

Docket No. TE-190086 - Vol. II

**In the Matter of: Cascade Adventures Inc; Cascade
Adventures Baker Bus LLC**

May 7, 2021



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BEFORE THE WASHINGTON
 UTILITIES AND TRANSPORTATION COMMISSION
 In the Matter of) DOCKET NO. TE-190086
 Determining the Proper)
 Carrier Classification of,)
 and Complaint for)
 Penalties Against,)
)
 CASCADE ADVENTURES, INC.;)
 CASCADE ADVENTURES BAKER)
 BUS LLC)

VIRTUAL PREHEARING CONFERENCE

BEFORE ADMINISTRATIVE LAW JUDGE RAYNE PEARSON
 VOLUME II
 PAGES 23-35

(All participants appeared via videoconference.)

DATE: MAY 7, 2021
 REPORTED BY: Lori L. Thielmann, RPR, CCR #21002182

VIRTUAL TEAMS VIDEOCONFERENCE; MAY 7, 2021
 PREHEARING CONFERENCE

9:32 A.M.
 -o0o-

THE COURT: Let's be on the record. Good morning. We're here today for a prehearing conference in docket TE-190086, which is captioned, In the Matter Determining the Proper Carrier Classification of and Complaint for Penalties Against, Cascade Adventures, Inc.; Cascade Adventures Baker Bus LLC.

My name is a Rayne Pearson. I'm an administrative law judge with the Washington Utilities and Transportation Commission and I will be presiding in this matter.

So let's begin by taking appearances and let's start with Cascade Adventures. Is there a representative for the company present?

MR. ENGEL: Yes. Can you hear me?

THE COURT: I can. Thank you.

MR. ENGEL: Yeah. My name is Paul Engel. I'm representing -- I'm Cascade Adventures Baker Bus.

THE COURT: Are you the owner of the company?

MR. ENGEL: Yes, correct.

THE COURT: Okay. Thank you. And for

A P P E A R A N C E S

(All parties appearing via videoconference.)

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ALSO PRESENT: ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

Staff?

MR. FUKANO: Good morning, Judge Pearson. Harry Fukano, assistant attorney general, here on behalf of Commission Staff.

THE COURT: Okay. Thank you. Is there anyone else who wishes to enter an appearance today? Okay. Hearing nothing, I will also assume that there are no petitions to intervene, but I will hold a couple of seconds open to allow for those petitions to be made.

Okay. Hearing none, let's proceed. So I just want to remind the parties -- and Mr. Engel, this may be new to you, but the Commission's procedural rules require electronic filing and service of all documents and I'll be waiving any requirement for paper copies in this case due to the ongoing COVID-19 pandemic.

The Commission's rules also provide for electronic service of documents so the Commission will serve the parties electronically and the parties will serve each other electronically.

So that brings us to Staff's letter submitted in response to the company's response to the motion to impose suspended penalties, indicated that Staff would like to conduct discovery. So I assume then that the parties would like to have the discovery rules available to them in this proceeding; is that correct?

1 MR. FUKANO: Yes, your Honor.
 2 THE COURT: Okay. So I will make the
 3 discovery rules available, but remind the parties that
 4 protective orders are not available under the statutes
 5 that govern this proceeding.
 6 And I'm also aware that parties often request
 7 that any data request and responses are shared with
 8 every other party, and it would make it easier on the
 9 parties if I included such a requirement in the
 10 prehearing conference order. Is there any objection to
 11 my including that requirement?
 12 MR. FUKANO: None from Staff.
 13 THE COURT: Okay. Mr. Engel, does that make
 14 sense to you -- I mean, as a pro se litigant, I want to
 15 make sure that you understand and that you feel free to
 16 ask me any questions about the process as we're going.
 17 You're muted right now, sir. Sorry.
 18 MR. ENGEL: Sorry. This is pretty new to
 19 me. No. I don't know what any of that means.
 20 THE COURT: Okay. So, Mr. Fukano, do you
 21 want to just briefly describe what data requests are and
 22 what that will look like for the company.
 23 MR. FUKANO: Certainly. In a general
 24 manner, a data request is a request for specific
 25 information that's relevant to the issues that will be

