

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In re: Request for Comments :  
:   
SeaTac Shuttle, LLC d/b/a : Docket No. **TC-060177**  
Whidbey-SeaTac Shuttle :   
: Passenger Transportation  
: (Bus) Rulemaking  
: March 15, 2006  
:   
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Seatac Shuttle, LLC, is encouraged that the commission is opening this examination of fares setting rules. Our comments here are preliminary in nature and primarily posed as language revisions to the WAC. It is our expectation that these and other issues will be discussed at the April 4 workshop. We see three areas that desperately need revision:

**1. Create RULE to replace POLICY**

To date, the rules for fare setting have been vague at best with staff relying on an outdated policy statement in place of rule. As policy only serves as a guide line and does not have the force of law, it has been interpreted by different Commissions and staff members in different ways resulting in an inequitable application of standards. As only a modicum of rule has existed on this subject, the substitute policy has served as a one-way check valve that cannot be contested by the regulated. This situation does not serve the providers, the public or do credit to the Commission. Now is the opportunity for real reform with the codifying of standards that are applicable to all passenger Transportation companies and are not subject to individual interpretation or implementation by the Commission.

**2. Establish a methodology for establishing FARES that are attentive to the marketplace and flexible in an ever changing economy.**

Under the current thinking companies are not permitted to either raise or lower fares to address market situations. Fares are not set with any consideration to the product or service being provided. Fares are set based solely on net earnings of the company using a contrived formula that does not in any way conform to Generally Accepted Accounting Principles. It is manipulated to put the company in the least favorable light restricting earnings to an effective rate of 2 percent or less after taxes. This policy is based

on a more than seventy year old method designed for establishing rates for railroads and has NO application in today's economy for premium airporter service. Companies that file for a fare increase or decrease are subject to complaint and severe economic penalty at the whim of the Commission for the "thought crime" of proposing an increase or decrease. This type of regulation is destructive and not in the public's interest.

**3. Codify the right of companies to pass through a fuel surcharge and a reasonable methodology for calculating it.**

WAC 480-30 in its current form does not provide for pass through fuel surcharges for Passenger Transportation Companies. For a few years now the Commission has permitted these charges under a policy statement and "Order No. 2". Order No.2, to a certain extent, does streamline the process for filing for fuel surcharges but is restrictive in those who can file under it. Additionally, the current calculation method is cumbersome, overly complex and arbitrary in its application to individual companies. In today's volatile energy market there is an absolute need for a codified methodology to address this financially draining factor on our industry. It must be treated as a true pass through and be based on a nationally recognized fuel price index. There is no need what so ever to overly complicate the process with artificial manipulation of irrelevant numbers. It is a very simple concept: fuel expense as a percent of revenue multiplied by an index factor. Period. How simple is that?

**WHILE THE** above three issues are the heart of the matter before us, it is difficult at this stage to limit our comments to just them as we do no know the final out come of DOC# TC-020497. Without reviewing the Commission's final approved version of the draft language we cannot know if there will be other issues that touch on the subject of fares as a result of the adopted language. We will therefore, reserve the right to explore those issues as they arise under this docket.

We have addressed the issue of FARES in two fashions: first by using WAC 480-15 as a template with necessary changes to the language to reflect the unique features of Passenger Transportation Companies and second; through additions, deletions and changes to language proposed under Docket TC-020497.

### **WAC 480-15 as Template:**

#### **WAC 480-30-4XX Tariff, naming rates and fares**

(1) **What is a tariff?** A tariff is a document containing the fares and charges that a passenger transportation company must assess passengers including rules that govern how fares and charges are assessed.

(2) **How are tariff fares and charges established?**

(a) Pursuant to RCW 81.68.030 commission approves tariffs to be used by each passenger transportation company. The Commission approves the fares, charges and rules contained in the tariffs by commission order following notice and hearing. Under RCW 81.68.030, the commission must set fair, just, reasonable, and sufficient rates and charges. The Commission will do this by setting minimum and maximum fares for each passenger transportation company.

(b) Upon the effective date of these rules, and continuing until such time as the Commission, after notice and hearing, determines a different rate level, passenger transportation companies must assess fares and charges within a band.

