

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

In re Application of

NO. TS-180677

BACKCOUNTRY TRAVELS LLC

BACKCOUNTRY TRAVELS, LLC'S  
OBJECTION TO LAKE CHELAN  
RECREATION, INC.'S MOTION TO  
WITHDRAW PROTEST

For a Certificate of Public Convenience  
and Necessity to Operate Vessels in  
Furnishing Passenger Ferry Service

**I INTRODUCTION**

1 On August 8, 2019 Backcountry Travels, LLC (Backcountry) filed an application for  
2 authority to provide commercial public ferry service on Lake Chelan. Lake Chelan Recreation,  
3 Inc. (LCRI) currently provides a similar service on the lake. LCRI protested Backcountry's  
4 application. LCRI now seeks to withdraw its protest, withdraw as a party, and modify the  
5 procedural schedule set for that adjudication. Pursuant to WAC 480-07-375(4) and the  
6 Commission's Notice of Opportunity to Respond, Backcountry objects.

**II STATEMENT OF FACTS**

1 Backcountry filed an application for a certificate of public convenience and  
2 necessity to allow it to provide ferry service on Lake Chelan in August, 2018.

3 Limited ferry service on Lake Chelan has been provided by LCRI since 1929. In

1 October, 2018 LCRI filed its protest to Backcountry's application.

2 4 On November 21, 2018 a procedural schedule was issued and hearings were to  
3 begin on April 22, 2019. The Commission adopted the procedural schedule as Order 01.  
4 Order 01 required that Backcountry submit direct testimony by December 18, 2018 and  
5 that LCRI and Staff submit responsive testimony by January 14, 2019.

6 5 On January 3, 2019 LCRI submitted its Motion to Withdraw Protest requesting that  
7 it be allowed to 1) Withdraw its protest, 2) Withdraw as a Party, 3) Be allowed to submit  
8 written public comment by January 25, 2019, and 4) set a time for the applicant to respond  
9 to any comment.

### 10 III STATEMENT OF THE ISSUE

11 6 Should the Commission grant LCRI's motion and: (1) allow LCRI to withdraw its  
12 protest to Backcountry's application, (2) allow LCRI to withdraw as a party in this  
13 matter, and (3) modify the procedural schedule adopted in Order 01?

### 14 IV ARGUMENT

15 7 Backcountry does not object to the withdrawal of LCRI and its counsel as parties  
16 to these proceedings. Backcountry does object to the request for leave to submit additional  
17 public comments by LCRI. LCRI is the only person or entity which timely filed an  
18 objection to the application by Backcountry. But for the objection by LCRI, an  
19 adjudicative proceeding may not have been required by the Commission. As a direct result  
20 of LCRI's filing of the objection, Backcountry has been forced to expend significant  
21 additional resources to secure representation in these proceedings.

22 8 To allow LCRI to withdraw its application but otherwise continue to submit the  
23 materials that would have otherwise been filed in support of their objection, LCRI is  
24 effectively being allowed to fully participate in the proceedings without having to bear the

1 same burden of costs and expenses as Backcountry. Backcountry has been prejudiced by  
2 these actions and it is inequitable for the Court to allow the requested opportunity to submit  
3 additional public comment in these proceedings.

4 9 Further, it is submitted that the Commission reset these proceedings and the  
5 Commission reissue the Notice of Application originally issued on September 14, 2018.  
6 By doing so, the Commission would ensure that any objections, should one be filed, related  
7 to the Application may be properly submitted and a determination of whether and/or what  
8 type of Adjudicative Proceeding would be necessitated. This will allow the Commission  
9 to re-evaluate whether or not this application could be resolved with a Brief Adjudicative  
10 Hearing, allowing the parties to save time and money in preparation for the same, rather  
11 than through a full evidentiary hearing which necessitates significant additional financial  
12 expenditures by Backcountry.

#### 13 **V RELIEF REQUESTED**

14 10 That the Commission terminate the current adjudicative proceedings and reissue  
15 the Notice of Application. In the alternative, that the Commission issue a Notice of  
16 Cancelling Adjudicative Proceedings and convert the proceedings back to a Brief  
17 Adjudicative Proceeding. Should the Court decline to convert the proceedings that the  
18 Motion to Withdraw be granted in part, allowing LCRI and counsel to withdraw as parties  
19 to the proceedings and the Motion be denied in part and LCRI not be permitted to have the  
20 opportunity to submit additional materials as public comments.

#### 21 **VI CONCLUSION**

22 11 It is respectfully submitted, for the reasons stated above, that the Court should grant  
23 the relief requested by Backcountry as stated in Paragraph V.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

DATED the 8th day of January, 2019.

JEFFERS, DANIELSON, SONN & AYLWARD, P.S.

By /s/ Jordan L. Miller  
JORDAN L. MILLER, WSBA #38863  
MATTHEW S. HITCHCOCK, WSBA # 38863  
Attorneys for Applicant Backcountry Travels, LLC

CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, the undersigned hereby certifies under penalty of perjury under the laws of the state of Washington, that on the 8th day of January, 2019, the foregoing was delivered to the following persons in the manner indicated:

<p>Andrew Richards Hathaway Burden Garvey Schubert Barer, P.C. 1191 Second Avenue, Suite 1800 Seattle, WA 98101-2939</p>	<p><input type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery – Messenger Service <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email: <a href="mailto:arichards@gsblaw.com">arichards@gsblaw.com</a> <a href="mailto:hburden@gsblaw.com">hburden@gsblaw.com</a> <a href="mailto:kmuller@gsblaw.com">kmuller@gsblaw.com</a></p>
<p>Jeff Roberson Harry Fukano Office of the Attorney General Utilities and Transportation Division 1400 S. Evergreen Park Drive SW P.O. Box 40128 Olympia, WA 98504-0128</p>	<p><input type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery – Messenger Service <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email : <a href="mailto:jeff.roberson@utc.wa.gov">jeff.roberson@utc.wa.gov</a> <a href="mailto:Harry.fukano@utc.wa.gov">Harry.fukano@utc.wa.gov</a></p>

/s/ Jerei Bargabus  
\_\_\_\_\_  
JEREI BARGABUS