

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

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

GHOSTRUCK, INC.

DOCKET TV-161308

ORDER 02

ORDER DENYING REQUEST FOR  
RECUSAL

**BACKGROUND**

- 1 On February 9, 2017, the Washington Utilities and Transportation Commission (Commission) entered Order 01, Order Instituting Special Proceeding; Complaint Seeking to Impose Penalties; Notice of Hearing (Order 01) in Docket TV-161308. The Commission initiated this special proceeding to determine if Ghostruck, Inc. (Ghostruck or Company) has engaged, and continues to engage, in business as a common carrier for the transportation of household goods without the required Commission-issued permit. On the same date, the Commission issued a *Subpoena and Subpoena Duces Tecum for Production of Documents* requiring Ghostruck to appear before Administrative Law Judge Rayne Pearson at a special proceeding set for March 9, 2017, at 1:30 p.m.
- 2 On March 2, 2017, Ghostruck filed with the Commission a Request for Recusal of Judge Pearson (Request). In its Request, Ghostruck argues that Judge Pearson's past involvement in this matter creates a conflict of interest. Specifically, in her former capacity as Consumer Protection Manager, Judge Pearson received internal correspondence from other Commission staff about Ghostruck in the form of a compliance letter and memorandum. The Request included a copy of the following email, dated June 18, 2014, from former Commission employee and Compliance Investigator Megan Banks: "Here is the memo and compliance letter for Ghostruck. Thanks! Megan." The compliance letter and memo referenced in the email were not attached to Ghostruck's Request.

**DISCUSSION AND DECISION**

- 3 In its Request, the Company argues that the Judicial Code of Conduct Sections 2.11(6)(a) and (b) "speak directly" to Judge Pearson's situation and "should be instructive as to how others may view this conflict." We disagree. Those portions of the Judicial Code of Conduct provide that a Judge should disqualify herself in any proceeding in which her

impartiality may be questioned because she “a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer or material witness during such association,” or “b) served in governmental employment, and in such capacity participated personally and substantially as a public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy.” Neither provision applies here.

- 4 During the first two months of Ms. Banks’s employment with the Commission, Judge Pearson provided training to Ms. Banks and other compliance investigators in her capacity as Consumer Protection Manager. She neither supervised Ms. Banks nor participated in any of her investigations. Rather, she reviewed several dozen sets of memorandums and compliance letters addressing alleged unpermitted operations of household goods companies for typographical errors and stylistic consistency. Judge Pearson has no current recollection of this particular set of documents, and, because the documents were not attached to the Request, remains unaware of their contents. This level of involvement in no way rises to that described by the portions of the Judicial Code of Conduct that Ghostruck claims apply here. Judge Pearson is certain that this isolated incident, which occurred nearly three years ago and which she does not even recall, will not compromise her ability to adjudicate this matter impartially.
- 5 Moreover, Judge Pearson’s decision on the merits of this matter will be in the form of an Initial Order that is subject to review by the full Commission. The Commissioners, not Judge Pearson, will make a final determination if any party seeks review of the Initial Order. Accordingly, we deny Ghostruck’s Request.

### ORDER

- 6 **THE COMMISSION ORDERS THAT** Ghostruck, Inc.’s Request for Recusal is DENIED.

DATED at Olympia, Washington, and effective March 6, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON  
Administrative Law Judge

**NOTICE TO PARTIES: This is an Interlocutory Order of the Commission.  
Administrative review may be available through a petition for review, filed within  
10 days of the service of this Order pursuant to *WAC 480-07-810*.**