

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

BLESSED LIMOUSINE, INC.,

Respondent.

DOCKETS TE-200016 and TE-200272
(*Consolidated*)

ORDER 04/03

FINAL ORDER

BACKGROUND

- 1 On February 7, 2020, the Washington Utilities and Transportation Commission (Commission) issued a Notice of Intent to Cancel Certificate; Notice of Opportunity for Hearing (Notice) in Docket TE-200016. The Notice gave Blessed Limousine, Inc., (Blessed Limo or Company) the opportunity to request a hearing to contest the factual allegations set out in the Notice, which included a claim that Blessed Limo continued to operate despite being placed out-of-service by the Federal Motor Carrier Safety Administration (FMCSA).
- 2 On March 30, 2020, the Commission issued a letter (Cancellation Letter) in Docket TE-200272 notifying Blessed Limo that the Commission had cancelled the Company's charter and excursion certificate due to insufficient proof of insurance. The Cancellation Letter gave Blessed Limo the opportunity to request a hearing to contest the allegation that it failed to submit sufficient proof of insurance.
- 3 On April 6, 2020, Blessed Limo requested a hearing to challenge the allegations set forth in both dockets.
- 4 On May 1, 2020, the Commission conducted a brief adjudicative proceeding before administrative law judge Michael Howard. On May 27, 2020, the Commission entered Order 03/02, Initial Order Cancelling Certificate.
- 5 On June 17, 2020, Blessed Limo filed with the Commission a "Petition for Reconsideration." Although the Company's filing does not conform to the Commission's requirements for petitions for review, the Commission exercised its discretion to accept

the document as a timely-filed petition for review (Petition).¹ On June 23, 2020, the Commission issued a Notice of Opportunity to Respond to Petition for Review and Notice Extending Time for Decision on Review (Notice). The Notice requested that Commission staff (Staff) submit a response indicating whether its position had changed in light of the information the Company presented in its Petition and extended the deadline for entering a final order to afford the Commission sufficient time to consider both the Company's Petition and Staff's response.

- 6 In its Petition, the Company requests that the Commission consider new information related to its safety rating and insurance coverage. Specifically, Blessed Limo (1) explains that the Federal Motor Carrier Safety Administration (FMCSA) upgraded its safety rating to "satisfactory" on June 11, 2020, after the initial order was served, (2) describes each of the steps the Company has taken to correct the violations at issue, including contracting with vendors to monitor compliance on an ongoing basis, and (3) provides documentation that it has requested quotes to reinstate its insurance coverage.
- 7 On June 26, 2020, Commission Staff responded to the Petition. Staff explains that it reviewed the new information Blessed Limo presented with its Petition and believes that the Company's status with FMCSA no longer provides grounds for cancelling Blessed Limo's certificate, but that the Company failed to establish that the Commission erred by cancelling Blessed Limo's certificate for failure to maintain appropriate insurance as required. Accordingly, Staff recommends that the Commission deny the Company's Petition for review on that basis.

¹ Washington Administrative Code (WAC) 480-07-610(7)(b) requires that written petitions for review contain an explanation of the party's view of the matter, with a statement of the reasons why the initial order was incorrect. Rather than allege that Order 02/03 is incorrect, Blessed Limo explains the steps it has taken to come into compliance with Commission safety rules. WAC 480-07-395(4) provides that the Commission will liberally construe pleadings and motions with a view to effect justice among the parties. The Commission determined that the Company's explanation contains substantive information that warrants consideration by the Commission.

The Commission does not consider new evidence on review of an initial order, but the Company's petition arises, in part, under special circumstances. Judge Howard allowed the Company additional time to obtain an upgraded safety rating from the FMCSA after the evidentiary hearing and prior to entry of the initial order. The Company did not meet the deadline established by Judge Howard at hearing, but did obtain the upgraded safety rating prior to the expiration of the period for seeking review. The COVID-19 pandemic, moreover, contributed to this delay. Under these circumstances, we exercise our discretion to consider the additional evidence the Company has provided.

DISCUSSION AND DECISION

- 8 We grant the Company's Petition in part, and deny it in part, for the reasons discussed below.
- 9 **FMCSA Report and Upgraded Safety Rating.** We agree with Staff and the Company that the FMCSA's decision to upgrade the Company's safety rating to "satisfactory" removes the factual basis for seeking cancellation of the Company's certificate based on the violations documented in the FMCSA report. The Company has now cured the violations and its federal authority has been reinstated. We grant the Company's Petition for review as it relates to these issues, and thus vacate the administrative law judge's findings and conclusions in Order 03/02 that the Company's FMCSA rating and related violations constitute cause to cancel the Company's certificate.
- 10 **Failure to Maintain Proof of Insurance.** We deny the Company's Petition as it relates to the Commission's decision to cancel the Company's charter and excursion carrier certificate for failure to maintain adequate insurance. The record evidence demonstrates, and Blessed Limo does not dispute, that the Company did not have adequate insurance on file with the Commission on March 24, 2020, which caused the Commission to cancel the Company's certificate. Accordingly, we conclude that the presiding administrative law judge appropriately cancelled the Company's certificate for failing to maintain insurance as required.
- 11 **Exemption from WAC 480-30-181.** Like Staff, we commend Blessed Limo for taking significant strides to achieve compliance and obtain an upgraded safety rating. We are satisfied that the Company has corrected the violations at issue, and that it has implemented various controls to prevent the violations from recurring. Accordingly, the Commission encourages Blessed Limo to file with the Commission an application to reinstate its authority. To that end, we exercise our discretion to waive certain requirements found in WAC 480-30-181, which provides that the Commission may reinstate a certificate canceled for cause if the Company corrects all conditions leading to the cancellation and files an application to reinstate authority with the proper application fee within 30 days of the cancellation order service date. On the Commission's own motion, we waive (1) the 30-day requirement for filing an application for reinstatement and (2) the application fee.
- 12 Under WAC 480-07-110, the Commission may grant an exemption from, or modify the application of, any of its rules in individual circumstances if the exemption or modification is consistent with the public interest, the purposes underlying regulation, and applicable statutes. Here, granting an exemption from the filing and fee requirements meet each of these criteria. Because Blessed Limo did not receive a decision from the

Commission until long after its 30-day window to apply for reinstatement had passed, we find that enforcing the 30-day deadline would be arbitrary in these circumstances. Due to the economic downturn created by the COVID-19 pandemic, which has had a particularly harsh impact on regulated passenger transportation companies, we find that waiving the application fee, as we have done for other carriers, is appropriate and will expedite the Company's ability to resume its operations.² Accordingly, Blessed Limo may file an application for reinstatement within 30 days of the effective date of this Order.

- 13 **Conclusion.** In any enforcement proceeding, the Commission's ultimate goal is bringing regulated companies into compliance. In this case, that goal is best served by modifying the Initial Order to remove the Company's FMCSA rating and the underlying violations as a basis for canceling its certificate, upholding the administrative law judge's finding that the Company's certificate should be cancelled for failure to maintain insurance, allowing the Company to apply for reinstatement of its certificate beyond the 30-day deadline, and waiving the application fee. This outcome both recognizes the Company's significant progress towards achieving compliance and provides a path forward for the Company to reinstate its certificate and resume operations.

ORDER

THE COMMISSION ORDERS THAT:

- 14 (1) Blessed Limousine, Inc.'s Petition for Administrative Review is granted in part, and denied in part.
- 15 (2) The Commission vacates the findings and conclusions in Order 03/02 related to the violations documented in the FMCSA's report and the resulting unsatisfactory safety rating, both of which have been remedied.
- 16 (3) Order 03/02 remains undisturbed in all other respects and we adopt it as our final Order on the issue of cancelling Blessed Limo, Inc.'s charter and excursion carrier certificate for failure to maintain insurance as required.
- 17 (4) The Commission, on its own motion, grants Blessed Limo, Inc., an exemption from WAC 480-30-181 to allow Blessed Limo, Inc., to apply for reinstatement of

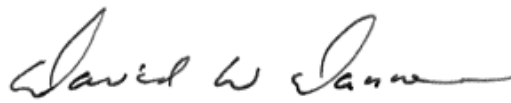
² For example, the Commission entered Order 01 in Docket TE-200456 on June 11, 2020, which waived reinstatement application fees for charter and excursion service carriers that met certain criteria and were impacted by the COVID-19 pandemic.

its authority more than 30 days after the date its certificate was cancelled and to waive the application fee.

- 18 (5) Blessed Limo, Inc., must file any application for reinstatement within 30 days of the effective date of this Order.

DATED at Lacey, Washington, and effective July 6, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



DAVID W. DANNER, Chair



ANN E. RENDAHL, Commissioner



JAY M. BALASBAS, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. Parties may seek judicial review pursuant to RCW 34.04.542.