1 for response.
 2 THE COURT: That is the standard time frame,
 3 correct. So when you get requests from Staff, you would
 4 have 10 business days -- not calendar days. It would
 5 not include weekends -- 10 business days to get your
 6 response back to them and then similarly, if you issued
 7 questions to them, they would have 10 business days to
 8 get their answers get back to you.
 9 MR. ENGEL: I understand that. Can I ask a
 10 question real quick?
 11 THE COURT: Absolutely.
 12 MR. ENGEL: So this is a prehearing or
 13 whatever. Is there any way that we can -- is there any
 14 way that if it comes to light that we don't need to go
 15 any further, would this be the last one?
 16 THE COURT: That's absolutely a possibility.
 17 So what we're going to discuss --
 18 MR. ENGEL: Okay. Cool. Okay. That's all
 19 -- that's -- okay.
 20 THE COURT: Yes. We're going to discuss the
 21 procedural schedule next and I don't know if the parties
 22 have had a chance to confer about a procedural schedule,
 23 but what will happen is we'll set a series of dates for
 24 various events to occur with the final date being a
 25 hearing date. And so there will be probably a

1 presented at the adjudication. And so Staff may --
 2 would essentially send you likely an electronic e-mail
 3 with a series of questions or requests for specific
 4 types or classes of documents or other like material.
 5 And Judge Pearson referenced a protective
 6 order, which is not available in this case. If there
 7 were to be sensitive material requested, it may be
 8 subject to a confidential protective order. But in
 9 light of the unavailability of a protective order, I
 10 think Staff would attempt to avoid requesting any
 11 material that is too sensitive or would not want to be
 12 admitted into the record at a minimum.
 13 Is that roughly correct, Judge?
 14 THE COURT: Yes. I just want to make sure
 15 that Mr. Engel understands and see whether he has any
 16 questions. So similarly, you will be able to issue
 17 questions to Staff and ask them questions about their
 18 case to help you prepare for your case. Does that make
 19 sense?
 20 MR. ENGEL: Yes.
 21 THE COURT: Okay. All right.
 22 MR. FUKANO: And I would also just mention
 23 that under Commission rules, there is a time limit to
 24 respond to the request and so responses would need to --
 25 I believe 10 business days is the standard time frame

1 significant gap of time between today and when we set
 2 the matter for hearing. And in that in-between time,
 3 the parties can work together to attempt to reach an
 4 agreed outcome in which case, we could cancel the
 5 hearing and resolve all of the matters on a paper
 6 record.
 7 So if the parties are able to reach an
 8 agreement, you would memorialize it in the form of a
 9 settlement agreement which Mr. Fukano would draft up,
 10 you both would sign, and then you would submit it to me
 11 for review and I would issue an order either approving
 12 it, rejecting it, or approving it subject to conditions.
 13 But there would not be a need for a hearing in that
 14 instance.
 15 Sometimes we do have hearings on settlements,
 16 but this is not a complex case that would require any
 17 questions, I think, from me in order to resolve it if a
 18 settlement were reached.
 19 So that's what I anticipate. Which brings us
 20 to the schedule, which is the next thing on my list.
 21 So, Mr. Fukano, have the parties had an opportunity to
 22 discuss a schedule or would you like to take a break to
 23 do that now?
 24 MR. FUKANO: No, your Honor. I think a
 25 break would be helpful.

1 THE COURT: Okay. So what I'm going to do
2 then -- for the court reporter's benefit, I'll just --
3 do you want the court reporter to also get off of the
4 line or is it okay if she just stops recording when we
5 go into recess, and then I will leave the meeting and
6 you can message me to come back when you're ready.

7 MR. FUKANO: Staff has no concern with the
8 court reporter staying on the line.

9 THE COURT: Okay. Great. All right. So
10 the court reporter can stay on the line, but doesn't
11 need to record anything once we are in recess until we
12 come back on the record.

13 So we will be in recess and I will be
14 available, Mr. Fukano or any other member of Staff, if
15 you want to just shoot me a message in Microsoft Teams.
16 When you're ready, I will rejoin the meeting.

17 MR. FUKANO: Understood.

18 THE COURT: We are in recess. Thank you.
19 (Whereupon a recess was had.)

20 THE COURT: All right. So let's be back on
21 the record. I understand that the parties have reached
22 an agreement on a proposed schedule, so, Mr. Fukano, do
23 you want to read that into the record?

24 MR. FUKANO: Yes, Judge. So the parties
25 have agreed that we would like to set an initial

1 can't imagine I have a conflict. Just please bear with
2 me. So August 26th you said? Is that what you said or
3 did you say the 24th?

4 MR. FUKANO: 24th for filing of exhibits and
5 31st for hearing.

6 THE COURT: Oh, 31st. Okay. I apologize.
7 Let's see, the 31st, I am wide open on the 31st. Would
8 you like morning or afternoon?

9 MR. FUKANO: Afternoon, please.

10 THE COURT: Okay. All right. So we'll do a
11 1:30 start time on August 31st. Does that work for you,
12 Mr. Engel?

13 MR. ENGEL: Yes.

14 THE COURT: Okay. All right. So I think
15 that's it. Is there anything else that we need to
16 address today before we adjourn?

17 MR. FUKANO: None from Staff.

18 THE COURT: Mr. Engel, did you have any more
19 questions?

20 MR. ENGEL: No.

21 THE COURT: No? Okay. All right. Well,
22 then I will issue a prehearing conference order that
23 captures everything we talked about here today on the
24 record. You'll probably see that early next week and we
25 are adjourned. Thank you, all.

1 settlement conference date for July 8th and that also on
2 July 8th, discovery -- date of request response time
3 would shorten from 10 business days to 5; that discovery
4 would close on August 10th; that hearing exhibits would
5 be filed August 24th, and a hearing date of August 31st
6 if that is agreeable to the Commission.

7 THE COURT: Okay. I was just jotting that
8 down. So when you say exhibits, you mean
9 cross-examination exhibits, I assume, because there's
10 not going to be any written testimony filed in this
11 case?

12 MR. FUKANO: Yes, there would not be
13 pre-filed testimony.

14 THE COURT: Okay. So it would be
15 cross-examination exhibits and estimated times for
16 cross-examination and an order of presentation of
17 witnesses?

18 MR. FUKANO: And there would be some direct
19 testimony, because there would be -- in the absence of
20 pre-filed, so cross and direct.

21 THE COURT: So exhibits to support direct
22 testimony as well?

23 MR. FUKANO: Yes.

24 THE COURT: Got it. Okay. Perfect. Let me
25 just check my calendar real quick, but it's so far out I

1 MR. FUKANO: Thank you, your Honor.
2 MR. ENGEL: Thanks.
3 (The hearing concluded at
4 9:59 A.M.)
5 -oOo-

C E R T I F I C A T E

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

I, LORI L. THIELMANN, a Certified Court Reporter
licensed in and for the State of Washington, do hereby
certify that the foregoing transcript of the prehearing
conference before the Honorable Rayne Pearson, having
taken place on May 7, 2021, is true and accurate to the
best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand
and seal this 21st day of May, 2021.

LORI L. THIELMANN, RPR, CCR
License No. 21002182

<p>impose 26:22 in-between 30:2 include 29:5 included 27:9 including 27:11 indicated 26:22 information 27:25 initial 31:25 instance 30:14 intervene 26:8 issue 28:16 30:11 33:22 issued 29:6 issues 27:25</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>jotting 32:7 judge 23:10 24:15 25:12 26:2 28:5 28:13 31:24 July 32:1,2</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>know 27:19 29:21 knowledge 35:11</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>L 23:25 35:6,17 law 23:10 24:15 25:12 leave 31:5 let's 25:5,15,15 26:10 31:20 33:7 letter 26:20 License 35:17 licensed 35:7 light 28:9 29:14 limit 28:23 line 31:4,8,10 list 30:20 litigant 27:14 LLC 23:7 24:12 25:10 look 27:22 Lori 23:25 35:6,17</p> <hr/> <p style="text-align: center;">M</p> <hr/>	<p>manner 27:24 material 28:4,7,11 matter 23:3 25:7 25:14 30:2 matters 30:5 mean 27:14 32:8 means 27:19 meeting 31:5,16 member 31:14 memorialize 30:8 mention 28:22 message 31:6,15 Microsoft 31:15 minimum 28:12 morning 25:6 26:2 33:8 motion 26:21 muted 27:17</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>N 24:1 name 25:11,20 need 28:24 29:14 30:13 31:11 33:15 new 26:12 27:18</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>o0o- 25:4 34:5 objection 27:10 occur 29:24 Office 24:6 Oh 33:6 okay 25:25 26:5,7 26:10 27:2,13,20 28:21 29:18,18,19 31:1,4,9 32:7,14 32:24 33:6,10,14 33:21 Olympia 24:7 once 31:11 ongoing 26:15 open 26:9 33:7 opportunity 30:21 order 27:10 28:6,8 28:9 30:11,17 32:16 33:22</p>	<p>orders 27:4 outcome 30:4 owner 25:22</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P 24:1,1 P.O 24:7 PAGES 23:12 pandemic 26:15 paper 26:14 30:5 participants 23:13 parties 24:2 26:11 26:18,18,24 27:3 27:6,9 29:21 30:3 30:7,21 31:21,24 party 27:8 Paul 24:11 25:20 Paystreak 24:12 Pearson 23:10 24:15 25:11 26:2 28:5 35:9 penalties 23:5 25:9 26:22 Perfect 32:24 petitions 26:8,9 place 35:10 please 33:1,9 possibility 29:16 pre-filed 32:13,20 prehearing 23:9 25:2,6 27:10 29:12 33:22 35:8 prepare 28:18 present 24:15 25:17 presentation 32:16 presented 28:1 presiding 25:13 pretty 27:18 pro 27:14 probably 29:25 33:24 procedural 26:12 29:21,22 proceed 26:10 proceeding 26:25</p>	<p>27:5 process 27:16 Proper 23:3 25:8 proposed 31:22 protective 27:4 28:5,8,9 provide 26:16</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>question 29:10 questions 27:16 28:3,16,17,17 29:7 30:17 33:19 quick 29:10 32:25</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>R 24:1 35:1 Rayne 23:10 24:15 25:11 35:9 reach 30:3,7 reached 30:18 31:21 read 31:23 ready 31:6,16 real 29:10 32:25 recess 31:5,11,13 31:18,19 record 25:5 28:12 30:6 31:11,12,21 31:23 33:24 recording 31:4 referenced 28:5 rejecting 30:12 rejoin 31:16 relevant 27:25 remind 26:11 27:3 REPORTED 23:25 reporter 31:3,8,10 35:6 reporter's 31:2 representative 25:17 representing 25:21 request 27:6,7,24 27:24 28:24 32:2 requested 28:7</p>	<p>requesting 28:10 requests 27:21 28:3 29:3 require 26:13 30:16 requirement 26:14 27:9,11 resolve 30:5,17 respond 28:24 response 26:21,21 29:1,6 32:2 responses 27:7 28:24 review 30:11 right 27:17 28:21 31:9,20 33:10,14 33:21 roughly 28:13 RPR 23:25 35:17 rules 26:12,16,24 27:3 28:23</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>S 24:1 schedule 29:21,22 30:20,22 31:22 se 27:14 seal 35:13 seconds 26:9 see 28:15 33:7,24 send 28:2 sense 27:14 28:19 sensitive 28:7,11 series 28:3 29:23 serve 26:18,19 service 26:13,17 set 29:23 30:1 31:25 35:12 settlement 30:9,18 32:1 settlements 30:15 shared 27:7 shoot 31:15 shorten 32:3 sign 30:10 significant 30:1</p>
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