

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of	DOCKET TV-210505
RSB LOGISTIC SERVICES INC.	ORDER 01
Petitioner,	GRANTING PETITION FOR EXEMPTION
For an Exemption from WAC 480-14-250(1)(a)	

**BACKGROUND**

- 1 On June 28, 2021, RSB Logistic Services Inc. (RSB Logistic Services) filed with the Washington Utilities and Transportation Commission (Commission) an application for a common carrier permit that included a certificate of insurance for auto liability issued by Prime Insurance Company. The Company seeks intrastate common carrier authority from the Commission.
- 2 Under WAC 480-14-250(1), each applicant for common carrier authority must file with the Commission evidence of currently effective liability and property damage insurance written by a company authorized to write such insurance in the state of Washington.
- 3 On June 30, 2021, the Company filed a Petition for an exemption (Petition) from WAC 480-14- 250(1)(a) the Commission’s insurance rule for vehicles with gross vehicle weight ratings of 10,000 pounds or more. The Company requests to retain insurance from a surplus lines insurer that is not authorized to write insurance in Washington. Surplus lines insurance is used when licensed insurers in the standard market will not provide coverage because the risk is too high, too unfamiliar, or does not otherwise meet the insurer’s guidelines. Surplus line insurers have more flexibility to design and price their policies and generally charge higher premiums because they insure risks that are usually more costly to cover.
- 4 Johnson, Kendall & Johnson Inc. (JKJ Brokers) is a broker registered with the Office of the Insurance Commissioner (OIC) and authorized to write surplus lines insurance on behalf of Prime Insurance Company. Effective February 10, 2021, RSB Logistic Services secured auto liability insurance from Prime Insurance Company through its broker, JKJ Brokers.

5 RSB Logistic Services requests an exemption from WAC 480-14-250(1)(a) so that it can operate as a common carrier in Washington state with surplus lines insurance. Due to the type of product hauled, size of fleet, state of domicile, radius of operations, and hardened insurance market conditions, the Company was unable to find coverage from a Washington-admitted company. The Company requests coverage from Prime Insurance Company for its proposed common carrier operations in Washington state.

6 Commission staff (Staff) supports the Company's Petition. Staff submits that while the specific requirements of Commission rules can be exempted, under RCW 81.80.190, the Commission must "require the carriers to either procure and file liability and property damage insurance from a company licensed to write such insurance in the State of Washington, or deposit security, for the limits of liability and on terms and conditions that the Commission determines are necessary for the reasonable protection of the public against damage and injury for which the carrier may be liable by reason of the operation of any motor vehicle." Because this is a statutory requirement, the Commission cannot grant the Company an exemption from the obligation to purchase its insurance from a company licensed in Washington. The OIC authorizes insurance companies to write insurance in Washington. RCW 48.15.040 allows surplus lines coverage under certain conditions if insurance from authorized insurers cannot be procured. The licensing requirements for surplus line brokers are found in RCW 48.15.070.

7 Staff notes that the Federal Motor Carrier Safety Administration (FMCSA) accepts surplus lines insurance (CFR Title 49 Part 387.315) and has accepted the same insurance from RSB Services. Staff is willing to recommend the use of surplus lines insurance subject to the condition that the Company buy insurance from a highly rated surplus line company (AM Best A- or above rating) that meets the surplus lines company requirements set out in RCW 48.15.070. Prime Insurance Company's financial strength rating is A for excellent.

### DISCUSSION

8 We grant the Company's Petition subject to the condition that Staff recommends. Under WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.<sup>1</sup> We find that the Company's Petition meets this standard subject to

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<sup>1</sup> See also WAC 480-14-020(2) ("The rules in this chapter are for general application only, and

the condition that the Company buy insurance from a highly rated surplus lines company (AM Best A- or above rating) that meets the surplus lines company requirements set out in RCW 48.15.070. The purpose of the insurance rule is to protect the public from loss or damage caused by the Company while providing service. Surplus lines insurance responds to that need and is a viable option for high-risk or unique lines of business where risk is less certain. In addition, the FMCSA accepts surplus lines insurance. Accordingly, we find that the Petition for exemption is consistent with the public interest, the purposes underlying regulation, and applicable statutes, and conclude that it should be granted.

### FINDINGS AND CONCLUSIONS

- 9 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rules, regulations, and practices of motor carrier companies relating to acquiring common carrier permit and insurance requirements.
- 10 (2) RSB Logistic Services is an applicant for common carrier authority, and, once approved, will be a common carrier company and a public service company subject to Commission jurisdiction.
- 11 (3) On June 30, 2021, RSB Logistic Services filed a Petition for Exemption from the Commission's insurance rule, WAC 480-14-250(1)(a), so that it may purchase surplus lines insurance with an unauthorized insurer, Prime Insurance Company, consistent with the requirements of RCW 48.15.070.
- 12 (4) Pursuant to WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 13 (5) This matter came before the Commission at its regularly scheduled meeting on July 29, 2021.
- 14 (6) After reviewing RSB Logistic Services' Petition and giving due consideration to relevant matters and for good cause shown, the Commission finds that granting

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are subject to such changes and modifications as the commission may deem advisable from time to time, and also to such exceptions as may be considered just and reasonable in individual cases.”).

RSB Logistic Services' Petition subject to the condition that it buy insurance from a highly rated surplus lines company (AM Best A- or above rating) is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

**ORDER**

**THE COMMISSION ORDERS:**

- 15 (1) RSB Logistic Services Inc.'s Petition for exemption from WAC 480-14-250(1)(a) is granted subject to the condition that RSB Logistic Services Inc. purchases insurance from a highly rated surplus line insurance company (AM Best A- or above rating) that meets the surplus lines company requirements set out in RCW 48.15.070.
- 16 (2) The Commission retains jurisdiction over the subject matter and RSB Logistic Services Inc.'s, to effectuate the terms of this Order.
- 17 The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective July 29, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON  
Executive Director and Secretary