

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

BREMERTON-KITSAP AIRPORTER,)	DOCKET TC-110230
INC.,)	
) ORDER 02
Complainant,)	
)
v.)	ORDER GRANTING MOTION TO
) FILE REPLY, GRANTING MOTION
SHUTTLE EXPRESS, INC.,)	TO AMEND COMPLAINT, AND
) SCHEDULING TELEPHONIC
Respondent.)	STATUS CONFERENCE
) (Set for October 25, 2011, 9:30 a.m.)
.....)	

BACKGROUND

- 1 On February 2, 2011, Bremerton-Kitsap Airporter, Inc. (Bremerton-Kitsap Airporter or Complainant) filed with the Washington Utilities and Transportation Commission (Commission) a formal complaint against Shuttle Express (Respondent). On February 23, 2011, Shuttle Express filed an answer to the complaint.
- 2 The Commission granted two joint requests to delay processing the complaint to allow the parties to pursue settlement opportunities. Those settlement discussions failed to resolve the outstanding issues.
- 3 Bremerton-Kitsap Airporter filed a motion to amend complaint and an amended complaint. Shuttle Express opposed the motion. Bremerton-Kitsap Airporter filed a motion for leave to file reply and a reply. The latter motion was not opposed.

DISCUSSION AND DECISION

- 4 *Motion to File Reply.* The Commission’s rule, WAC 480-07-375, governs motions that are not dispositive and allows both motions and responses. There is no provision for reply. Therefore, a party wishing to file a reply must seek leave to do so.¹ The Complainant sought leave to file a reply asserting that the Respondent’s response to

¹ WAC 480-07-370(1)(d)(ii).

its motion to amend complaint raises new material. The motion is unopposed. The Commission concludes that the Complainant has stated good cause to file a reply and the motion to file reply is granted. The reply will be considered in the Commission's decision regarding the motion to amend complaint.

- 5 *Motion to Amend Complaint.* According to WAC 480-07-395(5) the Commission may allow amendments to pleadings and other documents on such terms to promote fair and just results. The Complainant asserts that the original *pro se* complaint may not have been completely clear regarding the basis for the allegations and the potential remedies sought whereas the amended complaint provides additional explanation and scope to the allegations. In opposition, the Respondent contends that the motion should be denied due to futility because the amended complaint fails to identify any harm. It asserts that it would be unfair to require it to respond to a complaint that is not legally cognizable or justiciable due to Complainant's lack of standing. In reply, the Complainant contends that the Respondent fails to distinguish between standing to intervene in a proceeding and standing to bring a complaint for an act or omission that violates any law, order, or Commission rule.
- 6 The Commission grants the motion to amend complaint. Our rule allows amendments to promote fair and just results. In this case, the purpose of the amended complaint is to more clearly state the underlying rationale for the complaint and the relief sought. Clarity in this pleading will afford the Respondent the opportunity to effectively assess the Complainant's position at the pleading phase and will provide the Commission with a greater understanding of each party's position. Accordingly, allowing this amendment will promote fair and just results provided the Respondent is given a reasonable opportunity to respond to the amended complaint.
- 7 Our rule, WAC 480-07-370(1)(c)(iv), provides that answers to formal complaints are due within 20 days after a complaint is served unless the Commission specifies otherwise. In this case, it would be reasonable to allow the Respondent 20 days from the date of this Order to respond to the amended complaint, or until October 17, 2011.
- 8 *Telephonic Status Conference.* The Commission concludes that it would be beneficial to schedule a telephonic status conference after Shuttle Express has had the opportunity to file an answer to the amended complaint. The purpose of the status conference is to discuss the procedural options for resolving the outstanding issues in this case and establish a procedural schedule.

- 9 **THE COMMISSION GIVES NOTICE That it will hold a telephonic status conference in this matter at 9:30 a.m., on Tuesday, October 25, 2011, Room 108, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** The parties are encouraged to appear telephonically via the Commission's bridge line at **(360) 664-3846**. Please appear on the teleconference bridge five minutes before the conference is scheduled to begin.

DATED at Olympia, Washington, and effective September 27, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PATRICIA CLARK
Administrative Law Judge