(i) The maximum fares and charges must be no more than twenty percent above the fares and charges as determined by the Commission based on the current fares in effect for each individual company as of January 1, 2006. This shall be the "base" fare for all future fare calculations for each company. The base fare may be increased or decreased by no more than 3% in any 12 month period without a fare hearing. Any base fare increase in excess of 3% in any 12 month period shall require a fare hearing.

(ii) The minimum fare or charge is fixed at no less than forty percent below the maximum fare or charge established in (b)(i) of this subsection.

(3) **Who must have tariffs?** Each person holding a passenger transportation company permit authority must display at least one copy of its current tariff.

(4) **Where must a passenger transportation company display its tariffs?** Each passenger transportation company must display a current copy of its tariff in its main office and in each billing office.

(5) **Who must charge fares contained in the tariff?** All passenger transportation companies must charge the fares and charges, and comply with the rules contained, in its tariff unless the Commission has approved, in writing, deviations from the tariff.

(6) **Is the tariff the only publication a passenger transportation company needs to use to determine fares?** The Commission may not adopt other methodologies, policies, procedures or deviations to this section to set fares. The Commission may adopt procedures and forms to acquire the information necessary to compute the fares.

(7) **Where may the public view tariffs?** Tariffs are public documents and you must make them available for the public by posting copies at your main office and any billing office. Tariffs are also available for review at the Commission's headquarters office.

## **Revised WAC**

**IN ORDER** to use the above template supporting sections must be in place regarding definitions and the hearing process. These are addressed below in the following sections that suggest language that could be incorporated into the current draft of WAC 480-30. The sections below could be used in conjunction with the 480-15 model or as a draft language for 480-30 without the template.

**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 480-30-216, respectively. Unless the language or context indicates that a different meaning is intended, the following definitions apply:

**"Base fare"** means the fares and charges as approved by the commission in effect for each individual fare category for each company as of January 1, 2006.

**WAC 480-30-30x Fuel surcharges, three calendar day notice to the commission.** A company must provide at least three calendar days' notice to the commission for filings whose only purpose is to implement a fuel surcharge.

**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 to implement decreases in rates.

**WAC 480-30-311 Tariffs and time schedules, requiring thirty calendar day notice to the commission.** A company must provide at least thirty calendar days' notice to the commission for any filing that will result in an increase in fares to customers.

(1) Fuel surcharge filings are exempt from the requirements of this section.

**WAC 480-30-316 Tariffs and time schedules, customer notice requirements.** (1) **Notice.** Each auto transportation company must provide notice to its customers at least thirty days prior to the stated effective date for any proposed tariff change that would increase recurring or prepaid fares, or restrict access to services (e.g., fare increase, route reduction, time schedule change) except those implemented as the result of a fuel surcharge.

**WAC 480-30-406 Tariffs and time schedules, withdrawing a filing.** (1) When withdrawing a tariff or time schedule filing, an auto transportation company must submit a letter that includes the following:

(a) The name and address of the auto transportation company;

(b) Docket number of the filing being withdrawn;

(c) The name of the company's contact person;

(d) An explanation of why the company is requesting the withdrawal; and

(e) A statement certifying that the submitting person has authority to withdraw the filing on behalf of the auto transportation company.

**WAC 480-30-4xx** (1) Pursuant to RCW 81.68.030 the commission approves tariffs to be used by each auto transportation company. The commission approves the fares, charges and rules contained in the tariffs by commission order following notice and hearing. Under RCW 81.68.030, the commission must set fair, just, reasonable, and sufficient rates and charges. The commission will do this by setting minimum and maximum fares for each auto transportation company.

(a) Upon the effective date of these rules, and continuing until such time as the commission, after notice and hearing, determines a different base fare level, auto transportation companies must assess fares and charges within a band.

(i) The maximum fares and charges must be no more than twenty percent above the base fares and charges. The base fare may be increased or decreased by no more than 3% in any 12 month period without a fare hearing. Any base fare increase in excess of 3% in any 12 month period shall require a fare hearing.

(ii) The minimum fare or charge is fixed at no less than forty percent below the maximum fare or charge established in (b)(i) of this subsection.

