

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper Carrier Classification of, and Complaint for Penalties Against:	DOCKET TE-210665
	ORDER 01
AJ'S WINE TOUR & TRANSPORT LLC, D/B/A AJ'S WINE TOURS & MORE LLC	ORDER INSTITUTING SPECIAL PROCEEDING; COMPLAINT SEEKING TO IMPOSE PENALTIES; NOTICE OF VIRTUAL HEARING
	(Set for December 1, 2021, at 1:30 p.m.)

INTRODUCTION

- 1 The Washington Utilities and Transportation Commission (Commission), pursuant to RCW 81.04.510, institutes this special proceeding on its own motion to determine whether AJ's Wine Tour & Transport LLC, d/b/a AJ's Wine Tours & More LLC, (AJ's Wine Tour) has engaged, and is engaging, in unlawful operations without a charter party and excursion service carrier certificate in violation of RCW 81.70.220.
- 2 The Commission has information from which it believes and therefore alleges that AJ's Wine Tour has advertised, solicited, offered, or entered into one or more agreements to provide charter party or excursion carrier service within the state of Washington without having first obtained a charter party and excursion service carrier certificate.
- 3 Pursuant to RCW 81.04.510, upon proof of these allegations, the Commission is authorized to issue an order requiring AJ's Wine Tour to cease and desist activities subject to regulation under Title 81 RCW. In addition, RCW 81.04.110 authorizes the Commission to file a complaint on its own motion setting forth any act or omission by AJ's Wine Tour that violates any law, or any order or rule of the Commission. The Commission may impose financial penalties of up to \$5,000 for each violation.
- 4 At the hearing in this special proceeding that will be conducted pursuant to Part IV of the Administrative Procedure Act (APA), RCW 34.05, of which notice is given here, the Commission will also consider its Complaint against AJ's Wine Tour alleging violations of law as specified below and will decide whether AJ's Wine Tour should be penalized.

ORDER AND NOTICE OF HEARING

5 The Commission has jurisdiction to institute a special proceeding to determine whether AJ's Wine Tour is conducting business requiring operating authority, or has performed or is performing any act requiring Commission approval without securing such approval pursuant to RCW 80.01.040, RCW 81.01.010, and RCW 81.04.510. In addition to the foregoing statutes, this matter involves Title 81 RCW, including but not limited to RCW 81.04.020 and RCW 81.70.220. This matter also involves the administrative rules set forth in WAC 480-30 and WAC 480-07.

6 **THE COMMISSION ORDERS that AJ's Wine Tour appear virtually before the Commission in this special proceeding conducted under the authority of RCW 81.04.510 at 1:30 p.m., on December 1, 2021,** to give testimony and evidence under oath as to its operations. The burden of proving that the alleged operations are not subject to the provisions of Title 81 RCW shall be upon AJ's Wine Tour, as provided by RCW 81.04.510.

7 To attend the hearing telephonically, you may call (253) 215-8782 and enter Meeting ID: 912 0764 2368# and enter Passcode: 628738#. If you wish to attend via Zoom, please email jason.hoxit@utc.wa.gov and a link will be provided to you.

8 **THE COMMISSION GIVES NOTICE THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC 480-07-450.**

9 If a limited English-speaking or hearing-impaired party needs an interpreter, a form is attached to this notice to be filled out and returned as indicated, so that a qualified interpreter may be appointed at no cost to the party or witness.

10 The names and mailing addresses of all parties and their known representatives are shown as follows:

Carrier: Jose Sanchez Michel
AJ's Wine Tour
1157 SE Date Ave.
College Place, WA 99324

Representative: Unknown

Commission: Washington Utilities and
Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Jason Hoxit
Compliance Investigator
P.O. Box 47250
Olympia, WA 98504-7250
(360) 867-8305
jason.hoxit@utc.wa.gov

COMPLAINT SEEKING PENALTIES

PARTIES

- 11 Complainant, the Commission, is an agency of the state of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including charter party or excursion service carriers, under the provisions of Title 81 RCW.
- 12 Respondent, AJ's Wine Tour, is a charter party or excursion service carrier that does business in the state of Washington.

JURISDICTION

- 13 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 81.04.110, RCW 81.01.010, RCW 81.04.160, RCW 81.04.460, and RCW 81.70.

BACKGROUND

- 14 According to the Declaration of the Commission compliance investigator, presented to the undersigned administrative law judge¹ under penalty of perjury, the following facts

¹ Administrative law judges appointed by the Commission are empowered, among other things, to "make findings of probable cause and issue complaints in the name of the commission." RCW 80.01.060(1).

establish probable cause for the Commission to complain against the activities of AJ's Wine Tour and to seek penalties in accordance with applicable law.

