

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Penalty Assessment  
Against

GENIE SERVICE COMPANY, INC.

DOCKET TE-061753

PETITION FOR  
ADMINISTRATIVE REVIEW  
OF ORDER 01

1           On February 27, 2007, the Commission entered an Initial Order Approving  
Settlement Agreement with Conditions.<sup>1</sup> Staff opposes one of the conditions and, pursuant  
to WAC 480-07-825, submits this Petition for Administrative Review of Order 01.

2           Specifically, Staff questions the conclusions in paragraphs 9 and 10 and the  
directives in paragraphs 11 and 12 that require Staff to audit Genie Service Company, Inc.  
(Genie) after one year from the date of the order.

3           This petition does not address the suspended penalty.

4           Staff agrees with the principle that Genie must undergo another compliance review  
but requests that the Commission amend the timing set forth in the order at paragraph 12.  
Staff plans to recheck Genie at the beginning of the summer in 2007, which will be  
approximately six months after the last check performed in November 2006. Depending on  
the outcome of the summer compliance review, Staff may want to check Genie again in 90  
days (required if a company does not achieve a satisfactory rating), in another six months if  
staff finds violations it believes warrant a six-month review, or in two years (the normal

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<sup>1</sup> Docket TE-061753, Order 01, *Initial Order Approving Settlement Agreement with Conditions*, served February 27, 2007.

schedule for compliance reviews of passenger bus companies). The language in paragraph 12 does not give Staff this flexibility.

5           The requirement in paragraph 11 also is problematic. Paragraph 11 sets forth the condition that “Genie remain free of motor carrier safety rule violations for a period of one year from the date of this order.” There are two reasons why this condition is impractical for Staff. First, as discussed above, Staff plans to perform a compliance review of Genie much earlier than a year from now, and does not want to be obligated to perform another review one year from the date of the order, when it might not be necessary. Also, during this summer’s review, as with any compliance review, Staff plans to rely on the random sampling method contained in the CAPRI software program. CAPRI is the same program used by the Washington State Patrol and the Federal Motor Carrier Safety Administration staff to determine how many vehicles and records there are to review from a given company. Because Staff will check only the number of records predetermined by CAPRI, and because the last check of Genie took place in November 2006, the records Staff will review during this summer’s inspection will not comprise a year’s worth, in contrast to what may be envisioned by the Order.

6           Accordingly, Staff requests that paragraphs 11 and 12 be changed. Staff proposes revising the order to read as follows:

- (1)   The parties’ settlement agreement, filed on February 14, 2007, is approved and adopted on condition that Genie be free of motor carrier safety rule violations at the next compliance review.
- (2)   Commission Staff should conduct at least one compliance review within one year from the date of this order, to be scheduled as Staff determines is appropriate, to ascertain whether Genie has incurred further motor carrier safety rule violations, and Staff should institute a penalty assessment

proceeding if Genie has incurred additional violations, including an assessment for the \$700 balance of the original penalty assessment.

7 In conclusion, Staff requests that the order be changed to allow Staff to conduct a compliance review of Genie earlier than the date set out in the order and to schedule any additional checks based on the results of the next compliance review.

DATED this 12th day of March, 2007.

Respectfully submitted,

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