

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of)	DOCKET TC-140399
)	
SANI MAHAMA MAUROU d/b/a)	
SEATAC AIRPORT 24)	ORDER 04
)	
For a Certificate of Public Convenience)	ORDER DENYING SHUTTLE
and Necessity to Operate As a)	EXPRESS, INC.'S REQUESTS
Passenger Transportation Company)	FOR REVIEW OF ORDER 03,
)	TEMPORARY REVERSAL OF
)	AUTHORITY, AND STAY OF
.....)	ACTION

BACKGROUND

- 1 On March 11, 2014, Sani Mahama Maurou d/b/a SeaTac Airport 24 (SeaTac Airport 24) filed an application with the Washington Utilities and Transportation Commission (Commission) for a certificate of public convenience and necessity to operate as an auto transportation company.

- 2 On June 18, 2014, Shuttle Express, Inc. (Shuttle Express or Company) filed a letter with the Commission objecting to SeaTac Airport 24's application on the grounds that SeaTac Airport 24 sought to provide the same service Shuttle Express currently provides. Pursuant to Washington Administrative Code (WAC) 480-30-116, the Commission scheduled a hearing on the application for September 8, 2014, to address the objections of Shuttle Express and one other company.

- 3 On September 8, 2014, the Commission conducted a brief adjudicative proceeding to address the objections to the application. On September 12, 2014, the Commission issued Order 01 in this docket, overruling each of the objections put forth by Shuttle Express and finding that SeaTac Airport 24 did not seek to provide the same service as Shuttle Express. Having resolved these issues, the order referred the application to the Commission's Licensing Services staff (Staff) to conduct a review of SeaTac Airport 24's compliance with WAC 480-30-096 and financial and regulatory fitness requirements.

4 On October 14, 2014, the Commission issued Order 03, granting SeaTac Airport 24's application and issuing certificate C-65615 authorizing SeaTac Airport 24 to operate as an auto transportation company.

5 On October 16, 2014, Shuttle Express requested review of Order 03, asserting that it is an "affected person" under RCW 80.01.030. The Company further requested a temporary reversal of SeaTac Airport 24's authority and a stay of action pending a final order in this docket.

DISCUSSION AND DECISION

6 As discussed in Order 01, the Commission amended its rules governing the Commission's review of applications for authority to operate a passenger transportation company on September 21, 2013.¹ The changes clarify and streamline the application process for companies seeking to provide such service.² When an application for new authority is filed with the Commission, a notice is sent to existing companies providing them with the opportunity to object to the application only on the grounds that the existing company is providing, to the Commission's satisfaction, the same service the application proposes to provide.³

7 When a company files an objection, the Commission may hold a hearing to determine whether the applicant's proposed service is the same as service already provided by the objecting company. If the proposed service is different, the objections are overruled, and Staff reviews the application for compliance with the other prerequisites for obtaining a certificate of convenience and public necessity. If Staff has concerns about the applicant's financial or regulatory fitness, the Commission may schedule a hearing to allow the applicant to provide testimony and evidence to respond to those concerns. Only Staff and the applicant are parties to that proceeding.

8 RCW 80.01.030 provides that any matter designated for delegation to the Commission's Secretary will be heard or reviewed by the Commissioners at the

¹ *In re Amending and Adopting Rules in WAC 480-30 Relating to Passenger Transportation Companies*, Docket TC-121328, General Order R-572, Order Amending and Adopting Rules Permanently (2013), *codified at* WAC 480-30 (General Order R-572).

² *Id.* ¶13.

³ WAC 480-30-116(2).

request of any “affected person.”⁴ In the context of this docket, Shuttle Express is an “affected person” only to the extent it holds a certificate that authorizes – and also provides – the same service proposed in the application.

9 Shuttle Express had a full and fair opportunity to address the issues in this docket that affect it directly, and the Commission found in Order 01 that Shuttle Express does not provide the same service that was published in SeaTac Airport 24’s application docket. Accordingly, Order 01 overruled Shuttle Express’s objections and granted authority to SeaTac Airport 24 conditioned on Staff’s review of the company’s fitness and regulatory compliance.⁵

10 To the extent Shuttle Express seeks Commission review of Order 01, we affirm those determinations.⁶ The Administrative Law Judge correctly concluded that SeaTac Airport 24 does not seek to provide the same service provided by Shuttle Express. SeaTac Airport 24 seeks authority to offer scheduled, non-stop service between designated locations and the airport. On two of those three proposed routes Shuttle Express provides only door-to-door service, and on the third provides only multiple-stop service. We have previously determined that scheduled, non-stop service is not the same as door-to-door or multiple-stop service.⁷ Accordingly, Shuttle Express has no basis to object to SeaTac Airport 24’s application.

