

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of EAGLE TOWNCAR SERVICE LLC, For Authority to Operate as an Auto Transportation Company in Washington.	DOCKET TC-240717 ORDER 01 INITIAL ORDER OVERRULING OBJECTION TO APPLICATION FOR NEW AUTHORITY
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BACKGROUND

- 1 On September 23, 2024, Eagle Towncar Services, LLC (Eagle Towncar or Company) filed its application for temporary authority to operate as an auto transportation company in Washington with the Washington Utilities and Transportation Commission (Commission). Eagle Towncar’s application describes its proposed service as “scheduled nonstop passenger by reservation only between downtown Bellevue and SeaTac Airport.”¹
- 2 On October 15, 2024, Pacific Northwest Transportation Services (PNTS) filed an objection to Eagle Towncar’s application for temporary operating authority on the basis that it currently holds a certificate to provide passenger auto transportation service between SeaTac Airport and downtown Bellevue and will continue to provide this service.²
- 3 On November 13, 2024, at the request of Eagle Towncar, the Commission scheduled a Brief Adjudicative Proceeding in this matter for January 6, 2024.
- 4 Eagle Towncar filed an application for permanent authority in Docket TC-240856 on November 13, 2024.
- 5 On November 14, 2024, Eagle Towncar filed to strike PNTS’s objection, on the grounds that PNTS does not meet the regulatory requirements of Washington Administrative Code (WAC) 480-30-116(2), because the service it offers (door to door) in the relevant territory is different in kind than the type of service (scheduled service) Eagle Towncar is applying to have authority for.
- 6 On November 20, 2024, in Docket TC-240898, PNTS filed an application for extension of its certificate to provide service over an area which overlaps that which has been applied for in Eagle Towncar’s applications for temporary and permanent authority.

¹ *In re Application of Eagle Towncar LLC*, Docket TC-24017, Application, 5 (Sept. 23, 2024).

² *In re Application of Eagle Towncar LLC*, Docket TC-24017, Objection, 2 ¶3 (Oct. 15, 2024).

7 On November 21, 2024, PNTS filed a response in opposition of Eagle Towncar’s motion. In its response, PNTS appeared to argue that because it offered services in the same service territory, and had recently applied to expand the types of services it offers, that it should be able to object to the application.

8 Also on November 21, 2024, Staff responded to Eagle Towncar’s motion and stated that it took no position on whether PNTS’s objection should be stricken. However, Staff “observes that it does not appear that [PNTS] holds a certificate that authorizes the same service that Eagle Towncar has applied to provide, which is scheduled service between Bellevue and SeaTac Airport.” Further, we note that “Staff does not object to the Eagle Towncar’s request for the granting of temporary authority,”³

9 On November 22, 2024, Eagle Towncar filed a motion for permission to file a reply brief, along with a proposed reply to PNTS’s response. Given the greater clarity that the filing provides to the record, we grant Eagle Towncar’s unopposed motion and consider its reply in making this decision.

10 On November 22, 2024, the Commission issued Bench Request 1 in this matter to clarify whether PNTS had ever offered the service it sought to prevent Eagle Towncar from receiving authority to perform.

11 On November 25, 2024, PNTS responded to Bench Request 1 and clarified that it does not offer Scheduled Passenger Services between SeaTac and Bellevue.

DISCUSSION AND DECISION

12 On September 21, 2013, the Commission amended its rules governing the Commission’s review of applications for authority to operate a passenger transportation company in Washington. The changes clarify and streamline the application process for companies seeking to provide such service, give companies rate flexibility, and promote competition in the auto transportation industry. Existing companies may file objections to new applications on limited grounds that, if sustained, will result in denial of the application. If the objections are overruled, the application proceeds through a Commission staff review of fitness and compliance with the other prerequisites for obtaining a certificate of convenience and public necessity.

