

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

SAN JUAN EXPRESS, INC.,

Petitioner,

Relating to Discontinuance of Commercial
Ferry Service Authorized by Certificate of
Convenience and Necessity No. BC-117

DOCKET TS-230253

ORDER 02

GRANTING TEMPORARY
DISCONTINUANCE OF SERVICE,
SUBJECT TO CONDITIONS

BACKGROUND

- 1 On April 12, 2024, San Juan Express, Inc., (SJE or Company) filed with the Washington Utilities and Transportation Commission (Commission) a Petition requesting the Commission grant a temporary discontinuance of service authorized under SJE's Certificate of Public Convenience and Necessity (Petition).
- 2 Previously, on April 13, 2022, in Docket TS-220267, SJE applied for temporary discontinuance of service from May 12, 2022, through May 11, 2023. On April 28, 2022, the Commission issued Order 01, Granting Temporary Discontinuance of Service; Approving the Withdrawal of Tariff Filings, which granted the petition in Docket TS-220267.
- 3 On April 4, 2023, SJE again filed for temporary discontinuance of service from May 12, 2023, to May 11, 2024, in this Docket. The Commission issued Order 01, granting temporary discontinuance of service on May 15, 2023. SJE, pursuant to WAC 480-51-130, again requests that the Commission grant it permission to temporarily discontinue providing commercial ferry service between Seattle and Friday Harbor for the 2024 sailing season including a period of up to 12 months to be measured from May 11, 2024, to May 10, 2025.
- 4 SJE states in its Petition that in late March 2022, SJE's maritime architect was notified by the United States Coast Guard that the vessel "San Juan Clipper, O.N. 965831" is not allowed to carry more than 150 passengers. This notification was received the same day the Company filed its proposed fuel surcharge in Docket TS-220223. Historically this vessel has been allowed to carry up to 245 passengers. The Coast Guard reasons that for the vessel to carry more than 150 passengers the egress configuration would have to be modified because the vessel "currently does not meet the standards to carry additional passengers due to staircases having direct access to accommodation spaces (*i.e.*, engine room) in which a fire may originate."

5 SJE explains that the change in the passenger capacity directly limits a ferry company's ability to generate revenues, given rates are calculated using an average historical passenger count greater than 150. Furthermore, this notice was delivered in the year following two historically low-revenue years due to COVID-19. In 2020, due to COVID restrictions, the Commission granted a temporary discontinuance, and in 2021 the Company offered only limited service due to continuing COVID restrictions and lower demand. SJE has experienced reduced ridership and revenues. The current restrictions preventing the ship from going back to the historical passenger capacity of 245 would continue this trend.

6 SJE requests that it be allowed to temporarily discontinue service for a period of 12 months, beginning May 11, 2024, returning to service on May 10, 2025. SJE believes this will allow time for the Company to continue searching to either procure a new vessel that has the capacity required to operate the service at a profit or retrofit the current vessel to meet the updated standards for egress. Additionally, the Company expressed willingness to either lease its authority to another operator or allow a temporary overlapping certificate of convenience and necessity should an applicant come forward.

7 Commission staff (Staff) reviewed the Petition and recommends that SJE's Petition be granted. The Coast Guard, who is responsible for maritime safety, has made a ruling that directly impacts the asset used to provide passenger ferry service. The result makes it drastically harder for the Company to operate at a level that would allow operating costs to be recovered. Given these factors, Staff agrees that allowing the Petition for an additional one-year period allowing SJE to retrofit or procure a new vessel that can provide this service at a level that allows the Company to earn a reasonable profit is in the public interest.

DISCUSSION

8 Under WAC 480-51-130, a commercial ferry company must request approval from the Commission to discontinue some or all its operations. The Company must provide 15 days' notice to the Commission and the public before the effective date of the discontinuance. The Commission shall not grant a discontinuance of service for a period longer than 12 months.

9 We grant SJE's Petition, subject to conditions, based on the understanding that while the Company is not providing service, it would neither protest nor impede another company applying to provide competing service. The Company credibly explains that a change in

passenger capacity has limited its ability to generate revenue under the present circumstances and that it requires more time to consider procuring a new vessel or retrofitting its existing vessel. We are concerned, however, that the Company has failed to provide evidence of its efforts towards making the adaptations necessary to be able to resume service in the future. We therefore grant the Company's request to temporarily discontinue service for a period of 12 months, beginning May 11, 2024, and returning to service on May 10, 2025, subject to the conditions that: (1) the Company must file with the Commission a report on any changes to operations and an update on the Company's pursuit of new assets no later than December 31, 2024, and (2) the Company must file any request for discontinuance for the 2025 sailing season by March 30, 2025.

FINDINGS AND CONCLUSIONS

- 10 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including commercial ferry companies.
- 11 (2) SJE is engaged in the business of providing commercial ferry service within the state of Washington as a public service company and is subject to Commission jurisdiction.
- 12 (3) Under WAC 480-51-130, a commercial ferry company must request approval from the Commission to discontinue some or all of its operations. The company must provide 15 days' notice to the Commission and the public before the effective date of the discontinuance. The Commission shall not grant a discontinuance of service for a period longer than 12 months.
- 13 (4) This matter came before the Commission at its regularly scheduled open meeting on April 25, 2024.
- 14 (5) SJE's Petition should be granted, authorizing SJE to temporarily discontinue service from May 11, 2024, until May 10, 2025, subject to the conditions that: (1) the Company must file with the Commission a report on any changes to operations and an update on the Company's pursuit of new assets no later than December 31, 2024, and (2) the Company must file any request for discontinuance for the 2025 sailing season by March 30, 2025.

ORDER

THE COMMISSION ORDERS:

- 15 (1) The Petition of San Juan Express, Inc., filed requesting permission to temporarily discontinue service authorized by Certificate of Public Convenience and Necessity BC-117 is GRANTED, subject to the conditions listed in paragraph 14.
- 16 (2) San Juan Express, Inc., is allowed to temporarily discontinue service effective from May 11, 2024, until May 10, 2025.
- 17 (3) Should an immediate need arise for commercial ferry service, San Juan Express, Inc., must be prepared to resume service to meet those needs. If San Juan Express, Inc., cannot, or will not, resume service, the Commission will deem that San Juan Express, Inc., has waived interest in its commercial ferry certificate of public convenience and necessity and will grant authority to another carrier who is prepared to meet the needs of the traveling public. The Commission will then institute proceedings to cancel San Juan Express, Inc.'s, certificate and to grant authority to another carrier who is prepared to meet the needs of the traveling public.
- 18 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 April 25, 2024

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFF KILLIP
Executive Director and
Secretary