

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

DOCKET TC-170089

ORDER 01

WAC 480-30-356(3)(c), Governing the
Transportation of Service Animals, and
Compliance with the Americans with
Disabilities Act

ORDER EXEMPTING
COMPLIANCE WITH WAC 480-30-
356(3)(c); REQUIRING ALL AUTO
TRANSPORTATION CARRIERS TO
FILE TARIFF REVISIONS

BACKGROUND

- 1 The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal access for persons with disabilities in public accommodation and transportation. Accordingly, the ADA requires all public entities, including auto transportation carriers, to modify their policies, practices, or procedures to permit an individual with a disability to use a service animal.¹
- 2 It recently came to the Commission’s attention that portions of its rules governing passenger transportation, WAC 480-30, may conflict with the ADA. Specifically, WAC 480-30-356(3)(c) provides that auto transportation carrier tariff rules “must state that service animals, such as dogs traveling with sight or hearing impaired passengers, will be transported free of charge if they lie at the feet of their master and do not occupy passenger seats.” This provision conflicts with the ADA insofar as it fails to create an exception for situations where a service animal must occupy a passenger seat in order to assist an individual with a disability.
- 3 Commission staff (Staff) reviewed all certificated auto transportation carriers’ tariff rules related to service animals and found that each violates the ADA. Staff also found that multiple tariffs contain additional language that exceeds the scope of WAC 480-30-356(3)(c). For example, the ADA prohibits carriers from requiring documentation for service animals.² Moreover, the ADA provides that service animals must be under their handler’s control, but that leashes or other physical restraints are not required if the

¹ 28 C.F.R. Part 35.136(a)

² 28 C.F.R. Part 35.136(f)

handler is unable to use a leash because of disability, or if using a leash would interfere with the service animal's safe, effective performance of work or tasks.³ A carrier may not require a service animal to wear a muzzle.⁴

4 Accordingly, Staff recommends the Commission require each auto transportation carrier to file revised tariff rules that contains the following language: "Service animals, as defined by the Americans with Disabilities Act, will be carried free of charge. Service animals may not occupy passenger seats unless it is necessary to assist an individual with a disability."

5 On December 21, 2016, the Commission initiated a rulemaking in Docket TC-161262 to consider making modifications to certain sections of WAC 480-30. As part of that proceeding, Staff recommends the Commission modify WAC 480-30-356(3)(c) and any other sections, as necessary, to ensure compliance with the ADA.

DISCUSSION

6 Under WAC 480-07-110(1) the Commission may modify the application of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. Here, exempting auto transportation carriers from compliance with WAC 480-30-356(3)(c) until the rule is amended to comply with the ADA is consistent with the purposes underlying regulation, the public interest, and federal laws.

7 The Commission, by this Order, exempts auto transportation carriers from compliance with WAC 480-30-356(3)(c) to the extent that it conflicts with the ADA, and requires all auto transportation carriers to file tariff revisions that contain the language proposed by Staff in paragraph 4, above, within 30 days of the effective date of this Order. Carriers must remove all other language related to service animals and must ensure their policies and practices are otherwise consistent with the ADA.

FINDINGS AND CONCLUSIONS

8 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts and affiliated interests of public service companies, including auto transportation carriers.

³ 28 C.F.R. Part 35.136(d)

⁴ *Id.*

- 9 (2) WAC 480-30-356(3)(c), which governs tariff rules for auto transportation carriers, prohibits service animals from occupying passenger seats and does not create an exception for service animals to occupy passenger seats when necessary to assist an individual with a disability.
- 10 (3) The ADA requires that service animals be permitted to occupy passenger seats in auto transportation carrier vehicles if necessary for the service animal to assist an individual with a disability.
- 11 (4) WAC 480-30-356(3)(c) conflicts with the ADA.
- 12 (5) Under WAC 480-07-110(1), the Commission may, on its own motion, modify the application of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 13 (6) The Commission finds that granting an industry-wide exemption from WAC 480-30-356(3)(c) to the extent that it conflicts with the ADA is consistent with the purposes underlying the regulation, applicable statutes, and the public interest.
- 14 (7) All auto transportation carriers should file tariff revisions modifying their rules related to the transportation of service animals consistent with the language set out in paragraph 4, above, within 30 days of the effective date of this Order.

ORDER

THE COMMISSION ORDERS:

- 15 (1) The Commission exempts auto transportation carriers from compliance with WAC 480-30-356(3)(c) to the extent that it conflicts with the Americans with Disabilities Act by failing to create an exception for service animals to occupy passenger seats when necessary to assist an individual with a disability.
- 16 (2) All regulated auto transportation carriers must file tariff revisions modifying their rules related to the transportation of service animals consistent with the language set out in paragraph 4, above, within 30 days of the effective date of this Order.

- 17 (3) The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective February 24, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING, Executive Director and Secretary