13 WAC 480-30-116(3) provides that adjudications of auto transportation applications are “limited to the question of whether the objecting company holds a certificate to provide the same service in the same territory, whether the objecting company provides the same service, and whether an objecting company will provide the same service to the satisfaction of the commission.” All three elements must be present for the Commission

³ *In re Application of Eagle Towncar LLC*, Docket TC-24017, Commission Staff’s Response to Eagle Towncar Service LLC’s Motion to Strike Objection and Grant Temporary Application, at ¶ 10 Nov. 21, 2024).

to deny an application to serve a given route. Only the first of these elements will be discussed below.⁴

- 14 In previous proceedings, the Commission rejected arguments that “the term ‘same service’ is inherently unclear and that whether two services are the same is a factual issue that should be determined only after an evidentiary hearing.”⁵ Instead, the Commission concluded that it:

[h]as established criteria for determining whether a certificate holder is providing the same service an applicant seeks to offer, and the Commission may examine the applicable criteria in an evidentiary hearing if necessary. A hearing, however, is not necessary in this case. As the Initial Order correctly observes, the Commission has previously determined that a transportation service with multiple stops between the beginning and end of the route is not the same as a service without any such stops.⁶

- 15 In any event, ambiguity is not present in the proffered objection to this application. Under WAC 480-30-140(2), the Commission may consider a number of factors to determine whether the service applied for is the same as existing service. Here, the relevant subsection is WAC 480-30-140(2)(g), which proscriptively states, “Door-to-door service and scheduled service in the same territory will not be considered the same service.”
- 16 In responding to Bench Request 1, PNTS clearly and unambiguously states that “PNTS has not performed Scheduled Passenger Services between SeaTac and Bellevue.”⁷
- 17 This application docket is concerned with Scheduled Passenger Services between SeaTac and Bellevue; given PNTS’s above discussed admission, it does not “provide[] the same service published in the application docket,” as contemplated by the text of WAC 480-30-116(2).
- 18 PNTS has made some arguments to suggest that it has a right to object to the application because PNTS itself has a pending application to receive the authority it is attempting to prevent Eagle Towncar from acquiring. However, these statements regarding a pending application are not relevant here.⁸

⁴ We decline to reach the remaining elements or other side issues raised by the filings; the regulations call for us to proceed in the “most expeditious manner consistent with state law.” WAC 480-30-116(3).

⁵ Docket TC-130708, Order 03 at ¶ 14 (February 19, 2014).

⁶ *Id.*

⁷ Declaration of John E. Fricke In Response to Bench Request No. 1, at ¶ 3 (November 25, 2024).

⁸ Order 03 at ¶ 13 (“We construe this statute narrowly, and, as our rules currently reflect, we will authorize an otherwise qualified company to serve a route that the existing certificated companies do not serve at the time the applicant files for that authority.”) (emphasis added).

19 PNTS has admitted facts fatal to a necessary element; a hearing is not necessary to
determine the merits of the objection at issue.⁹

ORDER

- 20 (1) The objections to Eagle Towncar Service, LLC’s application to provide service
between points between Bellevue and SeaTac Airport are overruled.
- 21 (2) Commission Staff shall issue its findings and determination for Eagle Towncar
Service, LLC’s application.
- 22 (3) For administrative efficiency, unless noticed further, the parties shall remain
available for the scheduled BAP on January 6, 2025, which shall remain
scheduled to address any subsequent or related proceedings.

DATED at Lacey, Washington, and effective November 27, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Bijan Hughes
BIJAN HUGHES
Administrative Law Judge

⁹ *Id.* at ¶ 11 (“We further conclude that no evidentiary hearing was necessary to determine that neither Wickkiser nor SeaTac Shuttle provides the same service that SeaTac Direct proposes to offer.”).

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-610(7) provides that any party to this proceeding has twenty-one (21) days after the entry of this Initial Order to file a *Petition for Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-610(7)(b). WAC 480-07-610(7)(c) states that any party may file a *Response* to a Petition for review within seven (7) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

Any Petition or Response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5). Any Petition or Response filed must also be electronically served on each party of record as required by WAC 480-07-140(1)(b).