

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. D-079116 of)	
)	DOCKET NO. TC-021402
CWA, INC., D/B/A CENTRAL)	
WASHINGTON AIRPORTER,)	
)	FINAL ORDER
For a Certificate of Public)	
Convenience and Necessity to)	GRANTING IN PART AND
Operate Motor Vehicles in)	DENYING IN PART,
Furnishing Passenger and Express)	APPLICATION FOR A
Service as an Auto Transportation)	CERTIFICATE OF PUBLIC
Company)	CONVENIENCE AND
.....)	NECESSITY

1 **Synopsis.** This order grants an application for a certificate of public convenience and necessity to operate motor vehicles in furnishing passenger and express bus services between Yakima, Ellensburg, Cle Elum on the one hand, and Seattle-Tacoma International Airport and the Seattle Amtrak station, on the other hand. This order denies service to intermediate points and to non-specified points in the city of Seattle.

I. INTRODUCTION

2 **Proceedings.** This is an application by CWA, Inc., doing business as Central Washington Airporter (“CWA” or “the Applicant”) for a certificate of public convenience and necessity to operate motor vehicles in furnishing passenger and express services between Yakima, Ellensburg, Cle Elum and Seattle-Tacoma International Airport (“SeaTac”) and selected points in downtown Seattle, with service to intermediate points but restricted against service wholly within King County. The authority requested overlaps that of Greyhound Bus Lines, Inc. (“Greyhound”) and Genie Service Company, Inc. (“Genie”).¹

3 **Parties.** Brooks Harlow and David L. Rice, attorneys, Seattle, represent CWA. Mary Tennyson, Senior Assistant Attorney General, represents staff of the Washington Utilities and Transportation Commission.

¹ Neither Greyhound nor genie filed a protest to CWA’s Application in this proceeding.

4 **Procedural Background.** On October 30, 2002, CWA filed an application (Number D-079116) for a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in Furnishing Passenger and Express Service as an Auto Transportation Company (“Application”). Notice of the Application was published in the Commission’s weekly Docket of November 25, 2002.

5 The Application requests authority to provide passenger bus service:

between Yakima, Ellensburg, Cle Elum and Seattle-Tacoma International Airport and selected points in downtown Seattle, with service to intermediate points via State Route 97 and Interstate Highways 5, 82, 90 and 405, with no service between any points within King County.

The Commission received no protests within the 20 days required by WAC 480-30-032(1).

6 RCW 81.68.040 requires that the Commission grant authority in a territory already served only after hearing. The route CWA seeks to serve is presently served in part by Greyhound, and in part by Genie.

7 The Applicant and Commission Staff waived entry of an Initial Order in this proceeding, and stipulated to entry of a Final Order based on a paper record.

8 **Standard for Determination.** The fundamental standard governing this application is contained in RCW 81.68.040:

No auto transportation company shall operate for the transportation of persons, and baggage, mail and express on the vehicles of auto transportation companies carrying passengers, for compensation between fixed termini or over a regular route in this state, without first having obtained from the commission under the revisions of this chapter, a certificate declaring that public convenience and necessity require such operation ... The commission shall have power, after hearing, when the applicant requests a certificate to operate in a territory already served by a certificate holder under this chapter, only when the existing auto transportation company or companies

serving such territory will not provide the same to the satisfaction of the commission, and in all other cases with or without hearing, to issue said certificate as prayed for; or for good cause shown to refuse to issue same, or to issue it for the partial exercise only of said privilege sought, and may attach to the exercise of the rights granted by said certificate to such terms and conditions as, in its judgment, the public convenience and necessity may require.

9 In addition, consistent with the Commission's rules for auto transportation companies in Chapter 480-30 WAC, the Commission considers an applicant's financial fitness, and its fitness generally to provide the service for which it seeks authorization. We must address, then, two sets of questions with respect to the application:

- 1) Public convenience and necessity:
 - a) Do the public convenience and necessity require the proposed service?
 - b) Does an existing auto transportation company operating in the territory at issue provide service to the satisfaction of the Commission?
- 2) Financial Fitness:
 - a) Is the company financially fit and capable of providing the service?
 - b) Does the company exhibit regulatory fitness?

These questions are considered and answered below.

II. MEMORANDUM

10 **Factual Basis.** CWA wants to provide scheduled passenger and express service between Yakima, Ellensburg, Cle Elum and Seattle-Tacoma International Airport and selected points in downtown Seattle, including the Amtrak train station, with service to intermediate points, but with no service between any two points within King County.

11 Greyhound offers bus service between Yakima, Ellensburg, Cle Elum and Greyhound's downtown Seattle bus station, serving intermediate points. Greyhound has the authority to provide service over Interstate Highways 90 and 405, and State Route 97. Importantly, Greyhound does not offer direct service from Yakima, Ellensburg, and Cle Elum to Seattle-Tacoma International Airport or Amtrak's Seattle station, which are two locations CWA proposes to serve.

Genie has the authority to provide service between Walla Walla and Seattle with service to Richland and Yakima, between Seattle and Clarkston with intermediate stops, and between Seattle and Pullman with intermediate stops. Genie recently requested, and received, the Commission's permission to discontinue service over these routes. While Genie has authority to provide service to Seattle, it holds no authority to serve Seattle-Tacoma International Airport.

12 CWA's application is restricted against service between Seattle-Tacoma Airport and points in downtown Seattle, including the downtown Seattle Amtrak station. This restriction eliminates any conflict with the authority held by Evergreen Trails, Inc. d/b/a Gray Line of Seattle (Certificate 819), and Shuttle Express, Inc. (Certificate 975), the two local Seattle carriers.

13 The Applicant introduced the testimony of Larry Wickkiser, President of Wickkiser International Companies, Inc. ("WIC") Ferndale, Washington. Mr. Wickkiser is a general manager of CWA and he testified regarding CWA's proposed service, management, and operations.

14 Mr. Wickkiser has been president of WIC for eighteen years. WIC has operated Airporter Shuttle throughout that period, providing a scheduled airport transportation service with daily round-trips between SeaTac and communities in Whatcom, Skagit, Island, and Snohomish Counties, including intercounty transportation for the areas served. WIC also has operated Bellair Charters for twelve years, including the San Juan ferry parking shuttle during summer months and a shuttle service for the 2002 Skagit Valley Tulip Festival.

15 Mr. Wickkiser testified that his experience with Airporter Shuttle and Bellair Charters has familiarized him with all aspects of transportation service and operations, including Commission regulations, safety, driver training, insurance, operations, maintenance, dispatch, reservations, and marketing. Mr. Wickkiser also testified that other CWA managers have substantial experience in regulated transportation services operations.

16 CWA has acquired four 47-passenger motorcoaches with an approximate value of \$100,000 each to operate the proposed service, and has developed a maintenance program for these vehicles. CWA proposes to contract for maintenance and repairs with either A&A Motorcoach in Yakima or WIC in

- Ferndale. CWA will train its drivers how to conduct pre- and post-trip inspections according to a checklist. CWA will maintain vehicle maintenance files containing comprehensive records, and will establish a computer database to track vehicle inspection reports.
- 17 CWA will use WIC's 24-hour dispatch facility and communicate with drivers via a two-way radio service. CWA will maintain a back-up vehicle in Yakima, and has contracted with two other motorcoach companies to provide back-up vehicles in case of an emergency or mechanical breakdown during service. CWA has policies and procedures for hiring drivers, will contract with WIC for its driver training and safety program, and will subject drivers to ongoing monitoring. CWA will comply fully with all requirements of the Washington State Department of Transportation, and drivers will maintain a logbook of hours of service.
- 18 CWA will provide vehicles to transport disabled customers, and will market its services in communities where it operates. CWA does not yet have a concession agreement with SeaTac, but has received tentative approval to transport passengers to and from the airport. CWA has taken preliminary steps to put in place insurance for its operations, and states that it will complete an insurance contract and submit a certificate of insurance to the Commission prior to starting operations. A pro-forma balance sheet and a pro-forma income statement showing CWA's projected revenues and costs was attached to the Application. *See Exhibit No. 10.*
- 19 CWA introduced the written testimony of nine public witnesses regarding the needs of the traveling public and the adequacy of Greyhound's services in meeting those needs. Marisela Boochetti, Dale Spurlock, Debbie Strand, Tracey Dusin, Susanne Bull, Mary Lou Snyder, Bob Clem, Alan Walker, and Tami Walton all profess to being familiar with CWA's proposed service and the transportation services offered by Greyhound in their communities.
- 20 Marisela Boochetti, is a resident of Cle Elum, Washington and travels to Seattle or SeaTac between twelve and fifteen times per year on personal business. Ms. Boochetti testified that she needs CWA's proposed service because it would allow her to travel to SeaTac or to the Amtrak train station without changing buses. According to Boochetti, CWA's service would save a lot of time. She testified that Greyhound's bus service requires that she switch buses in

