

[Service Date January 6, 2009]

January 6, 2009

**NOTICE REQUIRING REFILING OF REQUEST FOR LEAVE TO WITHDRAW
OR, IN THE ALTERNATIVE, REQUIRING PRODUCTION OF STIPULATION
(Due January 16, 2009)**

RE: *Seatac Shuttle LLC v. Kenmore Air Harbor LLC*, Docket TC-072180

TO ALL PARTIES:

In an undated letter filed December 9, 2008, Complainant Seatac Shuttle, LLC (Seatac Shuttle), asks Commission permission to withdraw Seatac Shuttle's November 6, 2008, Petition to Amend Original Complaint (Petition to Amend), and asks the Commission to close the docket. Kenmore Air Harbor LLC (Kenmore Air) supports these requests. Staff does not oppose either request.

Ordinarily, it would be a routine matter to grant Complainant's request. However, Seatac Shuttle's letter contains a statement that Seatac Shuttle and the Respondent, Kenmore Air, have "agreed to certain stipulations which [sic] resolve all remaining issues relative to this docket to the satisfaction of Seatac Shuttle." This puts the matter in a different light from the Commission's perspective. When parties to Commission proceedings enter into settlements, they are nothing more than proposals from the parties offering a proposed resolution to the contested issues. The Commission must either approve and adopt the proposed settlement, with or without conditions, or reject it. It is neither appropriate, nor legally correct for parties to enter into private agreements that purport to resolve contested issues that are within the jurisdiction of the Commission to decide and then seek leave to withdraw from the process established for the Commission's exercise of its authority.

On the other hand, it is perfectly understandable that neither Seatac Shuttle nor Kenmore Air wish to spend their own time and money pursuing a private complaint to determine a narrow legal question. Thus, if Seatac Shuttle wishes to refile its request for leave to withdraw and have the Commission close this docket, such a request can be granted if it is made independent from any purported "stipulation." That will make clear, as Staff suggests in its letter filed in this docket on December 24, 2008, that there is no agreement between these

parties purporting to resolve any matter that, if properly pled, would be within the Commission's jurisdiction to determine and enforceable by the Commission. As Staff states: "The Commission can address outside this docket issues such as safety jurisdiction over Kenmore Air's ground transportation services," if it elects to do so.

If Seatac Shuttle does not wish to refile its request for leave to withdraw, without making reference to any purported "stipulation," and it is understood that no such stipulation exists that purports to resolve any matter within the Commission's jurisdiction, then the Commission requires that the parties file their stipulation along with statements in support of its approval and adoption in resolution of the issues in this proceeding. The Commission may decide the matter presented in this fashion on a paper record, or may convene a hearing for purpose of receiving any evidence and hearing argument.

THE COMMISSION GIVES NOTICE that, by January 16, 2009, Seatac Shuttle must either refile its request for leave to withdraw from this proceeding in accordance with the terms of this Notice, or must produce for the Commission's consideration the parties' stipulation along with supporting statements as required under the Commission's procedural rules at WAC 480-07-730 - 750.

Sincerely,

DENNIS J. MOSS
Administrative Law Judge