(2) The commission of its own motion or by petition of an auto transportation company, after notice, shall conduct hearings to determine if a different base fare level in excess of three percent in any twelve month period is appropriate.

(a) Hearings conducted under this section shall determine if economic factors outside the control of the company such as but not limited to: CPI increases, inflation, extraordinary fuel increases, etc, can not be adequately addressed under (1)(a)(i) of this section.

(i) Upon a determination that outside economic factors have risen in excess of three percent, the commission shall determine what increase is necessary to set sufficient fares. Companies may then file for base fare adjustments based upon the new percentage determined by the commission. The new permissible percentage rate shall be effective for twelve months following the effective date at which time it shall revert to three percent.

(ii) Upon determination by the commission that outside economic factors have not risen above the three percent permitted under this section, then three percent shall remain the limiting factor.

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

(1) A fare increase filing is a tariff change that would in any twelve month period:

(a) Increase of the company's base fares by up to

three percent.

(b) Restructure tariffs so that the base fares for any customer class would increase by up to three percent

(2) The following tariff changes are not considered rate increase filings

(a) Filings for collection of per-customer pass-through surcharges and taxes imposed by the jurisdictional local government based on the immediately preceding twelve month's customer count either as a specified dollar amount or percentage fee amount.

(b) Filings by existing auto transportation companies for the implementation of new transportation services.

(c) Filings to recover increases in tolls charged over state highways, bridges or ferries.

(d) Fuel surcharges.

(3) Activities not regulated by the commission shall not be considered in the determination of fares

(4) The commission may not adopt other methodologies, policies or deviations to this section to assess fares. The commission may adopt procedures and forms to acquire the information necessary to compute the fares.

**WAC 480-30-426 Tariffs, general rate increase filings, work papers.**

**This section is no longer applicable. Delete in its entirety.**

**WAC 480-30-431 Tariffs, general rate increase filings and fuel cost update.**

**DELETE in its entirety**

**WAC 480-30-436 Tariffs, special or promotional fare tariff filings.** (1) The commission encourages auto transportation companies to explore innovative rates and rate structures including special or promotional fares intended to:

(a) Retain or increase the number of passengers using the company's services;

(b) Provide the public with flexible transportation options; and

(c) Make more efficient and effective use of the company's equipment and other resources.

(2) Companies filing for special or promotional fares shall not be subject to complaint based on that filing.

### **Fuel surcharges**

#### DRAFT OF NEW PROPOSED FUEL SURCHARGE METHOD FOR PASSENGER TRANSPORTATION COMPANIES

1. As Noted in the Household Good Tariff 15-A, specifically Supplement No. 2006-3 dated March 1, 2006, there is already in place a simplified method to determine any fuel surcharges on a monthly basis.

The following items are directly from that Tariff and Supplement with minor changes to reflect application to passenger transportation companies:

#### Rule 1: General Application

a) The Commission recognizes that:

1. Fuel prices change rapidly and those changes may adversely impact the earnings of passenger transportation companies;
2. Fuel prices rise at different levels in various geographical areas of the state;
3. Fuel-to Revenue ratios may be different for various companies; and
4. The need for fuel surcharges may differ from company to company due to the various factors named.

As such, the Commission authorizes individual passenger transportation companies to analyze their own fuel surcharge supplement needs, and then assess any surcharge amount, up to three and one-quarter percent (including 0%), based on the company's operational needs.

In applying the increases provided under this supplement, first determine the total charges otherwise applicable, then increase that amount by the chosen fuel surcharge amount.

#### Rule 2-Rounding:

Results from the application of this increase will be rounded to the nearest nickel.

Docket TV-060315 has the specific methodology to determine



the current fuel surcharge. We would suggest that rather than have to get both of the indexes referenced and then take an average, that the NEW index be one published weekly by the **Federal Government** titled **Department of Energy's National U.S. Average on Highway Diesel Fuel Prices**. This index is also used by FEDEX and UPS, two of the largest motor carriers in the nation, in their fuel surcharge determinations. DOE publishes the index for West Coast prices and California prices. We propose using the West Coast price, which generally has been lower than the California price. As of the end of February 2006 the price was 2.623 for the West Coast and 2.688 for California. We propose the "base" fuel price be the same price that the Commission currently uses for Household Goods, "average" price from June 22, 2003 data from OPIS and AAA of Washington.

