

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper  
Carrier Classification of, and Complaint  
for Penalties Against:

SATWINDER SINGH, D/B/A LUXURY1  
LIMO, LLC, BLACK CAR SEATTLE, LLC,  
LUXURY LIMOS & TOURS, ET AL.

DOCKET TE-190842

COMMISSION STAFF'S REPSONSE TO  
COMPANY'S REQUEST FOR  
ADMINISTRATIVE REVIEW OF  
INITIAL ORDER

**I. INTRODUCTION**

1 Staff respectfully requests that the Commission deny the petition by Satwinder Singh, d/b/a Luxury1 Limo, LLC, Black Car Seattle, LLC, Luxury Limos & Tours, et al., (Luxury1 Limo or Company) for administrative review of Order 03 in Docket TE-190842 (Petition) for any or all of the following three reasons. First, the Petition fails to comply with the Commission's rules for the submission of petitions in a way that affects the substantial rights of the parties. Second, Order 03 was properly decided, and a significant amount of undisputed evidence supports the Administrative Law Judge's (ALJ) finding in Order 03 that Luxury1 Limo continued to advertise and offer charter party and excursion carrier service in violation of Order 02 in this docket. And third, the Commission should deny Luxury1 Limo's Petition, which consists of nothing more than a plea for leniency, as the Commission has already extended due leniency to the Company under the circumstances

**II. BACKGROUND**

2 On April 12, 2017, Luxury1 Limo filed with the Commission an application for charter and excursion carrier authority.<sup>1</sup>

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<sup>1</sup> *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Satwinder Singh d/b/a Luxury1 Limo, LLC, Black Car Seattle, LLC, Luxury Limos & Tours, et al. (In re Luxury1 Limo)*, Docket TE-190842, Declaration of Jason Hoxit (Nov. 16, 2020) (Hoxit Decl.) at ¶ 3.

3           On May 31, 2017, the Commission granted Luxury1 Limo a certificate to provide  
charter and excursion carrier authority.<sup>2</sup>

4           On June 27, 2019, Luxury1 Limo filed with the Commission a request to cancel its  
certificate to provide charter and excursion service in the state of Washington.<sup>3</sup> That same  
day, the Commission issued a cancellation letter in Docket TE-190541, notifying the  
Company that its charter and excursion carrier authority was cancelled and that the  
Company must cease all operations associated with the certificate.<sup>4</sup>

5           On November 1, 2019, the Commission issued Order 01, Order Instituting Special  
Proceeding; Complaint Seeking to Impose Penalties; Notice of Hearing; and Subpoena  
Duces Tecum in this docket.<sup>5</sup>

6           On December 6, 2019, Luxury1 Limo filed with the Commission an application to  
reinstate its charter and excursion authority.<sup>6</sup>

7           On December 10, 2019, following a hearing, the Commission entered Order 02,  
Stipulated Initial Order Classifying Respondent as Charter Party or Excursion Service  
Carrier; Ordering Respondent to Cease and Desist; Imposing and Suspending Penalties on  
Condition of Future Compliance (Order 02) in this docket. In Order 02, the Commission  
ordered Luxury1 Limo to cease and desist from further operations as a charter party or  
excursion service carrier, and additionally imposed a \$10,000 penalty against the Company  
for two admitted violations of RCW 81.70.260(1), \$9,000 of which was suspended for a  
period of two years conditioned on the Company permanently refraining from further

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<sup>2</sup> *Id.* at ¶ 4.

<sup>3</sup> *Id.* at ¶ 5.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at ¶ 6.

<sup>6</sup> *Id.* at ¶ 7.

operations as a charter party or excursion service carrier in the state of Washington without first obtaining the required certificate from the Commission.<sup>7</sup>

8           At the December 10, 2019 hearing, Luxury1 Limo appeared and stipulated: (1) that the Company indeed conducted operations in the state of Washington without the required certificate; (2) that the Company agreed to permanently cease and desist its operations as a charter party or excursion service carrier, as defined by RCW 81.70.020, until it obtained authority from the Commission; (3) that the Company would be penalized \$10,000 under RCW 81.70.260(2), with \$9,000 of that penalty suspended for a period of two years, then waived, subject to the condition that the Company refrain from operating as a charter party or excursion service carrier without authority.<sup>8</sup> In the transcript of the December 20, 2019 hearing, the Company also acknowledged that it had an opportunity to review Order 02 and understood it in its entirety, and that the Company understood what activities it could and could not legally conduct going forward without a certificate from the Commission.<sup>9</sup>

9           On June 23, 2020, the Commission issued Order 03/01, Order Dismissing Application without Prejudice and Cancelling Payment Arrangement in Dockets TE-180596 and TE-191008, cancelling the Company's payment arrangement in Docket TE-180596 and dismissing its application to reinstate charter and excursion carrier authority in Docket TE-191008.<sup>10</sup>

10           On September 22, 2020, Staff received a complaint alleging that Luxury1 Limo was operating as a charter or excursion carrier without the required authority from the

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<sup>7</sup> *Id.* at 4-5 ¶ 20.

