

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Delegation of Authority to
the Secretary of the Commission Pursuant to
RCW 80.01.030

DOCKET A-081166

ORDER 02

ORDER DELEGATING AUTHORITY
TO SECRETARY OF COMMISSION;
MODIFYING ORDER 01;
RESCINDING ORDER 01 IN DOCKET
A-042090

- 1 Pursuant to RCW 80.01.030, WAC 356-30-007, WAC 356-34-011, and the inherent powers of the Washington Utilities and Transportation Commission (Commission), the Commission orders as follows:

I.
GENERAL DELEGATION OF
AUTHORITY TO SECRETARY

- 2 The Secretary is authorized to supervise the general functions of the agency subject to superseding oversight or direction by the Commission on either a general or limited basis. The Secretary may delegate aspects of the Secretary's duties. The Secretary is also the Executive Director of the agency. Actions taken under the title "Executive Director" are deemed to be actions taken by the Secretary.

Signature on Orders

- 3 In an emergency, where the Commissioners are either absent or unavailable to sign and enter decisions and orders of the Commission, the Secretary is authorized to do so, but only where the Commission previously has rendered a decision on the merits of a particular matter. The Secretary is not authorized to exercise the discretionary authority of the Commission.
- 4 Where, prior to the expiration of the time for filing a petition for administrative review of an initial order, all parties notify the Commission that they will not seek review of the initial order, and the Commission does not review the order on its own motion, the Secretary is authorized to sign an order of finality allowing an initial order to become effective prior to the expiration of time for filing a petition for review. RCW 80.01.030; RCW 80.01.060; WAC 480-07-903(1)(c).

II.
DELEGATION OF AUTHORITY TO SECRETARY
FOR DECISION

- 5 The Secretary is authorized under RCW 80.01.030 and WAC 480-07-904(1) to decide the following matters:
- (a) Applications for funding highway-railroad grade crossing improvements under the grade crossing protection fund for applications under WAC 480-62-405 (1)(a).
 - (b) Petitions for approval of changes to existing highway-railroad grade crossings, including installation or modification of signals; reconstruction of the crossing; or implementation of changes in design or construction.
 - (c) Applications by water companies for removal from regulation or for the Commission to exercise regulation under RCW 80.04.010.
 - (d) Applications for approval of:
 - (i) Fully negotiated telecommunications interconnection agreements; and
 - (ii) Adoptions of existing interconnection agreements.
 - (e) Applications for less than statutory notice approval of transportation company fuel surcharges and requests for rate increases limited to passing through costs that are authorized for pass-through, such as tipping fees.
 - (f) Requests for a Commission order establishing that a securities filing complies with RCW 80.08.040.
 - (g) Requests for assignment or management of telephone number resources.
 - (h) Petitions for mitigation of penalties when the petitioner does not request a hearing, or when commission staff supports the request for mitigation.
 - (i) Requests for approval of service area agreements.

(j) Petitions for exemption to allow extensions of time to make filings under deadlines set by rule or order, not including deadlines established in an adjudication.

(k) Requests for registration as a telecommunications company in Washington.

(l) Requests by telecommunications companies for authorization of transfers of property under WAC 480-143-120 (Transfers of property) or determination under WAC 480-143-180 (Disposal and determination of necessary and useful property) that property is not necessary or useful to perform public duties and may be disposed, limited to property that has a market value that does not exceed either one percent of the company's rate base, last established by commission order, or two hundred thousand dollars, whichever is greater.

6 Requests for review of matters delegated for decision under WAC 480-07-904(1) must be made within 14 days after notice of the decision is posted on the Commission's website under WAC 480-07-904(2). The Commission will review these delegated decisions at an appropriate open meeting under WAC 480-07-904(3).

