

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

SHUTTLE EXPRESS, INC.,

Respondent.

DOCKET TC-200151

ORDER 03

PREHEARING CONFERENCE  
ORDER; NOTICE OF HEARING  
**(Evidentiary Hearing Set for Monday,  
November 9, 2020, at 9:30 a.m.)**

- 1 **NATURE OF PROCEEDING.** On May 15, 2020, the Washington Utilities and Transportation Commission (Commission) issued a Complaint against Shuttle Express, Inc., (Shuttle Express or Company) alleging violations of WAC 480-30 (Complaint). Order 01 alleged that Shuttle Express violated WAC 480-30-056(3)(a)(i)(A) on 4,024 separate occasions by failing to include the schedule or route operated in 4,024 trip records. Furthermore, Order 01 alleged that Shuttle Express violated WAC 480-30-346(2)(d) on 198 separate occasions by stopping at points not included in the time schedule for the routes operated; violated WAC 480-30-276(2) on 19,091 separate occasions by failing to provide service in accordance with its filed time schedules; and violated WAC 480-30-056(3)(a)(i) by failing to maintain daily trip records of those trips. Order 01 requested that the Commission impose a penalty of up to \$409,030 against Shuttle Express for these violations.
- 2 **CONFERENCE.** The Commission convened a virtual prehearing conference in this docket on September 29, 2020, at 1:30 p.m., before Administrative Law Judge Michael Howard.
- 3 **APPEARANCES.** Jimmy Sherrell, CEO of Shuttle Express, represents the Company. Jeff Roberson, Assistant Attorney General, Olympia, Washington, represents Commission Staff (Staff).<sup>1</sup> Lisa Gafken, Nina Suetake, and Ann Paisner, Assistant Attorneys General,

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<sup>1</sup> In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do

Seattle, Washington, represent the Office of Public Counsel (Public Counsel). Contact information for the parties' representatives is attached as Appendix A to this Order.

4 **PETITIONS FOR INTERVENTION.** No party sought to intervene in the proceeding.

5 **DISCOVERY.** Discovery will be conducted under the Commission's discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution.

6 **PROCEDURAL SCHEDULE.** Shuttle Express, Staff, and Public Counsel agreed to a procedural schedule. The Commission accepts this procedural schedule with modifications, as set forth in Appendix B to this Order. Because the parties have already been granted three continuances in order to attempt to settle this matter, this procedural schedule does not include a date for a settlement conference.<sup>2</sup>

7 As indicated at the prehearing conference, the parties will be allowed to give oral closing statements at the conclusion of the evidentiary hearing.

8 **SCOPE OF ISSUES AT HEARING.** Shuttle Express submitted that it does not contest the violations of Commission rules as alleged in Order 01 and that the only issue before the Commission is the appropriate remedy. Shuttle Express offered to cease operations and stated that it cannot pay the fines that Staff recommends the Commission impose.

9 Because Shuttle Express has stipulated that the violations as alleged in Order 01 occurred, the Commission limits the scope of the evidentiary hearing to determining the appropriate remedy. At the evidentiary hearing, the parties are advised to focus on the level of penalty that should be imposed. The Commission's Enforcement Policy provides relevant guidance on this issue.<sup>3</sup>

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not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

<sup>2</sup> Pursuant to WAC 480-07-110, the Commission may, in response to a request or on its own motion, grant an exemption from its own rules when "consistent with the public interest, the purposes underlying regulation, and applicable statutes." Because the parties have already been granted three continuances to attempt to settle this matter, including a settlement conference in the schedule at this point would be redundant and would not serve the public interest.

<sup>3</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013).

10 **DOCUMENT FILING AND SERVICE REQUIREMENTS.** Parties must file and serve all pleadings, motions, briefs, and other prefiled materials in compliance with all of the following requirements:

- (a) Parties must submit electronic copies of all documents by 5 p.m. on the filing deadline established in the procedural schedule (or other deadline as applicable) unless the Commission orders otherwise. Parties must comply with WAC 480-07-140(6) in formatting, organizing, and identifying electronic files. Documents that include information designated as confidential must comply with the requirements in WAC 480-07-160. Parties must submit documents electronically through the Commission's web portal ([www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing)). If a party is unable to use the web portal to submit documents for filing, the Commission will accept a submission via email to [records@utc.wa.gov](mailto:records@utc.wa.gov) provided the email: (1) explains the reason the documents are not being submitted via the web portal, and (2) complies with the requirements in WAC 480-07-140(5)(b).
- (b) Parties must electronically serve the other parties and provide courtesy electronic copies of filings to the presiding administrative law judge ([michael.howard@utc.wa.gov](mailto:michael.howard@utc.wa.gov)) by 5 p.m. on the filing deadline unless the Commission orders otherwise. If parties are unable to email copies, they may furnish electronic copies by delivering them on a flash drive only.

11 **EXHIBIT LISTS.** Each party must file a list of all exhibits the party intends to introduce into the evidentiary record, as well as cross-examination exhibits. The parties must file and serve their exhibit lists by **5 p.m. on Wednesday, November 4, 2020.**

12 **EXHIBITS FOR DIRECT AND CROSS-EXAMINATION.** Parties are required to file and serve all proposed cross-examination exhibits by **5 p.m. on Wednesday, November 4, 2020.** The Commission requires electronic copies in searchable Adobe Acrobat (.pdf). The exhibits must be grouped according to the witness the party intends to cross examine with the exhibits. The paper copies of the exhibits also must be organized into sets that are tabbed and labeled.

13 **CROSS-EXAMINATION TIME ESTIMATES.** Each party must provide a list of witnesses the party intends to cross-examine at the evidentiary hearing and an estimate of the time that party anticipates the cross-examination of that witness will take. Parties should not file witness lists or cross-examination time estimates but must provide them to the administrative law judge and the other parties by **5 p.m. on Wednesday, November 4, 2020.**

- 14 **NOTICE OF EVIDENTIARY HEARING.** The Commission will hold a virtual evidentiary hearing in this docket on **Monday, November 9, 2020, at 9:30 a.m.** The Commission will hold this hearing using Microsoft Teams. **To participate by phone, please call (253) 372-2181 and enter the Conference ID: 810 337 875#. To participate via the Microsoft Teams application, use the following link: [Join Microsoft Teams Meeting](#).**
- 15 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission has limited ability to provide dispute resolution services. If you wish to explore those services, please contact Rayne Pearson, Director, Administrative Law Division (360-664-1136).
- 16 **NOTICE TO PARTIES:** A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.

Dated at Lacey, Washington, and effective September 30, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Michael Howard*  
MICHAEL HOWARD  
Administrative Law Judge

**APPENDIX A**

**PARTIES' REPRESENTATIVES  
DOCKET TC-200151**

<b>PARTY</b>	<b>REPRESENTATIVE</b>	<b>PHONE</b>	<b>E-MAIL</b>
Respondent	Jimmy Sherrell Shuttle Express, Inc. 800 SW 16 <sup>th</sup> Street Renton, WA 98055-2612	425-981-7070	<a href="mailto:jimysh@centurylink.net">jimysh@centurylink.net</a>
Staff	Jeff Roberson Assistant Attorney General Office of the Attorney General Utilities and Transportation Division PO Box 47250 Olympia, WA 98504	360-664-1188	<a href="mailto:Jeff.Roberson@utc.wa.gov">Jeff.Roberson@utc.wa.gov</a>
	Harry Fukano		<a href="mailto:Harry.Fukano@utc.wa.gov">Harry.Fukano@utc.wa.gov</a>
Public Counsel	Lisa Gafken Assistant Attorney General Washington Attorney General's Office Public Counsel Unit 800 Fifth Avenue, Suite 2000 Seattle, WA 98104-3188	206-464-6595	<a href="mailto:Lisa.Gafken@atg.wa.gov">Lisa.Gafken@atg.wa.gov</a>
	Nina Suetake		<a href="mailto:NinaS@atg.wa.gov">NinaS@atg.wa.gov</a>
	Ann Paisner		<a href="mailto:Ann.Paisner@atg.wa.gov">Ann.Paisner@atg.wa.gov</a>

**APPENDIX B  
PROCEDURAL SCHEDULE  
DOCKET TC-200151**

<b>EVENT</b>	<b>DATE</b>
Discovery Cutoff	<b>October 28, 2020</b>
Exhibit Lists, Cross-Examination Exhibits, Witness Lists, Exhibit Errata, and Cross-Examination Time Estimates	<b>November 4, 2020</b>
Evidentiary Hearing	<b>November 9, 2020</b>