

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET TE-071432
TRANSPORTATION COMMISSION,)	
	)	COMPLAINT FOR VIOLATIONS
Complainant,	)	OF VEHICLE AND DRIVER
	)	SAFETY RULES AND FOR
v.	)	FAILURE TO MEET FITNESS
	)	STANDARDS REQUIRED FOR
SEATAC MOTOR COACHES LLC,	)	OPERATING AUTHORITY
)	
Respondent.	)	NOTICE OF HEARING
	)	(Set for August 21, 2007, at 9:30
	)	a.m.)
.....)	

1 The Washington Utilities and Transportation Commission (Commission) on its own motion, and through its Staff, alleges as follows:

I. INTRODUCTION

2 This complaint concerns violations of Commission rules governing the operations of passenger transportation companies.

3 As alleged below, SeaTac Motor Coaches, LLC (SeaTac Motor Coaches) violated (1) various sections of the Code of Federal Regulations, Title 49, resulting in multiple violations of WAC 480-30-221, and (2) WAC 480-30-206, the Commission rule requiring a transportation company’s vehicles to be licensed in accordance with state licensing laws. Based on these violations, and because of the company’s lack of fitness to comply with safety requirements, Commission staff (Staff) requests that the Commission cancel or revoke SeaTac Motor Coaches’ operating authority.

II. BACKGROUND INFORMATION

4 On June 13, 18, and 19, 2007, Motor Carrier Staff conducted a routine compliance review of SeaTac Motor Coaches. They found over 50 violations, including the same types of violations identified in two of Staff's prior reviews of the company. Repeat violations appeared in the areas of controlled substance and alcohol testing, driver qualifications, and hours of service.

5 Specifically, Motor Carrier Staff identified the following violations in its 2007 review:

- One violation of WAC 480-30-221, 49 CFR Part 382.601(a) for failing to provide educational materials explaining requirements of part 382 governing controlled substances and alcohol use and testing and employer's policies.
- One violation of WAC 480-30-221, 49 CFR Part 382.603 for failing to ensure persons designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes of training for alcohol and/or 60 minutes of training for controlled substances.
- Four violations of WAC 480-30-221, 49 CFR Part 391.51 (b)(6) for failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.
- Three violations of WAC 480-30-221, 49 CFR Part 391.51(b)(2) for failing to maintain inquiries into drivers' driving record in drivers' qualification filing
- Five violations of WAC 480-30-221, 49 CFR Part 391.25(a) for failing to make an inquiry into the driving record of each driver to the appropriate state agencies in which the driver held a commercial motor vehicle operator's license at least once every 12 months.
- Five violations of WAC 480-30-221 49 CFR Part 391.25(b) for failing to review the driving record of each driver to determine whether that driver meets minimum requirements for safe driving or is disqualified to drive.
- 14 violations of WAC 480-30-221 49 CFR Part 391.45 (b)(1) for using a driver not medically examined and certified during the preceding 24 months.
- One violation of WAC 480-30-221, 49 CFR Part 395.5(a)(1) for requiring or permitting a passenger-carrying commercial motor vehicle driver to drive more than 10 hours.

- Two violations of WAC 480-30-221, 49 CFR Part 395.5 (a)(2) for requiring or permitting a passenger-carrying commercial motor vehicle driver to drive after having been on duty for 15 hours.
- Five violations of WAC 480-30-221, 49 CFR Part 395.8 (a) for failing to require drivers to make a record of their duty status.
- One violation of WAC 480-30-221, 49 CFR Part 382.305(b)(1) for failing to conduct random alcohol testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.
- Two violations of WAC 480-30-221, 49 CFR Part 382.305(b)(2) for failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.
- 14 violations of WAC 480-30-206, for operating vehicles not licensed in accordance with state licensing laws, in particular RCW 46.16.010.

6 As a result of these violations, Commission Staff determined that the company should receive a conditional safety rating using the Commission's compliance review system.