III.
DELEGATION OF AUTHORITY TO SECRETARY
TO ENTER *EX PARTE* ORDERS

7 The Secretary is authorized by this Order, under RCW 80.01.030 and WAC 480-07-903(1)(c), to sign in the name of the Commission the following *ex parte* orders concerning motor freight carriers (excluding household goods carriers):

1. Order and/or permit authorizing intrastate transportation of general commodities, materials transported by armored car, and/or hazardous materials if the applicant satisfies the requirements of WAC 480-14.
2. Order and/or permit authorizing or reflecting change of carrier name and business structure if applicant satisfies the requirements of WAC 480-14.
3. Order and/or permit reinstating previously held authority if the requirements of WAC 480-14 are met.
4. Order suspending permit if the carrier has failed to maintain evidence that it has the required level of insurance in effect for its operations. WAC 480-14. The order must inform the respondent that it may secure

reinstatement by correcting conditions leading to suspension and that the respondent may contest the suspension by requesting a brief adjudication or adjudication. WAC 480-14.

5. Order vacating suspension of permit if an insurance filing is received during the suspension period or an order of abeyance if respondent requests a brief adjudication or adjudication. WAC 480-14.
6. Order canceling previously suspended permit authority if the carrier fails to correct conditions leading to suspension, and fails to request a brief adjudication or adjudication, during the suspension period. WAC 480-14.
7. Order canceling permit authority or dismissing application by request of carrier or applicant. WAC 480-14.
8. Order dismissing application after due notice to applicant for failure to meet the requirements of WAC 480-14.

8 A motor carrier whose permit authority is suspended or canceled may obtain review by requesting an adjudication within twenty days following entry of the order. Commission review of delegated decisions under this provision will be *de novo*.

9 The Secretary is authorized, under RCW 80.01.030 and WAC 480-07-905, to sign in the name of the Commission the following *ex parte* orders:

10 A. Household Goods Carriers

1. Order granting authority and permits for permanent, provisional or temporary intrastate transportation of household goods. WAC 480-15.
2. Order and/or permit authorizing or reflecting change of carrier's permit name, corporate name, trade name, or to add a trade name. WAC 480-15.
3. Order authorizing voluntary suspension of permit authority if the carrier satisfies the requirements of WAC 480-15.
4. Order reinstating voluntarily suspended permit authority if the carrier satisfies the requirements of WAC 480-15.
5. Order canceling permit authority or dismissing application by request of carrier or applicant. WAC 480-15.

6. Order suspending permit if the carrier has failed to maintain evidence of required cargo and/or liability insurance coverage for all areas of operations. WAC 480-15-430(a). The order must inform the respondent that it may secure reinstatement by correcting conditions leading to suspension and that the respondent may contest the suspension by requesting a hearing or brief adjudicative proceeding. WAC 480-15.
7. Order vacating suspension of permit if an insurance filing is received during the suspension period or an order of abeyance if respondent requests a hearing or brief adjudicative proceeding. WAC 480-15.
8. Order canceling previously suspended permit authority if the carrier fails to correct conditions leading to suspension, and fails to request a hearing or brief adjudicative proceeding, during the suspension period. WAC 480-15.
9. Order reinstating previously canceled permit authority if the carrier satisfies the requirements of WAC 480-15.
10. Order rejecting or denying application for temporary authority if WAC 480-15-285 applies.
11. Order rejecting or denying applications for permit authority under WAC 480-15-320 or 480-15-330, or canceling a permit if the carrier does not satisfy conditions for granting authority, or for good cause under WAC 480-15-450.

11 B. Solid Waste Collection Companies - Specialized

1. Order and/or permit authorizing intrastate solid waste collection services involving non-protested applications in territory not served by any existing carrier. RCW 81.77.040 and WAC 480-70.
2. Order and/or permit authorizing change of carrier's corporate name, trade name, or to add a trade name. WAC 480-70.
3. Order and/or permit authorizing non-protested application to transfer or lease certificate. WAC 480-70.
4. Order suspending permit if the carrier has failed to maintain evidence that it has the required liability insurance coverage for all areas of the company's operations. WAC 480-70. The order must inform the respondent that it may secure reinstatement by correcting conditions

leading to suspension and that respondent may contest the suspension by requesting a hearing or brief adjudicative proceeding. WAC 480-70.

