

Agenda Date: September 15, 2022
Item Number: E2

Docket: TE-220583
Company: Zum Services, Inc.

Staff: Patrick Remfrey, Licensing Services Manager

Recommendation

Commission staff (Staff) recommends the Commission grant the Petition for exemption of Zum Services, Inc., to waive the requirements of Washington Administrative Code (WAC) section 480-30-191(1)(a), and 480-30-191(2), and authorize the use of surplus lines insurance for the Company with this exemption. Staff believes the exemption is consistent with the public's interest and the purposes underlying the applicable statute and the Commission's regulations implementing that statute.

Discussion

On August 2, 2022, the Washington Utilities and Transportation Commission (Commission) received an application for charter and excursion carrier services in the State of Washington from Zum Services, Inc. (Zum Services or Company).

Zum Services is a school bus transportation provider that was recently awarded a contract to provide school bus transportation services to the Seattle Public School system beginning in September 2022. The Company's application to the Commission is for authority to perform excursion transportation services for school-related activities such as field trips and sporting events using school buses provided by Zum Services. An excursion service carrier may provide regularly scheduled transportation from a point of origin and returning to that point of origin provided that no other passengers are picked up or dropped off after leaving and before returning to the point of origin.

On August 22, 2022, the Company filed a Petition for Exemption from WAC [480-30-191\(1\)\(a\)](#), and [480-30-191\(2\)](#).

WAC 480-30-191(1) - Insurance

[WAC 480-30-191\(1\)](#) requires each applicant for charter/excursion authority and each charter/excursion company to file with the Commission evidence of currently effective liability and property damage insurance written by a company authorized to write insurance in Washington. The insurance must cover each motor vehicle as defined in Revised Code of Washington (RCW) [81.70.280](#) used or to be used under the permit. WAC [480-30-191\(2\)](#) requires minimum coverage of \$5,000,000 for vehicles which have a passenger seating capacity of 16 or more persons including the driver.

Zum Services secured a policy for \$2,000,000 in commercial liability coverage from Ace American Insurance Company (Ace American), an admitted insurance company in the state of Washington. Zum Services obtained a quote for the remaining \$3,000,000 in commercial liability coverage from General Star Indemnity Company (General Star). General Star is not on the admitted list with the Office of the Insurance Commissioner (OIC). General Star is on the list of eligible surplus lines carriers and possesses an A.M. Best Rating Services credit rating of "A++." A.M. Best Rating is a credit rating agency that provides comprehensive information for anyone interested in the creditworthiness of insurance companies. For Zum Services to be certificated as a charter/excursion carrier in the state of Washington while being underwritten by General Star, a rule exemption must be granted.

While the specific requirements of Commission rules can be exempted, under RCW [81.70.280](#), 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 line coverage under certain conditions if insurance from authorized insurers cannot be procured. Amongst other requirements, RCW [48.15.040](#) allows for the use of surplus line coverage provided that the insurance must be acquired through a licensed surplus line broker. Zum Services' surplus line broker is Heffernan Insurance Brokers (Heffernan), which is licensed by the OIC to produce surplus line insurance in Washington. RCW [48.15.040](#) also requires that the insurance must be unprocurable after a diligent search has been made of a majority of the insurers who are authorized to transact the necessary insurance in this state. Staff has confirmed with Heffernan that a diligent effort to obtain insurance from admitted carriers has been made.

Staff believes granting this exemption is consistent with the public interest and the purposes underlying regulation and applicable statutes, which is to ensure that carriers have sufficient insurance to cover any injuries or property damage caused by their operations. When combined with the \$2,000,000 policy from Ace American, Zum Services' surplus lines coverage meets the Commission's requirements, and it is underwritten by a highly rated agency which should ensure they are able to pay any claim arising against the Company.

In summary, Staff supports the Petition for exemption and recommends the Commission grant the Petition to allow Zum Services to retain surplus line coverage for the purpose of completing the charter/excursion certificate application process.

Conclusion

Staff recommends the Commission grant Zum Services, Inc. an exemption from WAC [480-30-191\(1\)\(a\)](#) and WAC [480-30-191\(2\)](#) to specifically allow the Company to retain liability insurance from a highly rated surplus line insurer. This exemption is consistent with the public's interest, the purposes underlying regulation, and applicable statutes.