

BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND	)	DOCKET NO. TC-051121
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	COMPLAINT AND ORDER TO
	)	SHOW CAUSE WHY
v.	)	CERTIFICATE SHOULD NOT BE
	)	CANCELED FOR
PENNCO TRANSPORTATION, INC.,	)	DISCONTINUANCE OF SERVICE
	)	WITHOUT PERMISSION FROM
Respondent.	)	THE COMMISSION AND FOR
	)	FAILURE TO FILE 2004 ANNUAL
	)	REPORT AND FAILURE TO PAY
	)	2005 REGULATORY FEES; AND
	)	NOTICE OF HEARING
	)	<b>(Set for August 31, 2005, at 3:00</b>
.....	)	<b>p.m.)</b>

1 **Synopsis:** *The Commission orders Pennco Transportation, Inc., to show cause why its certificate should not be revoked for discontinuance of the service called for under its certificate without first having secured permission from the Commission to do so, as required in WAC 480-30-060, and for failing to file an annual report of revenues as required by WAC 480-30-120 and to pay regulatory fees as required by WAC 480-30-110.*

2 **Proceedings:** Commission rules require auto transportation companies such as Pennco Transportation, Inc. (Pennco), to formally notify the Commission prior to discontinuing service and to obtain the Commission’s permission for the discontinuance. The Commission’s permission is required because a company’s certificate represents an exclusive right to provide a service for which the Commission has found there is a public need. The right to keep the authority that is granted in the certificate is conditioned on exercising that authority.

3 Commission rules also require auto transportation companies to file an annual  
report of gross operating revenues from intrastate operations and to pay a  
regulatory fee on an annual basis. Pennco has failed to file the report and to pay  
the fees that were required as of May 1, 2005.

4 Thus, Commission Staff asks the Commission to order Pennco to come before it  
and show cause why the Commission should not revoke the Company's  
certificate for discontinuance of the service called for under its certificate without  
first having secured permission from the Commission to do so, and for not filing  
the 2004 annual report and paying the 2005 regulatory fee.

#### I. COMPLAINT

5 The Washington Utilities and Transportation Commission (Commission) on its  
own motion, and through its Staff, alleges as follows:

6 Auto transportation companies, including Pennco, are required to report, in  
writing, to the Commission and to the public along the route, all interruptions of  
regular service, where such interruptions are likely to continue for more than  
twenty-four hours, with a full statement of the cause of such interruption and its  
probable duration. *WAC 480-30-060(7)*.

7 Auto transportation companies, including Pennco, are advised that  
discontinuance of service for a period of five consecutive days without notice to  
the Commission shall be deemed a forfeiture of all rights secured under and by  
virtue of any order or permission to operate issued by the Commission. *WAC  
480-30-060(8)*.

8 No auto transportation company, including Pennco, shall discontinue the service  
called for under its certificate without having secured from the Commission  
permission to do so. *WAC 480-30-060(9)*.

- 9 Public service companies, including auto transportation companies, are required to file an annual report with the Commission. *RCW 81.04.080.*
- 10 Auto transportation companies are required to pay regulatory fees annually. *RCW 81.24.020*
- 11 Failure of an auto transportation company to pay annual regulatory fees and file annual reports is sufficient cause for the Commission to revoke a certificate. *WAC 480-30-120(4), WAC 480-30-110(1).*
- 12 The Commission may, after providing the certificate holder with notice and an opportunity to be heard, revoke any certificate issued under the provisions of chapter 81.68 RCW, when it is proven that the holder willfully violates or refuses to observe any of the Commission's proper rules or regulations. *RCW 81.68.030.*
- 13 Pennco is an auto transportation company as defined in RCW 81.68.010. Pennco holds authority to transport passengers in the state of Washington for compensation.
- 14 From the Commission's files and records, it appears that Pennco has discontinued the service called for under its certificate without having secured from the Commission permission to do so.
- 15 Pennco's 2004 annual report and 2005 regulatory fees were due on May 1, 2005. Pennco has failed to file the required report or to pay its regulatory fees as required by Commission rule.