downtown Seattle or arrange other transportation from Greyhound's Seattle bus station in order to reach SeaTac or Amtrak's Seattle station.

- 21 Dale Spurlock works at the Yakima Valley Visitor and Convention Bureau and travels from Yakima to Seattle or SeaTac between five and eight times per year. Mr. Spurlock testified that CWA's service is desirable because it would provide transport to SeaTac without a transfer or delay, and would provide multiple departures and arrivals per day. Spurlock testified that, in contrast, Greyhound doesn't meet his personal needs because Greyhound does not offer enough departures and does not provide direct transportation to SeaTac.
- 22 Debbie Strand works as the Executive Director at Phoenix Economic Development Group in Ellensburg, Washington, and she travels to Seattle several times per month and about six times per year to SeaTac. Ms. Strand testified that she needs CWA's service because it will allow her to avoid parking, traffic, congestion, and driving during adverse road conditions. Ms. Strand also testified that CWA's schedule will make it easier to schedule flights out of SeaTac. Ms. Strand described Greyhound's service as being too time-consuming and inconvenient because Greyhound does not provide direct transportation to SeaTac and because it takes two-to-four times longer to get to the airport when using Greyhound's services.
- 23 Tracey Dusin owns and manages Town and Country Travel in Yakima, and travels to Seattle or SeaTac about twenty times per year. Ms. Dusin testified that there needs to be a service that connects Yakima with SeaTac, because her customers must drive to Seattle and pay for parking when Horizon Airline flights originating in Yakima are booked full. According to Dusin, her clients' only other alternate transportation option is Greyhound. However, Greyhound's existing service is inadequate because it requires passengers to switch buses or arrange additional transportation in order to reach SeaTac or Amtrak's Seattle station.
- 24 Susanne Bull is a travel agent at Ellensburg Travel in Ellensburg, Washington, and she travels to Seattle or SeaTac about twenty-five times per year. She testified that Greyhound presently is the only bus transportation option to Seattle for her and her clients. According to Bull, Greyhound's schedule is inconvenient and its service requires travelers to arrange additional transportation to get to SeaTac.

- 25 Mary Lou Snyder works at Global Travel in Yakima. And she travels from Yakima to Seattle or SeaTac about three times per month. Ms. Snyder testified that Greyhound's service is not convenient because Greyhound offers no direct service to SeaTac. According to Snyder, CWA's proposed service is needed because it offers more trips per day than Greyhound and goes directly to the airport.
- 26 Bob Clem is the Yakima Airport manager, and he travels from Yakima to SeaTac or Seattle about ten to twelve times per year. Mr. Clem testified that Greyhound's service is unsatisfactory because Greyhound takes too long to get to Seattle and doesn't provide direct transportation to SeaTac. Mr. Clem also testified about a survey conducted by the Yakima Airport in April 2002 showing that there is a strong public need for CWA's service. The survey analyzed the impact on travel post 9/11/01 when United Express Airlines discontinued its air service between Yakima Airport and SeaTac. Horizon is the only remaining airline serving the SeaTac to Yakima route. Horizon is now more expensive to fly to SeaTac, and there are fewer flights between those points. The survey revealed that, since United Express discontinued service between Yakima and SeaTac, a large number of people have begun to drive between these points. According to Clem, these travelers would use CWA's proposed service.
- 27 Alan Walker is the Executive Director of the Ellensburg Chamber of Commerce, and he travels to SeaTac or Seattle between twenty five and thirty times per year. He testified that using Greyhound's bus service takes too long to get to SeaTac Airport because Greyhound does not provide direct transportation. Walker stated that CWA's service would be beneficial to many people residing in the Ellensburg area.
- 28 Tami Walton is a resident of Ellensburg, and she travels to Seattle or SeaTac about three or four times a year. Ms. Walton testified that Greyhound's scheduling and route do not meet her travel needs because it does not go directly to SeaTac. Walton testified that she would use CWA's airporter service.

