

MEMORANDUM

February 15, 2006

To: Docket No. TC-020497

From: Commission Staff

Re: Summary and Staff Analysis

The Washington Utilities and Transportation Commission (commission) filed with the Code Reviser a CR-101, Preproposal Statement of Inquiry, to review passenger transportation (bus) company rules in Chapters 480-30 and 480-40 WAC. This memorandum summarizes the status of the commission's Inquiry.

BACKGROUND

The commission initiated this inquiry to review rules consistent with the requirements and standards established by Executive Order 97-02 regarding regulatory improvement. The inquiry considered the Executive Order's criteria of need, effectiveness and efficiency, clarity, intent and statutory authority, coordination, cost, and fairness.

Passenger transportation companies affected by these rules include:

- 77 charter certificate holders,
- 38 excursion certificate holders, and
- 26 auto transportation company certificate holders.

COMMISSION PROCESS

Issues Paper

Commission staff prepared an Issues Paper to present stakeholders with a series of issues and proposals for discussion at the initial workshop September 12, 2002.

Discussion-Draft Rules

Following the workshop, staff continued to work with stakeholders to resolve key issues, specifically those related to issues of ratemaking and rate "flexibility." Staff prepared discussion-draft rules and presented those to stakeholders for comment prior to the second stakeholder meeting on September 30, 2003.

Comments filed by the Washington Airport Operators Association on behalf of several of the auto transportation companies included the following: "In general, the Airporters believe that

the proposed rules strike a reasonable balance between protecting the public interest and ensuring that bus companies can continue to operate efficiently without excessive regulation.”

The association identified several rules that it felt needed revision and issues that it felt should be addressed, including more rate flexibility and a ratemaking methodology in rule. Staff proposed revisions to some of the discussion-draft rules to resolve as many of the remaining outstanding issues as possible but issues surrounding rates remained unresolved.

On August 15, 2005, the commission posted an updated discussion-draft of rules and sent to stakeholders and other interested parties a “Notice and Opportunity to Submit Comments.” The updated discussion-draft rules addressed those issues resolved at the prior workshop as well as some new issues that had come forward since the last stakeholder meeting. Some of those new issues included:

- Implementation of SSB 5105 allowing for temporary certificates and eliminating mandatory hearings for uncontested cases, and
- Affiliated interest reporting (agency standard).

The Notice identified Insurance Minimums, Owner-Operators/Independent Contractors/Subcontracting, and Security as rules in the draft reflecting staff’s conclusions that differed from those presented by stakeholders. The Notice also informed stakeholders that Rates and Ratemaking Methodology remained unresolved issues that were not included in the draft.

The Washington Airport Operators Association did not file comments on behalf of its members. Five companies individually filed comments. The comments and the commission’s response to the comments are included in the attached document titled “Commission Response to Stakeholder Comments on Draft Rules Circulated August 15, 2005.”

Small Business Economic Impact Statement (SBEIS)

On October 6, 2005, the commission sent an SBEIS Questionnaire to each of the 141 passenger transportation company certificate holders, (26 auto transportation companies, 77 charter carriers, and 38 excursion carriers) as well as other interested persons. Two companies responded. An SBEIS addressing each of the rules identified by stakeholders as having a new cost is attached.

Draft Proposed Rules

A final set of draft rules is attached for CR-102 Proposed Rule consideration. The draft proposed rules reflect changes to the prior discussion-draft rules resulting from stakeholder comments and from an internal review.

Some of the major issues the draft proposed rules address include:

- Consolidated requirements from Chapter 480-30 and Chapter 480-40 into a single chapter.
- Eliminated many duplicative certificate requirements for companies that operate under both Chapter 480-30 and Chapter 480-40 WAC.
- Incorporated preemptive provisions of federal law that affect state regulation of passenger transportation companies.
- Implemented ch. 121, L. 2005 (SSB 5105) allowing for temporary certificates and eliminating mandatory hearings for uncontested cases.
- Codified commission and court decisions that affect regulation.
- Codified current practices regarding tariff and time schedule filings, certificate applications, and hearings.

The draft proposed rules do not address rates and ratemaking methodology. Those issues will be considered under a separate rulemaking in Docket No. TC-060177. A Preproposal Statement of Inquiry (CR-101) in Docket TC060177 is prepared for filing in conjunction with the filing of a CR-102 in Docket TC-020497. A proposed timeline for Docket TC-060177 is also attached.