

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of  
  
COMBINED CUTTING  
CONTRACTORS, INC., d/b/a P & D  
TREE SERVICE  
  
Petitioner,  
  
For an Exemption from  
WAC 480-14-250(1)(a)

DOCKET TV-210953  
  
ORDER 01  
  
GRANTING PETITION FOR  
EXEMPTION

**BACKGROUND**

- 1 On December 10, 2021, Combined Cutting Contractors, Inc., (Combined Cutting Contractors or Company) filed with the Washington Utilities and Transportation Commission (Commission) a Petition for an exemption (Petition) from Washington Administrative Code (WAC) 480-14-250(1)(a), the Commission's insurance rule for vehicles with gross vehicle weight ratings of 10,000 pounds or more. The Company received intrastate common carrier authority from the Commission effective April 24, 2014.
- 2 Under WAC 480-14-250(1), each common carrier must file with the Commission evidence of currently effective liability and property damage insurance written by a company authorized to write such insurance in the state of Washington.
- 3 In its Petition, the Company requests to retain insurance from a surplus lines insurer that is not authorized to write insurance in Washington. Surplus lines insurance is used when licensed insurers in the standard market will not provide coverage because the risk is too high, too unfamiliar, or does not otherwise meet the insurers' guidelines. Surplus line insurers have more flexibility to design and price their policies and generally charge higher premiums because they ensure risks that are usually more costly to cover.

- 4 RSG Specialty, LLC, is a broker registered with the Office of the Insurance Commissioner (OIC) and authorized to write surplus lines insurance on behalf of Ascot Specialty Insurance Company. Effective November 9, 2021, Combined Cutting Contractors secured auto liability insurance from Ascot Specialty Insurance Company through its broker, RSG Specialty.
- 5 Combined Cutting Contractors request an exemption from WAC 480-14-250(1)(a) so that it can continue to operate as a common carrier in Washington state with surplus lines insurance. As a result of the Company's business (tree cutting services), the age of some of its vehicles, and maintenance reports, the Company was unable to find coverage from a Washington-admitted company. The Company requests coverage from Ascot Specialty Insurance for its common carrier operations in Washington state.
- 6 Commission staff (Staff) supports granting the Company's Petition. Staff submits that while the specific requirements of Commission rules can be exempted, under RCW 81.80.190, the Commission must "require the carriers to either procure and file liability and property damage insurance from a company licensed to write such insurance in the State of Washington, or deposit security, for the limits of liability and on terms and conditions that the Commission determines are necessary for the reasonable protection of the public against damage and injury for which the carrier may be liable by reason of the operation of any motor vehicle." Because this is a statutory requirement, the Commission cannot grant the Company an exemption from the obligation to purchase its insurance from a company licensed in Washington. The OIC authorizes insurance companies to write insurance in Washington. RCW 48.15.040 allows surplus lines coverage under certain conditions if insurance from authorized insurers cannot be procured. The licensing requirements for surplus line brokers are found in RCW 48.15.070.
- 7 Staff notes that the Federal Motor Carrier Safety Administration (FMCSA) accepts surplus lines insurance (CFR Title 49 Part 387.315). Staff is willing to recommend the use of surplus lines insurance subject to the condition that the Company buy insurance from a highly rated surplus line company (AM Best A- or above rating) that meets the surplus lines company requirements set out in RCW 48.15.070. Ascot Specialty's financial strength rating is A for excellent.

#### DISCUSSION

- 8 We grant the Company's Petition subject to the condition that Staff recommends. Under WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if

doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. We find that the Company's Petition meets this standard subject to the condition that the Company buy insurance from a highly rated surplus lines company (AM Best A- or above rating) that meets the surplus lines company requirements set out in RCW 48.15.070. The purpose of the insurance rule is to protect the public from loss or damage caused by the Company while providing service. Surplus lines insurance responds to that need and is a viable option for high-risk or unique lines of business where risk is less certain. In addition, the FMCSA accepts surplus lines insurance. Accordingly, we find that the Petition for exemption is consistent with the public interest, the purposes underlying regulation, and applicable statutes, and conclude that it should be granted.

### FINDINGS AND CONCLUSIONS

- 9 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rules, regulations, and practices of motor carrier companies relating to acquiring common carrier permit and insurance requirements.
- 10 (2) Combined Cutting Contractors has common carrier authority and is a public service company subject to Commission jurisdiction.
- 11 (3) On December 10, 2021, Combined Cutting Contractors filed a Petition for Exemption from the Commission's insurance rule, WAC 480-14-250(1)(a), so that it may purchase surplus lines insurance with an unauthorized insurer, Ascot Specialty Insurance Company, consistent with the requirements of RCW 48.15.070.
- 12 (4) Pursuant to WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 13 (5) This matter came before the Commission at its regularly scheduled meeting on January 13, 2022.
- 14 (6) After reviewing Combined Cutting Contractors' Petition and giving due consideration to relevant matters and for good cause shown, the Commission finds that granting Combined Cutting Contractors' Petition subject to the

condition that it buy insurance from a highly rated surplus lines company (AM Best A- or above rating) is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

**ORDER**

**THE COMMISSION ORDERS:**

- 15 (1) Combined Cutting Contractors, Inc.'s Petition for exemption from WAC 480-14-250(1)(a) is granted subject to the condition that Combined Cutting Contractors, Inc., purchases insurance from a highly rated surplus line insurance company (AM Best A- or above rating) that meets the surplus lines company requirements set out in RCW 48.15.070.
- 16 (2) The Commission retains jurisdiction over the subject matter and Combined Cutting Contractors, Inc., to effectuate the terms of this Order.
- 17 The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective January 13, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AMANDA MAXWELL  
Executive Director and Secretary