

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

In the Matter of the Petition of	)	DOCKET TC-091530
)	
CASCADE ADVENTURES, INC.	)	ORDER 01
)	
	)	ORDER GRANTING
	)	FORBEARANCE FROM RATE
Requesting forbearance from rate and	)	AND SERVICE REGULATION AS
service regulation as an auto	)	AN AUTO TRANSPORTATION
transportation company under RCW	)	COMPANY AND REQUIRING
81.68 and requiring application to	)	THE COMPANY TO FILE AN
provide recreational transportation	)	APPLICATION FOR A CHARTER
under RCW 81.70.	)	PERMIT
.....)	

BACKGROUND

- 1 On September 18, 2009, Cascade Adventures, Inc., (Cascade) filed a petition in Docket TC-091530, requesting the Washington Utilities and Transportation Commission (Commission) to forbear from rate and service regulation under RCW 81.68 and allow Cascade to file an application for a certificate as a charter carrier under RCW 81.70.

- 2 The Washington State Legislature passed Engrossed Senate Bill 5894, Chapter 557, Laws of 2009, during the regular 2009 Session and the Governor signed the bill into law. The new law amends RCW 81.68 to allow the Commission to find, with or without a hearing, that a company’s service does not serve an essential transportation purpose, is solely for recreation, and would not adversely affect the operations of the holder of an auto transportation certificate, and that the exemption from regulation is otherwise in the public interest.

- 3 Cascade is the first company to request forbearance from rate and service regulation under the new law. Cascade operates a seasonal transportation service between Kendall, Washington and the Mt. Baker Ski Area via Highway 542. There are four criteria the Company must meet for the Commission to grant forbearance under ESB 5894 (Chapter 557, Laws of 2009):
 - a. The service does not serve an “essential” transportation purpose. It is not necessary to provide reliable transportation to the ski area. Nor is such a service essential to the state’s economy.

- b. The service is solely for recreation. “Recreational service” used in this context is deemed by the Commission to mean an auto transportation service that is used solely at the option of the user for non-essential transportation.
- c. The service would not adversely affect the operations of the holder of an auto transportation certificate under RCW 81.68.
- d. Exemption from rate and service regulation under RCW 81.68 is in the public interest. The public interest is served when the facts warrant relief from rate and service regulation.

4 Commission Staff’s analysis determined that Cascade’s transportation service is not an essential service. Cascade operates a ski bus that shuttles passengers to and from the Mt. Baker Ski Area. Skiers and others may reach the recreation area by means other than use of Cascade’s services; use is optional. Cascade has operated the route to Mt. Baker since March 27, 2009, with no claim of adverse affect by any other auto transportation company holding a certificate under RCW 81.68. Considering all the facts and information presented in Cascade’s petition, Staff finds the Company’s request is in the public interest and recommends the Commission grant the Company’s petition for relief from rate and service regulation as an auto transportation company. The Company may provide recreational transportation service to and from the Mt. Baker Ski Area on a seasonal basis upon application and issuance of a charter certificate pursuant to RCW 81.70

FINDINGS AND CONCLUSIONS

- 5 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, rules, regulations, practices, accounts, securities, and transfers of public service companies, including auto transportation companies. *RCW 80.01.040; RCW 81.01; RCW 81.04; RCW 81.28; RCW 81.68 and RCW 81.70.*
- 6 (2) The service Cascade Adventures, Inc., proposes falls within the scope of an auto transportation company and a public service company subject to Commission jurisdiction.

- 7 (3) This matter was brought before the Commission at its regularly scheduled meeting on October 15, 2009.
- 8 (4) Cascade Adventures, Inc., requests forbearance from rate and service regulation as an auto transportation company under RCW 81.68 and seeks to file an application to provide recreational transportation as a charter or excursion carrier under RCW 81.70.
- 9 (5) After review and analysis of the petition for an exemption filed in Docket TC-091530 by Cascade Adventures, Inc., and giving due consideration of all facts presented by the Company's petition and the criteria established in Engrossed Senate Bill 5894 (Chapter 557, Laws of 2009), the Commission finds that the service offered by Cascade Adventures, Inc., does not serve an essential transportation purpose, is solely for recreation, and would not adversely affect the operations of the holder of an auto transportation certificate, and that the exemption from regulation is otherwise in the public interest.
- 10 (6) Granting Cascade Adventures, Inc.'s request that the Commission forbear from rate and service regulation, pursuant to Engrossed Senate Bill 5894, is consistent with the public interest and should be granted. Accordingly, Cascade Adventures, Inc., must file an application for a charter certificate under RCW 81.70 before operating a recreational transportation service between Kendall, Washington and the Mt. Baker Ski Area.

ORDER

THE COMMISSION ORDERS:

- 11 (1) The Commission forbears from rate and service regulation of Cascade Adventures, Inc., under RCW 81.68.
- 12 (2) Cascade Adventures, Inc., must file an application for a charter certificate under RCW 81.70 before operating a recreational transportation service between Kendall, Washington and the Mt. Baker Ski Area.

DATED at Olympia, Washington, and effective October 15, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner