

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of PACIFIC NORTHWEST TRANSPORTATION SERVICES, INC. D/B/A CAPITAL AEROPORTER AIRPORT SHUTTLE; CAPITAL AEROPORTER TOURS & CHARTERS; AIRPORT SHUTTLE; CAPITAL CITY CHARTERS; PREMIER AIRPORT SHUTTLE For Authority to Operate as an Auto Transportation Company in the State of Washington	DOCKET TC-240898
In the Matter of the Application of Eagle Towncar Service LLC For Authority to Operate as an Auto Transportation Company in the State of Washington	DOCKET TC-240856 ORDER 01 DENYING MOTION TO DISQUALIFY

BACKGROUND

- 1 On September 23, 2024, Eagle Towncar Services, LLC (Eagle Towncar or Company) filed its application for temporary authority to operate as an auto transportation company in Washington with the Washington Utilities and Transportation Commission (Commission). Eagle Towncar’s application describes its proposed service as “scheduled nonstop passenger by reservation only between downtown Bellevue and SeaTac Airport.”¹
- 2 On October 15, 2024, Pacific Northwest Transportation Services (PNTS) filed an objection to Eagle Towncar’s application for temporary operating authority on the basis that it currently holds a certificate to provide passenger auto transportation service

¹ *In re Application of Eagle Towncar LLC*, Docket TC-240717, Application, 5 (Sept. 23, 2024).

between SeaTac Airport and downtown Bellevue and will continue to provide this service.²

3 On November 13, 2024, at the request of Eagle Towncar, the Commission scheduled a Brief Adjudicative Proceeding in this matter for January 6, 2024.

4 On November 13, 2024, Eagle Towncar filed an application for permanent authority, for the same service territory covered by its temporary application, in Docket TC-240856.

5 On November 14, 2024, Eagle Towncar filed a motion to strike PNTS's objection, on the grounds that PNTS does not meet the regulatory requirements of Washington Administrative Code (WAC) 480-30-116(2), because PNTS offers a different type of service (door to door) in the relevant territory than the type of service (scheduled service) Eagle Towncar applied for temporary authority for. This motion was granted on November 27, 2024, by Order 02 in Docket TC-240717.

6 On November 20, 2024, in Docket TC-240898, PNTS filed an application for extension of its certificate to provide service over an area which overlaps the territory that Eagle Towncar proposes to serve in its applications for temporary and permanent authority.

7 On December 6, 2024, Eagle Towncar filed an objection to PNTS's application.

8 On January 7, 2025, a notice was issued scheduling a Brief Adjudicatory Proceeding in these related matters, set for March 14, 2025.

9 On February 13, 2025, PNTS filed a Motion to Disqualify Presiding Judge, citing to RCW 34.05.425 and 34.12.050. In support of this motion, PNTS cites to two examples in which the presiding officer and Eagle Towncar's counsel worked together at the Commission on matters of utility regulation, while Eagle Towncar's counsel was employed by the Commission as an Administrative Law Judge. PNTS does not allege those matters are related to the present matters. PNTS does not articulate any facts from those matters which suggest bias on the part of the presiding officer. PNTS does not appear to allege anything beyond professional proximity between the presiding officer and Eagle Towncar's counsel.

10 On February 18, 2025, Eagle Towncar filed a response to PNTS's motion.

DISCUSSION AND DECISION

² *In re Application of Eagle Towncar LLC*, Docket TC-240717, Objection, 2 ¶3 (Oct. 15, 2024).

Incorrect Citation

11 The body of PNTS's motion cites solely to RCW 34.12.050, stating:

Pursuant to RCW 34.12.050, any party to a hearing being conducted under the provision of Chapter 34 may file a motion of prejudice, with supporting affidavit, against the ALJ assigned to preside at the hearing. Under RCW 34.12.050, the first such motion filed by any party shall be automatically granted.³

12 However, the text of RCW 34.12.050 states:

Any party to a hearing being conducted under the provisions of this chapter (including the state agency, whether or not it is nominally a party) may file with the chief administrative law judge a motion of prejudice, with supporting affidavit, against the administrative law judge assigned to preside at the hearing. The first such motion filed by any party shall be automatically granted.

(emphasis added)

13 The chapter which is referred to in this section is chapter 34.12 RCW. The Administrative Procedure Act, which is relevant to this proceeding, is codified under chapter 34.05 RCW, which is in turn part of Title 34 of the RCW. Put simply, the scope of RCW 34.12.050 is limited to the operations of the Office of Administrative Hearings. It is not operative in this proceeding.

14 The body of PNTS's motion neither discusses RCW 34.05.425, nor provides any relevant examples of its application leading to successful similar challenges. Nonetheless, the Order will proceed as if the issue had been appropriately addressed.⁴

Failure to articulate prejudice

15 A successful motion under RCW 34.05.425 must have a factual basis; accusations of bias are serious, as they directly question the impartiality of the presiding officer. PNTS's motion alleges only that the presiding officer has worked with and been supervised by Eagle Towncar's counsel. The presiding officer has in fact worked on other matters

³ PNTS's Motion to Disqualify at ¶ 9 (emphasis added).

⁴ E.g. WAC 480-07-345(3).

before the Commission with the named counsel. This fact, however, is not a proper basis to allege bias.

16 Like most presiding officers, the undersigned has worked with, for, and in opposition to dozens of attorneys in the course of his career. The notion that these past engagements would preclude the undersigned from presiding without bias in the present matter is not based in precedent or sound legal theory. It amounts to little more than unfounded speculation. If the Commission, or any other administrative agency, has accepted this cursory argument, evidence of such acceptance has not been argued or presented. I decline to interpret the standard of RCW 34.05.425(3) to encompass PNTS's novel request.⁵

ORDER

17 (1) PNTS's motion to disqualify is denied.

DATED at Lacey, Washington, and effective March 7, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Bijan Hughes
BIJAN HUGHES
Administrative Law Judge

⁵ This conclusion is bolstered by a review of the Commission's past agency action. Challenges to a presiding officer are relatively rare at the Commission. One illustrative example is ALJ Kopka's treatment of a similar, more well founded, motion in Docket UT-042022. Therein, the ALJ who's qualifications were in question had in fact been a former attorney for a party - and that party objected to his participation, citing to Rule of Professional Conduct 1.11 and 1.9. That matter is distinguishable from the instant one, in that the moving party cited to an actual potential basis of ethical conflict, as the term is understood within the profession. However, as ALJ Kopka explained in his rejection of that motion: the administration of the quasi-judicial proceeding is not tantamount to the practice of law, and the limitations placed on attorneys interacting with former clients is not applicable. The relationships are different, and the safeguards the profession uses to maintain those safeguards are not applicable. PNTS has failed to articulate how the tenuous, past relationship between the presiding officer and Eagle Towncar's counsel would create a stronger prohibition, than the former attorney-client relationship analyzed by ALJ Kopka.

NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to *WAC 480-07-810*.