<sup>8</sup> *In re Luxury1 Limo*, Docket TE-190842, Order 02 at 3 ¶¶ 10-12 (December 10, 2019).

<sup>9</sup> Hoxit Decl. at ¶ 10.

<sup>10</sup> *Id.* at ¶ 14.

Commission.<sup>11</sup> Specifically, the complainant alleged that Luxury1 Limo continued to operate a 20-passenger Hummer H2 and a white party bus without the required Commission-issued certificate.<sup>12</sup> The complainant also alleged that Luxury1 Limo continued to operate a Lincoln Navigator SUV under its active limousine endorsement through the Washington Department of Licensing.<sup>13</sup>

11 In September and October 2020, Staff performed a follow-up investigation of Luxury1 Limo to check for compliance with Order 02.<sup>14</sup> In the course of that review, Staff determined that the Company failed to comply with the condition in Order 02 that it refrain from operations as a charter party or excursion service carrier in the state of Washington without authority from the Commission.<sup>15</sup> Staff's findings were documented in the detailed Declaration of Jason Hoxit. Mr. Hoxit determined, among other things: (1) that on at least six occasions between September 24, 2019, and September 24, 2020, the Company either advertised or entered into an agreement to provide charter or excursion carrier service after the cancellation of its certificate using three different vehicles<sup>16</sup>; (2) that on October 26, 2020, the Company's website advertised that the Company provided the following services: "Night Party Limos," "Wedding Limos," "Executive Chauffeur," "Birthday Party-Bus," "Prom Limousines," and "Executive Airport Transfers"<sup>17</sup>; and (3) that between October 26, 2020, and October 28, 2020, the Company directly communicated with and provided offers or quotes to Staff (who operated under an assumed name and email address) for charter

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<sup>11</sup> *Id.* at ¶ 15.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at ¶ 15-30.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at ¶ 21.

<sup>17</sup> *Id.* at 22.

party or excursion carrier service in the state of Washington. In these communications, the Company actively responded to Staff's questions about pricing and vehicle capacity and provided Staff with interior and exterior pictures of the Company's vehicles upon request.<sup>18</sup>

12           On November 16, 2020, Staff filed a motion seeking to impose the \$9,000 penalty that was suspended in Order 02, based on the evidence contained in Mr. Hoxit's declaration that the Company was again violating RCW 81.70.260(1) and the terms of Order 02. That same date, the Commission issued a Notice of Opportunity to Respond and Notice of Opportunity to Request a Hearing in this docket.

13           On November 30, 2020, the Company filed a response. Notably, the Company conceded that it did, in fact, violate Order 02 by advertising as a charter party and excursion carrier without authority from the Commission. The Company asserted, however, that its conduct was inadvertent, and that its responses to Staff's inquiries (including offers to provide regulated service and quotes for those services) were made in error. Additionally, the Company asserted that it is unable to afford the \$9,000 penalty due to the economic impact of the COVID-19 pandemic and related shutdowns.<sup>19</sup> The Company offered no rebuttal to any of the evidence contained in Mr. Hoxit's declaration showing that the Company violated Order 02.

14           On December 8, 2020, the Commission issued Order 03, Imposing Suspended Penalty. After considering the evidence and the arguments in the record, the presiding ALJ found the Company's arguments "unpersuasive,"<sup>20</sup> and ordered that the Company had "not complied with the conditions under which the Commission suspended \$9,000 of the \$10,000

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<sup>18</sup> *Id.* at 24-25, 28-29.

<sup>19</sup> *In re Luxury1 Limo*, Docket TE-190842, Luxury1 Limo's Petition for Administrative Review of Order 03 at 1 (Dec. 16, 2020).

<sup>20</sup> *In re Luxury1 Limo*, Docket TE-190842, Initial Order 03, at 2 ¶ 6 (December 8, 2020).

penalty assessment.” The presiding ALJ found that “[t]he Company’s explanation does not satisfactorily rebut Staff’s evidence, which demonstrates the Company continued to advertise and offer charter party and excursion carrier service in violation of Order 02.”<sup>21</sup> Nevertheless, considering the current economic downturn, the Commission exercised its discretion to grant leniency and permit the Company to pay the penalty in 36 monthly installments of \$250 each.