11 With respect to Order 03, Shuttle Express is not an “affected person” as it relates to the Commission’s consideration of SeaTac Airport 24’s financial or regulatory fitness to provide the requested services. Resolution of those issues does not affect Shuttle

⁴ WAC 480-07-904(3) similarly provides that any affected person may ask the Commission to review any matter delegated to the Executive Secretary under WAC 480-07-904(1).

⁵ Order 01 ¶8.

⁶ Although Shuttle Express’s petition exceeded the 20-day period for requesting review of Order 01, the notice provision in Order 01 erroneously stated a notice of finality would issue. Because of the potential confusion created by this error, the Commission, on its own motion, will consider the merits of Order 01 as though Shuttle Express petitioned for review.

⁷ See *Application of Pacific Northwest Transportation Services*, Order M.V.C. No. 1458, Commission Order on Reconsideration at 3 (Sep. 20, 1984); *Application of San Juan Airlines, Inc., d/b/a Shuttle Express*, Order M.V.C. No. 1834, Commission Decision and Order Granting Reconsideration; Affirming Final Order at 3 (Aug. 31, 1989); *Application of Jeffrey Lynn Porter d/b/a Pennco Transportation*, Order M.V.C. No. 2241, Commission Decision and Order Granting in part Staff’s Petition for Review; Denying Protestant’s Petition for Review, and Granting Application, with Conditions at 9-10 (Dec. 2, 1998); and *Application of Heckman Motors, Inc., d/b/a Olympic Bus Lines Inc.* (Docket TC-000676) and *Application of Jeffrey Lynn Porter d/b/a Pennco Transportation* (Docket TC-000835), Initial Order, ¶¶ 21-29 (Nov. 9, 2000).

Express. WAC 480-30-116, as amended in 2013, defines the limit of another auto transportation company's interest in an application for new authority. Under that rule, Shuttle Express may not object to – and has no legitimate interest in – aspects of SeaTac Airport 24's application other than whether the Company proposes to offer any services that overlap with the services Shuttle Express provides. The Commission having found no such overlap, the application has no effect on Shuttle Express, and Shuttle Express has no further cognizable interest in this proceeding.

12 We therefore find that Shuttle Express is not affected by Order 03 and deny the request of Shuttle Express for review on those grounds. Because we decline to review Order 03, we further deny the Company's request for stay and temporary reversal of authority.

FINDINGS AND CONCLUSIONS

- 13 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates, rules, regulations, and practices of auto transportation companies.
- 14 (2) On March 11, 2014, SeaTac Airport 24 filed an application with the Commission to operate as an auto transportation company subject to the Commission's jurisdiction.
- 15 (3) On June 18, 2014, Shuttle Express objected to SeaTac Airport 24's application on the grounds that it provides the same service SeaTac Airport 24 proposed to provide.
- 16 (4) On September 8, 2014, the Commission held a hearing on the application. On September 12, the Commission issued Order 01 and determined that Shuttle Express does not provide the same service SeaTac Airport 24 proposes to provide.
- 17 (5) On October 14, 2014, the Commission issued Order 03 granting SeaTac Airport 24's application and issuing certificate C-65615. On October 16, 2014, Shuttle Express requested review of Order 03.
- 18 (6) Shuttle Express is not an "affected person" as it relates to the Commission's consideration of SeaTac Airport 24's financial and regulatory fitness or the Commission's determination that SeaTac Airport 24 has satisfied those

requirements. Shuttle Express's request for review of Order 03 should be denied on those grounds. The Company's request for stay and temporary reversal of authority should also be denied.

ORDER

THE COMMISSION ORDERS THAT:

- 19 (1) Shuttle Express, Inc.'s request for review of Order 03 is denied.
- 20 (2) Shuttle Express, Inc.'s request for a temporary reversal of SeaTac Airport 24's authority and a stay of action is denied.

Dated at Olympia, Washington, and effective October 31, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner