

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Exempting Reinstatement Application Fees to be Paid under WAC-480-31-054(1)(c) for Private, Non-Profit Transportation Providers Who Cancel Certificates Due to the COVID-19 Pandemic and Associated Public Health Orders.

DOCKET TN-200494

ORDER 01

GRANTING EXEMPTION  
FROM RULES; WAIVING  
FEES FOR REINSTATEMENT  
APPLICATIONS

**BACKGROUND**

- 1 Revised Code of Washington (RCW) 81.66.030 provides that applications for private, non-profit transportation providers certificates must be accompanied by an appropriate fee as the Washington Utilities and Transportation Commission (Commission) may prescribe by rule. Washington Administrative Code (WAC) 480-31-054(1)(c) requires that private, non-profit transportation providers filing to reinstate certificates must pay a \$50 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, Commission staff (Staff) expects that private, non-profit transportation providers have experienced a significant decrease in ridership, which may have further declined following the Governor’s Proclamation restricting

travel. Staff also expects that private, non-profit transportation providers may be struggling to afford the commercial automobile liability insurance required by WAC 480-31-070.

5 WAC 480-31-052(2)(a) requires that the Commission cancel a provider's certificate when its insurance is cancelled or otherwise does not meet the Commission's minimum insurance requirements.

6 Staff recommends the Commission, on its own initiative, waive the \$50 certificate reinstatement application fee for private, non-profit transportation providers that (1) voluntarily cancel 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, should their operating certificates be involuntarily cancelled.

7 Staff therefore recommends that private, non-profit transportation providers applying to reinstate their certificates must meet at least one of the following conditions:

- (a) The applicant private, non-profit transportation provider voluntarily cancelled its certificate due to decreased ridership caused by the COVID-19 pandemic and/or the Governor's Proclamations; or
- (b) The applicant private, non-profit transportation provider 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 \$50 certificate reinstatement application fee, Staff further recommends that the Commission require the applicant private, non-profit transportation provider meet the following criteria:

- (a) The applicant private, non-profit transportation provider does not have any outstanding regulatory or safety compliance investigation issues or delinquent payments of any kind;
- (b) The applicant private, non-profit transportation provider does not have any outstanding consumer complaints; and

- (c) The private, non-profit transportation provider 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

8 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 private, non-profit transportation providers. 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 480-31-054(1)(c) for private, non-profit transportation providers who voluntarily cancel their certificates or have their certificates cancelled involuntarily for lack of insurance due to the COVID-19 pandemic and the Governor’s Proclamations.

9 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 providers that voluntarily cancel their certificates or have 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 provider 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 private, non-profit transportation providers 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.

10 Accordingly, qualifying regulated private, non-profit transportation providers who voluntarily cancel their certificates or have 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 \$50 certificate reinstatement application fee subject to the conditions that Staff recommends in paragraph 7.

### FINDINGS AND CONCLUSIONS

- 11 (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 private, non-profit transportation provider certificates and insurance requirements.
- 12 (2) WAC 480-31-054(1)(c) requires that private, non-profit transportation providers filing to reinstate certificates must pay a \$50 application fee to the Commission.
- 13 (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.
- 14 (4) The COVID-19 pandemic and the Governor's Proclamations have severely limited travel, thus creating rapidly changing economic conditions for regulated private, non-profit transportation providers.
- 15 (5) Providing an industry-wide exemption from the requirement in WAC 480-31-054(1)(c) that private, non-profit transportation providers must pay a reinstatement of certificate application fee for qualifying providers who voluntarily cancel their certificates or have 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 private, non-profit transportation providers without impeding the Commission's regulatory functions.
- 16 (6) Requiring private, non-profit transportation providers to meet conditions consistent with existing rules is in the public interest to prevent fraud and support's the Commission's regulatory functions.
- 17 (7) This matter came before the Commission at its regularly scheduled meeting on June 11, 2020.

- 18 (8) The Commission should grant an exemption from WAC 480-31-054(1)(c) for each qualifying regulated private, non-profit transportation provider who voluntarily cancels its certificate or has its certificates cancelled involuntarily for lack of insurance due to the COVID-19 pandemic and the Governor's Proclamations.

**ORDER**

**THE COMMISSION ORDERS:**

- 19 (1) The Commission, on its own initiative, grants an exemption from WAC 480-31-054(1)(c) for any regulated private, non-profit transportation provider that meets at least one of the following conditions:
- (a) The applicant private, non-profit transportation provider voluntarily cancels its certificate due to decreased ridership caused by the COVID-19 pandemic and/or the Governor's Proclamations; or
  - (b) The applicant private, non-profit transportation provider 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 \$50 certificate reinstatement application fee, the Commission also requires that the applicant private, non-profit transportation provider meet the following criteria:

- (a) The applicant private, non-profit transportation provider does not have any outstanding regulatory or safety compliance investigation issues or delinquent payments of any kind;
- (b) The applicant private, non-profit transportation provider does not have any outstanding consumer complaints; and
- (c) The private, non-profit transportation provider 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.

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

21 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