15           On December 16, 2020, the Company filed with the Commission its Petition, seeking administrative review of Order 03.<sup>22</sup> Notably, the Petition does not include a single challenge to *any* finding of fact or to *any* conclusion of law contained in Order 03. Instead, the Petition essentially boils down to the following three points: (1) that the Company faces financial hardship due to the COVID-19 pandemic and, as a result, sold one of its regulated vehicles and “will soon be out of business”<sup>23</sup>; (2) the Company’s assertion that imposing the \$9,000 suspended penalty under Order 03 “would force the company into filing bankruptcy and drive [the Company] completely out of business”<sup>24</sup>; and (3) a request that the Commission “pardon [the Company] for wrongdoings.”<sup>25</sup> Although it is not entirely clear from the face of the Petition, the Company’s sole request for relief appears to ask the Commission to review the ALJ’s order imposing the \$9,000 suspended penalty in the spirit of leniency and due to economic hardship.

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<sup>21</sup> *Id.*

<sup>22</sup> The Company’s Petition asks the Commission to “reconsider the final order under WAC 480-07-850 & WAC 480-07-820.” Petition at 1. However, Order 03 is an initial order, not a final order, and the Company’s petition should thus be interpreted as a petition for administrative review of the Commission’s initial order pursuant to WAC 480-07-825(2). Pursuant to WAC 480-07-915, the Commission considers requests for administrative review of an initial order imposing suspended penalties for non-compliance with a condition of an “order on mitigation” under the same procedures and requirements applicable to Commission review of initial orders under WAC 480-07-825. See WAC 480-07-915(7), 8(b).

<sup>23</sup> Petition at 1.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

16           The Administrative Procedures Act, RCW 34.05, sets forth certain requirements for initial and final orders from the Commission. Such orders must contain a statement of findings and conclusions, and the reasons and basis therefore, on all the material issues of fact, law, or discretion presented on the record.<sup>26</sup> Any findings based substantially on the credibility of the evidence or the demeanor of a witness must be identified.<sup>27</sup> Findings of fact must be based only on the evidence of record in the proceeding or on matters officially noticed in the proceeding, and must be based on “the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs.”<sup>28</sup>

17           When reviewing an initial order pursuant to RCW 34.05.464, the reviewing officer shall personally consider the whole record or such portions of it as may be cited by the parties,<sup>29</sup> but “shall give due regard to the presiding officer’s opportunity to observe the witnesses.”<sup>30</sup>

18           Pursuant to WAC 480-07-825, parties filing petitions for administrative review must conform with the following requirements: (1) “Every petition must identify with specificity the nature of each challenge to the initial order. The petitioner must separately state and number every contention”; (2) “A petition that challenges a finding of fact must cite the page or part of the record that includes the evidence on which the petitioner relies to support its challenge and should include a recommended finding of fact”; (3) “A petition that challenges a conclusion of law must cite the statute, rule, case law, or other legal authority on which the petitioner relies to support its challenge and should include a recommended

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<sup>26</sup> RCW 34.05.461(3).

<sup>27</sup> *Id.*

<sup>28</sup> RCW 34.05.461(4).

<sup>29</sup> RCW 34.05.464(5).

<sup>30</sup> RCW 34.05.464(4).

conclusion of law”; and (4) “A petition that challenges the summary or discussion portion of an initial order must include a statement showing the legal or factual justification for the challenge, and a statement of how the asserted defect affects the findings of fact, the conclusions of law, and the ultimate decision.”<sup>31</sup>

### III. DISCUSSION

19 Staff respectfully requests that the Commission deny Luxury1 Limo’s Petition for review of the ALJ’s order for any or all of three reasons. First, the Petition fails to comply with the Commission’s rules for the submission of petitions in a way that affects the substantial rights of the parties. Second, Order 03 was properly decided, and a significant amount of undisputed evidence supports the ALJ’s finding that Luxury1 Limo continued to advertise and offer charter party and excursion carrier service in violation of Order 02. And third, the Commission should deny Luxury1 Limo’s Petition for administrative review, which consists of nothing more than a plea for leniency, as the Commission has already extended due leniency to the Company under the circumstances.