Public convenience and necessity:**A. Do the public convenience and necessity require the proposed service?****B. Do existing auto transportation companies operating in the territory at issue provide service to the satisfaction of the Commission?**

29 An applicant for an auto transportation certificate must establish that the public convenience and necessity require the proposed operations. *RCW 81.68.040*. Order M. V. C. No. 1892, *In re Lloyd's Connection, Inc. d/b/a Airport Connection Airporter*, Hearing No. D-2556 (December 1990). Public convenience and necessity require the services of an additional carrier if existing carriers cannot meet the needs of the traveling public. *RCW 81.68.040*. Order M. V. C. No. 1892, *Id.*

30 Testimony by public witnesses show that there is a public need for a bus service originating from or destined to Yakima, Ellensburg, and Cle Elum that will transport passengers and express directly to and from Amtrak's Seattle station and SeaTac. Each of these witnesses testified that Greyhound's service is inadequate to meet this public need because Greyhound has no direct service to or from Amtrak's Seattle station or SeaTac. Testimony by these witnesses convinces us that the traveling public in Yakima, Ellensburg, and Cle Elum need direct transportation services to and from railroad and airport terminal facilities, and would use the service. The public convenience and necessity support a grant of CWA's application to provide this service.

31 *RCW 81.68.040*'s requirements promote the public interest in having regular and dependable passenger transportation services available at fair rates. When an applicant shows that existing transportation companies will not serve the territory in question to the satisfaction of the Commission, that and that no good cause has been shown to deny the application, a grant of authority for the territory is consistent with the public interest and required by the public convenience and necessity. *RCW 81.68.040*. Order M. V. C. No. 1809, *In re San Juan Airlines, Inc., d/b/a Shuttle Express*, App. No. D-2566 (April 1989). Convenience, directness, and timeliness are essential characteristics of airporter passenger service. The Commission will give substantial weight to those factors in its satisfactory service determination and in its public convenience and necessity determination in an application for overlapping authority. *RCW 81.68.040*. Order M. V. C. No. 2057, *In re Sharyn Pearson & Linda Zepp, d/b/a Centralia Sea-Tac Airport Express*, App. No. D-76533 (June 1994).

- 32 Failure to meet the real needs of travelers is a sufficient basis for finding that a carrier has failed to provide service to the Commission's satisfaction under RCW 81.68.040. *Id.* In sum, there is substantial competent evidence in the record to support a finding that the public convenience and necessity require CWA's proposed service.
- 33 In addition to the listed point-to-point service, CWA's application seeks authority to serve intermediate points along stated routes. It presented no evidence of public need for that portion of its application, however. In addition, CWA's evidence shows that Greyhound provides the service, but there is no evidence that Greyhound will not provide this portion of its service to the Commission's satisfaction. Finally, CWA's proposal for "a premium airporter service" is not consistent with service to, from, and between intermediate stops. *See, Order M.V.C. No. 2057, In re Pearson and Zepp, d/b/a Centralia Sea-Tac Airport Express, App. No. D-76333 (June, 1994).* For these reasons, the Commission will deny the application for service to intermediate points. Doing so, there appears to be no need for a statement of authorized routes, which may make it easier for the carrier to choose the best routes depending on weather or other road conditions.
- 34 Finally, CWA's application seeks authority to provide service to "selected" points within the city of Seattle. It appears that the term "selected" is meaningless, because any point to which a customer asks service would be "selected," and the term therefore constitutes no limitation on or clarification of the authority. This causes us some concern, for two reasons. First, there is evidence that Greyhound provides service between the three eastern Washington points listed in CWA's application and Greyhound's own terminal in Seattle, and there is no evidence that this Greyhound service is unsatisfactory. Second, the only point that passengers named as a needed service point was the Seattle Amtrak station. Consequently, it appears that a grant of unrestricted service to points within the city of Seattle would be improper under the statutory standards, and this portion of the application should also be denied.

