

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of  
BACKCOUNTRY TRAVELS LLC  
For a Certificate of Public Convenience and  
Necessity to Operate Vessels in Furnishing  
Passenger Ferry Service

DOCKET TS-180677

COMMISSION STAFF'S RESPONSE  
TO LAKE CHELAN RECREATION,  
INC.'S MOTION TO WITHDRAW  
PROTEST

**I. INTRODUCTION**

1           Backcountry Travels LLC (Backcountry Travels) filed with the Commission an application for authority to provide commercial public ferry service on Lake Chelan. Lake Chelan Recreation, Inc. (LCRI), which currently provides that service on the lake, protested the application. LCRI's protest prompted the adjudicative proceeding taking place in this docket.

2           LCRI now seeks to withdraw its protest, withdraw as a party, and modify the procedural schedule set for that adjudication. Pursuant to WAC 480-07-375(4) and the Commission's Notice of Opportunity to Respond,<sup>1</sup> Commission Staff (Staff) of the Washington Utilities and Transportation Commission (Commission) requests that the Commission grant LCRI's motion, with slight modifications that would allow Staff and Backcountry Travels to efficiently respond to LCRI's comments.

**II. RELIEF REQUESTED**

3           Staff requests that the Commission grant LCRI's motion and modify the procedural schedule in this matter to allow Staff to submit its testimony on February 1, 2019, one week

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<sup>1</sup> *In re Application of Backcountry Travels LLC*, Docket TS-180677, Notice of Opportunity to Respond to Motion, at 1-2 (January 7, 2019).

after LCRI submits its comments, and Backcountry Travels to submit rebuttal testimony on March 1, 2019.

### III. STATEMENT OF FACTS

4           In August, 2018, Backcountry Travels filed with the Commission an application for a certificate of public convenience and necessity authorizing it to provide commercial public ferry service on Lake Chelan.

5           LCRI has provided commercial public ferry service on Lake Chelan under a certificate of convenience and public necessity issued by a predecessor of the Commission since 1929. In October 2018, LCRI protested Backcountry Travels' application. By doing so, LCRI triggered an adjudicative proceeding in this docket.<sup>2</sup>

6           In November 2018, the Commission convened a prehearing conference involving the parties before Administrative Law Judge (ALJ) Andrew O'Connell. Shortly thereafter, the Commission entered Order 01, which adopted a procedural schedule for this matter. As relevant here, that schedule required LCRI and Staff to submit testimony on January 14, 2019.

7           On January 3, 2019, LCRI filed a motion seeking: (1) to withdraw its protest, (2) to withdraw as a party from this adjudication, (3) permission to file written comments on Backcountry Travels' application on January 25, 2019, and (4) establishment of a deadline for a response to its comments by Backcountry Travels. On January 4, 2019, LCRI clarified its request in response to an email from ALJ O'Connell.

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<sup>2</sup> See RCW 81.84.020(1).

#### IV. STATEMENT OF ISSUES

8           Should the Commission grant LCRI's motion and: (1) allow LCRI to withdraw its protest to Backcountry Travels' application, (2) allow LCRI to withdraw as a party in this matter, and (3) modify the procedural schedule adopted in Order 01?

#### V. ARGUMENT

9           WAC 480-07-375 authorizes a party to move to, among other things, terminate its participation in a proceeding<sup>3</sup> or to modify the process or procedural schedule for a proceeding.<sup>4</sup> LCRI seeks through its motion to do both of those things, and the Commission should grant it permission to do so.

10          The Commission should allow LCRI to withdraw its protest because doing so will simplify the issues involved in this docket. If the Commission grants the motion, the outcome of this proceeding will turn only on two things: whether public convenience and necessity requires authorizing Backcountry Travels to operate the proposed ferry service and whether the company has the financial resources to provide that service for 12 months.<sup>5</sup> The Commission would not need to adjudicate whether LCRI already serves the territory or district Backcountry Travels wishes to serve or whether LCRI has failed to provide reasonable and adequate service, two things that the Commission will likely have to determine if LCRI must continue to protest the application.<sup>6</sup>

11          Additionally, the Commission should allow LCRI to withdraw as a party. LCRI is in the best position to determine how to protect its interests, and it has apparently decided that it is best to allocate its resources by filing public comments. Granting the motion will allow

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<sup>3</sup> WAC 480-07-375(1)(a).

<sup>4</sup> WAC 480-07-375(1)(b).

<sup>5</sup> RCW 81.84.020(1), (2).

<sup>6</sup> RCW 81.84.020(1).

the Commission and the other parties to hear LCRI's unique perspective on Backcountry Travels' application without forcing the company to spend resources it does not wish to spend.

12 Further, the Commission should grant LCRI's request to modify the procedural schedule to allow it to comment on the application. As just noted, LCRI, as the incumbent provider of ferry service, can offer a unique perspective on whether public convenience and necessity requires authorizing Backcountry Travels to operate commercial public ferry service on Lake Chelan. Modifying the procedural schedule to allow LCRI to comment would ensure that the Commission has a full and complete record, including that unique perspective, on which to base its decision.

13 Finally, the Commission should grant LCRI's request to modify the procedural schedule, with several small changes made in the name of administrative efficiency. Staff requests that the Commission allow Staff to file its testimony on February 1, 2019, one week after LCRI files its comments. Staff proposes that the Commission then allow Backcountry Travels to respond to both LCRI's comments and Staff's testimony in its rebuttal testimony, which the Commission should require Backcountry Travels to file by March 1, 2019. This schedule would allow Staff to condense its response and cross-answering testimony into a single filing. Similarly, it would allow Backcountry Travels to condense its answer to LCRI's comments and its rebuttal to Staff's testimony into a single filing. These modifications to the procedural schedule would not prejudice Backcountry Travels, the remaining party, in any way, and would reduce the administrative burdens involved with multiple filings.

## VII. CONCLUSION

Commission Staff requests that the Commission grant LCRI's motion and allow it to withdraw its protest and withdraw as a party from this docket. Staff also requests that the Commission grant LCRI's request to modify the procedural schedule, allow LCRI to file comments on January 25, 2019, allow Staff to file testimony on February 1, 2019, and allow Backcountry Travels to file testimony on March 1, 2019.

DATED this 8th day of January 2019.

Respectfully submitted,

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