

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of  
SHUTTLE EXPRESS, INC.,  
For Extension of Certificate No. C-975,  
Shuttle Express, Inc. d/b/a Shuttle Express

Docket No. TC-091931

Permit No. C-975

ANSWER OF SHUTTLE EXPRESS TO  
PETITION FOR ADMINISTRATIVE  
REVIEW

**INTRODUCTION**

1 On March 12, 2010, SeaTac Shuttle, LLC (“Petitioner”) filed a document styled as a “Response” to Order 01 in this docket. Shuttle Express interprets the response as a petition for administrative review (“Petition”) pursuant to WAC 480-07-825, and accordingly files this answer in opposition. Order No. 1 was thorough and well-reasoned, while the Petition offers no cognizable reason for the Commission to overturn or modify the order.

**DISCUSSION**

2 Petitioner first argues that its untimely protest should be reinstated because Shuttle Express knew about it. But Petitioner offers no law to support its argument that actual knowledge of a protest is a substitute for proper and timely filing and service of a protest. No such law exists. Petitioner made the same argument before,<sup>1</sup> also without legal support. The ALJ correctly rejected the argument in Order 01.

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<sup>1</sup> “Express had full knowledge of the protest well in advance of the filing deadline.” Response to Motion to Strike

3           The Petitioner next argues that cases cited in Order 01 were “old.” But Petitioner fails to offer any more recent cases to the contrary. In fact, as the ALJ and Commission know, the cases cited are still good law.<sup>2</sup> Moreover, Order 01 did not merely rely on the case law, but carefully reviewed, analyzed, and applied the current Commission rules. Most importantly, WAC 480-30-116(2)(a)(i) requires that, “protests must . . . be filed within 30 days of the date the Commission mailed the application.” (emphasis added). This rule was amended just four years ago, when the Commission extensively revamped Chapter 30. The Commission could have modified the 30 day deadline, but did not. Likewise, the Commission could have overturned longstanding precedent on strict application of the rule, but did not. The ALJ properly applied current law in Order 01.

4           Next, the Petitioner makes a rambling public interest argument that makes no sense. Like the original response to the Motion to Strike, the Petition utterly fails to explain how Shuttle—by conforming an overlooked restriction in its certificate to long-standing operations—will harm the public interest. Petitioner evidently wants to turn this case into an enforcement proceeding of some sort. If so, then the Commission is fortunate the protest was late. Such a mis-use of the certificate hearing process would be an undue and needless drain on the resources of the parties and the Commission. The Petitioner’s proffered reason for pursuing its protest is improper and therefore cannot be grounds for overturning the Order.

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at 2 (Feb. 10, 2010).

<sup>2</sup> Even when the Commission regulated motor freight carriers and dealt with hundreds of protests a year, late-filed protests were rare. The vast majority of protestants followed the rules. Since deregulation of motor carrier entry, and now that the Commission rarely deals with protests, it is not surprising that the Commission has not had to rule on a late filed protest for many years.

5 Finally, Petitioner tries to rely on WAC 480-07-395(4) (“The commission will liberally construe pleadings and motions....”). But the rule cited is completely off point. It has nothing to do with filing procedures or deadlines. Rather, WAC 480-07-395 is a rule solely about the form of pleadings, things like hole punching, font style and size, and the contents and organization of pleadings. And, as subsection (4) requires, the Commission has overlooked numerous such formatting errors by the Petitioner. But there is no comparable “liberal construction” provision in WAC 480-07-140, WAC 480-07-145, or WAC 480-30-116(2)(a), which are the rules on which Order No. 1 is based. WAC 480-07-395(4) has absolutely no relevance to the Petition.

**CONCLUSION AND RELIEF REQUESTED**

6 For the foregoing reasons, as well as the reasons set forth in Shuttle Express’ Motion to Strike and Order No. 1, the Petition should be denied.

DATED this 22<sup>nd</sup> day of March, 2010.

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CERTIFICATE OF SERVICE  
Docket No. Docket No. TC-091931

I hereby certify that a true and correct copy of the foregoing was forwarded via electronic mail and first class mail, postage fully prepaid, in a sealed envelope, to the following:

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Dated at Seattle, Washington, this 22<sup>nd</sup> day of March, 2010.

/s/ \_\_\_\_\_  
Carol Munnerlyn, Secretary