7 SeaTac Motor Coaches received Commission authority in January 2005. During the company's first compliance review, in May 2005, the company received an unsatisfactory safety rating. The Commission's Motor Carrier Staff recorded violations in the areas of controlled substance and alcohol testing, driver qualifications and hours of service. At the re-check, shortly thereafter, the company had corrected applicable violations, and received a satisfactory rating.

8 Commission Staff conducted the next routine compliance review in January 2006. Staff found no violations. A few months later, however, an anonymous source contacted Staff and reported that management at SeaTac was requiring drivers to commit rule violations. The caller claimed specifically that drivers were being required to exceed the maximum driving and on-duty limits prescribed in federal rules adopted by the Commission and to falsify their records of duty status in order to cover up these violations.

9 Staff investigated the company's operations in April 2006, and found 29 violations of hours of service rules. As a result of this investigation, the Commission assessed \$2,900 in penalties against the company in Docket TE-060868. The company contested the

penalty, seeking mitigation. The Commission denied mitigation of the penalty, but authorized the company to make 12 monthly payments to begin November 1, 2006.

- 10 SeaTac Motor Coaches has made only two penalty payments, both late. The last payment was received in January 2007.
- 11 During the last compliance review, in June 2007, Motor Carrier Staff noted that SeaTac Motor Coaches is experiencing financial difficulties. Specifically, the company's checking account has been overdrawn repeatedly, resulting in repeated bounced checks. In addition, the company's mechanic alleges that SeaTac Motor Coaches has not reimbursed him for thousands of dollars' worth of repair and maintenance supplies or made sufficient lease payments on a bus the mechanic owns and the company operates. Furthermore, Motor Carrier Staff reported that the company could not meet its payroll and that the company was operating its buses with expired tabs due to the unavailability of funds to pay license renewal fees. While the company has maintained the required insurance and has renewed the vehicle licenses since the compliance review, the precarious state of SeaTac Motor Coach's finances is hindering the company's fitness to comply with safety requirements.
- 12 SeaTac's financial management troubles are indicative of broader business operation problems that may be impairing the company's ability to comply with the Commission's safety as well as record keeping rules. The company's business and compliance problems taken as a whole indicate a lack of fitness to provide safe service to the public.
- 13 Because of the company's lack of safety fitness, the presence of repeated safety violations, and because penalties have not proved effective in eliminating such violations, Staff seeks revocation or cancellation of SeaTac Motor Coach's operating authority.

III. PARTIES

- 14 The Washington Utilities and Transportation Commission is an agency of the state of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including passenger charter carriers, under the provisions of Title 81 RCW.
- 15 SeaTac Motor Coaches LLC is a passenger charter carrier subject to regulation by the Commission pursuant to RCW 80.01.040(2), and RCW 81.70.

IV. JURISDICTION

16 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 81.01.010, RCW 81.04.110, RCW 81.70.220, RCW 81.70.230, RCW 81.70.250, RCW 81.70.280, RCW 81.70.300, RCW 81.70.310, and WAC 480-30.

V. APPLICABLE LAW AND REGULATION

17 The Commission issues certificates to passenger charter carriers, or charter bus companies, under RCW 81.70.230 and WAC 480-30-121. In order to qualify for a certificate, the applicant must establish proof of safety fitness. *RCW 81.70.230(2)*. In addition, the applicant must be fit, willing, and able to provide service and to comply with state law and the safety and insurance requirements of the Commission's rules governing passenger transportation companies. *WAC 480-30-121(1)*.

18 Under RCW 81.70.250, the Commission may cancel, revoke, or suspend any certificate issued under this chapter on grounds of a violation of any provision of RCW 81.70 or of a Commission regulation established under this chapter.

19 Pursuant to WAC 480-30-221, passenger charter carriers under the Commission's jurisdiction must comply with parts of Title 49 CFR listed in the Commission rule. The parts listed include Part 382, relating to Controlled Substances and Alcohol Use and Testing; Part 391, relating to Qualifications of Drivers; and Part 395, relating to Hours of Service of Drivers.

