

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Exempting Reinstatement Application Fees to be Paid under WAC-480-30-091(2) for Charter and Excursion Carriers who Cancelled Certificates Due to the COVID-19 Pandemic and Associated Public Health Orders.

DOCKET TE-200456

ORDER 01

GRANTING EXEMPTION
FROM RULES; WAIVING
FEES FOR
REINSTATEMENT
APPLICATIONS

BACKGROUND

- 1 Revised Code of Washington (RCW) 81.70.230 provides that applications for passenger charter and excursion transportation certificates must be accompanied by a fee as the Washington Utilities and Transportation Commission (Commission) may prescribe by rule. Washington Administrative Code (WAC) 480-30-091(2) requires that passenger charter and excursion service carriers filing to reinstate certificates must pay a \$200 application fee to the Commission.
- 2 WAC 480-07-110(1) provides that the Commission, on its own initiative, may grant an exemption from, or modify the application of, any of its rules in individual circumstances if the exemption or modification is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 3 On February 29, 2020, Governor Inslee issued Proclamation 20-05, which declared a state of emergency in all counties in the state of Washington due to the worldwide outbreak of COVID-19. On March 23, 2020, the Governor issued Proclamation 20-25, “Stay Home – Stay Healthy,” which prohibits all people in the state of Washington from leaving their home or place of residence except to conduct or participate in (1) essential activities, and/or (2) employment in providing essential business services.
- 4 Due to the COVID-19 outbreak, charter and excursion service carriers have experienced a significant decrease in ridership, which further declined following the Governor’s Proclamation restricting travel. Following the significant disruption to their businesses,

many charter and excursion service carriers began struggling to afford the commercial automobile liability insurance required by WAC 480-30-191.

5 WAC 480-30-196 requires that the Commission cancel a company's certificate when its insurance is cancelled or otherwise does not meet the Commission's minimum insurance requirements. Many charter and excursion service carriers voluntarily cancelled their certificates to avoid involuntary certificate cancellation for failing to maintain adequate levels of insurance.

6 The certificates of several more charter and excursion service carriers that were no longer operating and could no longer afford vehicle liability insurance were involuntarily cancelled due to lack of adequate insurance.

7 On May 4, 2020, Governor Inslee issued Proclamation 20-25.3 which amended the previous "Stay Home – Stay Healthy" orders and allowed for a phased-in return to normal travel in Washington.

8 Following Proclamation 20-25.3, charter and excursion service carriers with cancelled certificates began applying to reinstate their certificates.

9 Commission staff (Staff) recommends the Commission, on its own initiative, waive the \$200 certificate reinstatement application fee for charter and excursion service carriers that (1) voluntarily cancelled their certificates due to the COVID-19 outbreak and the Governor's Proclamation restricting travel, or (2) can demonstrate that they were unable to afford insurance due to the COVID-19 outbreak and the Governor's Proclamation restricting travel, which lead to the involuntary cancellation of their operating certificate.

10 Staff therefore recommends that the Commission waive the \$200 certificate reinstatement fee for charter and excursion service companies applying to reinstate their certificates that meet at least one of the following conditions:

- (a) The applicant charter and excursion service carrier voluntarily cancelled its certificate due to decreased ridership caused by the COVID-19 pandemic and/or the Governor's Proclamations; or
- (b) The applicant can demonstrate that it could not afford insurance due to decreased ridership caused by the COVID-19 pandemic and/or the Governor's

Proclamations and subsequently had their certificates cancelled involuntarily for lack of insurance.

In order for the Commission to waive the \$200 certificate reinstatement fee, Staff further recommends that the Commission require the applicant charter and excursion service carrier meets each of the following conditions:

- (a) The applicant charter and excursion service carrier does not have any outstanding regulatory or safety compliance investigation issues or delinquent payments of any kind;
- (b) The applicant charter and excursion service carrier does not have any outstanding consumer complaints; and
- (c) The charter and excursion service carrier must apply for reinstatement no later than 90 days following the implementation of “Phase 4” throughout the entire state of Washington as outlined in Governor Inslee’s Proclamation 20-25.3.

DISCUSSION

11 We grant the exemption, on our motion, subject to the conditions that Staff recommends. The COVID-19 pandemic and the Governor’s Proclamations have severely limited travel, thus creating rapidly changing economic conditions for regulated charter and excursion service carriers. In light of these adverse, unforeseen circumstances, the Commission, on its own initiative, finds that it is consistent with the public interest to waive the application fee requirements in WAC 480-30-091(2) for charter and excursion service carriers who voluntarily cancelled their certificates or had their certificates cancelled involuntarily for lack of insurance due to the COVID-19 pandemic and the Governor’s Proclamations.

12 We also find that the exemption is consistent with the purposes underlying regulation and applicable statutes. WAC 480-07-110(1) provides that the Commission, on its own initiative, may grant an exemption from, or modify the application of, any of its rules in individual circumstances if the exemption or modification is consistent with the public interest, the purposes underlying regulation, and applicable statutes. Here, granting an industry-wide exemption for companies that voluntarily cancelled their certificates or had their certificates cancelled involuntarily for lack of insurance due to the COVID-19 pandemic and the Governor’s Proclamations is a more efficient use of Commission resources than requiring each company to submit individual requests for exemption. The

blanket exemption also proactively addresses the economic impacts of the current public health crisis on the passenger transportation industry as a whole. Finally, granting an exemption from application fees will provide relief to regulated charter and excursion service carrier companies without impeding the Commission's regulatory functions, including its ability to regulate in the public interest. We therefore find that granting the exemption is consistent with the purposes underlying regulation, applicable statutes, and the public interest.

13 Accordingly, qualifying regulated charter and excursion service carrier companies who voluntarily cancelled their certificates or had their certificates cancelled involuntarily for lack of insurance due to the COVID-19 pandemic and the Governor's Proclamations are granted an exemption from the \$200 certificate reinstatement application fee subject to the conditions that Staff recommends.

FINDINGS AND CONCLUSIONS

- 14 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rules, regulations, and practices of motor carrier companies relating to acquiring charter and excursion certificates and insurance requirements.
- 15 (2) WAC 480-30-091(2) requires that charter and excursion service carriers filing to reinstate certificates must pay a \$200 application fee to the Commission.
- 16 (3) WAC 480-07-110(1) provides that the Commission, on its own initiative, may grant an exemption from, or modify the application of, any of its rules in individual circumstances if the exemption or modification is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 17 (4) The COVID-19 pandemic and the Governor's Proclamations have severely limited travel, thus creating rapidly changing economic conditions for regulated charter and excursion service carriers.
- 18 (5) Providing an industry-wide exemption from the requirement in WAC 480-30-091(2) that charter and excursion service carriers must pay a reinstatement of certificate application fee for qualifying carriers who voluntarily cancelled their certificates or had their certificates cancelled involuntarily for lack of

insurance due to the COVID-19 pandemic and the Governor's Proclamations is consistent with the public interest, the purposes underlying regulation, and applicable statutes because granting the exemption will provide relief to charter and excursion service carriers without impeding the Commission's regulatory functions.

- 19 (6) Requiring charter and excursion service companies to meet conditions consistent with existing rules is in the public interest to prevent fraud and support's the Commission's regulatory functions.
- 20 (7) This matter came before the Commission at its regularly scheduled meeting on June 11, 2020.
- 21 (8) The Commission should grant an exemption from WAC 480-30-091(2) for each qualifying regulated charter and excursion service carrier who voluntarily cancelled its certificate or had its certificates cancelled involuntarily for lack of insurance due to the COVID-19 pandemic and the Governor's Proclamations.

ORDER

THE COMMISSION ORDERS:

- 22 (1) The Commission, on its own initiative, grants an exemption from WAC 480-30-091(2) for any regulated charter and excursion service carrier that meets at least one of the following conditions:
- (a) The applicant charter and excursion service carrier voluntarily cancelled its certificate due to decreased ridership caused by the COVID-19 pandemic and/or the Governor's Proclamations; or
 - (b) The applicant can demonstrate that it could not afford insurance due to decreased ridership caused by the COVID-19 pandemic and/or the Governor's Proclamations and subsequently had their certificates cancelled involuntarily for lack of insurance.
- 23 (2) In order for the Commission to waive the \$200 certificate reinstatement fee, the Commission also requires that the applicant charter and excursion service carrier meets each of the following conditions:

- (a) The applicant charter and excursion service carrier does not have any outstanding regulatory or safety compliance investigation issues or delinquent payments of any kind;
- (b) The applicant charter and excursion service carrier does not have any outstanding consumer complaints; and
- (c) The charter and excursion service carrier must apply for reinstatement no later than 90 days following the implementation of “Phase 4” throughout the entire state of Washington as outlined in Governor Inslee’s Proclamation 20-25.3.

24 (3) The Commission retains jurisdiction over the subject matter and all regulated charter and excursion transportation companies, to effectuate the terms of this Order.

25 The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective June 11, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary