

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Investigation of
LEAVENWORTH SHUTTLE & TAXI,
LLC

For Compliance with WAC 480-30-221

DOCKET TE-161021
(Consolidated)

In the Matter of the Penalty Assessment
Against

LEAVENWORTH SHUTTLE & TAXI,
LLC

In the amount of \$19,800

DOCKET TE-161020
(Consolidated)

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

LEAVENWORTH SHUTTLE & TAXI,
LLC

Respondent.

DOCKET TE-181030
(Consolidated)

JOINT NARRATIVE IN SUPPORT
OF SETTLEMENT AGREEMENT

I. INTRODUCTION

1 This Joint Narrative in Support of Settlement Agreement (“Narrative”) is filed pursuant to WAC 480-07-740(3)(a) on behalf of Leavenworth Shuttle and Taxi, LLC (“Leavenworth Shuttle” or “Company”) and Staff of the Washington Utilities and Transportation Commission (“Staff”) (collectively “the Parties”). The Parties have signed the Settlement Agreement (“Agreement”), which is being filed concurrently with this Narrative. This Narrative supports the Agreement and demonstrates that it is consistent with the law and the public interest. It is not intended to modify any terms of the Agreement.

II. PROPOSALS FOR REVIEW PROCEDURE

2 In accordance with WAC 480-07-740, the Parties propose the following settlement consideration procedure for review of the proposed Agreement. The Parties believe that this matter is a less complex matter under WAC 480-07-740(2)(b). It was set for hearing as a brief adjudicative proceeding, which is available for limited types of proceedings including contested complaints for penalties. Accordingly, the Parties submit that conducting a hearing will not assist the Commission in deciding whether to approve and adopt the Agreement. If the Commission conducts a hearing, however, the Parties will present one or more witnesses to testify in support of the Agreement and to answer questions concerning the Agreement's details, costs, and benefits. WAC 480-07-740(3)(b). In addition, each party will be available to address any legal matters associated with the Agreement.

3 The Parties do not intend to file documentation supporting the Agreement, with the exception of the Agreement itself and this Narrative. If the Commission requires supporting documents beyond the Agreement, Narrative, and the other documents on file in this docket, the Parties will provide documentation as needed.

III. SCOPE OF THE UNDERLYING DISPUTE

4 The underlying dispute concerns a complaint for penalties against Leavenworth Shuttle for violations of the safety regulations located in WAC 480-30-221, and Staff's motion to impose penalties that the Commission suspended in consolidated Dockets TE-161020 and TE-161021.

5 On January 11, 2019, Staff filed with the Commission a Motion to Impose Suspended Penalties, requesting that the Commission impose the \$10,000 penalty on Leavenworth Shuttle that the Commission had suspended in Order 01 of consolidated Dockets TE-161021 and TE-

161020.

6 On February 27, 2019, the Commission served a complaint for penalties against
Leavenworth Shuttle for violations of the Commission's vehicle and driver rules in WAC 480-
30-221, which adopts by reference specific provisions of Title 49 C.F.R. The complaint was
filed in Docket TE-181030 and alleged the following violations:

- a) 4 violations of 49 C.F.R. § 382.305(i)(2) (alcohol and controlled substances testing)
- b) 24 violations of 49 C.F.R. § 391.45(a) (medical certificate)
- c) 25 violations of 49 C.F.R. § 395.8(a)(1) (record of duty status)
- d) 82 violations of 49 C.F.R. § 396.11(a) (preparation of driver vehicle inspection report)
- e) 3 violations of 49 C.F.R. § 396.13(c) (signature on driver vehicle inspection report)
- f) 3 violations of 49 C.F.R. § 396.17(a) (periodic vehicle inspection)

7 On February 27, 2019, the Commission also issued a notice to consolidate Dockets TE-
161021, TE-161020, and TE-181030, and scheduled a brief adjudicative proceeding to hear
these matters to be held on April 10, 2019.

8 On April 2, 2019, the Parties agreed to the terms of the Agreement and notified the
Commission that they had reached a settlement in principle.

IV. DESCRIPTION OF SETTLEMENT AGREEMENT

9 Leavenworth Shuttle agrees to pay the \$10,000 suspended penalty from consolidated
Dockets TE-161020 and TE-161021. The Parties agree that Leavenworth Shuttle should be
assessed a \$25,800 penalty. The Parties further agree that Leavenworth Shuttle will pay the
Commission \$5,800 of the \$25,800 penalty, and the remainder will be suspended for a period of
two years and then waived on the conditions in paragraph 13 of the Agreement. If the Agreement
is approved, the Company will work with Staff to establish a mutually agreeable payment

arrangement to pay the \$15,800 penalty that is not suspended and, thereafter, submit it to the Commission within (10) ten days of an order approving the Agreement.

10 Although a safety management plan was not required to resolve the matters in this proceeding, the Parties believe that the creation of a safety management plan will help ensure future compliance by the Company. In essence, the creation of this safety management plan is a creative solution that the Parties came up with to help ensure future compliance by the Company. Therefore, as a term of the Agreement, Leavenworth Shuttle will continue to work with Staff in developing a safety management plan that addresses all of the violations identified in Staff's compliance review of the Company, and identifies the steps Leavenworth Shuttle will take to ensure these violations do not occur again. Once a safety management plan is fully developed and agreed to by the parties it will be filed to this Docket. Thereafter, Leavenworth Shuttle agrees to comply with the terms of the safety management plan.

V. STATEMENT OF PARTIES' INTERESTS AND THE PUBLIC INTEREST

11 As stated in the Agreement, the Agreement represents a compromise of the positions of the two parties. The Parties find it is in their best interests to avoid the expense, inconvenience, uncertainty, and delay inherent in a litigated outcome. Likewise, it is in the public interest that this dispute conclude without the further expenditure of public resources on litigation expenses.

12 This Agreement was also entered into in light of WAC 480-07-700, which states, "The commission supports parties' informal efforts to resolve disputes without the need for contested hearings when doing so is lawful and consistent with the public interest."

13 The Parties believe that the Agreement is in the public interest. This is because Staff is satisfied that the Agreement reflects a penalty that is appropriate given the violations at issue and that the Company has admitted to all of the violations in the new proceeding, Docket TE-

181030. Further, Staff believes that the particular structure of the suspended penalty combined with the penalties due now will effectively motivate compliance.

14 Leavenworth Shuttle has agreed to pay the \$10,000 suspended penalty issued in Dockets TE-161021 and TE-161020, which shows that the Company is bearing the responsibility for its failure to come into compliance thus far. Further, Staff believes that the suspended penalty of \$20,000 provides a significant incentive to encourage future compliance by Leavenworth Shuttle. The conditions that trigger the imposition of the suspended penalties require the Company to maintain a conditional safety rating and require the Company to not incur any repeat critical violations of WAC 480-30-221 for a period of two (2) years. This significant suspended penalty amount will encourage the Company to comply with safety regulations which will benefit the public.

15 Lastly, Staff believes that Leavenworth Shuttle's commitment to continue to work with Staff on a safety management plan, and the Company's commitment to comply with this safety management plan, once agreed to and filed in this Docket, is in the public interest. Complying with the safety management plan will help ensure that the Company will not incur repeat violations of safety regulation, which will benefit the public.

VI. LEGAL POINTS THAT BEAR ON PROPOSED SETTLEMENT

16 In WAC 480-07-700, the Commission states its support for parties' informal efforts to resolve disputes without the need for contested hearings when doing so is lawful and consistent with the public interest.

17 Pursuant to WAC 480-07-740, the Commission reviews settlement agreements to determine whether they comply with applicable legal requirements and whether approval of the agreements is consistent with the public interest.

VII. CONCLUSION

18 The Agreement resolves all of the issues in this docket and the Parties submit that their resolution complies with the applicable legal requirements and is consistent with the public interest. The Parties respectfully request that the Commission enter an order approving the Agreement in its entirety.

Respectfully submitted this 11th day of April, 2019.

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

LEAVENWORTH SHUTTLE AND TAXI,
LLC

ROBERT W. FERGUSON
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Counsel for Utilities and Transportation
Commission Staff

DAVID WITT
Owner/Representative

Dated: April _____, 2019

Dated: April 11th, 2019

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WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

LEAVENWORTH SHUTTLE AND TAXI,
LLC

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Commission Staff



DAVID WITT
Owner/Representative

Dated: April 8, 2019

Dated: April _____, 2019