## II. ORDER AND NOTICE OF HEARING

- 16 IT IS HEREBY ORDERED that Pennco Transportation, Inc., must, unless a different time and place be specified by notice of hearing issued by the secretary

of the Commission, appear at a hearing before the Commission, at 3:00 p.m., on August 31, 2005, in Room 206, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, to answer the complaint herein and show cause, if any, why their auto transportation certificate should not be canceled.

17 The Commission, by this notice, sets a hearing in this matter, which will be held pursuant to chapter 34.05 RCW pertaining to adjudicative proceedings, including but not limited to RCW 34.05.413, RCW 34.05.434, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission has jurisdiction in this matter under chapter 80.01 RCW, chapter 81.04 RCW, RCW 81.24 and chapter 81.68 RCW, including but not limited to RCW 80.01.040, RCW 81.04.110, RCW 81.04.080, RCW 81.24.020, RCW 81.68.020, RCW 81.68.030, RCW 81.68.040, and RCW 81.68.070, and under chapter 480-07 WAC and chapter 480-30 WAC, including but not limited to WAC 480-07-145, WAC 480-07-150, WAC 480-07-440, WAC 480-07-450, WAC 480-07-470, WAC 480-07-490, WAC 480-07-495, WAC 480-30-060, WAC 480-30-110, WAC 480-30-120.

18 **NOTICE IS HEREBY GIVEN That a hearing in this matter will be held on Wednesday, August 31, 2005 at 3:00 p.m., in Room 108, First Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** If you are unable to attend the hearing in person, you may attend via the Commission's teleconference bridge line, 360-664-3846. Please appear on the teleconference bridge five minutes before the hearing is scheduled to begin.

19 THE COMMISSION GIVES FURTHER NOTICE THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.400 AND WAC 480-07-450.

20 If any party or witness needs interpreter or other assistance, please fill out the form attached to this notice and return it to the Commission.

21 The names and mailing addresses of all parties and their known representatives are as follows:

Complainant: Washington Utilities and  
Transportation Commission  
1300 S. Evergreen Park Drive S.W.  
PO Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

Representative: Jonathan Thompson  
Assistant Attorney General  
1400 S. Evergreen Park Drive S.W.  
PO Box 40128  
Olympia, WA 98504-0128  
(360) 664-1225

Respondent: Pennco Transportation, Inc.  
Post Office Box 356  
Carlsborg, WA 98324

22 Theodora M. Mace has been appointed as the Administrative Law Judge from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250 and will preside at the hearing.

**III. ORDER**

THE COMMISSION ORDERS that

- 23 Pennco Transportation, Inc., must come before the Commission pursuant to RCW 81.68.030 to show cause why the Commission should not revoke its certificate for discontinuance of the service called for under its certificate without first having secured permission from the Commission to do so, as required in WAC 480-30-060, and for failing to file a report of operating revenues as required in WAC 480-30-120 and to pay regulatory fees as required in WAC 480-30-110.
- 24 Notice of any other procedural phase will be given in writing or on the record as the Commission may deem appropriate during the course of this proceeding.

DATED at Olympia, Washington and effective this 29th day of July, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

Inquiries may be addressed to:

Executive Secretary  
Washington Utilities and  
Transportation Commission  
Chandler Plaza Building  
1300 S. Evergreen Park Drive S.W.  
P. O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

**NOTICE**

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Carole J. Washburn, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket No.: \_\_\_\_\_

Case Name: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Location: \_\_\_\_\_

Primary Language: \_\_\_\_\_

Hearing Impaired (Yes) \_\_\_\_\_ (No) \_\_\_\_\_

Do you need a certified sign language interpreter:

Visual \_\_\_\_\_ Tactile \_\_\_\_\_

Other type of assistance needed: \_\_\_\_\_

English-speaking person who can be contacted if there are questions:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.:(\_\_\_\_) \_\_\_\_\_