

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

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

BLESSED LIMOUSINE INC.

DOCKET TE-151667

COMMISSION STAFF'S ANSWER TO  
BLESSED LIMOUSINE, INC.'S  
PETITION FOR ADMINISTRATIVE  
REVIEW

**I. BACKGROUND**

1           On October 27, 2015, the Washington Utilities and Transportation Commission  
(Commission) served Order 01 instituting a special proceeding to determine the  
classification of and seeking penalties against Blessed Limousine, Inc. (Blessed Limo or the  
Company) and gave notice of a brief adjudicative proceeding set for Thursday, November  
19, 2015, at 1:30 p.m.

2           On October 27, 2015, the Commission conducted a brief adjudicative proceeding  
before Administrative Law Judge (ALJ) Rayne Pearson.

3           Following the hearing, on December 7, 2015, the Commission entered Order 02  
classifying Blessed Limo as a charter party or excursion service carrier, ordering Blessed  
Limo to cease and desist, and imposing and suspending penalties against Blessed Limo on  
condition of future compliance. Blessed Limo was found to have committed four violations  
and was assessed a penalty of \$20,000, of which \$10,000 was conditionally suspended.

4 On January 6, 2016, David Ruzumna filed a Notice of Appearance with the  
Commission on behalf of Blessed Limo and on that same day filed a Petition for  
Administrative Review on behalf of Blessed Limo.

5 Pursuant to WAC 480-07-825(4), Commission staff (Staff) files this answer to  
Blessed Limo's Petition for Administrative Review.

## II. ANSWER TO PETITION

6 As a preliminary matter, Blessed Limo has failed to show good cause for extending  
the time during which a party may file a petition for administrative review.

7 Order 02 in TE-151667, the Initial Order Classifying Respondent as a Charter Party  
or Excursion Service Carrier; Ordering Respondent to Cease & Desist; Imposing and  
Suspending Penalties on Condition of Future Compliance, was entered on December 7,  
2015.<sup>1</sup> It clearly states that any party will have "twenty (20) days after the entry of this  
initial order to file a *Petition for Administrative Review*."<sup>2</sup> The deadline for any party to  
TE-151667 to file a petition for administrative review was December 28, 2015 (the first  
weekday following December 27, 2015, which was the twentieth calendar day from the date  
of entry). Blessed Limo should be held to this deadline.

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<sup>1</sup> Docket TE-151667, Order 02, Initial Order Classifying Respondent as a Charter Party or Excursion Service Carrier; Ordering Respondent to Cease & Desist; Imposing and Suspending Penalties on Condition of Future Compliance (Dec. 7, 2015).

<sup>2</sup> WAC 480-07-825(2) requires any party to file and serve a petition "within twenty days after the initial order is served." WAC 480-07-130(2) permits the commission to "modify the time limits stated in a commission rule, subject to other requirements of law." RCW 34.05.488 is the provision of the Washington Administrative Procedures Act that specifies the time period within which an agency must conduct an administrative review if requested by a party (twenty-one days after service of the initial order). RCW 34.05.080 explains when an agency may modify the time limits of a petition for administrative review and, additionally, subsection (7) explains that "In an adjudicative proceeding, any agency whose time limits vary . . . shall provide reasonable and adequate notice of the pertinent time limits to persons affected. The notice may be given by the presiding . . . officer involved in the proceeding." Such notice was given by the ALJ in this matter in Order 02, p. 9.

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Blessed Limo misunderstands and mistakenly uses the Commission's record of the certified card of service to Blessed Limo of Order 02 to justify extending the time for filing a petition for administrative review. Blessed Limo provided this certified card as Exhibit A with its Petition for Administrative Review. This record indicates that the certified card was entered into the Commission's database on December 21, 2015, but it does not include the date of service to Blessed Limo. This date does not signify when Blessed Limo was served. Blessed Limo has not offered any evidence showing when it was served with Order 02. In fact, the certified card notes that a signature is "not dated" for receipt of Order 02. Blessed Limo has, therefore, failed to meet its burden to show good cause.

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The certified card also clearly states that the old address for Blessed Limo was updated with the address in Fife, WA provided by Mr. Clussie Bagby at the brief adjudicative hearing on November 19, 2015. Additionally, the Company's updated address in Fife, WA is also the address where Order 01 in Docket TE-151667, the Order Instituting Special Proceeding; Complaint Seeking to Impose Penalties and Notice of Brief Adjudicative Proceeding<sup>3</sup> was served and evidence of this fact was presented at hearing and was accepted as Exhibit PS-16.<sup>4</sup> This shows that Staff, and the Commission, have known where to serve the Company from the outset of this matter.

