airlines, Inc., d/b/a Shuttle Express*, Order M.V.C. No. 1834, Commission Decision and Order Granting Reconsideration; Affirming Final Order at 3 (Aug. 31, 1989); *Application of Jeffrey Lynn Porter d/b/a Pennco Transportation*, Order M.V.C. No. 2241, Commission Decision and Order Granting in part Staff's Petition for Review; Denying Protestant's Petition for Review, and Granting Application, with Conditions at 9-10 (Dec. 2, 1998); and *Application of Heckman Motors, Inc., d/b/a Olympic Bus Lines Inc.* (Docket TC-000676) and *Application of Jeffrey Lynn Porter d/b/a Pennco Transportation* (Docket TC-000835), Initial Order, ¶¶ 21-29 (Nov. 9, 2000).

- 23 (2) On March 11, 2014, SeaTac Airport 24 filed an application with the Commission to operate as an auto transportation company subject to the Commission's jurisdiction.
- 24 (3) On June 9, 2014, Airporter Shuttle filed an objection to SeaTac Airport 24's application on the grounds that it provides the same service the Applicant proposes to provide between Marysville and SeaTac Airport.
- 25 (4) On June 18, 2014, Shuttle Express filed an objection to SeaTac Airport 24's application on the grounds that it provides the same service the Applicant proposes to provide between the Westin Hotel in Seattle and SeaTac Airport, between North Bend and SeaTac Airport, and between Monroe and SeaTac Airport.
- 26 (5) Airporter Shuttle provides the same service that SeaTac Airport 24 proposes to provide between the Tulalip Casino in Marysville and SeaTac Airport.
- 27 (6) Airporter Shuttle offers adequate service to the Commission's satisfaction between the Tulalip Casino in Marysville and SeaTac Airport.
- 28 (7) Shuttle Express offers multiple-stop scheduled service and SeaTac Airport 24 proposes to offer nonstop scheduled service between the Westin Hotel in Seattle and SeaTac Airport.
- 29 (8) Shuttle Express does not provide the same service SeaTac Airport 24 proposes to provide between the Westin Hotel in Seattle and SeaTac Airport.
- 30 (9) Shuttle Express offers door-to-door service while SeaTac Airport 24 proposes to provide nonstop scheduled service between the Snoqualmie Casino in North Bend and SeaTac Airport.
- 31 (10) Shuttle Express does not provide the same service SeaTac Airport 24 proposes to provide between the Snoqualmie Casino in North Bend and SeaTac Airport.

- 32 (11) Shuttle Express offers door-to-door service while SeaTac Airport 24 proposes nonstop scheduled service between the Best Western in Monroe and SeaTac Airport.
- 33 (12) Shuttle Express does not provide the same service SeaTac Airport 24 proposes to offer between the Best Western in Monroe and SeaTac Airport.

ORDER

THE COMMISSION ORDERS THAT:

- 34 (1) SeaTac Airport 24's application to provide service between the Tulalip Casino in Marysville and SeaTac Airport is denied.
- 35 (2) The objection to SeaTac Airport 24's application to provide service between the Westin Hotel in Seattle and SeaTac Airport is overruled.
- 36 (3) The objection to SeaTac Airport 24's application to provide service between the Snoqualmie Casino in North Bend and SeaTac Airport is overruled.
- 37 (4) The objection to SeaTac Airport 24's application to provide service between the Best Western Hotel in Monroe and SeaTac Airport is overruled.

Dated at Olympia, Washington, and effective September 12, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON
Administrative Law Judge

NOTICE TO THE 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 20 days after the entry of this initial order to file a petition for administrative review (Petition). Section (3) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-825(4) states that any party may file an answer (Answer) to a Petition within 10 days after service of the petition.

WAC 480-07-830 provides that before the Commission enters 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. The Commission will not accept answers to a petition to reopen unless the Commission requests answers by written notice.

RCW 80.01.060(3), as amended in the 2006 legislative session, 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. You will be notified if this order becomes final either by operation of law or on administrative review.

You must serve on each party of record one copy of any Petition or Answer filed with the Commission, including proof of service as required by WAC 480-07-150(8) and (9). To file a Petition or Answer with the Commission, you must file an original and three copies of your petition or answer by mail delivery to:

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