

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

|  |   |                         |
|--|---|-------------------------|
| In the Matter of the Petition of               | ) | DOCKET TE-151866        |
|  | ) |                         |
| TRIANGLE CHARTER LLC,                          | ) | ORDER 01                |
|  | ) |                         |
| Petitioner,                                    | ) |                         |
|  | ) | ORDER GRANTING PETITION |
| For an Exemption from WAC 480-30-<br>191(1)(a) | ) | FOR EXEMPTION           |
| .....  | ) |                         |

**BACKGROUND**

- 1 On June 12, 2015, the Washington Utilities and Transportation Commission (Commission) received notice from Triangle Charter LLC’s (Triangle Charter or Company) insurance carrier that the Triangle Charter’s policy would be cancelled effective August 25, 2015. The Commission notified the Company that proof of insurance must be filed by August 25 or the Company’s certificate would be cancelled. Triangle Charter failed to file proof of insurance. Accordingly, the Commission cancelled Triangle Charter’s certificate in Docket TE-151777, effective August 25, 2015. The Company was directed to cease all operations associated with certificate CH-362.
- 2 On September 17, 2015, the Company filed a petition for exemption (Petition) from WAC 480-30-191(1)(a), which requires insurance policies to be written by an insurance company authorized to write insurance in Washington by the Office of the Insurance Commissioner (OIC). Triangle Charter seeks to purchase surplus line insurance<sup>1</sup> from a non-admitted insurer, Prime Insurance Company, consistent with the requirements of RCW 48.15. Prime Insurance Company is not authorized by the OIC.
- 3 Triangle Charter requests an exemption from WAC 480-30-191(1)(a) so that it can operate with insurance from a licensed surplus line broker until such time as the Company can obtain insurance from a provider that is authorized by the OIC. Triangle Charter’s most recent authorized insurance carrier, along with several other admitted insurance carriers, declined to provide coverage to Triangle Charter due to the Company’s loss frequency and safety compliance issues with the Federal Motor Carrier

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<sup>1</sup> If certain insurance coverages cannot be procured from authorized insurers, such coverages, designated as “surplus lines,” may be procured from unauthorized insurers subject to certain conditions. *See* RCW 48.15.040.

Safety Administration (FMCSA). Triangle Charter was informed that it could take one to two years to qualify for coverage from an authorized insurance carrier.

- 4 Staff supports the Company's Petition. Triangle Charter has made extensive efforts to address its claim activity and has contracted with risk management and safety consultants to make significant safety improvements. The Company terminated long-term drivers and implemented new safety, maintenance, and training policies. Since making these changes, the Company has had no accidents, and, in February of this year, FMCSA upgraded the Company's safety rating from "Conditional" to "Satisfactory." Triangle Charter must improve its overall risk factors and have favorable SAFER records and BASICS scores with the FMCSA to obtain coverage from an admitted insurance carrier. The Company cannot demonstrate improvement unless the Company is operating.
- 5 Because surplus lines insurers take on higher risk, they are often more expensive than traditional admitted insurers. In return, the regulatory requirements are less stringent than those for authorized carriers. Notably, the FMCSA accepts surplus lines insurance under CFR Title 49, Part 387.315.
- 6 Staff supports the Company's use of surplus line insurance on a temporary, 12-month basis, subject to the following conditions: 1) the Company must maintain its "Satisfactory" safety rating from the FMCSA; 2) the Company may not exceed the BASICS thresholds as listed in the FMCSA's Safety Management System; and 3) the Company must purchase insurance from a highly-rated surplus line insurance company (AM Best A- or above rating).

### **DISCUSSION**

- 7 We agree with Staff that granting the Petition is appropriate in light of the safety changes the Company has made and its subsequently improved safety rating. We therefore grant the Petition on a temporary, 12 month basis, subject to the conditions recommended by Staff, set forth in paragraph 6, above.
- 8 Following the entry of this Order, Triangle Charter must submit an application to reinstate its certificate, and provide with its application verification of insurance (Form E). At the conclusion of 12 months, Staff should evaluate the Company's safety performance. Also at the conclusion of 12 months, Triangle Charter must solicit insurance from admitted insurance carriers, and, if not accepted, file another petition for exemption from WAC 480-30-191(1)(a), subject to Commission approval.

**FINDINGS AND CONCLUSIONS**

- 9 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, and practices of auto transportation companies.
- 10 (2) Triangle Charter is an auto transportation company and a public service company subject to Commission jurisdiction.
- 11 (3) This matter came before the Commission at its regularly scheduled meeting on October 29, 2015.
- 12 (4) On September 17, 2015, Triangle Charter filed a Petition for Exemption from the Commission’s insurance rule, WAC 480-30-191(1)(a), so that it may purchase surplus line insurance with an unauthorized insurer, Prime Insurance Company, consistent with the requirements of RCW 48.15.
- 13 (5) After reviewing Triangle Charter’s Petition and giving due consideration to all relevant matters and for good cause shown, the Commission finds it is consistent with the public interest to grant Triangle Charter’s Petition on a temporary basis for a period of 12 months, subject to the conditions set out in paragraph 6, above.

**ORDER**

**THE COMMISSION ORDERS:**

- 14 (1) Triangle Charter LLC’s petition for exemption from WAC 480-30-191(1)(a) is granted on a temporary basis, for a period of 12 months from the date of this Order, subject to the following conditions: 1) Triangle Charter LLC must maintain its “Satisfactory” safety rating from FMCSA; 2) Triangle Charter LLC may not exceed the BASICS thresholds as listed in FMCSA’s Safety Management System; and 3) Triangle Charter LLC must purchase insurance from a highly-rated surplus line insurance company (AM Best A- or above rating).
- 15 (2) At the conclusion of 12 months, Triangle Charter LLC must solicit insurance from admitted insurance carriers, and, if not accepted, must file another petition for exemption from WAC 480-30-191(1)(a), subject to Commission approval.

- 16 (3) The Commission retains jurisdiction over the subject matter and Triangle Charter LLC to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective October 29, 2015.

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

ANN RENDAHL, Commissioner