

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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

APEX LIMOUSINE LLC

DOCKET TE-161261

ORDER 01

ORDER INSTITUTING SPECIAL
PROCEEDING; COMPLAINT SEEKING
TO IMPOSE PENALTIES

and

NOTICE OF BRIEF ADJUDICATIVE
PROCEEDING

(Set for August 7, 2017, at 9:30 a.m.)

INTRODUCTION

- 1 The Washington Utilities and Transportation Commission (Commission), pursuant to RCW 81.04.510, institutes this special proceeding on its own motion to determine whether Apex Limousine (“Apex Limousine” or “Company”) is operating as a charter party or excursion service carrier for transportation of passengers for compensation between points in the state of Washington and on the public highways of Washington State without the necessary certificate required for such operations by RCW 81.70.220.
- 2 The Commission has information from which it believes and therefore alleges that Apex Limousine is operating as a charter party carrier or excursion service carrier, transporting passengers for compensation on the public highways of the State of Washington without the necessary certificate required for such operations by RCW 81.70.220. Specifically, the Commission has evidence that Apex Limousine advertised its transportation services online and offered charter party carrier transportation to Commission Staff, posing as a consumer.
- 3 Pursuant to RCW 81.04.510, upon proof of these allegations, the Commission is authorized to issue an order requiring Apex Limousine to cease and desist activities subject to regulation under Title 81 RCW. In addition, RCW 81.04.110 authorizes the Commission to file a complaint on its own motion, setting forth any act or omission by

Apex Limousine that violates any law, or any order or rule of the Commission. Under RCW 81.70.220, the Commission may impose financial penalties of up to \$5,000 for each violation.

- 4 At the hearing in this special proceeding that will be conducted pursuant to Part IV of the Administrative Procedure Act (APA), RCW 34.05, of which notice is given here, the Commission will also consider its Complaint against Apex Limousine alleging the violations of law as specified below and decide whether Apex Limousine should be penalized.

ORDER AND NOTICE OF HEARING

- 5 The Commission has jurisdiction to institute a special proceeding to determine whether Apex Limousine is conducting business requiring operating authority, or has performed or is performing any act requiring Commission approval without securing such approval pursuant to RCW 80.01.040, RCW 81.01.010, RCW 81.04.510, and RCW 81.70.220. In addition to the foregoing statutes, this matter involves Title 81 RCW, including but not limited to RCW 81.04.020, RCW 81.70.020, RCW 81.70.260, RCW 81.70.310, and RCW 81.70.360. This matter also involves the administrative rules set forth in chapter 480-30 WAC and chapter 480-07 WAC.

- 6 **IT IS HEREBY ORDERED That Apex Limousine appear before the Commission in this special proceeding conducted under the authority of RCW 81.04.510 at 9:30 a.m., on Monday, August 7, 2017, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, to give testimony and evidence under oath as to its operations. Apex Limousine shall appear at the time and place set forth above unless the Executive Director and Secretary of the Commission, by notice of hearing, specifies a different time and place. This is ordered pursuant to the subpoena powers granted in RCW 34.05.446, RCW 80.01.060(1), and RCW 81.04.510.**

- 7 **IT IS FURTHER ORDERED** that at the hearing in this special proceeding the burden of proving that the alleged operations are not subject to the provisions of Title 81 RCW shall be upon Apex Limousine as provided by RCW 81.04.510.

- 8 **NOTICE IS FURTHER GIVEN THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC 480-07-450.**

9 If a limited English-speaking or hearing-impaired party needs an interpreter, a form is attached to this notice to be filled out and returned as indicated, so that a qualified interpreter may be appointed at no cost to the party or witness.

10 The names and mailing addresses of all parties and their known representatives are shown as follows:

Carrier: Apex Limousine LLC
4752 South 172nd Street
Seatac, WA 98188

Representative: Mr. Ahmad Aleasawi

Commission: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Jennifer Cameron-Rulkowski
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1186

COMPLAINT SEEKING PENALTIES

PARTIES

11 Complainant, the Washington Utilities and Transportation Commission, is an agency of the State of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including charter party and excursion service carriers, under the provisions of Title 81 RCW.

12 Respondent, Apex Limousine LLC (Apex Limousine) is a limited liability company that does business in the state of Washington.

JURISDICTION

13 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 81.01.010, RCW 81.04.110, RCW 81.04.160, RCW 81.04.460, and chapter 81.70 RCW.

BACKGROUND

14 The following facts, set forth in a Staff Investigation Report of this matter, establish probable cause for the Commission to complain against the activities of Apex Limousine and to seek penalties in accordance with applicable law.

15 At all times pertaining to this matter, Apex Limousine has not held certificate authority from the Commission to provide charter party and excursion carrier services.

16 Apex Limousine applied for a charter and excursion carrier service certificate in April of 2013. The application lists Ahmad Aleasawi as the owner of Apex Limousine and as the person responsible for both safety and operations. On June 10, 2013, the Commission granted Apex Limousine's application. Prior to issuing the certificate, the Commission provided the Company with new entrant technical assistance and performed an inspection of the one vehicle that Apex had listed on its application, a 2003 International bus, which seats 24 people.

17 In 2014, the Company's certificate was suspended three times for failure to provide proof of insurance.

18 Apex Limousine failed to file an annual report on time in 2014 and again in 2015, and the Commission assessed penalties both years. The Company is making monthly payments on the penalties it was assessed for the 2015 annual report violation.

19 The Commission cancelled Apex Limousine's certificate on May 21, 2015, for failure to provide proof of insurance. In the cancellation order, the Commission directed Apex Limousine to cease all operations associated with its charter certificate.

20 In the summer of 2016, the Commission learned that Apex Limousine was advertising party bus transportation on its website. The Commission sent a technical assistance letter

to Apex Limousine on August 10, 2016. In the letter, the Commission explained that offering, advertising, or providing party bus services is considered to be engaging in the operation of a charter or excursion carrier and requires a certificate from the Commission. The Commission further stated that it appeared that Apex Limousine was providing passenger transportation services without the required certificate. The Commission instructed the Company to submit an application for a certificate by August 31st or explain by then in writing why the business does not require a certificate. There was no response from Apex Limousine.

- 21 The Commission sent Apex Limousine a follow-up letter on November 1, 2016, and specifically warned of enforcement action up to and including monetary penalties if the Company continued to advertise and/or provide regulated passenger transportation services. Again, there was no response.
- 22 Staff checked Apex Limousine’s website, www.apexlimoseattle.com, in April and May of 2017, and the Company continues to advertise party bus services there. The website devotes an entire section to “Seattle Party Bus Rental,” features an image of a large, black International bus, and includes text stating that the “party and limo bus vehicles hold 24 passengers.”
- 23 Apex Limousine also advertises on Yelp in a “From the business” section. The Yelp profile contains the same text as the company website: “Apex Limousine is the Seattle area’s full-service transportation company that will satisfy all of your ground transportation requests from limo and party bus rental, to airport or corporate car service.” The business owner is listed as “AJ A.” Staff believes “AJ A” is Ahmad Aleasawi.
- 24 On April 12, 2017, Staff emailed Apex Limousine at an email address obtained from the Company’s website and requested a quote under an assumed name for transportation of a group of 20 people in the 24-passenger party bus. The Company responded the same day, offering the requested transportation for \$1200. The email reply came from “AJ,” who staff believes is Mr. Aleasawi.

APPLICABLE LAW AND REGULATIONS

- 25 Under State law, it is illegal for any person to engage in the business of a charter party carrier or excursion service carrier of passengers over any public highway within the state

of Washington without first having obtained a certificate from the Commission to do so or having registered as an interstate carrier. RCW 81.70.220(1).

26 For the purposes of RCW 81.70.220(1), “engage in the business of a charter party carrier or excursion service carrier” includes advertising or soliciting, offering, or entering into an agreement to provide charter party or excursion service. And each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation under this chapter.

27 The term “person” includes an “individual, a corporation, association, joint stock association, and partnership, their lessees, trustees, or receivers.” RCW 81.70.020(2); *see* WAC 480-30-036.

28 “Charter party carrier” is defined as follows:

[E]very person engaged in the transportation over any public highways in this state of a group of persons who, pursuant to a common purpose and under a single contract, acquire the use of a motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after leaving the place of origin.

RCW 81.70.020(5); WAC 480-30-036.

29 The term “common purpose” is defined as “a group of persons [that] is travelling together to achieve a common goal or objective.” WAC 480-30-036.

30 Under state law, a person engaged in the transportation of persons by “party bus” over any public highway in this state is considered to be engaging in the business of a charter party carrier or excursion service carrier. RCW 81.70.020(9).

31 The term “party bus” is defined as follows:

[A]ny motor vehicle whose interior enables passengers to stand and circulate throughout the vehicle because seating is placed around the perimeter of the bus or is nonexistent and in which food, beverages, or entertainment may be provided.” A motor vehicle configured in the traditional manner of forward-facing seating with a center aisle is not a party bus.

32 The Commission has the authority to regulate charter party carriers. RCW 81.70.270; RCW 81.70.220.

33 Charter party carrier transportation within Washington of passengers in motor vehicles, including limousines, with a seating capacity behind the driver of more than fourteen passengers is subject to regulation by the Commission. *See* RCW 81.70.020(4); RCW 81.70.270; WAC 480-30-036; WAC 308-83-010(12).

34 Charter party carriers are common carriers. RCW 81.04.010(11). For the purposes of Title 81 RCW, every common carrier is a public service company. RCW 81.04.010.

35 By law, every public service company that violates any Commission rule or provision of Title 81 RCW is subject to a penalty of up to one thousand dollars for every such violation. RCW 81.04.380; RCW 81.70.310. And any person who engages in the business of a charter party carrier or excursion service carrier in violation of RCW 81.70.220(1) is subject to a penalty of up to five thousand dollars per violation. RCW 81.70.220(2). Further, under RCW 81.70.260, a person who conducts operations as a charter party or excursion service carrier *after* the cancellation of a certificate is subject to a penalty of up to five thousand dollars per violation.

36 The Commission is authorized to file a complaint on its own motion setting forth any act or omission by any public service company that violates any law or any order or rule of the Commission. RCW 81.04.110; RCW 81.70.310.

COMPLAINT

37 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 14 through 36 above.

38 Apex Limousine violated RCW 81.70.220 and RCW 81.70.260 three (3) times when it engaged in the business of a charter party carrier without authority from the Commission following cancellation of the Company's charter party and excursion carrier certificate. Specifically, Apex Limousine operated as a charter party carrier of passengers when it (1) advertised party bus transportation on its website, (2) advertised party bus services on the Internet website Yelp, and (3) offered to provide party bus transportation to Staff when Staff contacted the Company posing as a customer.

REQUEST FOR RELIEF

39 Staff requests that the Commission, pursuant to its authority under RCW 81.04.380, RCW 81.70.310, RCW 81.70.220, and RCW 81.70.260, assess penalties of up to \$15,000 against Apex Limousine.

PROBABLE CAUSE

40 Based on a review of the Staff Investigation Report of this matter, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this Complaint.

NOTICE OF HEARING

41 **THE COMMISSION GIVES NOTICE THAT it will conduct a hearing concerning this Complaint concurrently with the special proceeding noticed above, which will commence at 9:30 a.m., on August 7, 2017, in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

42 Administrative Law Judge Rayne Pearson, from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, will be designated to preside at the hearing of these matters.

DATED at Olympia, Washington, and effective June 20, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

GREGORY J. KOPTA
Administrative Law Judge
Administrative Law Division

Inquiries should be addressed to:

Executive Director and Secretary

Washington Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

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: _____

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.: (_____) _____