5. Order vacating suspension of permit if an insurance filing is received during the suspension period or an order of abeyance if respondent requests a hearing or brief adjudicative proceeding. WAC 480-70.
6. Order canceling previously suspended permit authority if the carrier failed to correct conditions leading to suspension, and failed to request a hearing or brief adjudicative proceeding, during the suspension period. WAC 480-70.
7. Order reinstating permit that was canceled for cause if the conditions set forth in WAC 480-70 are met.
8. Order dismissing application or canceling permit authority by request of applicant or carrier. WAC 480-70.

12 C. Solid Waste Collection Companies - Traditional

1. Order and/or permit authorizing intrastate solid waste collection services involving non-protested applications in territory not served by an existing carrier. RCW 81.77.040 and WAC 480-70.
2. Order and/or permit authorizing change of carrier's name, trade name or to add a trade name. WAC 480-70.
3. Order suspending a permit if the carrier fails to maintain evidence of the required level of insurance in effect for its operations. The order will inform the carrier that the permit may be reinstated if the carrier corrects the conditions leading to suspension and that the carrier may contest the suspension by requesting a hearing or brief adjudicative proceeding.
4. Order vacating suspension of a permit if the commission receives the carrier's insurance filing during the suspension period and orders of abeyance if the carrier requests a hearing or brief adjudicative proceeding.
5. Order canceling previously suspended permit authority if the carrier fails to correct conditions leading to suspension, and fails to request a hearing or brief adjudicative proceeding, during the suspension period.

6. Order reinstating a permit canceled for cause if the conditions for reinstatement in chapter 480-70 WAC and in the order of cancellation are met.
7. Order dismissing application or canceling permit authority by request of applicant or carrier.

13 D. Private, Nonprofit Transportation Providers

1. Order and/or permit authorizing intrastate transportation of persons with special needs. WAC 480-31.
2. Order and/or permit authorizing sale, assignment, lease, acquisition or transfer. WAC 480-31.
3. Order suspending a permit if the carrier fails to maintain evidence on file that it has the required level of insurance in effect for its operations. The order must inform the carrier that the permit may be reinstated if the carrier corrects the conditions leading to suspension and that the carrier may contest the suspension by requesting a hearing or brief adjudicative proceeding.
4. Order vacating suspension of a permit if the commission receives an insurance filing during the suspension period and orders of abeyance if the carrier requests a hearing or brief adjudicative proceeding.
5. Order canceling previously suspended permit authority if the carrier fails to correct conditions leading to suspension, and fails to request a hearing or brief adjudicative proceeding, during the suspension period.
6. Order reinstating a permit canceled for cause if the conditions for reinstatement in chapter 480-31 WAC and in the order of cancellation are met.
7. Order dismissing application or canceling permit authority by request of applicant or carrier.

14 E. Passenger Transportation Companies

1. Order and/or permit authorizing intrastate transportation of passengers by charter or excursion. WAC 480-30.

2. Order suspending permit if the carrier has failed to maintain evidence that it has the required level of insurance in effect for its operations. WAC 480-30. The order will inform the respondent that it may secure reinstatement by correcting conditions leading to suspension and that the respondent may contest the suspension by requesting a hearing or brief adjudicative proceeding. RCW 34.05.422(1)(c).
3. Order vacating suspension of permit if an insurance filing is received during the suspension period or an order of abeyance if respondent requests a hearing or brief adjudicative proceeding. WAC 480-30.
4. Order canceling previously suspended permit authority if the carrier fails to correct conditions leading to suspension or fails to request a hearing or brief adjudicative proceeding during the suspension period. WAC 480-30.
5. Order canceling permit authority or dismissing application by request of carrier or applicant. RCW 81.70.300.
6. Order dismissing application after due notice to applicant for failure to meet the requirements of WAC 480-30.
7. Order authorizing lease, assignment, or transfer of permit authority. WAC 480-30.

