

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

In the Matter of the Application for an	)	DOCKET TC-091965
Auto Transportation Authority by)	
	)	ORDER 01
BICYCLING AND HIKING TOURS)	
LLC)	
)	
	)	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 October 16, 2009, Sport Adventures filed an application for an auto transportation authority in Docket TC-091965. Sport Adventures subsequently changed its name to Bicycling and Hiking Tours LLC, (Bicycling and Hiking Tours or Company).

- 2 Bicycling and Hiking Tours seeks to operate a bicycle and hiking tour service in the greater Seattle area. The Company will transport its clients and equipment to area trailheads.

- 3 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 81.68.015 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.

- 4 There are four criteria the Company must meet for the Commission to grant forbearance under RCW 81.68.015 (ESB 5894, Chapter 557, Laws of 2009):

- a. The service does not serve an “essential” transportation purpose. “Essential service” used in this context is deemed by the Commission to mean indispensable or necessary transportation of people and cargo.
- 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. That is, does the service proposed to be exempt parallel service offered by an existing authorized auto transportation company and could users of the existing service use the proposed exempt service as a substitute.
- 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.

5 Commission Staff’s analysis determined that Bicycle and Hiking Tour’s transportation service is not an essential service. The Company proposes to operate buses that shuttle passengers, bicycles and hiking gear to Seattle-area trailheads. Bikers and hikers may reach these recreation areas by means other than use of Bicycle and Hiking Tour’s vehicles; use of the Company’s service is optional. Staff has reviewed the certificates of all auto transportation companies regulated under RCW 81.68 and thinks the proposed service would not adversely affect the operations of those companies. Considering all the facts and information presented in the Company’s application, Staff recommends the Commission grant the Company relief from rate and service regulation as an auto transportation company. The Company may provide recreational transportation service to and from Seattle-area trailheads upon approval of its application and issuance of a charter certificate pursuant to RCW 81.70.

FINDINGS AND CONCLUSIONS

- 6 (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.*

- 7 (2) The service Bicycling and Hiking Tours proposes falls within the scope of an auto transportation company and a public service company subject to Commission jurisdiction.
- 8 (3) This matter was brought before the Commission at its regularly scheduled meeting on January 14, 2010.
- 9 (4) Staff requests that the Commission, on its own motion, forbear from rate and service regulation of Bicycling and Hiking Tours as an auto transportation company under RCW 81.68 in order to provide recreational transportation as a charter or excursion carrier under RCW 81.70.
- 10 (5) After review and analysis of the application filed in Docket TC-091965 by Bicycling and Hiking Tours, and giving due consideration to all facts presented by the Company and the criteria codified in RCW 81.68.015 (Engrossed Senate Bill 5894, Chapter 557, Laws of 2009), the Commission finds that the service offered by Bicycling and Hiking Tours does not serve an essential transportation purpose, is solely for recreation, 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.
- 11 (6) Granting Bicycling and Hiking Tours forbearance from rate and service regulation, pursuant to RCW 81.68.015, is consistent with the public interest and should be granted. Accordingly, Bicycling and Hiking Tours must obtain a charter certificate under RCW 81.70 before operating a recreational transportation service in the greater Seattle area.

O R D E R

THE COMMISSION ORDERS:

- 12 (1) The Commission forbears from rate and service regulation of Bicycling and Hiking Tours LLC, under RCW 81.68.
- 13 (2) Bicycling and Hiking Tours LLC, must obtain a charter certificate under RCW 81.70 before operating a recreational transportation service in the greater Seattle area.
- 14 (3) The Commission delegates to the Secretary the authority to approve by letter all compliance filings required in this Order.
- 15 (4) The Commission retains jurisdiction over the subject matter and Bicycling and Hiking Tours LLC, to effectuate the provisions of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective January 14, 2010.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Executive Director and Secretary