

[Service Date April 15, 2013]

April 15, 2013

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS
(By Monday, May 13, 2013)**

Re: Rulemaking to Consider Rate Setting Flexibility and Competition for Auto Transportation Companies in WAC 480-30, Docket TC-121328

TO ALL INTERESTED PERSONS:

On September 5, 2012, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to consider rules to establish rate setting flexibility and competition for auto transportation companies in Washington Administrative Code (WAC) 480-30. The Commission filed the CR-101 under Docket TC-121328.

BACKGROUND

Under RCW 81.68, the Commission regulates the fares, routes, services, safety and insurance of auto transportation companies. Auto transportation companies include privately-owned scheduled bus and airporter service.

RCW 81.68.040 allows the Commission to issue a certificate to an auto transportation company if it meets the public convenience and necessity standard. If an incumbent carrier provides service in the territory requested, the Commission may issue a certificate to the applicant after a hearing only if:

- The incumbent company does not object; or
- The Commission determines that the incumbent will not provide the same service to the satisfaction of the Commission.

Under RCW 81.04.250, the Commission may use “any standard, formula, method, or theory of valuation reasonably calculated to arrive at the objective of prescribing and authorizing just and reasonable rates.”

Over the last several years, the Commission has held extensive discussions with stakeholders about regulation of the auto transportation industry and the appropriate methodology for setting fares. Given that competition among passenger transportation providers may exist in most, if not all, areas of the state, including private cars, taxis, limousines, and public transit, the Commission believes that the current method of strict economic regulation of fares and entry of auto transportation companies may no longer be effective or efficient. Further, the current rate methodology results in numerous tariff filings before the Commission, requiring companies and Commission staff to spend extensive time and resources, where a different, more flexible methodology may reduce the time and expense for both companies and the Commission. Thus, the Commission has determined that it should consider amending WAC 480-30 to promote fare flexibility as well as recognize the competition among carriers.

Draft Rule to Increase Rate Flexibility and Competition

The Commission distributed draft rules for comment to stakeholders on February 8, 2013, and held a stakeholder workshop on March 22, 2013. After considering the written and oral comments made by stakeholders, the Commission offers a second draft of rules to promote fare flexibility and recognize increased competition through amendments to WAC 480-30. The Commission is seeking comments from auto transportation companies and other interested persons regarding the second draft rules. The second draft rules are available for inspection on the Commission's website at www.utc.wa.gov/121328. A brief summary of the changes from the first draft to the second draft is also available in that location. If you are unable to access the Commission's web page and would like a copy of the second draft rules and summary mailed to you, please contact the Commission's Records Center at (360) 664-1234.

The second draft rules propose to allow for increased competition by amending existing regulations to: reduce reporting requirements; clarify application requirements; clarify and narrow the grounds under which a company may object to an application filed by another company; and provide that the Commission will adjudicate all objections under the agency's brief adjudication process, unless an administrative law judge determines another process is more appropriate. The second draft rules also establish in rule the definition of, and standard for, "public convenience and necessity," "territory already served by a certificate holder," and "service to the satisfaction of the commission."

Among other changes, the second draft rules propose to increase fare flexibility by authorizing companies to file a tariff that includes the authority to charge fares, at the

company's discretion, in any amount up to a maximum fare. The maximum fare would be set at twenty-five percent (25%) above the company's "base fare," which is the fare in effect at the time the company files the tariff seeking rate flexibility. The maximum fare would increase by an additional five percent (5%) above the company's "base fare" each year: companies would be required to annually file updated tariffs to reflect the increase.

The second draft rules also allow for the Commission to review how the changes in rule affect service to the public and the auto transportation market after five years. The draft rules propose a set of issues to be considered in the review. The review may, or may not, result in future amendments to the auto transportation rules.

WRITTEN COMMENTS

Written comments on the second draft to consider rules to establish fare flexibility and recognize competition for auto transportation companies, as well as the concepts for such rules described above, must be filed with the Commission no later than **5:00 p.m., Monday, May 13, 2013**. The Commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. You may submit comments via the Commission's Web portal at www.utc.wa.gov/e-filing or by electronic mail to the Commission's Records Center at records@utc.wa.gov. Please include:

- The docket number of this proceeding (TC-121328).
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments is by mailing or delivering an electronic copy to the Commission's Records Center on a 3 ½ inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The Commission will post on its web site all comments that are provided in electronic format. The web site is located at www.utc.wa.gov/121328.

If you are unable to file your comments electronically or to submit them on a disk, the Commission will accept a paper document. If you have questions regarding this rulemaking, you may contact staff lead, Ann Rendahl, Director, Policy and Legislation, at (360) 664-1144, or by email at arendahl@utc.wa.gov.

Stakeholders will have further opportunity for comment. Information about the schedule and other aspects of the rulemaking, including comments, will be posted on the

Commission's website as it becomes available. If you wish to receive further information on this rulemaking you may:

- (1) Call the Commission's Records Center at (360) 664-1234
- (2) Email the Commission at records@utc.wa.gov
- (3) Mail written comments to the address below

When contacting the Commission, please refer to Docket TC-121328 to ensure that you are placed on the appropriate service list. The Commission's mailing address is:

Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250

NOTICE

If you do not want to comment now, but do want to receive future information about this rulemaking, please notify the Executive Director and Secretary in one of the ways described above and ask to be included on the mailing list for Docket TC-121328. If you do not do this, you might not receive further information about this rulemaking.

STEVEN V. KING
Acting Executive Director and Secretary