

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SHUTTLE EXPRESS, INC.,

Petitioner and Complainant,

v.

SPEEDI SHUTTLE WASHINGTON, LLC

Respondent.

DOCKET NOS.

TC-143691

TC-160516

ANSWER OF SHUTTLE
EXPRESS, INC. TO PETITION
FOR LEAVE TO REPLY

- 1 The Petition for Leave to Reply¹ of Respondent SpeediShuttle² asserts broadly, but without any specifics, that it should be allowed to reply to “new matters which were not reasonably anticipated....” Perhaps the best response to a broad assertion that is essentially unsupported is that the Petition fails so show there are any new issues or what they are.³
- 2 The only matter the Petition articulates in even some measure as being “new” is the “walk-up issue.” But that matter has been at the heart of this case since the Petition for Rehearing and Complaint were filed last May, having been addressed at length by Shuttle Express and the Respondent. *E.g.*, Petition and Complaint, ¶¶ 9-15, 20-23, 27-28, 38, and Exhibits A and B; SpeediShuttle Answer to Petition, ¶¶ 20-27. The walk-up issue was barely touched on by Respondent in its Petition for Administrative Review.⁴ But that was by oversight or a calculated strategy. The issue was already well-known and hotly contested by then.
- 3 Although it should not be the job of Shuttle Express (or the Commission) to try to compare the Proposed Reply to the prior filings in the case to figure out what is new—if anything—

¹ SpeediShuttle’s Petition for Leave to File Reply to Shuttle Express’ Answer to SpeediShuttle’s Petition for Administrative Review, filed September 12, 2016.

² SpeediShuttle Washington, LLC; to be referred to herein as “SpeediShuttle” or “Respondent.”

³ The Proposed Reply shows what Respondent wants to argue about—yet again—but does not connect up the dots to show that they are new issues that could not have been addressed previously.

⁴ SpeediShuttle’s Petition for Administrative Review of Initial Order 06, Note 12.

Shuttle Express will briefly tie a few of the high-level points to prior pleadings:

- Petitioner’s Answer seeks “demise” of Respondent, etc.⁵ – Petition sought cancellation or restriction of certificate⁶
- Petitioner’s Answer “conflates” UTC authority with Port concession⁷ – Port documents attached to the original rehearing petition and the concession agreements discussed in Respondent’s Answer⁸
- Respondent’s reputation, veracity, lawfulness, etc. under “assault”⁹ – Petition alleged “inconsistent statements,” “misrepresentations, overstatements,” below cost pricing, inter alia¹⁰
- Discussion of RCW 81.68.040 a “collateral attack” on 2013 rules¹¹ – interplay of 81.68.040 and new applicant rule discussed in Petition¹²

4 SpeediShuttle got the “last word” by Commission rule on its answers to the Petition and Complaint. On top of that, it took two more bites of the apple in the form of its Motion to Dismiss the Complaint and its Petition for Review of the Rehearing Petition. Now it seeks yet another filing on the rehearing petition in the form of a reply by leave.

5 The arguments in the Proposed Reply might be appropriate as post-hearing brief, assuming that by then the Respondent has developed an evidentiary record to support them. But at this pre-discovery phase of the case, Respondent neither needs nor deserves yet another brief against a pleading it has briefed several times already in various forms.

6 Respondent’s Petition for Leave to Reply seeks yet again to file what is essentially a post-hearing brief rehashing long-standing issues; but before any discovery, testimony, exhibits,

⁵ Proposed Reply, ¶ 2.

⁶ Petition and Complaint, ¶¶ 48-50.

⁷ Proposed Reply, ¶¶ 5-7. The trigger for this argument is not specified nor is it self-evident. It appears to be largely a rehash of the “walk-up” issue. Also, it makes assertions about Respondent’s subjective intent without record support.

⁸ Petition and Complaint, Exhibits A and B; Answer to Petition to Rehear, ¶ 21.

⁹ Proposed Reply, ¶ 9.

¹⁰ See generally, Petition and Complaint. See also Response of Shuttle Express re Motion to Dismiss, ¶ 26 (Respondent “used guile and flat-out lies”).

¹¹ Proposed Reply, ¶ 2

¹² Petition and Complaint, ¶¶ 30-34. See also Response of Shuttle Express re Motion to Dismiss, ¶ 23.

or cross-examination. The approach is backwards. The Petition and Reply are excess and useless process that serve only to prejudice Shuttle Express, delay the case, and drive up costs. The Commission should deny the Petition and reject the Reply.

Respectfully submitted this 16th day of September, 2016.

LUKAS, NACE, GUTIERREZ & SACHS, LLP



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CERTIFICATE OF SERVICE

I hereby certify that on September 16th, 2016, I served a copy the foregoing document via email, with a copy via first class mail, postage prepaid, to:

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Dated at McLean, Virginia this 16th day of September, 2016.



Elisheva Simon
Legal Assistant