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Regarding Blessed Limo's arguments in its Petition for Administrative Review, Staff presents its position on the issues in Paragraphs 11 – 18, below.

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Blessed Limo argues that it was denied basic due process when it was forced to proceed without counsel. Staff disagrees. Blessed Limo was given notice and afforded an

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<sup>3</sup> Docket TE-151667, Order 01, Order Instituting Special Proceeding; Complaint Seeking to Impose Penalties and Notice of Brief Adjudicative Proceeding (Oct. 27, 2015).

<sup>4</sup> Transcript (Nov. 19, 2015) (Tr.) 24 – 26.

opportunity to be heard. Order 01 was served upon Clussie Bagby on October 27, 2015, and the declaration of service of Order 01 was admitted at hearing as Exhibit PS-16.<sup>5</sup> Order 01 prominently provided November 19, 2015, as the date for the brief adjudicative proceeding (BAP). Blessed Limo had notice and was afforded sufficient time to retain an attorney to represent it in this matter, but Blessed Limo chose not to retain counsel or have any counsel present on November 19, 2015, at the BAP.<sup>6</sup> In light of these facts, the decision by the ALJ to deny Blessed Limo's motion for a continuance did not deny due process to the Company.

12 Staff disagrees with any implication in Blessed Limo's petition that the BAP was unfair to Blessed Limo. Its petition characterizes the BAP as having a "rough start," as not being "meaningful" to Mr. Bagby, and becoming "increasingly terse." Staff's position is that any perceived roughness or terseness in the hearing was a direct result of Blessed Limo's uncooperative interactions with the ALJ during the BAP.

13 The petition also complains of the ALJ's admission of exhibits into evidence "*before commission counsel even sought to have them admitted.*"<sup>7</sup> This issue arises from Blessed Limo's misunderstanding of the Commission's procedural rules. WAC 480-07-495 states that "All relevant evidence is admissible if the presiding officer believes it is the best evidence reasonably obtainable, considering its necessity, availability, and trustworthiness. The presiding officer will consider, but is not required to follow, the rules of evidence governing general civil proceedings. . . ." During this BAP, the ALJ, as the presiding officer, admitted groups of related exhibits after hearing testimony from Staff and Blessed Limo regarding their relevance and trustworthiness. The ALJ exercised her discretion to admit

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<sup>5</sup> Tr. 23 – 29.

<sup>6</sup> Mr. Bagby testified at the BAP that he had spoken with an attorney but had not retained an attorney for representation at the BAP. Tr. 67, 91; *see also* Tr. 7 – 8.

<sup>7</sup> Petition for Administrative Review at 6.

Exhibits PS-8 through PS-10 after Blessed Limo indicated during the presentation of Exhibit PS-7 that the exhibits of its website were, in fact, printouts of its website.<sup>8</sup> The ALJ appropriately exercised her discretion in similar fashion regarding Exhibits PS-12<sup>9</sup> and PS-14.<sup>10</sup>

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In its Petition for Administrative Review, Blessed Limo reveals a misunderstanding of the law. Blessed Limo does not deny the underlying facts that establish its violations (that it has advertised and offered service as a charter party and excursion carrier without a UTC certificate), but mistakenly claims that if it does not own any vehicles it cannot be in violation of the law. First, Blessed Limo presented no evidence to show that it does not own any of the vehicles for which it was advertising and offering service, and evidence was presented suggesting that Blessed Limo may own such vehicles.<sup>11</sup> Second, as accurately cited in Order 02,<sup>12</sup> RCW 81.70.220(1) clearly states that “No person may [advertise or solicit, offer, or enter into an agreement to provide the service of a] charter party carrier or excursion service carrier of passengers . . . without first having obtained a certificate from the commission to do so. . . .” A carrier can violate this law without owning a vehicle by advertising, “offering, or entering into an agreement to provide such service.”<sup>13</sup> Order 02 clearly presents the ALJ’s determination that Blessed Limo violated this applicable statute on four instances.<sup>14</sup>

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<sup>8</sup> Tr. 42 – 46.

<sup>9</sup> Tr. 50 – 51.

<sup>10</sup> Tr. 53.

<sup>11</sup> Tr. 86 – 87.

<sup>12</sup> Order 02, ¶ 13.

<sup>13</sup> See RCW 81.70.220(1)

<sup>14</sup> Order 02, ¶ 13, ¶¶ 21 – 22.

15 Blessed Limo also argues that the ALJ should not have been permitted to impose \$20,000 in penalties on Blessed Limo.<sup>15</sup> Staff disagrees. First, Blessed Limo had notice that the Commission could impose penalties of up to \$20,000. Order 01 of this docket cites the applicable RCW 81.70.220 and states that “the Commission may impose financial penalties of up to \$5,000 for each violation.”<sup>16</sup> Four violations are alleged in the Order 01.<sup>17</sup>

16 Second, despite Staff’s recommendation of penalties at hearing, the presiding officer or the Commission makes the final determination of penalty amount and has the discretion to deviate from any that Staff, who participates in a hearing like any other party, may recommend.<sup>18</sup> The ALJ in this matter enumerated the factors contributing to the determination of the level of penalty imposed upon Blessed Limo.<sup>19</sup> The ALJ explained her determination that Blessed Limo’s violations were unmitigated by these factors and were “both intentional and ongoing,” that the Company was uncooperative and unresponsive, and that the Company failed “to take prompt corrective action.”<sup>20</sup>

17 Blessed Limo additionally argues that Mr. and Ms. Bagby should not be assessed the penalty amount along with the Company, and should not be held jointly and severally liable with the Company for the penalty amount. Staff notes that the Washington State Department of Licensing business license for Blessed Limousine, Inc. was presented and admitted into evidence at the BAP as Exhibit PS-1.<sup>21</sup> The owners of the Company are Clussie Bagby and Genise Bagby.<sup>22</sup> Order 01 addresses the Complaint for Penalties against “BLESSED

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<sup>15</sup> Petition for Administrative Review at 7.

<sup>16</sup> Order 01, ¶ 3.

<sup>17</sup> Order 01, ¶ 2.

<sup>18</sup> See Order 02, note 2.

<sup>19</sup> Order 02, ¶ 16.

<sup>20</sup> Order 02, ¶¶ 16 – 17.

<sup>21</sup> Tr. 18 – 19.

<sup>22</sup> Tr. 18; Exhibit PS-1.

LIMOUSINE INC.”<sup>23</sup> Order 01 identifies Mr. Clussie Bagby as the known representative for Blessed Limo.<sup>24</sup> Blessed Limo raises this issue in its petition as a denial of due process. Staff submits that, regarding due process, Mr. Clussie Bagby and Ms. Genise Bagby were likely uninformed by Order 01, which was directed specifically to Blessed Limo as the only named party, that they could be held jointly and severally liable if Blessed Limo was found to have violated RCW 81.70.220.

18 Blessed Limo, in its Petition for Administrative Review, does not state “why oral argument is necessary to assist the Commission in making its decision and why written presentations will be insufficient” as required by WAC 480-07-825(6). Staff does not believe oral argument is necessary in this instance and does not believe additional argument would provide any more aid to the Commission in making its decision than that already offered by the written presentations submitted by the parties.

### III. CONCLUSION

19 Staff requests that the Commission deny the Company’s request to extend the time for filing a petition for administrative review because the Company has failed to show good cause for doing so.

20 Regarding the merits of the Company’s Petition for Administrative Review, the Company offers no persuasive basis on which to reverse the findings and decision made or the amount of penalties assessed by the ALJ in this docket. Staff requests that the Commission adopt the Initial Order in full, with the limited clarification that Blessed Limo

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<sup>23</sup> Order 01, Caption.

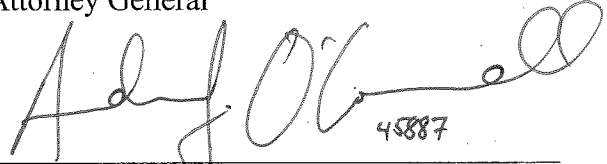
<sup>24</sup> Order 01, ¶ 10.

is the entity against which the penalties are being imposed and that any joint and several liability by Mr. Clussie Bagby and Ms. Genise Bagby contained in Order 02 is excluded.

DATED January 14, 2016.

Respectfully submitted,

ROBERT W. FERGUSON  
Attorney General

A handwritten signature in black ink, appearing to read "Andrew J. O'Connell". The signature is written in a cursive style. To the right of the signature, the number "45887" is handwritten.

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ANDREW J. O'CONNELL  
Assistant Attorney General  
Counsel for Washington Utilities and  
Transportation Commission Staff