

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

BLUE SKY OUTFITTERS, INC.,

Respondent.

DOCKET TE-161267

ORDER 01

COMPLAINT

and

NOTICE OF BRIEF  
ADJUDICATIVE PROCEEDING  
(Set for March 13, 2017  
at 9:30 a.m.)

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

**I. PARTIES**

2 The Commission is an agency of Washington state authorized by state law to regulate the  
rates, services, facilities, and practices of public service companies, including passenger  
charter and excursion carriers, under the provisions of Title 81 RCW.

3 Blue Sky Outfitters, Inc. (Company) is authorized under Commission-issued Certificate  
CH-064745 to provide charter and excursion services in Washington state.

**II. BACKGROUND**

4 The following facts, set forth in a Staff Investigation Report of this matter, establish  
probable cause for the Commission to complain against the activities of Blue Sky and to  
seek penalties in accordance with applicable law.

5 At all times pertaining to this matter, Blue Sky held a certificate of authority from the  
Commission to provide services as a charter party and excursion service carrier:  
Certificate Number CH-064745, issued on October 9, 2012.

6 In Docket TE-141053, the Company received a penalty assessment for failure to furnish a  
2014 annual report. In Docket TE-151008, the Company also received a penalty  
assessment for failure to furnish a 2015 annual report.

7 The Commission's staff (Staff) conducted a compliance review of the Company in November 2016, with a closing interview on December 1, 2016.

8 Through its compliance review, Staff discovered that the Company had provided a trip on October 23, 2016. The Company failed to require its driver to make a record of duty status on October 23, 2016. The Company used a commercial motor vehicle not periodically inspected on October 23, 2016. The Company failed to maintain a driver qualification file on each driver it employed. The Company failed to preserve the driver's record of duty status and supporting documents for six months. The Company failed to keep minimum records of inspection and vehicle maintenance.

### III. JURISDICTION

9 The Commission has jurisdiction over the subject matter under RCW 81.01, RCW 81.04, RCW 81.70, WAC 480-07, WAC 480-30, and RCW 34.05.

### IV. APPLICABLE LAWS AND REGULATIONS

10 Passenger charter and excursion carriers operating under the Commission's authority must comply with the parts of Title 49 of the Code of Federal Regulations (CFR) listed in WAC 480-30-221.

11 Under RCW 81.04.380, the Commission may assess penalties of up to \$1,000 for each violation of any Commission rule by a passenger charter or excursion carrier.

### V. CAUSE OF ACTION

12 The Commission alleges that the Company committed five violations of WAC 480-30-221 by committing five violations of regulations in Title 49 CFR. Specifically, Blue Sky has: (1) failed to require its drivers to make a record of duty status; (2) keep and maintain required records of duty status; (3) keep and maintain required driver qualification files; (4) keep and maintain minimum records of vehicle inspection and maintenance; and (5) by using a commercial motor vehicle not periodically inspected.

### VI. REQUEST FOR RELIEF

13 Staff requests that the Commission, pursuant to its authority under RCW 81.04.380, and RCW 81.70.310, assess penalties of \$5,000 against Blue Sky for five (5) violations of Commission rule WAC 480-30-221.

**VII. PROBABLE CAUSE**

14 Consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause to issue this Complaint.

**VIII. NOTICE OF BRIEF ADJUDICATIVE PROCEEDING**

15 Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determines that a brief adjudicative proceeding is appropriate for resolving the issues in this complaint.

16 **THE COMMISSION GIVES NOTICE that it will hold a brief adjudicative proceeding in this matter at 9:30 a.m. on March 13, 2017, in Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

17 The record in this case will consist of any documents regarding the matter that are considered by or prepared for the presiding officer for the brief adjudicative proceeding and a transcript of any oral statements given at the hearing, which statements will be given under oath.

18 Written notice of any other stage in the proceeding or other formal proceedings that the Commission may deem appropriate will be given during the course of this case. The Commission will provide at its offices in Olympia, Washington, copies of documents in the current record for use by the parties or others who may want to review them.

19 Parties wishing to submit any other documents for consideration at the brief adjudicative proceeding must file with the Commission a list enumerating and describing any such documents no later than 5 p.m. on March 6, 2017, and bring an original and three (3) copies to the hearing. Filing shall be in accordance with WAC 480-07-140 and WAC 480-07-145.

20 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the brief adjudicative proceeding 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.**

21 The names and contact information of all parties and their known representatives are shown as follows:

Respondent: Blue Sky Outfitters, Inc.  
Brad Sarver, President

9674 50th Ave SW  
Seattle, WA 98136

Representative: Unknown

Commission: Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive S.W.  
P.O. Box 47250  
Olympia, WA 98504-7250

Representative: Andrew J. O'Connell  
Assistant Attorney General  
1400 S. Evergreen Park Drive S.W.  
P.O. Box 40128  
Olympia, WA 98504-0128  
(360) 664-1192

DATED at Olympia, Washington, and effective January 25, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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GREGORY J. KOPTA  
Administrative Law Judge  
Administrative Law Division

Inquiries may be addressed to:

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

**NOTICE**

PLEASE NOTE: 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 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.: (\_\_\_\_)\_\_\_\_\_