- 15 On or about August 23, 2021, AJ's Wine Tour offered to provide charter party or excursion carrier service without first having obtained a certificate from the Commission.
- 16 According to evidence obtained from AJ's Wine Tour's Facebook page, www.facebook.com/AJs-Wine-Tour-LLC-2035049523481723, AJ's Wine Tour has been operating as a charter party or excursion service carrier within the state of Washington without a certificate.

APPLICABLE LAW AND REGULATION

- 17 Under state law, the definition of "charter party carrier" includes every person "engaged in the transportation over any public highways in this state of a group of persons who, pursuant to a common purpose and under a single contract, acquire the use of a motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after leaving the place of origin." RCW 81.70.020(1).
- 18 Under state law, the definition of charter party carrier includes a person who "advertises, solicits, offers, or enters into an agreement to carry passengers over any public highway within the state of Washington." RCW 81.70.220(1).
- 19 The term "person" can mean a corporation or firm as well as an individual. RCW 81.70.020(9). Specifically included in this term are individuals, firms, corporations, associations, partnerships, lessees, receivers, trustees, consortiums, joint venture, or commercial entities. WAC 480-30-036.
- 20 The term "charter party carrier" or "charter carrier" means every person engaged in the transportation over any public highways in this state of a group of persons who, pursuant to a common purpose and under a single contract, acquire the use of a motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartering group after leaving the place of origin. A person who is engaged in the transportation of persons by party bus over any public highway in this state is considered engaging in the business of a charter party carrier or excursion service carrier. WAC 480-30-036.

21 Charter party and excursion service carriers are common carriers. RCW 81.04.010(11).
For the purposes of Title 81 RCW, every common carrier is a public service company.
RCW 81.04.010.

22 It is illegal to engage in business as a charter party or excursion service carrier within the
state of Washington without having first obtained a certificate from the Commission.
RCW 81.70.220(1).

23 Any person who engages in business as a charter party or excursion service carrier in the
state of Washington without having first obtained a certificate from the Commission is
subject to a penalty of up to \$5,000 per violation. RCW 81.70.220(2). If the basis for the
violation is advertising, each advertisement reproduced, broadcast, or displayed via a
particular medium constitutes a separate violation. RCW 81.70.220(1).

24 The Commission is authorized to file a complaint on its own motion setting forth any act
or omission by any public service company that violates any law or any order or rule of
the Commission. RCW 81.04.110.

COMPLAINT

25 The Commission, through its Staff, re-alleges the statements contained in paragraphs 14
through 24 above.

26 AJ's Wine Tour has violated RCW 81.70.220(1) at least once by offering charter party or
excursion carrier service to transport passengers without first having obtained a
certificate from the Commission.

27 AJ's Wine Tour has violated RCW 81.70.220(1) at least once by advertising to transport
passengers without first having obtained a certificate from the Commission.

REQUEST FOR RELIEF

28 Staff requests that the Commission, pursuant to its authority under RCW 81.70.220(2),
assess penalties of up to \$5,000 per violation against AJ's Wine Tour. Staff will present
testimonial evidence at the hearing to address the factors for determining an appropriate
penalty amount. Further, Staff may request that some portion of any penalty actually
imposed be suspended for a period of time sufficient to demonstrate AJ's Wine Tour's
intent to comply with all applicable laws and rules governing the charter party and
excursion service carrier industry.

PROBABLE CAUSE

29 Based on a review of the Declaration of the Commission compliance investigator assigned to this matter, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this Complaint.

NOTICE OF VIRTUAL HEARING

30 **THE COMMISSION GIVES NOTICE THAT it will conduct a virtual hearing concerning this Complaint concurrently with the special proceeding noticed above, which will commence at 1:30 p.m., on December 1, 2021.**

31 To attend the hearing telephonically, you may call (253) 215-8782 and enter Meeting ID: 912 0764 2368# and enter Passcode: 628738#. If you wish to attend via Zoom, please email jason.hoxit@utc.wa.gov and a link will be provided to you.

32 Administrative Law Judge Michael Howard, from the Commission's Administrative Law Division, is designated to preside at the hearing of these matters.²

DATED at Lacey, Washington, and effective November 2, 2021.

/s/ Rayne Pearson

RAYNE PEARSON
Administrative Law Judge
Director, Administrative Law Division

Inquiries should be addressed to:

Amanda Maxwell
Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

² Judge Howard can be reached by telephone at (360) 664-1139 or by email at michael.howard@utc.wa.gov.

NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out and return this form to:

Washington Utilities and Transportation Commission
Attention: Amanda Maxwell
Executive Director and Secretary
P.O. Box 47250
Olympia, WA 98504-7250

(PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes)_____ (No)_____

Do you need a certified sign language interpreter?

Visual_____ Tactile_____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

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