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**WASHINGTON STATE
UTILITIES AND TRANSPORTATION
COMMISSION**

**NORTHWEST SMOKING & CURING,
INC., d/b/a SeaTac Direct,**

Applicant.

Docket No. TC-143864

**RESPONSE AND CONTINUED
OPPOSITION AND REQUEST FOR
CONDITION BY WHATCOM
TRANSPORTATION AUTHORITY**

Whatcom Transportation Authority ("WTA") takes this opportunity to respond to the January 8, 2015, Notice of Response to Filings issued by the Utilities and Transportation Commission ("UTC") in relationship to the above-referenced application. As acknowledged by the UTC, WTA objects to the request by Applicant Northwest Smoking & Curing, Inc., d/b/a SeaTac Direct ("SeaTac Direct") for an extension of Certificate C-65454 ("Certificate") to the extent that it seeks authorization to provide local passenger service within WTA's PTBA boundaries. The UTC maintains that WTA's concern, and request for a condition prohibiting local service as part of any grant of extension, is not subject to consideration because WTA lacks standing to oppose the application by WAC 480-30-116(2). With all due respect, WTA strongly disputes the UTC's conclusion for two reasons.

1 First, the UTC's interpretation of WAC 480-30-116(2) is too narrow. The
2 provision provides in pertinent part as follows:

3 **Objections.** An existing auto transportation company may object to an
4 application for new authority or an extension of authority published in the
5 application docket only if the company holds a certificate that authorizes
6 the same service and the company provides the same service published
7 in the application docket.

8 The provision does not state that only an auto transportation company can object. It
9 merely states that to the extent that an auto transportation company objects, it has to
10 have authority to provide the service that is being requested in the objected-to
11 application. Thus, the regulation does not prohibit a "Public Transit Agency," as defined
12 under WAC 480-30-036, from objecting.

13 The UTC's position is particularly curious, since WTA actually meets the
14 substantive condition set out under WAC 480-30-116(2). In particular, to the extent that
15 SeaTac Direct seeks authority under the application to provide local service within
16 Bellingham, WTA already provides this service. There is absolutely no logical reason
17 to interpret the UTC's rules to prohibit WTA's participation to assert its statutorily granted
18 authority merely because it is not an "auto transportation company" and otherwise
19 exempt from the Commission's authority. WAC 480-30-011(1)(e).

20 Even if the regulation should be interpreted as proposed by the UTC, such a
21 regulation would be unenforceable and unauthorized. The UTC cannot adopt a
22 regulation that authorizes it to ignore legislative prohibitions on the scope of authority
23 that a private service can provide.

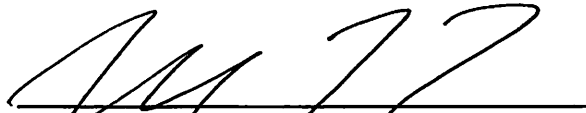
1 Moreover, even if there is an enforceable way to prohibit WTA from participating
2 and raising an objection, the UTC cannot ignore RCW 36.57A.100, which provides that
3 "no person or private corporation shall operate a local public passenger transportation
4 service, including passenger-only ferry service, within the public transportation benefit
5 area...." (Emphasis added). To the extent that SeaTac Direct seeks authority to provide
6 local services in Bellingham, the statute absolutely prohibits that it do so, unless WTA
7 enters an agreement authorizing such service. WTA does not authorize such service
8 by SeaTac Direct. The UTC cannot ignore this statutory prohibition and grant authority
9 where it is specifically prohibited.

10 Thus, WTA respectfully requests that the UTC reconsider its determination and
11 authorize WTA to object, or that it at least apply the statutory prohibition and impose an
12 appropriate condition on the application. In this, WTA does not object in general to the
13 requested extension, but merely requests imposition of the following condition to protect
14 its statutory rights under RCW 36.57A.100:

15
16 All services provided for passengers between points in Bellingham,
17 Washington and the Best Western Plus Lakeway Inn shall be in
18 connection with the providing of closed door service between the Best
19 Western Plus Lakeway Inn and SeaTac International Airport. Thus, all
20 passengers provided with expanded pick-up service within Bellingham,
21 Washington shall immediately continue on or immediately be
22 disembarking from SeaTac Direct's closed door service between Best
23 Western Plus Lakeway Inn in Bellingham and SeaTac International
24 Airport.

21 Please recognize that should the UTC continue to ignore WTA's statutory rights, and
22 should it authorize an extension that does not specifically prohibit local service, WTA
23 will seek injunctive relief against the UTC and SeaTac Direct.

DATED this 29th day of January, 2015.



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Authority

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