Fitness:**A. Is the company financially fit and capable of providing the service?**

35 The Commission's examination of an applicant's financial fitness must be commensurate with the responsibilities of the public service that the firm seeks to provide, the risks to the public of failure, and the firm's financial history. *RCW 81.68.040*. Order M. V. C. No. 1899, *In re San Juan Airlines, Inc., d/b/a Shuttle Express*, App. No.D-2589 (March 1991); *modified*, Order M. V. C. No. 1909 (May 1991). However, the Commission does not consider an applicant's financial condition to be a critical element in a grant of authority, so long as there is credible evidence that the applicant has sufficient financing to begin operations and continue them for a reasonable period while its business is building. Commission Decision and Order, *In re Application of Valentinetti*, App. No. D-78932, Docket No. TC-001566 (2002).

36 In this proceeding the Applicant has provided a pro-forma balance sheet and pro-forma income statement for prospective business operations. *See Exhibit 10*. The financial information included in CWA's application shows adequate resources to begin operations.

B. Does the company exhibit regulatory fitness?

37 To qualify for authority, an applicant must establish that it is willing and able to comply with Washington laws and Commission rules. Order M. V. C. No. 1892, *In re Lloyd's Connection, Inc. d/b/a Airport Connection Airporter*, Hearing No. D-2556 (December 1990). The applicant, CWA, does not itself have an operating or financial history that the Commission can review. However, CWA's general manager, Larry Wickkiser testified regarding his long history of providing certificated service in other areas of the state.

38 Mr. Wickkiser has been the president of WIC for eighteen years. Throughout that time, WIC operated Airporter Shuttle, which provides a scheduled airport transportation service with ten round-trips daily between Sea-Tac Airport and Blaine, Ferndale, Bellingham, Mount Vernon, Anacortes, Oak Harbor, Stanwood and Marysville, including intercounty transportation for the areas served. WIC also operated Bellair Charters, which provides charter service, for the past twelve years. Examples of Bellair Charters' services include a three-year contract with Skagit Transit to run the San Juan ferry parking shuttle during the summer

months, a three-month parking shuttle for St. Joseph Hospital and a shuttle service for the 2002 Skagit Valley Tulip Festival. Both Airporter Shuttle and Bellair Charters operate pursuant to WUTC certificates. Mr. Wickkiser's experience with Airporter Shuttle and Bellair Charters establishes that he is familiar with all aspects of transportation service and operations, including regulations, safety, driver training, insurance, operations, maintenance, dispatch, reservations and marketing.

39 Mr. Wickkiser also testified regarding equipment maintenance, driver training, and other safety procedures that CWA will employ. CWA has made arrangements with other businesses that will enable it to provide safe and efficient service, if the certificate is granted. Mr. Wickkiser credibly testified that he is knowledgeable about Washington laws and Commission rules.

40 Mr. Wickkiser represents that CWA, Inc., is currently under formation, and will provide a "Form E" Certificate of Insurance prior to issuance of a certificate to operate by the Commission.

41 The Applicant has established both the willingness and the ability to comply with Washington laws and Commission rules, and the Applicant is fit.

42 **Conclusion.** CWA showed by substantial competent evidence that the public convenience and necessity require portions of the proposed service. CWA showed by substantial competent evidence that Greyhound, the existing certificate holder whose authority encompasses the same territory, does not provide airporter-type service to the Seattle-Tacoma International Airport or to the Seattle Amtrak station to the satisfaction of the Commission. CWA is fit, willing and able to provide the proposed service. The application should be granted, in part, for these reasons in accordance with RCW 81.68.040.