The fuel surcharge would be computed monthly using the most current weekly price from the previous month and apply to all passenger transportation companies for the following month. The amount of the percentage increase is rounded to the nearest one quarter of 1 percent. The fuel surcharge is optional, not mandatory. The calculation is similar to what we already do on the existing spreadsheet. See the following example.

The entire fuel surcharge process should consist of a notification 3 days prior to the effective date with the supporting indexes and NOT be subject to any additional filings or Open meeting approvals. It should be approved similar to order No.2, Docket A-042090 and be authorized for use by ALL passenger transportation companies that currently have permits, regardless of when their last rate hearing was, or when they commenced business. As the notice period would be three days by statute (proposed WAC 480-30-30x) no LSN would be required thereby eliminating hours of superfluous paperwork.

Example:

**See proposed 48-30-30x below**

**WAC 480-30-43x Fuel cost update. (1) A passenger**

transportation company may file a fuel surcharge request once in each calendar month. Each such filing must comply with the following:

(a) Be prepared on form supplied by the Commission as described in (2);

(b) The Base Fuel Rate use for calculations shall be that Base Rate published by the Commission in Tariff 15-A, its latest supplement or succeeding Tariff published for Household Goods Movers under WAC 480-15 whichever is most current;

(c) The United States Department of Energy's National U.S. Average on Highway Diesel Fuel Prices, West Coast Prices shall be the only index used to calculate fuel surcharges;

(i) The index for the week preceding the month in which the filing is submitted shall be the applicable index.

(d) Increases shall be computed by taking the percentage of fuel cost to revenue for the preceding calendar year and multiplying it by the percent increase in fuel price over the base rate as provided in the DOE index. The resulting fuel surcharge factor is then applied to each fare charged by adding that computed percentage to each fare charged by the company. Odd cents shall be rounded to the nearest nickel.

(2) Fuel surcharge calculations shall be submitted on the following form:

**Example**

**2005 BUS FUEL SURCHARGE CALCULATION SHEET**

Line  
No.

1	1. Using the most recent Annual Report Data calculate how much of your total revenue was spent on fuel		
2			<b>Annual Method</b>
3	Fuel Expense		\$20,944.00
4	Divided by Annual Passenger Revenue from Annual Report	÷	\$319,060.00
	Equals Fuel vs. Revenue		
5	Ratio	=	<u>0.065642826</u>
6	Multiplied By 100	x	<u>100</u>
7	Equals Fuel Expense as % of Revenue	=	<u>6.56</u>
8			
9	2. Calculate the fuel price increase.		

10			
11	Current On-Highway Diesel Fuel Price FROM DEPT OF ENERGY		2.711
	MINUS BASE FUEL PRICE-June 22,		
12	2003	-	1.700
13	Equals Difference	=	1.011
14	Divided By Base Fuel Price (Line 12)	÷	1.700
15	Equals Relative Fuel Price Difference	=	0.595
16	Multiplied By 100	x	100
17	Equals Fuel Percent Price Increase	=	59.47
18			
19	3. Calculate amount of fare increase needed to recover fuel price increases.		
20			
21	Fuel as % of Revenue (Line 7)		6.56428258
22	Multiplied By Fuel Percent Price Increase (Line 17)	x	0.594705882
23	Equals Fuel Increase as a % of Revenue	=	3.903817464
24			
25	Round to nearest 1/4 percent		4.00
26	Apply this percent to each fare category rounded to nearest nickel		

**CONCLUSION**

We look forward to the workshop scheduled for April 4 of this year. At that time we expect to have a better idea of the resolution of Doc# TC-020497. Depending on the language adopted under that docket, we will determine what areas of 480-30 need specific attention under this docket. I feel confident in saying that I speak for all concerned parties that a swift resolution of the issue of fares is anticipated by all, regardless of what individual desires or interpretations might be. This process simply cannot take four years as TC-020497 has.