

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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

APEX LIMOUSINE, LLC

DOCKET TE-161261

ORDER 03

IMPOSING SUSPENDED PENALTY

BACKGROUND

- 1 On August 14, 2018, the Washington Utilities and Transportation Commission (Commission) entered Order 02, Initial Order Classifying Respondent as a Charter Party or Excursion Service Carrier; Ordering Respondent to Cease & Desist; Imposing and Suspending Penalties on Condition of Future Compliance (Order 02). Order 02 required Apex Limousine, LLC (Apex Limo or Company) to cease and desist operating as a charter party or excursion service carrier and imposed a fine of \$10,000 for two violations of RCW 81.70, all but \$3,300 of which was suspended for a period of two years conditioned on the Company: (1) permanently refraining from operating as a charter party or excursion service carrier without first obtaining a certificate from the Commission, (2) complying with all applicable statutes and Commission rules, and (3) paying the \$3,300 portion of the penalty that was not suspended or filing jointly with Commission staff (Staff) a proposed payment arrangement within 10 days of the effective date of Order 02.
- 2 On February 16, 2018, Staff filed with the Commission a Motion to Impose Suspended Penalties. In its Motion, Staff notes that the Company has neither paid the \$3,300 penalty as required nor contacted Staff to discuss payment arrangements. Staff further alleges that Apex Limo continues to operate as a charter party or excursion service carrier without the required certificate by advertising party bus services on its website, www.apexlimoseattle.com. Staff recommends the Commission impose the remaining \$6,700 suspended portion of the penalty for failing to comply with all of the conditions in Order 02.
- 3 On February 20, 2018, the Commission issued a Notice of Opportunity to Respond and Notice of Opportunity to Request a Hearing (Notice). The Notice gave the Company until February 26, 2018, to submit a written response or request a hearing to contest Staff's allegations of illegal operations. The Company did not file a response.

DISCUSSION AND DECISION

- 4 We find that Apex Limo violated the conditions of Order 02 and impose the \$6,700 suspended portion of the penalty. The Company failed to pay the \$3,300 portion of the penalty that was not suspended and violated the Commission’s order to cease and desist engaging in business as a charter party carrier without first obtaining a certificate.
- 5 RCW 81.70.020(1) defines “charter party carrier” as any person “engaged in the transportation over any public highways of this state of a group of persons who, pursuant to a common purpose and under a single contract, acquire the use of a motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after leaving the place of origin.” Under RCW 81.70.220, a person operates as a charter party carrier by providing charter party service, or by advertising or soliciting, offering, or entering into an agreement to provide such service.
- 6 Staff provided evidence that Apex Limo is engaging in the business of a charter party carrier by advertising party bus transportation on its website. Moreover, the Company failed to pay the \$3,300 portion of the penalty that was not suspended. Because the Company has failed to fulfill the conditions under which the Commission suspended \$6,700 of the assessed penalty, that penalty amount is now due and payable.

ORDER

THE COMMISSION ORDERS That

- 7 (1) Apex Limousine, LLC has not complied with the conditions under which the Commission suspended \$6,700 of the \$10,000 penalty assessment.
- 8 (2) The full \$6,700 suspended penalty is now due and payable.

DATED at Olympia, Washington, and effective February 28, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON
Administrative Law Judge