III. FINDINGS OF FACT

43 (1) On October 30, 2002, CWA filed Application No. D-079116 for a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in Furnishing Passenger and Express Service as an Auto Transportation Company ("Application"). The Application requests authority to provide passenger bus service between Yakima, Ellensburg, Cle Elum and Seattle-Tacoma International Airport and selected points in downtown Seattle,

with service to intermediate points via State Route 97 and Interstate Highways 5, 82, 90 and 405, with no service between any points within King County.

- 44 (2) Greyhound Bus Lines, Inc. (“Greyhound”) is an existing auto transportation company serving the requested territory, but did not protest the application. Genie Service Company, Inc. (“Genie”) is an existing auto transportation company serving such territory, but did not protest the application. Further, Genie recently requested, and received, the Commission’s permission to discontinue service over these routes.
- 45 (3) CWA possesses appropriate equipment and has sufficient financial resources to begin operations and continue them for a reasonable period while its business is building. Based on the evidence presented, if any portion of the application is granted and if CWA obtains a certificate of insurance prior to issuance of a certificate to operate by the Commission, CWA will comply with the laws and rules governing auto transportation companies under Chapter 81.68 of the Revised Code of Washington.
- 46 (4) The testimony of Marisela Bochetti, Dale Spurlock, Debbie Strand, Tracey Dusin, Susanne Bull, Mary Lou Snyder, Bob Clem, Alan Walker, and Tami Walton establish that there is a need for CWA’s proposed airporter-type service between Yakima, Ellensburg, and Cle Elum on the one hand and, on the other hand, the Seattle Amtrak station and the Seattle-Tacoma International Airport.
- 47 (5) Greyhound does not provide service to the satisfaction of the Commission because the company not provide direct transportation services between Yakima, Ellensburg, and Cle Elum, and Amtrak’s Seattle station or SeaTac. Genie has discontinued its service in the territory requested.
- 48 (6) CWA is financially fit and capable of providing its proposed service, and exhibits regulatory fitness.

IV. CONCLUSIONS OF LAW

- 49 (1) The Washington Utilities and Transportation Commission has jurisdiction over the parties to and subject matter of this application.

- 50 (2) CWA is fit, willing and able to provide the services requested under chapter 81.68 RCW and chapter 480-30 WAC.
- 51 (3) The existing certificate holders serving the requested territory do not provide service to the satisfaction of the Commission where CWA proposes to operate and it, therefore, is proper to grant overlapping authority to CWA under RCW 81.68.040.
- 52 (4) It is consistent with the public interest and required by the public convenience and necessity that the Commission issue a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in Furnishing Passenger and Express Service as an Auto Transportation Company to CWA, Inc., doing business as Central Washington Airporter, after the company submits a "Form E" certificate of insurance. CWA should be authorized to provide passenger and express service between Yakima, Ellensburg, and Cle Elum, on the one hand and, on the other hand, the Seattle-Tacoma International Airport and the Seattle Amtrak station.

V. ORDER

THE COMMISSION ORDERS That:

- 53 Application No. D-079116 of CWA, Inc., doing business as Central Washington Airporter for a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in Furnishing Passenger and Express Service as an Auto Transportation Company is granted in part and denied in part.
- 54 A Certificate of Public Convenience and Necessity will issue after CWA files proof of insurance with the Commission. CWA's certificate will read in accordance with Appendix A, which is attached to and, by this reference, made a part of this Order.
- 55 Except as stated in Appendix A, the application is denied.

DATED at Olympia, Washington, and effective this ____ day of April, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

APPENDIX A

CWA, Inc., d/b/a
Central Washington Airporter
2410 South 26th Avenue
PO Box 9364
Yakima, WA 98903

1. Passenger service between Yakima, Ellensburg, and Cle Elum, on the one hand, and on the other hand the Seattle-Tacoma International Airport and the Seattle Amtrak station.

TC-021402
ORDER NO. 1

(April 14, 2003)