20 The Commission should deny Luxury1 Limo’s Petition for review because the Petition fails to comply with the Commission’s rules for the submission of petitions in a way that affects the substantial rights of the parties, and unfairly and incorrectly attempts to shift the Company’s burden to Staff. As noted, the Petition does not challenge any finding of fact or conclusion of law in Order 03, and the Company’s sole request for relief asks the Commission to review the ALJ’s order imposing the \$9,000 suspended penalty in the spirit of leniency. However, even there, the Petition falls short. The Petition does not “identify with specificity the nature of each challenge it seeks to present to the initial order”

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<sup>31</sup> WAC 480-07-825(2)(b).



concerning the imposition of the \$9,000 suspended penalty, much less explain how the ALJ's decision to impose the suspended penalty constituted error warranting reversal on administrative review. To be clear, neither the financial problems facing the Company nor its inability to pay the \$9,000 suspended penalty amount to error warranting administrative review of Order 03. Petitions challenging the summary or discussion portions of an ALJ's initial order bear the burden of setting forth the "legal or factual justification for the challenge, and a statement of how the asserted defect affects the findings of fact, the conclusions of law, and the ultimate decision."<sup>32</sup> The Company's Petition fails to identify even one defect in Order 03, much less satisfy this burden. Although Commission rules provide for the liberal construction of pleadings, the same rule states that the Commission will not ignore defects in pleadings that affect the substantial rights of parties.<sup>33</sup> Staff cannot properly respond to the issues raised in the Petition, as it is entitled to under WAC 480-07-825(2)(c), due to the Company's failure to comply with Commission rules on the required substance of petitions. Staff should not be required to read into the Company's scant Petition challenges that were not properly made by the Company on its face. In short, Luxury1 Limo, through its deficient Petition, inappropriately attempts to shift its burden to Staff. The Commission should therefore deny Luxury1 Limo's Petition for administrative review of Order 03.

21           The Commission should deny Luxury1 Limo's Petition for administrative review and uphold Order 03 because the order was properly decided and based on established, undisputed facts. As explained in Order 03, the ALJ's findings of fact and conclusions of

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<sup>32</sup> WAC 480-07-825(2)(b)(iv).

<sup>33</sup> WAC 480-07-395(4).

law were based on a reasoned weighing of the evidence of record in the proceeding.<sup>34</sup> In Staff's view, Order 03 complied in all respects with the requirements of RCW 34.05.461. The ALJ considered the evidence put forth by Staff in Mr. Hoxit's declaration against the scant evidence provided by the Company and expressly found that the Company's arguments were both unpersuasive and did not satisfactorily rebut Staff's evidence that the Company continued to operate illegally in violation of Order 02 in this docket. The Company never challenged the facts established in Mr. Hoxit's declaration, nor did the Company set forth additional evidence explaining or rebutting Mr. Hoxit's findings. In fact, the Company appears to admit in the Petition that violated Order 02 when it asks the Commission to "pardon" it for its "wrongdoings."<sup>35</sup> In sum, Staff strongly supports Order 03 as it was properly decided and based on a substantial and unrefuted body of evidence showing that Luxury1 Limo continued to advertise and offer charter party and excursion carrier service in violation of Order 02.

22           Finally, the Commission should deny Luxury1 Limo's Petition, which consists of nothing more than a plea for leniency, because Staff believes that the Commission has already extended due leniency to the Company under the circumstances. For example, the Commission exercised leniency in suspending \$9,000 of the penalty imposed in Order 02 and affording the Company an opportunity to avoid the entire \$9,000 sum in return for compliance with Order 02's cease and desist provisions. However, the Company did not take advantage of that opportunity as demonstrated by the unrebutted evidence that the Company continued to advertise and offer charter party and excursion carrier service in violation of Order 02. The Company was fully aware of the consequences that would flow

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<sup>34</sup> Order 03 at 2 ¶ 6.

<sup>35</sup> Petition at 1.

from a violation of Order 02, as indicated by the Company's stipulation to Order 02 and its representations on the record that it fully understood the nature of Order 02 and the associated suspended penalty. Even then, the Commission extended further leniency to the Company in Order 03 by exercising its discretion to permit Luxury1 Limo to pay the suspended penalty in 36 monthly installments of \$250, rather than require the entire sum to be paid at once. Staff is aware of the economic hardships broadly imposed by the COVID-19 pandemic and believes the Commission's ordering of a fair and manageable payment plan will serve to prevent any undue financial hardship to the Company. As articulated above, the Company cited no legal authority in support of its request that the Commission review the imposition of the \$9,000 suspended penalty nor assigned any legal or factual error to the ALJ's decision to impose that penalty. The Company's Petition is essentially a simple appeal to the equities for further leniency without basis. However, given the Company's repeated violations in this docket and noted negative compliance history,<sup>36</sup> Staff cannot recommend further leniency. Instead, Staff recommends that the Commission deny the Petition and fully uphold Order 03's imposition of the \$9,000 suspended penalty, subject to the payment plan articulated by the Commission.

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<sup>36</sup> Order 02 at 4 ¶ 13.

#### IV. CONCLUSION

23 For the reasons set forth above, Staff respectfully requests that the Commission deny  
Luxury1 Limo's Petition for administrative review of Order 03.

DATED this 28th day of December, 2020.

Respectfully submitted,

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