

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET TE-151906
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	ORDER 03
)	
v.)	ORDER RESCHEDULING
)	EVIDENTIARY HEARING
RIDE THE DUCKS OF SEATTLE,)	
L.L.C. d/b/a SEATTLE DUCK TOURS,)	(Now set for Monday, December 21,
)	2015, beginning at 9:30 a.m.)
Respondent.)	
.....)	

BACKGROUND

- 1 Following emergency adjudicative proceedings conducted pursuant to RCW 34.05.479 on September 28, 2015, the Washington Utilities and Transportation Commission (Commission) entered Order 01, Notice of Emergency Adjudication and Order Suspending Certificate (Order 01). Order 01 suspends Certificate No. ES-00146 to operate and provide excursion services held by Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours (Ride the Ducks or Company) pending the results of a Commission staff (Staff) investigation and inspection of Ride the Ducks’ entire fleet of vehicles, drivers, and operations. The Commission found such swift action was necessary to prevent or avoid immediate danger to the public health, safety, and welfare in the wake of the incident on September 24, 2015, in Seattle involving a Ride the Ducks vehicle that resulted in the death of five people and serious injuries to scores of others.

- 2 On September 29, 2015, Staff filed a complaint alleging that Ride the Ducks has operated at least one of its vehicles, Duck 6, in an unsafe manner resulting in the incident on September 24. Staff alleges that Ride the Ducks has violated state and federal safety regulations and requests that the Commission suspend the Company’s certificate until Staff has completed its investigation. Staff further requests that the Commission take such action as the results of that investigation warrant.

- 3 On October 1, 2015, the Commission conducted a hearing and entered Order 02. The Commission adopted a Joint Stipulation between Ride the Ducks and Staff that Staff will conduct a comprehensive investigation and inspection of the Company's vehicles and operations. Consistent with Staff's aspiration to complete the investigation within 30 days, the Commission scheduled a status conference on November 3, 2015, to determine the extent to which Staff has completed or anticipates completing its investigation and to address any resulting procedural issues. As the parties agreed, the Commission continued the suspension of Ride the Ducks' certificate pending further Commission action.
- 4 On November 3, 2015, the Commission conducted a status conference. Staff represented that it anticipates completing its investigation and filing its report in early December. The Company requested a hearing on the suspension of its certificate within days – or at most two weeks – of Staff's filing. The Commission established a December 15, 2015, deadline for Staff to file its investigation report and scheduled an evidentiary hearing for January 5, 2016.
- 5 On November 6, 2015, Ride the Ducks filed a motion to expedite the hearing. Ride the Ducks contends that conducting a hearing after the holiday season would deprive the Company of one of its peak operating periods and would likely result in significant hardship to the Company, its employees, and their families. Ride the Ducks requests a hearing date of December 16, 2015, to address the continued suspension of the Company's operating authority as expeditiously as possible.
- 6 On November 9, 2015, Staff filed its response to Ride the Ducks' motion. Staff represents that it will file its investigation report on December 15, 2015, and will be prepared to state its position and offer evidence on whether the Commission should lift or continue the suspension no earlier than December 18, 2015. Staff supports moving the hearing to a date no earlier than December 18.

DISCUSSION AND DECISION

- 7 The Commission grants the motion to reschedule the evidentiary hearing. The Commission scheduled the hearing for January 5, 2016, to provide Ride the Ducks with sufficient time to review Staff's investigation report and prepare a response. If the Company believes it can adequately respond to the report within a shorter period, we will provide the Company with that opportunity. To accommodate Staff's needs to prepare, the Commission will conduct the hearing on December 21, 2015.

- 8 The December 21 hearing is limited to Commission consideration of evidence and argument on whether suspension of Ride the Ducks' certificate "is necessary to prevent or avoid immediate danger to the public health, safety, or welfare."¹ The Commission will establish a procedural schedule to address the remaining allegations in the complaint at a later date.
- 9 By 5:00 p.m. on December 17, 2015, each party must file with the Commission and serve on the other parties the following:
- (a) All exhibits the party intends to introduce into the evidentiary record or otherwise use during the hearing. The Commission requires electronic copies (in native format, if available, and searchable Adobe Acrobat) and five paper copies of each exhibit. These documents must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The paper copies of the exhibits must be three-hole punched and organized into sets that are tabbed, labeled, and grouped according to the witness sponsoring the exhibits. Each exhibit must be labeled with the name of the party and numbered sequentially (*e.g.*, Staff-1, Staff-2, etc.).
 - (b) A list of all exhibits the party intends to introduce into the evidentiary record in the form of the Commission's standard exhibit list.
 - (c) A list of all witnesses the party intends to call to testify during the hearing and a brief description of the subject about which the witness will testify. To make the most efficient use of hearing time, each witness' qualifications and background should be provided in writing and marked and offered as an exhibit, rather than stated orally.
- 10 **THE COMMISSION GIVES NOTICE That the Commission reschedules the evidentiary hearing on whether to continue the suspension of Certificate No. ES-00146 to Monday, December 21, 2015, beginning at 9:30 a.m., in the Commission's hearing room, second floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

¹ RCW 34.05.479(2).

ORDER

THE COMMISSION ORDERS That

- 11* (1) The Commission grants the motion of Ride the Ducks of Seattle, LLC d/b/a Seattle Duck Tours to reschedule the hearing.
- 12* (2) The Commission will conduct the evidentiary hearing on whether suspension of Certificate No. ES-00146 is necessary to prevent or avoid immediate danger to the public health, safety, or welfare on December 21, 2015, beginning at 9:30 a.m.

DATED at Olympia, Washington and effective November 10, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Administrative Law Judge

NOTICE

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket No.: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____) _____