

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. D-079295 of)	DOCKET NO. TC-041353
)	
DIAMOND-WEST)	ORDER NO. 02
TRANSPORTATION CO, INC.)	
)	ORDER CORRECTING
For Extension of Authority under)	PREHEARING CONFERENCE
Certificate No. C-01054, For a)	ORDER; ACCEPTING
Certificate of Public Convenience)	STIPULATED CHANGES TO
and Necessity to Operate Motor)	REQUESTED AUTHORITY;
Vehicles in Furnishing Passenger)	VACATING HEARING
and Express Service as an Auto)	SCHEDULE
Transportation Company.)	
.....		

1 **NATURE OF PROCEEDING.** Docket No. TC-041353 is an application by Diamond-West Transportation Co. Inc. (Diamond-West or Applicant) for an extension of authority¹ to furnish passenger and express service to include passenger service between Seattle and Ellensburg with service to Bellevue, Redmond, Issaquah, North Bend, Snoqualmie Pass, Easton, Cle Elum, intermediate points, and points within one mile of I-90, via I-90, SR-10, Sr-906, I-405, and SR-520. On October 21, 2004, Diamond-West requested leave to amend its application to reduce its cope, requesting authority for passenger service, excluding door-to-door service, between Seattle, Snoqualmie Pass, including lodges and resorts within three (3) miles of Snoqualmie Pass, with service to Bellevue, Redmond, Issaquah, North Bend, Snoqualmie Pass, intermediate points, and points within one mile of I-90, via I-90, SR-10, I-405 and SR-520.

2 **PREHEARING CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on December 8, 2004, before Administrative Law Judge Theodora M. Mace.

3 **APPEARANCES.** William J. Davis, owner, represents Diamond-West. David L. Rice, attorney, Seattle, Washington, represents CWA, Inc. (CWA), protestant and Shuttle Express, Inc. d/b/a Shuttle Express (Shuttle Express), protestant. Jonathan Thompson, Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff).²

4 **CORRECTION TO PREHEARING CONFERENCE ORDER.** The prehearing conference order entered on December 9, 2004, stated that CWA withdrew its protest, based on Diamond-West's proposed amendment to its application.

5 On December 16, 2004, CWA filed an objection to the prehearing conference order, pursuant to WAC 480-07-430(3), stating that CWA had not withdrawn its protest. Rather CWA indicated that while Diamond-West's amended authority would eliminate CWA's interest in the proceeding, CWA sought to remain a party of record in the event that the Commission rejected the amendment.

6 CWA is correct.³ CWA remains a party to the proceeding pending Commission entry of a final order.

¹ Diamond-West currently holds authority under certificate number C-1035 to provide passenger service between Seattle and Ellensburg, via I-90, SR-10, SR-906, and SR-97 with all intermediate stops with service to off-route point of Redmond Via I-405 and SR-520.

² In formal proceedings, such as this case, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including Staff. RCW 34.05.455.

³ TR 18.

7 **STIPULATED AMENDMENT TO AUTHORITY.** On December 16, 2004, CWA, Shuttle Express and Diamond-West submitted a further restrictive amendment to the authority as follows:

PASSENGER SERVICE, excluding door-to-door service:

BETWEEN: Seattle and Snoqualmie Pass, including lodges and resorts within three (3) miles of Snoqualmie Pass, and intermediate points within one mile of I-90, with service to Bellevue, Redmond, Issaquah, North Bend, and Snoqualmie Pass, via I-90, SR-10, I-405 and SR-520. This authority does not include the right to serve areas within five miles of the Seattle-Tacoma International Airport.

8 Both CWA and Shuttle Express stated that they have no objection to Diamond-West's application provided the Commission accepts Diamond-West's amendment to its application, set out above. Both parties seek to remain parties of record pending Commission approval of the amended authority. Staff did not indicate whether it supported the amendment.

9 The amendment to the authority is provisionally accepted for purposes of determining the outcome of this case. The request of CWA and Shuttle Express to remain parties to the proceeding pending a final order is granted.

10 **Any objection to or comment on the statement of amended authority may be filed on or before January 7, 2005.**

11 **HEARING SCHEDULE VACATED.** During the prehearing conference, the parties agreed that if a stipulated amendment to the application were submitted, the evidentiary hearing scheduled for January 7, 2005 would be cancelled and the applicant would instead submit its documentary support for the authority requested on or before January 7, 2005 for hearing on a written record.

- 12 **The hearing previously scheduled in this matter for January 7, 2005, is cancelled. Applicant must submit its documentary support for the application, as amended, on or before January 7, 2005.**

Dated at Olympia, Washington, and effective this 3rd day of January, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE
Administrative Law Judge