

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the
Proper Carrier Classification of, and
Complaint for Penalties Against:

CHRIS ROBERT MILLER, D/B/A
SILVER LIMOUSINE AND SILVER
TRANSPORTATION

DOCKET TE-180455

ORDER 02

APPROVING SETTLEMENT;
CLASSIFYING RESPONDENT AS A
CHARTER AND EXCURSION CARRIER;
IMPOSING PENALTIES

BACKGROUND

- 1 On November 7, 2019, the Commission entered Order 01, Order Instituting Special Proceeding; Complaint Seeking to Impose Penalties; and Notice of Mandatory Appearance at Hearing (Order 01), initiating this docket on its own motion. The Complaint alleged that Chris Robert Miller, d/b/a Silver Limousine and Silver Transportation, (Silver Limousine or Company) violated RCW 81.70.220(1) on two occasions by advertising and offering to provide charter party and excursion services within the state of Washington without first obtaining from the Commission the certificate required for such operations. On the same date, the Commission issued a Subpoena and Subpoena Duces Tecum for Production of Documents commanding the Company to appear before the Commission at a special proceeding scheduled to convene at 9 a.m. on December 10, 2019, and to bring the documents specified in the subpoenas.
- 2 On December 2, 2019, the Company, through its counsel, contacted the presiding officer to request a continuance of the special proceeding. On December 5, 2019, the Commission issued a Notice Rescheduling Special Proceeding for March 3, 2020.
- 3 On February 28, 2020, Staff filed with the Commission a letter explaining that the parties had reached a settlement in principle, and requesting the Commission cancel the special proceeding. That same day, the Commission issued a notice cancelling the hearing and requiring the filing of settlement documents.
- 4 On April 23, 2020, Staff filed a settlement agreement on behalf of the parties (Settlement).
- 5 As part of the Settlement, the Company admits that it violated RCW 81.70.220(1) on two occasions by advertising and offering to provide charter party or excursion carrier service

without first having obtained from the Commission the certificate required to conduct such operations.

6 The parties agree that the Commission should assess a penalty of \$10,000, and that the penalty will be paid according to the terms of a mutually agreeable payment plan that the parties will file jointly within 30 days of the effective date of this Order.

7 Nash Callaghan, Assistant Attorney General, Lacey, Washington, represents Staff. John R. Bonin, Bonin Law, Shelton, Washington, represents the Company.

DISCUSSION AND DECISION

8 WAC 480-07-750(1) states in part: “The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.” Thus, the Commission considers the individual components of the Settlement Agreement under a three-part inquiry, asking:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.
- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

9 The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to conditions.
- Reject the proposed settlement.

10 We approve the Settlement without condition. Because Silver Limousine admits to the two violations alleged in the Complaint, the Commission classifies Silver Limousine as a charter party and excursion service carrier and orders the Company to cease and desist such conduct, as required by RCW 81.04.510.

11 We find that the \$10,000 penalty is reasonable in light of the Company’s history of noncompliance, and provides an effective deterrent from committing additional violations in the future. Moreover, the Company will work with Staff to establish a payment plan to reduce any immediate financial impact to the Company.

12 The terms of the Settlement are not contrary to law or public policy and reasonably resolve all issues in this proceeding. The Settlement supports the Commission's goal of deterring illegal operations and permits the Company to pay a penalty according to the terms of a mutually agreeable payment arrangement. Given these factors, we find the Settlement is consistent with the public interest and should be approved as filed.

ORDER

THE COMMISSION ORDERS:

- 13 (1) The settlement agreement between Chris Robert Miller, d/b/a Silver Transportation and Silver Limousine, and Commission Staff, attached as Exhibit A to, and incorporated into, this Order, is approved as the final resolution of the disputed issues in this docket.
- 14 (2) Chris Robert Miller, d/b/a Silver Transportation and Silver Limousine, is classified as a charter party and excursion service carrier within the state of Washington.
- 15 (3) Chris Robert Miller, d/b/a Silver Transportation and Silver Limousine, is ordered to immediately cease and desist providing charter party or excursion carrier services in the state of Washington without first obtaining a certificate from the Commission.
- 16 (4) Chris Robert Miller, d/b/a Silver Transportation and Silver Limousine, is assessed a penalty of \$10,000 for two violations of RCW 81.70.220(1).
- 17 (5) Chris Robert Miller, d/b/a Silver Transportation and Silver Limousine, must file jointly with Staff a mutually agreeable payment arrangement within 30 days of the effective date of this Order.
- 18 (6) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective April 24, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Rayne Pearson

RAYNE PEARSON

Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order and you would like the Order to become final before the time limits expire, you may send a letter to the Commission waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this initial order to file a petition for administrative review (Petition). Section (2)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-825(2)(c) states that any party may file a response to a Petition within 10 days after service of the Petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence that is essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will give other parties in the proceeding an opportunity to respond to a motion to reopen the record, unless the Commission determines that it can rule on the motion without hearing from the other parties.

WAC 480-07-610(9) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission does not exercise administrative review on its own motion.

Any Petition or response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5).

Exhibit A
Settlement Agreement