

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

NORTHWEST HEAVY HAUL LLC,

Petitioner,

For an Exemption from
WAC 480-14-250(1)(a)

DOCKET TV-220284

ORDER 01

GRANTING PETITION FOR
EXEMPTION

BACKGROUND

- 1 On April 20, 2022, Northwest Heavy Haul LLC (Northwest Heavy Haul or Company) filed with the Washington Utilities and Transportation Commission (Commission) a Petition for an exemption (Petition) from Washington Administrative Code (WAC) 480-14-250(1)(a), the Commission’s insurance rule for vehicles with gross vehicle weight ratings of 10,000 pounds or more. The Commission granted the Company intrastate common carrier authority effective February 24, 2022.
- 2 Under WAC 480-14-250(1), each common carrier must file with the Commission evidence of currently effective liability and property damage insurance written by a company authorized to write such insurance in the state of Washington.
- 3 In its Petition, the Company requests to retain insurance from a surplus lines insurer that is not authorized to write insurance in Washington. Surplus lines insurance is used when licensed insurers in the standard market will not provide coverage because the risk is too high, too unfamiliar, or does not otherwise meet the insurers’ guidelines. Surplus line insurers have more flexibility to design and price their policies and generally charge higher premiums because they insure risks that are usually more costly to cover.
- 4 Effective April 5, 2022, Northwest Heavy Haul secured auto liability insurance from Third Coast Insurance Company through its broker, Crouse & Associates. Crouse & Associates is a broker registered with the Office of the Insurance Commissioner (OIC) and authorized to write surplus lines insurance on behalf of Third Coast Insurance Company.

5 Northwest Heavy Haul requests an exemption from WAC 480-14-250(1)(a) so that it can continue to operate as a common carrier in Washington state with surplus lines insurance. The insurance industry considers the Company new (less than two years old). As a result, the company is unable to find coverage from a Washington-admitted company. The Company requests approval of its coverage from Third Coast Insurance for its common carrier operations in Washington state.

6 Commission staff (Staff) supports granting the Company's Petition. Staff submits that while the specific requirements of Commission rules can be exempted, under RCW 81.80.190, the Commission must "require the carriers to either procure and file liability and property damage insurance from a company licensed to write such insurance in the State of Washington, or deposit security, for the limits of liability and on terms and conditions that the Commission determines are necessary for the reasonable protection of the public against damage and injury for which the carrier may be liable by reason of the operation of any motor vehicle." Because this is a statutory requirement, the Commission cannot grant the Company an exemption from the obligation to purchase its insurance from a company licensed in Washington. The OIC authorizes insurance companies to write insurance in Washington. RCW 48.15.040 allows surplus lines coverage under certain conditions if insurance from authorized insurers cannot be procured. The licensing requirements for surplus line brokers are found in RCW 48.15.070.

7 Staff notes that the Federal Motor Carrier Safety Administration (FMCSA) accepts surplus lines insurance (CFR Title 49 Part 387.315) and accepted this company's insurance filing on April 5, 2022. Staff is willing to recommend the use of surplus lines insurance subject to the condition that the Company buy insurance from a highly rated surplus line company (AM Best A- or above rating) that meets the surplus lines company requirements set out in RCW 48.15.070. Third Coast Insurance's financial strength rating is A for Excellent.

DISCUSSION

8 Under WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. We find that the Company's Petition meets this standard, subject to the condition recommended by Staff. The purpose of the insurance required by WAC 480-14-250(1) is to protect the public from loss or damage caused by the Company while providing service. Surplus lines insurance responds to that need and is a viable option for high-risk or unique lines of business where risk is less certain. Accordingly, we find that

the Petition for exemption is consistent with the public interest, the purposes underlying regulation, and applicable statutes, and grant the Company's Petition subject to the condition that the Company buy insurance from a highly rated surplus lines company (AM Best A- or above rating) that meets the surplus lines company requirements set out in RCW 48.15.070.

FINDINGS AND CONCLUSIONS

- 9 (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 common carrier permit and insurance requirements.
- 10 (2) Northwest Heavy Haul has common carrier authority and is a public service company subject to Commission jurisdiction.
- 11 (3) On April 20, 2022, Northwest Heavy Haul filed a Petition for Exemption from the Commission's insurance rule, WAC 480-14-250(1)(a), so that it may purchase surplus lines insurance with an unauthorized insurer, Third Coast Insurance Company, consistent with the requirements of RCW 48.15.070.
- 12 (4) Pursuant to WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 13 (5) This matter came before the Commission at its regularly scheduled meeting on May 12, 2022.
- 14 (6) After reviewing Northwest Heavy Haul's Petition and giving due consideration to relevant matters and for good cause shown, the Commission finds that granting Northwest Heavy Haul's Petition subject to the condition that it buy insurance from a highly rated surplus lines company (AM Best A- or above rating) is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

ORDER

THE COMMISSION ORDERS:

- 15 (1) Northwest Heavy Haul LLC's Petition for exemption from WAC 480-14-250(1)(a) is granted subject to the condition that Northwest Heavy Haul LLC purchases insurance from a highly rated surplus line insurance company (AM Best A- or above rating) that meets the surplus lines company requirements set out in RCW 48.15.070.
- 16 (2) The Commission retains jurisdiction over the subject matter and Northwest Heavy Haul LLC, to effectuate the terms of this Order.
- 17 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 May 12, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AMANDA MAXWELL
Executive Director and Secretary