

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of
ACE METAL CORPORATION d/b/a
ACE METAL COMPANY,

Petitioner,

For an Exemption from WAC 480-14-
250(1)(a)

DOCKET TV-220682

ORDER 01

GRANTING PETITION FOR
EXEMPTION

BACKGROUND

- 1 Ace Metal Corporation d/b/a Ace Metal Company (Ace Metal or Company) is regulated by the Washington Utilities and Transportation Commission (Commission) as a common carrier of property. The Company has been an active common carrier since April 29, 2014. Ace Metal is contracted by the Washington Materials Management and Financing Authority to transport obsolete or unwanted electronics from participating collectors within the state to the Company's shop in Mukilteo for disassembly and processing.
- 2 Under WAC 480-14-250(1), each common carrier must file with the Commission evidence of currently effective liability and property damage insurance written by a company authorized to write such insurance in the state of Washington. Until recently, Ace Metal has been insured by such companies. The Company's former insurer has declined to continue coverage due to the increased hazard associated with the specific industry.
- 3 On September 9, 2022, the Company filed a Petition for an exemption from WAC 480-14-250(1)(a), the Commission's insurance rule for vehicles with gross vehicle weight ratings of 10,000 pounds or more. The Company requests to retain insurance from Prime Insurance Company (Prime), a surplus lines insurer that is not authorized to write insurance in Washington. Surplus lines insurance is used when licensed insurers in the standard market will not provide coverage because the risk is too high, too unfamiliar, or does not otherwise meet the insurers' guidelines. Surplus line insurers have more flexibility to design and price their policies and generally charge higher premiums because they insure risks that are usually more costly to cover.

- 4 While the specific requirements of Commission rules can be exempted, under RCW 81.80.190, the Commission must “require the carriers to either procure and file liability and property damage insurance from a company licensed to write such insurance in the State of Washington, or deposit security, for the limits of liability and on terms and conditions that the Commission determines are necessary for the reasonable protection of the public against damage and injury for which the carrier may be liable by reason of the operation of any motor vehicle.” Because this is a statutory requirement, the Company cannot be exempted from the obligation to purchase its insurance from a company licensed in Washington. The Office of the Insurance Commissioner (OIC) authorizes insurance companies to write insurance in Washington. RCW 48.15.040 allows surplus lines coverage under certain conditions if insurance from authorized insurers cannot be procured. The licensing requirements for surplus line brokers are found in RCW 48.15.070.
- 5 Evolution Insurance Brokers, Inc. (WAOIC #729932) is a broker registered with the OIC and authorized to write surplus lines insurance on behalf of Prime in Washington. Ace Metal has secured a firm quote for auto liability insurance from Prime through Evolution Insurance Brokers, Inc.
- 6 Ace Metal requests an exemption from WAC 480-14-250(1)(a) so that it can operate with insurance from Prime, a “non-admitted” surplus lines insurer who offers insurance to unique industries whose needs are not met by the standard insurance market. Electronic waste transport, disposal and recycling is in a higher risk category than standard freight transport. Prime’s program provides this specific coverage to electronic waste haulers, thereby providing protection to the public. The Company has attempted to find similar admitted coverage after its most recent authorized insurance carrier declined coverage. The Company has been unable to find another admitted insurance carrier that provides the same coverage as Prime.
- 7 Commission staff (Staff) supports the Company’s Petition. The Federal Motor Carrier Safety Administration (FMCSA) accepts surplus lines insurance (CFR Title 49 Part 387.315). Staff is willing to recommend the use of surplus lines insurance subject to the condition that the Company buys insurance from a highly rated surplus line company (AM Best A- or above rating). Prime’s financial strength rating is A for excellent as is its long-term issuer rating is A, also excellent.

DISCUSSION

8 We grant the Company's Petition subject to the condition that Staff recommends. Under WAC 480-07-110(1) the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. We find that the Company's Petition meets this standard subject to the condition that the Company buy insurance from a highly rated surplus lines company (AM Best A- or above rating). The purpose of the insurance rule is to protect the public from loss or damage caused by the Company while providing service. Surplus lines insurance responds to that need and is a viable option for high-risk or unique lines of business where risk is less certain. In addition, the FMCSA accepts surplus lines insurance and has accepted the Company's filing with Prime. Accordingly, we find that the Petition for exemption is consistent with the public interest, the purposes underlying regulation, and applicable statutes, and conclude that it should be granted.

FINDINGS AND CONCLUSIONS

- 9 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rules, regulations, and practices of motor carrier companies relating to acquiring common carrier permit and insurance requirements.
- 10 (2) Ace Metal is a common carrier company and a public service company subject to Commission jurisdiction.
- 11 (3) This matter came before the Commission at its regularly scheduled meeting on September 29, 2022.
- 12 (4) On September 9, 2022, Ace Metal filed a Petition for Exemption from the Commission's insurance rule, WAC 480-14-250(1)(a), so that it may purchase surplus lines insurance with an unauthorized insurer, Prime Insurance Company, consistent with the requirements of RCW 48.15.
- 13 (5) Pursuant to WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

- 14 (6) After reviewing Ace Metal's Petition and giving due consideration to all relevant matters and for good cause shown, the Commission finds that granting Ace Metal's Petition subject to the condition that it buys insurance from a highly rated surplus lines company (AM Best A- or above rating) is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

ORDER

THE COMMISSION ORDERS:

- 15 (1) Ace Metal Corporation d/b/a Ace Metal Company's Petition for exemption from WAC 480-14-250(1)(a) is granted subject to the condition that Ace Metal Corporation d/b/a Ace Metal Company purchases insurance from a highly rated surplus line insurance company (AM Best A- or above rating).
- 16 (2) The Commission retains jurisdiction over the subject matter and Ace Metal Corporation d/b/a Ace Metal Company to effectuate the terms of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective September 29, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AMANDA MAXWELL
Executive Director and Secretary