

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Exempting Reinstatement Application Fees to be Paid under WAC-480-14-140 for Common Carriers who Cancelled Permits Due to the COVID-19 Pandemic and Associated Public Health Orders.

DOCKET TV-200481

ORDER 01

GRANTING EXEMPTION
FROM RULES; WAIVING
FEES FOR
REINSTATEMENT
APPLICATIONS

BACKGROUND

- 1 Revised Code of Washington (RCW) 81.80.090 provides that applications for common carrier permits must be accompanied by a fee as the Washington Utilities and Transportation Commission (Commission) may prescribe by rule. Washington Administrative Code (WAC) 480-14-140 requires that common carriers filing to reinstate permits must pay a \$100 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 Many companies that perform services for construction companies, operate tow trucks, dump trucks, or perform other transportation services require common carrier permits for legal operation. Due to the COVID-19 outbreak, many of these common carriers have experienced a significant decrease in business, which further declined following

the Governor's Proclamation restricting business, travel, and personal contact. Following the significant disruption to their businesses, many common carriers began struggling to afford the commercial automobile liability insurance required by WAC 480-14-250.

5 WAC 480-14-230(3)(d) requires that the Commission cancel a company's permit when its insurance is cancelled or otherwise does not meet the Commission's minimum insurance requirements. Many common carriers voluntarily cancelled their permits to avoid involuntary permit cancellation for failing to maintain adequate levels of insurance.

6 The permits of several more common 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 return to normal business, travel and personal contact in Washington state.

8 Following Proclamation 20-25.3, common carriers with cancelled permits will begin to apply to reinstate their permits.

9 Commission staff (Staff) recommends the Commission, on its own initiative, waive the \$100 permit reinstatement application fee for common carriers that (1) voluntarily cancelled their permits 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 business, travel and personal contact, which lead to the involuntary cancellation of their operating permit.

10 Staff therefore recommends that common carriers applying to reinstate their permits must meet at least one of the following conditions:

- (a) The applicant common carrier voluntarily cancelled its permit due to decreased business caused by the COVID-19 pandemic and/or the Governor's Proclamations; or

- (b) The applicant common carrier can demonstrate that it could not afford insurance due to decreased business caused by the COVID-19 pandemic and/or the Governor's Proclamations and subsequently had their permits cancelled involuntarily for lack of insurance.

In order for the Commission to waive the \$100 permit reinstatement application fee, Staff further recommends that the Commission require that the common carrier 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 business, travel, and personal contact, thus creating rapidly changing economic conditions for regulated common 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 480-14-140 for common carriers who voluntarily cancelled their permits or had their permits 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 permits or had their permits 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 common carrier industry. Finally, granting an exemption from application fees will provide relief to regulated common carriers 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 common carriers who voluntarily cancelled their permits or had their permits cancelled involuntarily for lack of insurance due to the COVID-19 pandemic and the Governor's Proclamations are granted an exemption from the \$100 permit reinstatement application fee subject to the conditions that Staff recommends in paragraph 10.

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 common carrier permits and insurance requirements.
- 15 (2) WAC 480-14-140 requires that common carriers filing to reinstate permits must pay a \$100 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 business, travel, and personal contact, thus creating rapidly changing economic conditions for regulated common carriers.
- 18 (5) Providing an industry-wide exemption from the requirement in WAC 480-14-140 that common carriers must pay a reinstatement of permit application fee for qualifying companies who voluntarily cancelled their permits or had their permits 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 common carriers without impeding the Commission's regulatory functions.

- 19 (6) Requiring common carriers 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 480-14-140 for each
qualifying regulated common carrier who voluntarily cancelled its permit or had
its permit 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 480-14-
140 for any regulated common carrier that meets at least one of the following
conditions:
- (a) The applicant common carrier voluntarily cancelled its permit due to
decreased business caused by the COVID-19 pandemic and/or the
Governor's Proclamations; or
 - (b) The applicant common carrier can demonstrate that it could not afford
insurance due to decreased business caused by the COVID-19 pandemic
and/or the Governor's Proclamations and subsequently had their permit
cancelled involuntarily for lack of insurance.

The Commission further requires that, in order for the Commission to waive the
permit reinstatement application fee, the common 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.

23 (2) The Commission retains jurisdiction over the subject matter and all regulated
common carriers, to effectuate the terms of this Order.

24 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