15 F. Auto Transportation Companies

1. Order and/or permit authorizing intrastate, intercity transportation of passengers involving non-protested applications on routes not served by any existing carrier and of which no part falls within the boundaries of a transit district. RCW 81.68.040.
2. Order and/or permit involving name changes, including trade names. RCW 81.68.030.
3. Order authorizing lease, assignment, or transfer of permit authority. RCW 81.68.040.
4. Order suspending permit if the carrier has failed to maintain evidence that it has the required level of insurance in effect for its operations. WAC 480-30. The order will inform the carrier that the permit may be reinstated if the carrier corrects the conditions leading to suspension and that the carrier may contest the suspension by requesting a hearing or brief adjudicative proceeding. RCW 34.05.422(1)(c).

5. Order vacating suspension of a permit if the Commission receives an insurance filing during the suspension period and orders of abeyance if the carrier requests a hearing or brief adjudicative proceeding.
6. Order canceling previously suspended permit authority if the carrier fails to correct conditions leading to suspension, and fails to request a hearing or brief adjudicative proceeding, during the suspension period.
7. Order reinstating a permit canceled for cause if the conditions for reinstatement in RCW 81.68 and in the order of cancellation are met.
8. Order dismissing application or canceling permit authority by request of applicant or carrier.

16 G. Commercial Ferries

1. Order suspending certificate if the holder has failed to maintain the required insurance coverage in full force and effect. WAC 480-51. The order must inform the respondent that it may secure reinstatement by correcting conditions leading to suspension and that respondent may contest suspension by requesting a brief adjudication or adjudication. WAC 480-51.
2. Order vacating suspension of certificate if respondent has corrected conditions leading to suspension or an order of abeyance if respondent requests a brief adjudication or adjudication. WAC 480-51.
3. Order canceling previously suspended certificate authority if the holder fails to correct conditions leading to suspension and fails to request a brief adjudication or adjudication, during the suspension period. WAC 480-51.

17 H. Cancellation for failure to file annual reports or pay regulatory fees.

1. Notice to regulated companies concerning their failure to timely file annual reports and pay regulatory fees.
2. Order scheduling hearing and canceling registration or permit authority for failure to comply with Commission rules governing annual reports and regulatory fees.

I. Temporary Motor Carrier or Solid Waste Authority.

18 Applications for temporary motor carrier or solid waste authority, the Secretary's decision of which takes effect immediately on entry of an order without prior notice of delegation.

19 An applicant whose application is denied, in whole or in part, may obtain review by requesting an adjudication within twenty days following entry of the order. Commission review of delegated decisions under this provision will be *de novo*.

IV.
DELEGATION OF AUTHORITY TO SECRETARY
TO REJECT DEFECTIVE FILINGS

20 The Secretary is authorized under RCW 80.01.030 and WAC 480-07-903(2)(d) to enter orders or letters rejecting tariff, contract, and application filings that fail to comply with applicable statutory requirements and/or Commission rules regarding effective dates or specified, required documentation.

V.
APPOINTING AUTHORITY

21 The Secretary is the "appointing authority" for the Commission and, as such, has authority for appointment, separation, and disciplinary actions of employees of the Commission. This authority includes, but is not limited to, appointments, terminations, reductions in force, dismissals, suspensions, and demotions pursuant to WAC 356-30-007 and WAC 356-34-011. *See* RCW 41.06.150(18).

VI.
GRIEVANCE PROCEDURE

22 A head of an agency may delegate the responsibilities and duties of an appointing authority. *See* WAC 356-30-007; *see also* WAC 356-34-011. The Secretary is authorized to hear bargaining unit employee grievances and enter a final agency decision. The Commission reserves the right to hear individual grievances or to select another designee on a case-by-case basis.

VII.
DELEGATION IN THE EVENT OF ABSENCE
OR UNAVAILABILITY OF SECRETARY

- 23 In the event the Secretary is absent or otherwise unavailable to perform the duties authorized above, the Commission authorizes the person designated by the Secretary to act on his or her behalf to undertake the above-delegated functions.

VIII.
EFFECT OF ORDER

- 24 By this Order, the Commission modifies Order 01 entered in this docket, and rescinds Order 01 in Docket A-042090, which also addresses delegation of authority to the Secretary of the Commission, to avoid confusion by the public and all affected public service companies.

DATED at Olympia, Washington and effective September 25, 2008.

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner