BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re Request for Comments	:	
	:	
SeaTac Shuttle, LLC d/b/a	:	Docket No. TC-020497
Whidbey-SeaTac Shuttle	:	
	:	Passenger Transportation Company
	:	(Bus) Rulemaking
	:	Draft August 15, 2005
_____	:	

Following are the comments of SeaTac Shuttle, *LLC., C-1077:*

We are encouraged that the current draft is more readable and generally more understandable than the previous iteration and WAC 480-30 as existent. When reviewing the draft we looked at the following:

Is the proposed section applicable to current and future operations?

Is the proposed section clearly worded and unambiguous?

Is the proposed section redundant?

Is the proposed section contrary to or in conflict with RCW, WAC or precedent?

Is the proposed section an improvement over the existing section with regard to the operating environment?

Is the proposed section a reduction or increase in administrative or economic burden upon the companies?

Does the proposed section serve a useful purpose?

Does the proposed section increase or decrease the authority of the Commission?

Does the proposed section protect the interests of the companies?

Is the public properly served by the proposed section?

Are the current definitions adequately worded to reflect the true meaning and intent of the Commission?

Does the Draft adequately address the issue or RATES and RATE methodology?

We have also applied the criteria as described in Executive Order 97-02 and looked to Staff's Rulemaking Issues Paper, *WUTC , July 31, 2002* in evaluating the current draft with the goals defined from the initial proposal of this re-write of WAC 480-30.

In July of 2002, and again in August of 2002, the Washington Airporter Operators Association filed extensive comments regarding the proposed draft of WAC 480-30 through its attorney. Those comments still accurately reflect many of the concerns that we have today with the current draft. I urge the commission to revisit these comments and see that the same issues that we address today were addressed three years ago, particularly with regard to rates.

Again in the spring of this year the Airporter Association met with the Commission for the primary purpose of explaining to the new Commissioners our problems, concerns and suggestions for rate setting.

After reviewing the entire Draft we have placed our comments after each section that we felt might need additional review or work. Additionally we have some general comments regarding the document which we will lead with.

Rates

First the subject of rates which we feel is the single most important section of this draft is not adequately dealt with. It is time for a major re-write of the provisions of this section that define rates and rate methodologies. Fare increases, or decreases, in the draft fall into two categories; 1) General Fare Increases, and: 2) those that are not General Fare Increases. Below we propose two possible methodologies for an improved, concise, streamlined method for the determination of the appropriateness of fare increases.

As a first step, a syntactical change is required in the code that will help bring an end to the Commission's portrayal and categorizing Auto Transportation Companies as Utilities with Rate paying customers. In all instances within 480-30-xxx the word RATE(s) should be replaced with FARE(s). As it is proposed now these terms are used interchangeably within the same paragraph(s) and even within the same sentence. This leads to the question of definition and creates confusion. It is time that the charges for services rendered by Auto Transportation Companies are standardized in definition and removed from the concept of Rates as applied to utilities. This is the heart of the problem with the current methodology and philosophy as applied by the Commission in regulating fares. We are not utilities. In all other passenger modes of transportation charges are referred to as fares, Alaska Airlines does not charge rates, they have passenger fares. We can see no justifiable reason for using so many terms when "fares" succinctly and **correctly** describes the charges. Rates have no place in 480-30-xxx. Bring Auto Transportation into the 21st century.

Fares should be market driven. The current methodology for approving fares is arbitrary and unrealistic. It does not take into account the current economic climate and in many instances actually punishes companies for being innovative and efficient. The "profit margin" of a company is not an indication of the appropriateness of its fares. It is an indication of the efficiency of the operation and the quality of its management. As it is currently structured poor, inefficient service can and will "qualify" for higher fares than efficient service. This system is so out of touch with reality it is hard to comprehend how it ever got started in the first place.

The public is satisfied and content with the current fare structure of the operators. The fact that our services are being utilized by a significant segment of the traveling public clearly indicates and reinforces this. We are not, by any stretch of the imagination, monopolies. The public has a wide variety of options open to it for travel to and from airports, not the least of which is (and by far the most utilized) the private automobile. The public has a choice and a good portion of them have chosen our service at our current rates. When fuel surcharges or seasonal surcharges have been added, there have been no complaints; they understand the cost of the service. We are a premium service not a public transit system. Like any other business in this country, we need the ability to react in a timely fashion to market fluctuations.

The current methodology utilizing an operating ratio has no application in auto transportation. It is ill conceived and arbitrarily applied by staff. There is no consistency in its application and companies are at the mercy of individual staff member's interpretation and implementation. As stated above it is by its very nature punitive in its application to well managed companies. It should be eliminated here and now. Non-general fares increases (sec. -421) should be routinely granted upon application as long as they fall under one of the following proposed conditions; 1)) the "Banded" concept of rate fluctuation as permitted other regulated carriers (WAC 480-15-490). The "banded" method is the preferred method. It will permit the companies the true flexibility that they need to respond to market factors in a timely fashion. 2) 3% of regulated revenues (as filed in the previous annual report) or a CPI (Transportation) adjustment, whichever is higher. This second suggestion is not one that we support but only offer as a poor stop-gap to the current untenable policy. The 3% suggestion in particular is already outdated as the National CPI rose 2% in just the month of September, 2005. How are we to survive under current or proposed methods? Under the Banded methodology, companies can respond to market factors to the benefit of the public. As it stands now, we are not even permitted to reduce rates without a prolonged, expensive audit and hearing process which then leads to the real possibility of having the Commission lodge a complaint against our company for suggesting any change to our fare structure. This cannot be in the best interest of the traveling public or the companies.

General Fare Increases will no longer be necessary if the Banded method is adopted. This will save countless hours of company and staff time. As it stands now, in a fare increase request we are at the mercy of Staff and their interpretation and application. They have proven to be inconsistent and arbitrary in the application of "policy" which has taken on the cloak of "rules". Our specific comments regarding this topic are included below under sec. -426.

The other side of Fare methodology is sufficiency, RCW 81.68.030. This is the poor stepchild of the current fare calculation policy of the Commission. Little weight is given to the needs of the companies to be able to capitalize new equipment or provide a reasonable wage and benefits to our employees with a little profit (dirty word) left over for those of us who have taken all of the financial risks involved with this type of operation and spent countless hours building a business and creating jobs. As it stands now and as proposed, we are to operate on a 7% **MAXIMUM** gross profit. Out of the 7% we are to pay our taxes and interest expense. This leaves around 2% typically at the end of the day. Is there any member of the Commission who feels that 2% is a legitimate return on investment? Particularly an active investment with personal liability? Would you make such an investment? We are not talking clipping coupons here in a sheltered portfolio, we carry insurance to help offset some of our liability. This situation is not only unnecessarily restrictive, it is detrimental to the health of our companies and ultimately to the service we provide our customers. We must constantly grow like some pyramid scheme in order to be able to improve or even maintain our service. When we reach saturation in our market, service under this methodology must perforce decline. This draft has been in the works for three and one half years and it has been suggested by the Commission that "Rates" should be examined at another time and in another draft. To do so would be a grave disservice to the companies and the public. Now is the time to get this resolved, not in another three or four years.

We will offer specific changes to the sections at the appropriate places in the draft. In summary we do not feel that this draft, with regards to rates, meets either the requirements of Exec. Order 97-02 or the Issues as put forth by Staff in their Rulemaking Issues Paper.

Clarity and Purpose

Another area of major concern is regulation for regulation's sake. We have concerns that some sections are redundant, generate excess paperwork to no purpose, do not demonstrate an understanding of the realities of an airporter operation or just have no application. We are just now in receipt of a NOTICE OF OPPORTUNITY TO RESPOND TO SMALL BUSINESS ECONOMIC IMPACT STATEMENT (SBEIS) QUESTIONNAIRE from the Commission. While we welcome this additional opportunity to comment on the impact of the draft, we feel that this issue has not been addressed by the Commission during the drafting process as it should have been. *(see 6. Cost, NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS, July 12,)*

Additionally, we have seen no clear policy statement as described in ISSUE 3 – POLICY STATEMENT of the Rulemaking Issues Paper.

As stated previously, in certain respects we are encouraged by the draft, we do see that some of the input from the operators has been acknowledged. On the other hand, we are a bit frustrated by the timeframe involved here and the proposed expansion of regulation rather than a streamlining of process with very little progress being made with respect to fares.

Comments on specific sections:
Suggested additions or changes are underlined and deletions incorporate a ~~strike through~~.
Comments are italicized.

WAC 480-30-036 Definitions, general.

"Cancellation" means:
(a) An act by the commission to terminate a company's charter and excursion carrier certificate or a company's auto transportation certificate; or
(b) An act by an auto transportation company to discontinue the application of a tariff, a tariff supplement, or a tariff item.
(c) An act by a passenger to terminate a reservation either through affirmative action or passive action. *ex. no-show*
This term is used in Passenger Rules and Tariffs regarding acts by passengers.

"Connecting service" means an auto transportation company service over a route that goes from the beginning point to the ending point requiring passengers to transfer from one vehicle to another along the route or connecting with another route served by the company.
This is the traditional and travel industry wide definition of connecting service as opposed to direct service. It should be included in Definitions for clarity and in order to properly inform the public of the type of service offered.

"Customer" is a person or individual who has purchased travel from an auto transportation provider.
Self explanatory

"Direct route" means an auto transportation company service over a route that goes from the beginning point to the ending point utilizing one vehicle without requiring a transfer with limited, if any, stops along the way, and traveling only to points located on the specific route.
On a Direct Route passengers expect that they will not have to transfer vehicles. This is the common, industry wide definition of Direct Service.

"Door-to-door service" means an auto transportation company service provided between a location identified by the passenger and a point specifically named by the company in its filed tariff and time schedule. Door-to-door service is a separate and distinct service from scheduled airporter service.
These two service types are mutually exclusive in the type of service that they provide and the customers that they serve. A distinction should be clearly articulated within this definition.

"Sufficient" means adequate revenues which will allow a company to achieve, with proper and diligent management, a profit margin which ensures the financial health and growth of the company.

The operating ratio method of determining revenue levels is in direct conflict with any reasonable definition of sufficient. Sufficient should allow for new equipment acquisition and outstanding maintenance and training programs, not cutting the companies to the bone in a misguided attempt to "protect" the public.

~~**"Ticket agent agreements"** means a signed agreement between an auto transportation company and a second party in which the second party agrees, for compensation, to sell tickets to passengers on behalf of the auto transportation company. See WAC 480-30-391.~~
See comments 480-30-391

WAC 480-30-056 Records retention, auto transportation company.
(2) **Retention schedule table.** The following schedule shows periods that auto transportation companies must preserve various records.
Delete all sections of the table that deal with records covered only by Note 1. WUTC does not regulate these records and therefore should not be directing who shall maintain or for how long the kept.

(3) **Customer service records.** An auto transportation company must maintain complete and accurate customer service records.
(a)(1) (E) Any condition causing the vehicle to deviate from the company's filed time schedule by more than ~~30~~ 60 minutes. For example, traffic backed up at an accident site, inclement weather, or equipment failure.

Given the nature of our state's infrastructure and increasing traffic and the variables they pose on a daily basis, this is an unreasonable burden which serves no purpose. The only test required is customer satisfaction. If a customer complains then it should be noted in the costumer service records.

(d) All records described above may be kept or generated as necessary, electronically.
The excess paperwork created by this section, should paper copies be required or should it be interpreted by staff in this section to be required, runs contrary to what this draft should be accomplishing and serves no purpose in this day and age of paperless technology. (d) clarifies this section.

WAC 480-30-071 Reporting requirements
(2)(b) A company must file a complete, accurate annual safety report showing all requested information by ~~December 31 of each~~ January 31 of the succeeding year. Information provided on the annual safety report must agree with source documents maintained at company offices.
It is unreasonable and unrealistic to be required to file a report with the Commission that includes data collected upon the day which the report is due. This is especially unrealistic during year end and a holiday period. Airporter operators are given 4 months beyond the close of the reporting year to submit reports, Charter and Excursion must be afforded at least 30 days.

WAC 480-30-086 Certificates, general.
(3) **Display.** A company must keep its original certificate on file at its principle place of business open to inspection by any customer, law enforcement officer, commission compliance officer, or other authorized commission representative who asks to see it. ~~The company must carry a copy of its original certificate in each vehicle it operates.~~
Grammatical correction. Add the word inspection.
This requirement is redundant. It poses an unwarranted burden on the operator. While we currently have a small fleet, some operators have over 100 vehicles; duplication, placement, tracking and maintenance of these certificates is an added financial and administrative burden to the company that serves no purpose. The certificate number is clearly displayed on all vehicles as are the termini and stops. Copies of the certificates are available upon request at both the operator's offices and at the Commission

WAC 480-30-096 Certificates, application filings, general
(i) A statement of the applicant's ~~prior experience and~~ familiarity with the statutes and rules that govern the operations it proposes.
Requiring a statement of prior experience runs contrary to and in the face of the Commission's prior rulings and precedent. Doc. TC-030489 Order No. 2 pp. 72, and in re Decision and Order Doc TC-001566. While an applicant may be encouraged to supply information regarding prior experience to support its application, this section implies that prior experience is a necessary component of the application. The Commission has clearly ruled that it is not.

WAC 480-30-116 Certificates, application docket, protests, and intervention, auto transportation company.

(2) **Protests**. An existing auto transportation company certificate holder may file a protest to an application published in the application docket~~. A passenger transportation organization, association, or conference may file a protest on behalf of existing certificate holders specifying the names of the persons or companies in whose interest the protest is filed.~~

This section goes beyond all bounds of rational thinking. Standing at adjudicative proceedings for protestants is limited to regulated parties (Cole v. Washington Utilities and Transportation Commission*, Wn 2d 302, 485 P. 2d 71 (1971)). Persons seeking standing must satisfy a Zone of Interest Test (*U.S. Supreme Court in Association of Data Processing Serv. Orgs., Inc v. Camp *, injury-in-fact is not necessarily enough to confer standing because so many persons are potentially 'aggrieved' by agency action. Any party of interest may, upon proper petition, be granted Intervener status by the Commission* (WAC 480-07-355) *and be a participant in a proceeding. To confer full status as a Protestant on any party, regardless of size, constitution or association with the matter at hand, is to invite chaos and impose an unrealistic burden upon the applicant and an absolute economic barrier to entrance by applicants. Companies (regulated entities) who have an interest, have full leave to file a protest on their own behalf and do not need nor should they or the Commission allow a third party to file in their name asserting rights clearly afforded only to the regulated company.*

WAC 480-30-131 Certificates, overlapping applications, auto transportation company.

(4) The Commission shall not consider an application for authority to be overlapping when one of the parties provides scheduled airporter service and the other party provides door-to door service.

These two types of service may co-exist in the same or overlapping territory. They serve two different markets and provide distinctly different types of service. One operator may not be capable of providing both types of service to an area and to not permit another operator to provide that service would be to deny the public.

WAC 480-30-136 Certificates, application hearings, auto transportation company.

(5) When determining if the territory at issue is already served by another certificate holder the commission may, among other things consider:

~~(d) Whether the population density warrants additional facilities or transportation.~~

First, the Commission offers no parameters for determination of adequate population density which will then leave the door open to prolonged legal interpretation with subsequent additional financial burdens being placed upon the applicant. If the Commission is going to make this a requirement, narrow its scope to preclude frivolous and expensive challenges. Second, the only reason to consider population density is to determine the economic impact on an existing carrier. As economic impact on an existing operator is not a consideration of the Commission, this section has no application and is irrelevant.

WAC 480-30-156 Certificates, temporary

(9) **Protests.** An existing auto transportation company or applicant for certificate may file a protest opposing the grant or denial of a temporary certificate. ~~An organization, association, or conference may file a protest on behalf of existing companies, specifying the names of the individuals or companies in whose interests the protest is filed.~~

See comments to WAC 480-30-116. This must be removed; it is contrary to common sense and law.

WAC 480-30-186 Certificates, service interruptions or discontinued operations, auto transportation company.

(2) **Discontinuance of service**. An auto transportation company must not temporarily or permanently discontinue <u>any segment of</u> operations authorized under its certificate without prior approval from the commission.

*With both temporary and permanent discontinuance of service of all or portions of authority proper notice should and must be made to the public and the Commission and the Commission should and must **approve** temporary and permanent discontinuance to portions of an authority. However, to require Commission **approval** for a permanent discontinuance of all service is unrealistic. The Commission has no authority to require a company to remain in business beyond economic viability. Clarify this entire section.*

WAC 480-30-191 Bodily injury and property damage liability insurance.

While we have no particular argument with this section in principle, two points must be made. First, the economic impact to operators. Increased limits mean increased premiums. The Commission must take all of the increased economic burdens imposed by Draft 480-30 into account in the fare regulating process. 480-30 will impose a number of new economic burdens and the Commission must recognize this fact.

WAC 480-30-196 Insurance cancellation.

If a company's insurance filing is canceled, and a new filing that provides continuous coverage is not filed before the cancellation effective date, the commission may:

~~(1) Dismiss a company's application for a certificate;~~

The Commission has never required that insurance filings be made while an application is pending. It has always been the established procedure to require a proper filing and coverage after the final order granting the application but prior to issuing the certificate. This section implies that coverage must be in place during the application process prior to the final order. This would place a real financial burden on applicants and cannot be the intention of the Commission.

WAC 480-30-213 Vehicles and drivers.

(1) The vehicles operated by a passenger transportation company must be owned ~~by,~~ ~~or~~ leased, ~~to~~ or rented to the certificate holder or be short term substitute vehicles.

What constitutes a lease? Long or short term? In some instances it may become necessary for an operator to "rent" on a short term basis, an additional vehicle to cover unscheduled maintenance on a fleet vehicle or other such reasonable considerations. See 480-30-231(e).

WAC 480-30-216 Operation of motor vehicles, general.

(2) **Inspection of baggage and other materials passengers wish to be carried in or on a motor vehicle.** Auto transportation companies are responsible for the safety and comfort of all passengers transported. To ensure safety and comfort it may be necessary for companies to inspect baggage and other materials to be transported in or on motor vehicles.

(c) Items will be carried at the sole discretion of the company. Items are not required to be included on the examples list to be declined by the company.

It is impossible for a company to identify ALL examples of items which it may determine are not in its or the public's best interest to transport. We must have the support of the Commission in providing the latitude to protect ourselves and the public without fear of litigation.

(7) **Smoking on motor vehicles.**

(a) Smoking or carrying lit cigars, cigarettes, or other smoking materials is prohibited on vehicles operated by auto transportation companies.

~~(b) Each auto transportation company must post signs in its vehicles informing passengers that smoking is not permitted.~~

Smoking has historically been banned on our vehicles and through more than 20 years of government education and restrictions, the public clearly understands that smoking is not permitted in these situations. We are not currently required this posting and smoking is and has not been a problem. This section addresses an issue that does not exist. Once again, 480-30 is attempting to impose an additional administrative and economic burden on the operators to no purpose.

WAC 480-30-231 Vehicle and driver identification.

~~(b) Each motor vehicle operated in regular route service with scheduled stops must display a suitable destination sign.~~

As Airporters our destination is the airport. We all list our stops on the front of our vehicles. What is suitable?

(e) All identifications, except those displayed on leased or substitute vehicles, must be permanent.

This relates back to WAC 480-30-213 Vehicles and drivers and the definition of a lease. This section just adds to the confusion. W agree with the wording in this section over that in 480-30-213 as it includes substitute vehicles which would cover rented or short term leased vehicles.

WAC 480-30-236 Leasing vehicles.

(2) It is the company's responsibility to ensure that:

~~(a) A copy of the lease is carried in each leased vehicle;~~

What possible purpose does this serve? The lessee is shown on the registration, a copy of the lease is on file, the driver and the passengers have no use what-so-ever in having a copy on the vehicle and the vehicles are clearly marked as to the operator. With some fleets exceeding 100 vehicles, the administrative and economic burden is significant. The amount of paperwork required on board keeps growing with each new regulation. This sort of superfluous, redundant, make-work sort of regulation is exactly what 480-30 was supposed to eliminate, not promulgate. Delete it in its entirety.

EQUIPMENT LEASE AGREEMENT

~~A copy of this lease must be carried in the leased vehicle.~~
~~Copies must also be maintained in the files of both parties for the length of the lease plus one year following the expiration of the lease.~~

See comments -236(2)(a). The Commission has no power to regulate the lessor and therefore cannot direct the lessor to maintain a copy of the lease. This requirement is outside the control of the company and the company cannot be held responsible for a third party's actions. The company will maintain its copy as per -236(2)(b). Strike in entirety.

WAC 480-30-241 Commission compliance policy.

(1) The commission is authorized to administer and enforce laws and rules relating to passenger transportation companies. The commission delegates authority to the commission staff to inspect equipment, drivers, records, files, accounts, books, and documents. The commission also delegates to staff authority to place vehicles and drivers out of service, ~~to arrest without warrant~~, or to issue citations to any person found violating this chapter in the presence of its staff.

The RCW grants the authority to regulate and statute permits a process of citation and relief and protection through Commission hearings or Superior Court. What the Commission is proposing here is to broaden its powers contrary to RCW. We believe that the Commission does not have arrest authority and in the limited instances in Washington where the legislature has granted that authority it is strictly limited to specific persons, not staff in general, and only to such employee(s) *specifically*

designated in writing by the commission or a member thereof as having been found to be a fit and proper person to exercise such authority. This authority may only be granted where the enforcement of the statute is not specifically vested in some other officer. This area of responsibility is clearly defined in RCW 80.04.470 and is misleading as included in -241 as well as redundant. It is not necessary to restate RCW in WAC, particularly when the Commission picks and chooses from the RCW language which creates a conflict or unclear meaning. This is very dangerous thinking on the part of the Commission and is unacceptable.

(3) The commission will enforce statutes, rules, and commission orders through:
(a) A program emphasizing education and technical assistance.
Very encouraging, but what programs and technical assistance?

WAC 480-30-261 Tariffs and time schedules, definitions used in.

Definitions of general terms and terms specific to driver and equipment safety are contained in WAC 480-30- 036 and WAC 480-30-216, respectively. Unless the language or context indicates that a different meaning is intended, the following definitions apply:

"Charge" means the total price assessed to a passenger by an auto transportation company for providing transportation. A charge includes the cost of the fare together with any other costs charged to the customer, for example: a charge might consist of the adult fare plus the cost for carrying extra baggage on board the bus.
Please note, that the definition does not include the word "rate". This is as it should be. Charges are fares not rates.

"Fare" or "ticket price" ~~or "rate"~~ means the amount charged to a passenger on a bus for transportation.
See "Charge"

"~~**Joint rate**~~**"** or **"joint fare"** means a ~~rate~~ that applies from a point located on one auto transportation company's route to a point located on another auto transportation company's route, made by agreement or arrangement between the companies. A joint ~~rate~~ or fare agreement is also known as a through-ticketing agreement.

"~~Local rate~~" or **"local fare"** means a ~~rate~~ applying between stations within a single company's authority.

"Sales commission" means a fee paid to an agent for selling tickets on behalf of an auto transportation company.

"Seasonal fares and seasonal time schedules" means filing of tariffs or time schedules naming different fares, ~~rates~~, routes, or arrival and departure times for different periods of the year. For example: A company may offer more scheduled routes during certain periods than it does in others; or, a company may assess different ~~rates~~ fares in heavily-traveled months than it does during off-peak months.

~~**"Through rate**~~ ~~or~~ **"through fare"** means a single ~~rate~~ fare applying from point of origin to point of destination that combines two or more ~~rates~~ fares in one auto transportation company's tariff or ~~rates~~ fares from two or more auto transportation companies.

In the following section the term "fare" is use 10 times and the term "rate" is used 11 times. The term "fare" is used exclusively in some sections and the term "rate" is used exclusively in others, while they are used together in yet others each time to mean the same thing; charges. First cut out the redundancy, second eliminate any confusion by using a single term and third and most importantly, our customers are not and never have been ***rate payers****. Do you get a "rate" from Alaska Airlines for your ticket, no, you pay a fare. Does Amtrak charge you a rate between Seattle and Spokane, no, they charge you a fare. At some point in time the Commission has incorrectly laid the terminology and concept of utility rate payers on the traveling public, a gross misconception. The term rates has never been a travel industry term, the Commission has tried to make transportation fit into its utility mold and mind-set. This does nothing to serve the public and does a severe disservice to the companies. It creates an environment at the WUTC that is contrary to the well being of the companies to the detriment of the traveling public by forcing the companies to operate under misapplied utility based financial restrictions. Eliminating the term "rate" from the transportation vocabulary will begin a long overdue process of bringing the regulation of transportation in concert with industry standards and norms. It must be done now.*

WAC 480-30-276 Tariffs and time schedules, companies must comply with the provisions of filed tariffs and time schedules.

(1) **Tariffs.** No auto transportation company may assess fares, ~~rates~~, or charges that are higher, lower, or different from those contained in the company's filed tariff. Further, no auto transportation company may accept a payment for service provided that is higher, lower, or different from the rates and charges contained in the company's filed tariff.
See above.

WAC 480-30-281 Tariffs and time schedules, content.

(2)(b)

~~(ii) The times of arrival at, and departure from, all intermediate points served.~~
By definition an Intermediate Point is an undetermined point not included on a company's time schedule. 480-30-036 therefore sec. (ii) has no meaning what-so-ever. This is also in conflict with -346(2)(f)

~~(v) A list of points, if any, along the carrier's route to which service cannot be provided, and the reason service cannot be provided.~~
What were you not doing last Thursday? This question makes as much sense as sec. (v). It is impossible to list the points we don't serve. We list the points we do serve, any others that we might stop at, conditions permitting and upon a specific passenger request are by definition intermediate stops. Do we list each curve in the road, in front of fire stations, no parking zones? Please, think before you write. If you meant something else then you must clarify this section.

WAC 480-30-286 Tariffs and time schedules, posting.

An auto transportation company must maintain a copy of its filed tariff and its filed time schedule in the company's offices. ~~and at each passenger facility.~~ Each vehicle operated must carry a copy of the schedule and fares for each route served by that vehicle. A copy of the schedule and fares for each route served by the company must be available at each passenger facility. The company must make these documents available for inspection on request Monday through Friday, except holidays, from 9:00 AM to 4:00 PM at the company's business office.

Displaying or maintaining the complete filed tariff at each passenger facility is redundant, costly and burdensome. It serves no purpose. We are required to display our fares and schedules at each facility and this is all the information the consumer needs in passing. Complete information is available at the office. Once again the Commission seeks to impose an additional economic and administrative burden on the companies to no purpose, delete this requirement.

As noted, a copy of the schedule and fares will be maintained at the facilities but not the complete, multi-page tariff. The complete tariff is available for inspection at the business office, but the Commission needs to limit inspection to reasonable business hours. As written we would conceivably need to have them available at 3:23 AM on Sunday morning.

WAC 480-30-291 Tariffs, ~~rates~~ and charges, general.

Once again, delete the term "rates" from all this section as well as all others. The term "fares" is the only one that correctly describes our charges.

WAC 480-30-301 Tariffs and time schedules, one business-day notice to the commission.

A company must provide at least one business-day notice to the commission for the following filings:

(3) Tariff and time schedule filings whose only purpose is to add a new service option or a service level which has not been previously included in the company's tariff~~, if that service option or service level is requested by a customer.~~

WAC 480-30-306 Tariffs and time schedules, seven calendar-day notice to the commission.

A company must provide at least seven calendar-days' notice to the commission for filings whose only purpose is:

(1) To implement decreases in fares ~~rates~~ or charges; or

~~(2) To add a new service option or service level that has not been previously included in the company's tariff, if that service option or service level has not been requested by a customer.~~

We need to address these two together. (-301 & -306) Can someone please explain the rational behind this? Of what possible consequence is it to the public or the Commission for that matter, if an enhancement to service is requested by an individual customer or is put forth by the company on its own volition? Does the Commission seek to restrict access to enhanced service by the public? At times it seems that the Commission is creating rules just for the sake of it. Administrative code by the pound is not the answer; quality not quantity is what we need. Please delete these two utterly senseless provisions.

WAC 480-30-311 Tariffs and time schedules, requiring thirty calendar-day notice to the commission.

Fares not rates.

WAC 480-30-316 Tariffs and time schedules, customer notice requirements.

(2) **Thirty-day notice to public.** At least thirty days prior to the stated effective date, the company must post a notice in a conspicuous place for each affected route or routes. The published notice must remain posted until the commission takes action on the request. The notice must be posted:

~~(c) On the internet, if the company maintains an internet website accessible to the public.~~

(3) **Content of postings**. The published notice required by this rule must include:

~~(c) A comparison of current and proposed rates by service, when applicable~~;

(2)(c) All of this information is posted as in (a) and (b) of para. (2) and is available in the business office. Additionally the company is required to post where additional information may be obtained from both the company and the Commission (3)(e),(f), to also require that it be added to a company's WEB site is yet another expense for which the Commission has not allowed any recovery . To cover all of these increased costs the companies will have to have a fare increase, a process which in and of itself is costly and burdensome. How does this redundancy of information serve either the public or the companies? Furthermore, virtually every WEB site out there in ether-land is over designed and contains too much information. People are sick and tired of having to wade through pages of superfluous information just to get to what they need. Additionally this information will already be posted on the WUTC WEB site under the company name. The Commission very much needs to consider what is too much information. When you saturate customers with boilerplate, they ignore what they need to know.

Delete the term "rates" in both sections.

~~WAC 480-30-321 Tariffs and time schedules, notice verification and assistance.~~

~~(1) Within five days of making a filing requiring posting of a customer notice under WAC 480-30-316, but no sooner than the date the filing is submitted to the commission, a company must file a statement with the commission's records center that the required notice has been posted. The declaration must include:~~

~~(a) Description of where the notice was posted;~~

~~(b) Date the notice was posted; and~~

~~(c) A copy of the customer notice.~~

~~(2) A company may request assistance from the commission's consumer affairs section in preparing notice.~~

We are going to run out of trees. In section -316 we are required to post notice and the content of that notice is very clearly specified. Sections -241 and -246 mandate compliance with the Commission's rules and penalties for non-compliance to which all operators have subscribed by virtue of accepting their authority from the Commission. Now comes section -321 which requires us to provide documentation that we have done that to which we have already agreed. Perhaps we should also send notice with proof every time we complete a scheduled trip under our authority. We have agreed to those provisions in our authority too. I see this as absolutely redundant. Who is to pay for all of this? Delete 480-30-321 in its entirety

WAC 480-30-326 Tariffs and time schedules, less than statutory notice handling.

~~(4) **Notice requirements.** An auto transportation company requesting LSN handling of a filing must post notice in its offices, stopping places, and on all vehicles concurrent with submitting the filing to the commission. The company must file a copy of its public notice with the application for LSN handling.~~

The LSN process is most commonly use for fuel surcharges. The Commission currently does not permit the companies to recover the full cost of increased fuel prices in some bizarre logic that the companies have an obligation to loose money each time fuel prices rise to "protect" the public. Now the Commission would have the companies create hundreds of pages of duplicate documents and post them in potentially hundreds of vehicles and stopping places. The posting under this section is of the LSN request, not the actual request for change to the tariff itself. The public is well aware of fuel prices and expects that as costs to the producer go up so go prices to the consumer. The public is not stupid. Each company will potentially have to hire at least one full time employee to duplicate, collate, distribute, track, update and comply with all of these posting requirements. Who will pay for this, the company and loose yet more, or the consumer? We provide a very simple service. You want a ride to the airport, it will cost you $X. If you do not wish to pay the cost of the service there are many other options including

public transit. By definition we are a premium service, information regarding our fares is available from multiple sources. The consumer can make his choice from the information reasonably available.
Delete this section!

WAC 480-30-346 Tariffs and time schedules, page format.

(2) **Time schedule.** An auto transportation company's filed time schedule must;

(f) Show the time of arrival and/or departure from all termini and ~~intermediate~~ scheduled stops.

This is in conflict with -281(2)(b)(ii). Also by definition intermediate stops are not delineated on a tariff. Do you mean all scheduled stops rather than intermediate stops?

WAC 480-30-356 Tariffs and time schedules, tariff rules.

(d) Refunds for unused and partially used tickets.

~~(i) Rules must state, "Unused tickets will be redeemed at the purchase price. Unused portions of round-trip or commutation tickets will be redeemed by charging the regular fare or fares for the portion or portions used, and refunding the balance of the purchase price."~~

Section -266(1) removes WAC 480-149 from consideration or application to auto transportation companies, however, this bit of language is imported from it. It creates a false impression for the consumer. There are many instances where a ticket is not refundable, (see ex. in Sec.(3)(d)(ii),(iii). This creates confusion for the consumer and wastes staff and company time in producing tariffs that have to deal with this language. We suggest the following language:

"Unused tickets will be redeemed at the purchase price when qualified under the company's rules. In such cases unused portions of round-trip or commutation tickets will be redeemed by charging the regular fare or fares for the portion or portions used, and refunding the balance of the purchase price less any applicable administrative fees."

(iii) A customer who has made a ~~door-to-door~~ reservation but fails to appear at the designated pick-up point by the scheduled departure time is not eligible for a refund unless the failure was caused by an airline delay or cancellation and there are no seats available for that customer on the next scheduled shuttle.

There is no difference between a door-to-door reservation and a reservation made with a by-reservation-only carrier. With out reservations, a trip may not take place. Failure to show by a passenger who has reserved a seat causes the company to incur an unrecoverable expense unless the passenger is not eligible for a refund. The Commission already insists that the operator pay for delays caused by the airlines over which the operator has no control and that are no fault of the operator. In these instances we must be able to recover as we do now.

Realistically, this applies to all operators who accept reservation. We have taken the seat off the market and can't re-sell it. Staff is so concerned about discount pricing and the impact upon full fare customers but has disregarded the impact of customers who hold seats, don't use them and then expect their fare back. That is a direct impact upon the economics of the company and the fares that we have to charge our good customers.

~~(3)(i) Alternate means of transport that will be provided by the company if it is unable to provide transportation to a customer for whom a reservation has been accepted~~

If weather, road closures, ferry failures, civil unrest or any number of other conditions exist which preclude the company from providing transportation, they would also necessarily preclude using an alternate means. When customers fail to perform on their obligations under a reservation due to circumstances outside the company's control (airline delays and cancellations) we are required to return the customer's fare. This covers the situation, or is the Commission now suggesting that when an airline causes a delay and we are now unable to accommodate the passenger due to that delay we must find alternate transportation for that passenger? This would be an unrealistic burden, we are not travel agents.

WAC 480-30-366 Tariffs and time schedules, supplements.

WAC 480-30-376 Tariffs and time schedules, filings after name change or change in ownership.

Change rate(s) to fare(s) in both these sections.

WAC 480-30-381 Tariffs and time schedules, filing procedures.

(1) **Method of filing.** An auto transportation company may submit tariff and time schedule filings to the commission in person, by mail, ~~or~~ by telefacsimile or electronically. If an auto transportation company files by telefacsimile, the company must mail a hard copy on the same day as the telefacsimile transmission. Companies are encouraged to file their tariffs and time schedules electronically, according to the commission's policies and procedures.

Make this clearer. It should read: An auto transportation company may submit tariff and time schedule filings to the commission in person, by mail, by telefacsimile or electronically.

(2) **Transmittal letter.** An auto transportation company must ~~file two copies of~~ a transmittal letter with each tariff or time schedule filing submitted to the commission.

(a) The transmittal letter must include at least the following:

(i) The name, certificate number, and trade names of the company;

(ii) A description of each proposed change in the tariff or time schedule ~~and a brief statement of the reason for each change;~~

~~(iii) If the filing requires customer notice under the provisions of WAC 480-30-316, the transmittal must also include the date notice was posted and must list the locations at which the notice was posted; and~~

(iv) A contact person's name, mailing address, telephone number, telefacsimile number (if any), and e-mail address (if any).

~~(b) Transmittal letters accompanying rate filings must also include the following:~~

~~(i) The percentage amount that fares will change if approved by the commission;~~

~~(ii) The amount revenue will change if the commission approves the proposed rates~~.

Why are we still filing multiple hard copies? All of this should be done electronically. Transmittal letters have historically been included with filings to identify who the filing is for and what type of filing is attached. Only one copy has been required. This draft is to, in part, replace Tariff Circular No. 6 and WAC 480-149, with clearer, more concise and efficient language and procedures. In this case, however, the paper work burden for the company is not just doubled but expanded to an unknown degree in order to provide the Commission with a synopsis of the complete filing including justifications within the transmittal letter for each section of the filing. Clearly the intent here is to reduce the workload at the Commission and place it upon the company. It is unreasonable that the Commission seeks to ease its regulatory burden by increasing the administrative burden on the regulated. We have budgets too, imposed by the Commission. Do not use this draft to create more work for the companies; it should be a streamlining and paper work reducing procedure.

(iii) Draft 480-30-321would require:

(1) Within five days of making a filing requiring posting of a customer notice under WAC 480-30-316, but no sooner than the date the filing is submitted to the commission, a company must file a statement with the commission's records center that the required notice has been posted. The declaration must include:

(a) Description of where the notice was posted;

(b) Date the notice was posted; and

(c) A copy of the customer notice.

While we strongly dispute the need for -321, here is another example of frivolous paper work gone wild. We are to supply copies with declarations when we post a required notice, then must resubmit the information yet again in the transmittal letter. When are we to transport passengers to the airport? We will be too busy creating mounds of redundant paper.

WAC 480-30-391 Tariffs and time schedules, ticket agent agreements must be filed & approved.

~~(1) An auto transportation company may enter into contracts or agreements with a second party for the sale of tickets or fares on behalf of the company, provided the form of such contracts or agreements has been previously approved by the commission.~~

~~(2) The contract or agreement form submitted to the commission for approval must contain, but is not limited to, the following:~~

~~(a) The name and certificate number of the auto transportation company;~~

~~(b) Spaces in which to record identifying information about the person entering into the contract or agreement with the company. This information must include at least the person's:~~

~~(i) Name;~~

~~(ii) Business address.~~

~~(iii) Business telephone number.~~

~~(iv) Business telefacsimile number.~~

~~(v) Business e-mail address.~~

~~(c) Spaces in which will be recorded the date on which the contract or agreement becomes valid and the date on which the contract or agreement will expire.~~

~~(d) A clear description of the services that will be provided by the second party on behalf of the company;~~

~~(e) A statement of the percentage of revenue or the set dollar amount that the company will pay the second party for performing those services; and~~

~~(f) A statement as to how and when payment will be made to the company for tickets, less commission~~

Delete this entire section. It has no place in today's market. Under this provision, we will need specific, approved contracts with each travel agent around the county that we might do business with. It is industry standard to pay a commission on travel sales to travel agents and they are internal agreements that may be written or oral and are of no concern to the public or the Commission. They are a simple marketing expense understood in all other facets of the travel industry, of which we are an integral part. Stop trying micro-managing the airporters.

WAC 480-30-396 Tariffs and time schedules, free and reduced rates.

If a company offers free or reduced rates to its employees must this be published in the tariff? Employees on training runs or line checks who occupy a seat, are they a "free" passenger? How are passengers who have been given a "free" seat as resolution to a customer service issue treated in the tariff?

~~(4) The auto transportation company must record the number of passengers transported under each free or reduced fare published in its tariff.~~

This requirement is already covered in draft 480-30-056 (3)(a)(D).

WAC 480-30-421 Tariffs, general rate increase filings.

(1) A general rate increase filing is a tariff change that would:

(a)Increase the company's gross annual revenue from activities regulated by the commission by three percent or more, or, in excess of the Consumer Price Index, Transportation, as calculated from the twelve months immediately preceding the month in which the request was filed, which ever is higher.

(b) Restructure tariffs so that the gross revenue generated by any customer class would increase by three percent or more , or in excess of the Consumer Price Index Transportation as calculated from the twelve months immediately preceding the month in which the request was filed, which ever is higher.

(2) The following tariff changes are not considered general rate increase filings even though the request may meet one or more criteria identified above:

(a) Filings for collection of per-customer pass-through surcharges and taxes imposed by the jurisdictional local government based or state tolling authority on the current year customer count either as a specified dollar amount or percentage fee amount.

This entire section should be replaced by one of similar language to WAC 480-15-490 which describes "Banded" rates or fares in our case with a 20% deviation permitted from a base fare. The base fare should be the average of the fares as published on the first day of each of the 12 months preceding the month in which the annual report is filed. Once the "base" fare is thus established, the company may deviate from it plus or minus 20% during the next 12 calendar months without further review upon seven days notice to the Commission and public. This will permit the companies to react to market factors and eliminate the need for fuel surcharges. It is the ***ONLY*** *realistic way to determine fares.*

The Commission has proposed allowing a once annual 3% increase in revenues as a way to relating to the market. While it is an improvement over the current policy of no movement permitted, it falls far short of what is needed and therefore we cannot support this proposal in good faith. We only offer the following additional alternative as a very poor substitute for real reform.

Three percent often puts the companies in a negative earnings position. Prices, cost of goods, fuel, services, maintenance are all rising. Three percent is an arbitrary figure. The Transportation CPI is a true indicator of the cost of our service. With out a CPI benchmark we can't keep even with the rest of the economy without going through an extensive general fare process. This will save the companies money, the Commission money and the consumer ultimately money. The state employees salaries and pensions are tied to CPI, why then is staff so resistant to applying this universally accepted index to our industry?

Bridge tolls, highway tolls and ferry tolls are a reality. The companies have no control over these expenses and they should be considered a pass through to the consumer and have no effect upon the revenue stream as viewed by the Commission.

~~WAC 480-30-426 Tariffs, general rate increase filings, work papers.~~
Not necessary under the Banded fares methodology, we will be limited to a 20% deviation.

~~WAC 480-30-431 Tariffs, general rate increase filings and fuel cost update.~~
~~An auto transportation company filing a rate change based on changes in general operating expenses must update the test period fuel costs using actual fuel costs for the most recent twelve-month period.~~
This section becomes moot upon the implementation of the Banded methodology and therefore should be stricken. We offer the policy below (see work sheet) as a replacement for the current ill defined policy. As no WAC or Rule exists currently covering Fuel Surcharges, this new policy can be implemented immediately by the Commission. It will greatly streamline the process to the benefit of all.

The current application and calculation of fuel surcharges requires 5 separate documents to be submitted EACH time a fuel surcharge is requested. They are the spreadsheet calculation form (40 lines long), a copy of the most recent fuel invoice from your supplier, the Cover letter, the LSN supplement form and the surcharge supplement form. We must also send these in on a time schedule that matches the open meeting calendar, which is not consistent throughout the year and if we fail to send one in we are prohibited from any surcharge for at least 2 weeks. We cannot even continue the surcharge that was in effect at the time. There are several faults in the current methodology that need to be changed.

1. It does not recover the full amount of the rapidly increasing fuel costs, since it is based on previous year's data for the base numbers, and it does not allow for FULL recovery of fuel costs due to the 1% deduction on line 24 of the attached sample form and the overall methodology used. This 1% exclusion actually results in non-recovery of approximately 30-40% of the increased fuel costs. The overall methodology is designed to NOT give full recovery. In addition, there has not been consistency by staff in determining the numbers to use for past year's fuel costs and past year's passenger count. This will all be eliminated by a form that does not allow for any "interpretation" by staff or the operators.

Using our most recent filing we had a 50 cent surcharge allowed. However, if the 1% line is eliminated, our surcharge would have been 75 cents. This is a 33% reduction from what we should have been permitted. In the previous month we had fuel costs of $5000. In March of this year we had a monthly fuel cost of $3500. Our increase was thus $2000 and we were only able to recover 50 cents per one way passenger in September 2005 and recovered less than $1000 of the $2000 increase. This is 50% LESS than we should have been allowed to recover.

2. The form is overly complex. There is NO reason to do all the percentage calculations and relate it to revenue. Fuel costs are an item we ACTUALLY pay and we know how much we pay each month. Our revenue has NOTHING to do with how much of a fuel surcharge we should be able to collect.

3. Rounding is not needed. The original reason for rounding to the nearest 25 cents, as stated by staff in their original justification was for "fare box" collection. We DO NOT have any fare boxes and therefore should not have 25 cent rounding. We should be able to "round" our fares to a penny or nickel if we want. The customer usually pays by check or credit card already and if they pay cash then it is OUR job to make the change as we do now, with 25 cent rounding.

4. An LSN should not be required for fuel surcharge filings. They should be standardized and approved within three business days of service date. As ***ALL*** *fuel surcharge requests are now filed with an LSN it has be come redundant and superfluous. What purpose does it serve to set a statutory time limit that is not followed by the Commission or the company in each and every instance and requires extra paperwork to circumvent? Make the required notice period thee days and eliminate the waste.*

We recommend that operators are permitted a fuel surcharge equal to or less than 3% of their regular one-way adult fare WITHOUT any staff review or calculation. In most cases this amount would be less than $1.00. Fuel surcharges are a "pass-through" charge and should have no effect upon the revenue calculations in a "rate" (fare) hearing. If this is not considered a reasonable method then we would propose the following. Please see the attached spreadsheet.

The desired result of BOTH the new fare methodology and fuel surcharge procedures is to permit operators to make immediate adjustment in their fares as economic situations require and to remove the burdensome procedures that are currently in place and give us a simple method to offer fair, just, reasonable and sufficient fares.

2005 BUS FUEL SURCHARGE CALCULATION SHEET								
					NEW METHOD			
Line								
No.								
1		Monthly fuel cost for preceeding month						$ 5,000.00
2		Monthly fuel cost for most recent month prior to a fare increase					-	$ 3,500.00
3		Amount to be recovered					=	$1,500.00
4		**IF LINE 5 IS LESS THAN ZERO, STOP. YOU DO NOT QUALIFY FOR A FUEL SURCHARGE.**						
5		Divided by Number of Passengers for preceeding month						1889
6		Equals one-way fuel charge (Round to nearest nickle)					=	$ 0.80
		NOTES: FUEL COSTS ARE FOR THE SAME NUMBER OF TRIPS PER TARIFF. IF SCHEDULE						
		IS CHANGED TO ADD OR REMOVE TRIPS, FUEL COSTS MUST BE ADJUSTED.						

WAC 480-30-436 Tariffs, special or promotional fare tariff filings.

(3) The Commission is specifically prohibited from filing a complaint against any company that files for a special or promotional fare under this section.

This addition is an absolute requirement of this section. While (1) states: The commission encourages auto transportation companies to explore innovative rates and rate structures including special or promotional fares…, the Commission has proven that it will attempt to punish or penalize any company that suggests a change in fares that do not meet with its approval. No company will be willing to propose any fares under this section with out statutory assurance that this type of punitive action is strictly and absolutely prohibited.

WAC 480-30-446 Availability of information.

(1) **Company information.** A company that provides passenger transportation service must have a:

~~(a) Toll-free business telephone number~~; and

While in this day and age it is almost a business necessity for this type of service, it is a business decision not a Commission decision. In no other travel industry is it a requirement by code, for the regulated to provide free service to the customer. We receive close to 5000 calls a month at our office and a full 10% of those calls are to our toll free number from local areas that are not toll areas. We are paying double for them. To require us to maintain this burden or for any other company to have to initiate this free service by statute is an unreasonable and unwarranted intrusion into the company's business policies and marketing strategy by the Commission. This is another unfunded economic burden on the company.

(4) **Information that must be available.** A company must make the following items available to customers for inspection upon request at no charge between the hours of 9:00 AM and 4:00 PM on regular business days.

(a) The commission's Passenger Transportation Company rules in chapter 480-30 WAC;

(b) The company's current tariff and time schedule;

(c) The company's current certificate; and

(d) Any current, proposed, or most recently canceled tariff page that relates to the customer's service.

(4) The hours when records are available must be defined and reasonable. In addition, we are not a duplicating or a copy service. If the customer requires copies then they are available from the Commission or the company may provide them for a fee.

(a) Presumably the Commission means the Company's Passenger Transportation Company rules as defined in chapter 480-30 WAC. If in fact the Commission means the actual code or language of 480-30 WAC, than that information is available from the Commission to any person requesting it and need not be supplied by the company. Needs to be clarified.

WAC 480-30-451 Refusal of service.

(g)The customer is loud, abusive or offensive to company personnel or other passengers.

(h) The customer is unhygienic, dirty or exuding noxious or offensive odors.

(i) The customer wares or displays clothes, slogans, graphics, pictures or other such articles or items as may be profane or generally accepted as obscene or in socially unacceptable taste which is offensive to company staff or other passengers.

(j) Any other restrictions contained in the Passenger Transportation Company rules approved by the Commission.

(k) The customer's right to travel is expressly limited by these rules.

These are necessary protections for the health, welfare and safety of the passengers and company. In these litigious times the company must have this statutory protection.

WAC 480-30-456 Fair use of customer information.
While we strongly agree with this provision, we find it curious that the Commission permits other regulated industries virtually unrestricted access to this information in their customer base and places the burden of "opting out" on the customer.

WAC 480-30-461 Service or rate complaints.

(3) **Complaints against the Commission.** Any company operating under the authority of the Commission may file a complaint against the Commission or staff thereof, for violation of the rules and provisions governing the operation of the company and actions of the Commission.

(1) **Commission responsibility.**

(a) **Complaints from a company.** When the Commission receives a complaint from a company it must:

(i) Acknowledge the complaint within twenty-four hours;

(ii) Investigate promptly;

(iii) Report the results of the investigation to the complainant;

(iv) Take corrective action, if warranted, as soon as appropriate under the circumstances;

(v) Inform the complainant that the decision may be appealed and to whom and in what form the appeal must take;

(vi) Advise that if the complainant is still dissatisfied after the internal appeals process, which court of jurisdiction the complainant may seek a judicial ruling.

(b) **Complaint record.** The Commission must keep a record of all complaints for at least three years. The record of complaints must be readily available for public review. The record must contain:

(i) The complainant's name and address;

(ii) Date and nature of the complaint;

(iii) Action taken;

(iv) The final result, and

(v) All official documents regarding the complaint.

No where in the draft are the regulated afforded any protection or redress from wrongful or negligent acts which violate the code, by the Commission or staff. The Commission spells out in detail all of the courses of action by the Commission and the public in a complaint against a company, but completely fails to offer that same protection to the companies. Clearly this is an oversight on the part of the commission. What is good for the goose is good for the gander. This must be corrected in this draft, I can think of no logical reason why this has not been proposed by the Commission in previous drafts.

WAC 480-30-471 Ticketing requirements.

~~(g) Information related to baggage liability, the ability to declare higher value, and the charges for such declaration;~~

See comments -476

~~(h) The company's toll-free telephone number~~.

See comments -446(1)(a)

WAC 480-30-476 Baggage liability and claims for loss or damage.

There appear to be major problems with this section. By any measure the Commission is requiring auto transportation companies to conduct business in contradiction to RCW. By definition we would be "insurers" selling "insurance" which would require a "License" issued by the Insurance Commissioner. If companies were to comply with this section they would be in violation of RCW and subject to fines and imprisonment for committing a gross misdemeanor.

If the Commission can put forth a reasonable and logical argument for this provision placing liability on the company then it is a good idea to define a limit on liability, but we cannot offer excess liability protection for a fee. As we have no realistic way of assessing true value of any particular piece of baggage short of inspecting and inventorying each and every piece, a liability limit of $100 per passenger is more realistic. Airporters are generally a direct, premium service. The customer hands the baggage to the driver and it is immediately loaded on the vehicle. The reverse takes place at the termination of the route. We are not airlines with massive baggage handling systems and connecting flights with opportunities for lost or destroyed baggage. This really is not a problem with our industry. We suggest limits of $100 per customer ($50 per child) and double those limits on connecting, joint or through routes. We cannot sell additional insurance to the customers.

(3) **Claims.** Auto transportation companies must make claim forms available to their passengers upon request at each of the company's offices~~, passenger facilities, and from the driver of each vehicle operated.~~ The forms must be prepared in duplicate. The company will retain one copy. The second copy will be given to the passenger filing the claim.

The commission has once again exhibited a propensity towards a paper explosion. Forms at the office, forms at passenger facilities and forms on the vehicles, this is overkill. If the commission were to study the current tariffs of the existing operators they would see that most passenger facilities are hotels, convenience stores, gas stations, transit bus facilities and other such similar venues sited to be the most convenient locations for our customers. These do not offer unlimited space for forms and copies of other documents which are readily available from the company at its business office, the Commission or on the WEB. We have administrative staff to handle customer service issues such as these; we do not need to further burden our drivers with more forms. They need to keep our shuttles on schedule in a safe and professional manner, let them do their job and let our office staff do theirs.

(4) **Loss or damage to carry-on items.** The company shall not be held responsible for loss or damage to baggage carried on board the vehicle unless it can be shown that the company was in some way negligent. Each company shall have a written policy detailing the manner in which items, articles, or baggage left on board a company's vehicles will be handled and the way in which the company will make efforts to return the articles to their rightful owners and any fees that may be charged for this service.
Just like "change fees" to cover administrative costs, companies must be able to asses a handling fee for processing and or returning items left onboard the company's vehicles by customers.

Conclusion

It is our hope that the Commission will seriously consider the comments contained herein. Together with the comments of the other operators, they offer the Commission the most complete survey of impact and application that is possible. Not all operators are or will be in agreement with each others comments or suggestions. However, you will see that there is agreement between all of the operators that a very strong need for additional work on this draft exists. We cannot over emphasize the need for drastic "rate" methodology overhaul at this time. It must be part and parcel of this draft. After three and one half years, don't deny us the proper code revision that we and the public deserve.

One can only present a very limited argument for or against the various sections of this draft in limited written comments. We, as well as the other Airporter Operators, have requested a meeting with the Commission and concerned staff to more thoroughly examine the draft and the effect upon our industry and the public. To date we have not been offered any such meeting. We wish to emphatically restate our concern that without such a meeting we will not have been given a sufficient forum to comment on the propped rule changes.

SeaTac Shuttle, LLC
October 18, 2005