20 Under WAC 480-30-206, the Commission requires compliance also with state licensing laws, such as RCW 46.16.010.

VI. CLAIMS AND CAUSES OF ACTION

A. FIRST CAUSE OF ACTION (Violation of WAC 480-30-221)

21 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 4 through 13 above.

22 The Commission further alleges that SeaTac Motor Coaches violated WAC 480-30-221 by violating Title 49 CFR, as set forth in paragraph 5 above.

23 These violations include violations of Part 382, Controlled Substances and Alcohol Use
and Testing; Part 391, Qualifications of Drivers; and Part 395, Hours of Service of
Drivers.

B. SECOND CAUSE OF ACTION (Violation of WAC 480-30-206)

24 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 4
through 13 above.

25 The Commission further alleges that SeaTac Motor Coaches violated WAC 480-30-206
by operating multiple vehicles not licensed in accordance with state licensing laws on 14
different occasions in June 2007.

**C. THIRD CAUSE OF ACTION (Failure under RCW 81.70.230 AND WAC
480-30-131 to meet qualifications for certificate)**

26 The Commission, through its Staff, re-alleges the allegations contained in paragraphs 4
through 13 above.

27 Specifically, SeaTac Motor Coach's repeated failure to comply with safety rules such as
driver qualification and hours of service rules, coupled with the company's business
operating problems, demonstrate a lack of safety fitness and of fitness and ability to
comply with Commission rules.

VII. REQUEST FOR RELIEF

28 Staff asks the Commission to find that SeaTac Motor Coaches violated WAC 480-30-221
and WAC 480-30-206, as alleged in paragraphs 21 through 25.

29 Staff further requests that the Commission find under RCW 81.70.230 that SeaTac Motor
Coaches does not meet the qualifications for a passenger carrier certificate.

30 Based on all of the allegations in this complaint, Staff requests that the Commission
cancel or revoke under RCW 81.70.250 the operating authority of SeaTac Motor
Coaches.

VIII. PROBABLE CAUSE

31 Based on a review of Staff's July 2007 investigation report of SeaTac Motor Coaches, LLC, and all supporting documents, and consistent with RCW 80.01.060, the Commission finds probable cause exists to issue this Complaint. The investigation report is attached to this order as Appendix A.

IX. NOTICE OF HEARING

32 **THE COMMISSION GIVES NOTICE That it will hold a hearing in this matter on August 21, 2007, beginning at 9:30 a.m., in Room 108, 1st Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

33 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of chapter 34.05 RCW relating to adjudications. The provisions of the APA that relate to this proceeding include but are not limited to RCW 34.05.413, RCW 34.05.431, RCW 34.05.434, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.

34 Party representatives must file a notice of appearance with the Commission no later than the business day before the hearing. *See, WAC 480-07-345(2).*

35 **THE COMMISSION GIVES FURTHER NOTICE that any party who fails to attend or participate in the hearing set by this notice, or any other stage of this proceeding, may be held in default in accordance with RCW 34.05.440 and WAC 480-07-450. The Commission specifically invokes the sanction provisions of WAC 480-07-450 which allow the Commission to seek penalties for a party in default.**

36 If any party or witness needs an interpreter or other assistance, please fill out the form attached to this notice and return it to the Commission.

37 The names and mailing addresses of all known parties and their known representatives are as follows:

Complainant: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
PO Box 47250
Olympia, WA 98504-7250

Representative: Jennifer Cameron-Rulkowski
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1186

Respondent: Paul Fanson
SeaTac Motor Coaches LLC
5401 85th Ave. E. B-6
P.O. Box 38
Puyallup, WA 98371

38 Theodora Mace is appointed as the Administrative Law Judge from the Utilities and
Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park
Drive S.W., Olympia, Washington 98504-7250, and will preside at the hearing.

39 Notice of any other procedural phase will be given in writing or on the record as the
Commission may deem appropriate during the course of this proceeding.

DATED at Olympia, Washington, and effective July 30, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge

Inquiries may be addressed to:

Executive Secretary
Washington Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out this form and return it to Washington Utilities and Transportation Commission, Attention: Carole J. Washburn, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.:(____) _____

APPENDIX A