



- 5 There are four criteria the Company must meet for the Commission to grant forbearance under RCW 81.68 (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 can 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.
- 6 Commission Staff’s analysis determined that Agate Pass does not provide an essential transportation service. The Company operates buses that shuttle passengers and their bicycles and hiking gear to various trailheads. Bikers and hikers may reach these recreation areas by means other than using Agate Pass 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 determined the service provided by Agate Pass does not adversely affect the operations of any other auto transportation company. Considering all the facts and information presented in the Company’s petition, Staff recommends the Commission grant the Company relief from rate and service regulation as an auto transportation company. The Company currently holds an active charter permit (CH-62909), which will allow the Company to continue to provide recreational transportation service pursuant to RCW 81.70.

### FINDINGS AND CONCLUSIONS

- 7 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate the 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.*
- 8 (2) The service Agate Pass proposes falls within the scope of an auto transportation company and a public service company subject to Commission jurisdiction.
- 9 (3) This matter came before the Commission at its regularly scheduled meeting on March 11, 2010.
- 10 (4) Staff requests that the Commission, on its own motion, forbear from rate and service regulation of Agate Pass Transportation, LLC, as an auto transportation company under RCW 81.68 in order to provide recreational transportation under its existing charter and excursion permit under RCW 81.70.
- 11 (5) After review and analysis of the application filed in Docket TC-100231 by Agate Pass Transportation, LLC, 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 Agate Pass Transportation, LLC, does not serve an essential transportation purpose other than 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.
- 12 (6) Granting Agate Pass Transportation, LLC, forbearance from rate and service regulation, pursuant to RCW 81.68.015, is consistent with the public interest and should be granted.

**ORDER**

**THE COMMISSION ORDERS:**

- 13 (1) The Commission forbears from rate and service regulation of Agate Pass  
Transportation, LCC, under RCW 81.68.
- 14 (2) Agate Pass Transportation, LLC, must maintain its charter certificate (CH-62909)  
under RCW 81.70 to continue providing its recreational transportation service.
- 15 (3) The Commission delegates to the Secretary the authority to approve by letter all  
compliance filings required in this Order.
- 16 (4) The Commission retains jurisdiction over the subject matter and Agate Pass  
Transportation, 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 March 11, 2010.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Executive Director and Secretary