

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET TE-140414
TRANSPORTATION COMMISSION,)	
)	ORDER 01
Complainant,)	
)	COMPLAINT SEEKING TO
v.)	IMPOSE PENALTIES
)	
SEVENTH GENERATION,)	NOTICE OF PREHEARING
)	CONFERENCE
Respondent.)	(Set for May 19, 2014,
)	at 1:30 p.m.)
.....)	

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

I. PARTIES

2 The Complainant Commission is an agency of the state of Washington, authorized by RCW 80.01.040(2) and Title 81 RCW to regulate in the public interest all persons engaging in the transportation of persons or property within this state for compensation, including charter party carriers as to operating certificates, required levels of liability and property damage insurance, and other matters related to the safety of equipment, drivers and operations.

3 Respondent Seventh Generation (“Seventh Generation” or “Company”) is a corporation providing charter and excursion carrier services in the state of Washington under Certificate CH-63061 granted by the Commission.

II. JURISDICTION

4 The Commission has jurisdiction over Seventh Generation because Seventh Generation is subject to regulation by the Commission as a charter party carrier under RCW 81.70.020(5), as a common carrier under RCW 81.04.010(11), as a public service company under RCW 81.04.010(16), and as a person engaged in the transportation of persons or property within the state of Washington for compensation

under RCW 80.01.040(2). In all instances, the conduct alleged in this Complaint occurred within the state of Washington.

- 5 The Commission has jurisdiction over the subject matter of this Complaint under the provisions of RCW 80.01, RCW 81.04, and RCW 81.70. Specific provisions include but are not limited to: RCW 80.01.040, RCW 81.04.110, RCW 81.04.380, RCW 81.04.387, RCW 81.04.405, RCW 81.04.510, RCW 81.70.220, and RCW 81.70.260.

III. ALLEGATIONS AND CAUSES OF ACTION

A. First Cause of Action (RCW 81.70.220 – Engaging in Business as a Charter Party Carrier without a Certificate from the Commission)

- 6 Seventh Generation Farms, Inc. received operating authority from the Commission to operate as a charter party and excursion service carrier on October 10, 2007.
- 7 In March 2009, Seventh Generation Farms, Inc. changed its name to Seventh Generation Charters, Inc. According to Washington State Business License Service information, Seventh Generation Charters, Inc.’s UBI number was 603378612. John David Hare was listed as the governing person. Seventh Generation Charters, Inc. was registered as a for-profit corporation with the Secretary of State (“SOS”) with John David Hare as the registered agent. Seventh Generation Charters, Inc. also had an account with the Department of Revenue (“DOR”).
- 8 In February 2014, Seventh Generation Charters, Inc. changed its name, business structure and UBI number. The new UBI number is 603378612. The Company is currently called Seventh Generation and is registered with the SOS as a non-profit corporation, and has an active account with the DOR. The Company’s physical address is 350 Independence Road, Rochester, Washington, 98579. John David Hare remains the registered agent with the SOS and the governing person with the Washington State Business License Service. Commission records show that John David Hare is the sole owner of Seventh Generation.
- 9 Charter party and excursion service carriers regulated by the Commission must procure and maintain required levels of liability and property damage insurance. RCW 81.70.280. Failure to file proof of insurance with the Commission and maintain the required level of insurance is cause for revocation of a company’s operating certificate. RCW 81.70.280.

- 10 On July 12, 2013, the Commission received a notice from Seventh Generation's insurance carrier that the Company's insurance would be cancelled, effective October 5, 2013. Commission Licensing Services staff notified Seventh Generation by letter, dated July 15, 2013, that the Company's charter party and excursion service carrier certificate would be suspended if acceptable proof of insurance was not received by the Commission by October 5, 2013.
- 11 On October 7, 2013, when proof of the required insurance had not been received by the Commission from the Company, the Commission issued to Seventh Generation in Docket TE-131897 an Order Suspending/Cancelling Certificate. The Order directed Seventh Generation to cease all operations associated with the Company's operating certificate until proof of insurance was received and the Commission lifted the suspension and authorized Seventh Generation to resume operations. The Order advised the Company that if proof of insurance was not filed with the Commission within 30 days of the Order's issuance, Seventh Generation's charter party and excursion service carrier certificate would be cancelled without further notice or order. The Order also advised Seventh Generation that it could contest cancellation of its certificate within ten days from issuance of the Order. The Company did not contest cancellation of the certificate.
- 12 On November 19, 2013, when proof of the required insurance coverage still had not been received by the Commission from Seventh Generation, the Commission cancelled Seventh Generation's charter party and excursion service carrier certificate.
- 13 Seventh Generation applied for new charter party and excursion service carrier authority in the State of Washington, on February 12, 2014, in Docket TE-140223. Before the Commission grants charter party and excursion service authority to a company, proof of insurance must be received, all licensing requirements must be met, and Motor Carrier Safety staff must conduct a "New Entrant" inspection of the company's vehicles and records. Motor Carrier Safety staff conducted the new entrant inspection of Seventh Generation on March 6, 2014. During the inspection, Motor Carrier Safety staff requested that the Company's owner, John David Hare, provide copies of any operating records. Mr. Hare informed staff that he had no operating records, claiming Seventh Generation had not provided any charter party services after its prior certificate had been cancelled by the Commission on November 19, 2013. The Company's application for new charter party and excursion service carrier authority was granted by the Commission on March 14, 2014.
- 14 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 from the Commission.

- 15 RCW 81.70.220 and WAC 480-30-086(1) state that no person may engage in the business of a charter party carrier of persons over any public highway without first having obtained a certificate from the Commission to do so or having registered as an interstate carrier. A “charter party carrier” includes every person “engaged in the transportation over any public highways in this state of a group of persons who, pursuant to a common purpose and under a single contract, acquire the use of a motor vehicle to travel together as a group to a specified designation or for a particular itinerary, either agreed upon in advance or modified by the chartered group after leaving the place of origin.” RCW 81.70.020(5). WAC 480-30-036. “Person” includes a corporation. RCW 81.70.020(2). WAC 480-30-036. “Common purpose” means that a group of persons is travelling together to achieve a common goal or objective. WAC 480-30-036.
- 16 Charter party carriers are common carriers. RCW 81.04.010(11). Every common carrier is a public service company. RCW 81.04.010(16).
- 17 Based on the facts alleged in Paragraphs 6 through 12, Seventh Generation violated RCW 81.70.220 and WAC 480-30-086(1) on two occasions by engaging in the business of a charter party carrier of persons over public highways in this state without first having obtained a certificate from the Commission to do so. RCW 81.04.380 states that any public service company will be subject to a penalty up to \$1000 for each separate violation of any provision of Title 81 RCW. RCW 81.04.387 states that every corporation other than a public service company will be subject to a penalty up to \$1000 for each separate violation of any provision of Title 81 RCW.
- 18 Therefore, the Commission alleges two violations of RCW 81.70.220 and WAC 480-30-086(1) for each of the charter party carrier services Seventh Generation provided on February 14 and 28, 2014, without having first obtained a certificate from the

Commission to do so, resulting in a penalty of up to \$2000 for the First Cause of Action alleged in this Complaint.

B. Second Cause of Action (RCW 81.70.260 - Engaging in Business as a Charter Party Carrier after Cancellation of a Certificate by the Commission)

- 19 The Commission, through its Staff, re-alleges the factual allegations contained in Paragraphs 6 through 12 above.
- 20 RCW 81.70.260 states that it is unlawful for any charter party carrier or excursion service carrier of passengers to conduct any operations as such a carrier after the cancellation of a certificate.
- 21 Based on the facts alleged in Paragraphs 6 through 12 above, Seventh Generation violated RCW 81.70.260 on two occasions by conducting operations as a charter party carrier after the cancellation of its certificate on November 19, 2013. RCW 81.04.380 states that any public service company will be subject to a penalty up to \$1000 for each separate violation of any provision of Title 81 RCW. RCW 81.04.387 states that every corporation other than a public service company will be subject to a penalty up to \$1000 for each separate violation of any provision of Title 81 RCW.
- 22 Therefore, the Commission alleges two violations of RCW 81.70.260 for each of the charter party carrier services Seventh Generation provided on February 14 and 28, 2014, after the cancellation of its prior certificate on November 19, 2013, resulting in a penalty of up to \$2000 for the Second Cause of Action alleged in this Complaint.

IV. REQUEST FOR RELIEF

- 23 Staff asks the Commission to find that Respondent Seventh Generation has failed to comply with the statutes and rules of the Commission as set forth in the allegations above.
- 24 Based on all of the allegations in this Complaint, Staff requests that the Commission take the following actions if the allegations are proven:
- (1) The Commission should assess monetary penalties against Seventh Generation Charters, Inc., consistent with RCW 81.04.380 and RCW 81.04.387.

- (2) The Commission should order such other and/or further relief as is appropriate under the circumstances.

V. PROBABLE CAUSE

- 25 Based on a review of the matters asserted in this Complaint and consistent with RCW 80.01.060, the Commission finds probable cause exists to issue this Complaint.

VI. NOTICE OF PREHEARING CONFERENCE

- 26 The COMMISSION GIVES NOTICE That it will hold a prehearing conference in this matter at **1:30 p.m., on May 19, 2014**, in Room 206, the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.
- 27 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW 34.05.431, RCW 34.05.434, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will follow its procedural rules in WAC 480-07 in this proceeding.
- 28 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing dates for distributing evidence and workpapers, to identify the issues in the proceeding and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.
- 29 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in writing at least three business days before the date of the prehearing conference. *See* WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the conference, but strongly prefers written petitions to intervene. Party representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See* WAC 480-07-345(2).
- 30 Any party or witness in need of an interpreter or other assistance should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, or by later written notice.

31 **The COMMISSION GIVES NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**

32 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.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Robert D. Cedarbaum
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1188
bcedarba@utc.wa.gov

Respondent: Seventh Generation
350 Independence Road
Rochester, WA 98579

33 Administrative Law Judge Adam E. Torem, from the Commission's Administrative Law Division, will preside during this proceeding

34 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Olympia, Washington, and effective April 17, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Director, Administrative Law Division

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: Steven V. King, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

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.: (____) _____