

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the matter of the application of	§	Docket No. TS-121253
	§	
MCNAMARA, SEAN d/b/a	§	HEARING BRIEF OF
BELLINGHAM WATER TAXI	§	APPLICANT
	§	
For Extension of Authority Under	§	
Certificate BC-64619	§	

**BRIEF ON REQUEST OF SEAN MCNAMARA
FOR EXTENSION OF AUTHORITY**

I am requesting that the Commission grant me an Extension of Authority adding Friday Harbor, Cypress, and Vendovi Islands to Certificate BC-64619, for the following reasons.

As discussed below, I have been found fit, willing, and able to provide this service, and it is my sincere intention to do so, in a manner that fully meets the public’s transportation needs. However, my request is contested by Drew Schmidt, operator of Pacific Cruises NW, a past certificate holder. As will be seen, Mr. Schmidt’s objections are not well-taken.

For the past twelve years, despite the public’s growing needs and his own financial ability, great experience, and ownership of three vessels, Mr. Schmidt has failed to meet the needs of island residents, the Bellingham public, and tourists who want to travel to and from Friday Harbor. His primary business is generating sightseeing and whale watching income, and this has kept him from providing regular ferry services. This is adversely affecting the health, safety, convenience, and other basic needs of thousands of people who find themselves stranded on a regular basis by Mr. Schmidt. Members of the public have medical needs, transportation needs, business meetings, and routine shopping trips that are suffering now from Mr. Schmidt’s focus on entertainment, whale watching, and other more lucrative endeavors. This demonstrates

a callous disregard for his obligations to the public, as well as the Commission. A change is needed. Unless I am granted an extension, this will not happen.

First, Mr. Schmidt's history is clear. He has underserved the market for over a decade, and if he can prevent me from entering the market, he has little incentive to improve. Denying me an extension effectively rewards Mr. Schmidt for unreasonable and inadequate service. Knowing he could not defend this, he hired an attorney to raise a barrier to my entry into a market he will not properly serve. Its clear that without new blood, things may get worse.

Second, the public wants a change. My witnesses from Friday Harbor and surrounding Islands testified that while Mr. Schmidt regularly promises reliable service, he has not performed. In other words, the proof is in the pudding. There is no pudding. The public rightfully wants something better. They are the most important customers, or should be. Their voice should be heard and their needs should be met.

Third, it is unrealistic to expect Mr. Schmidt to improve. His primary concern is the bottom line, not the needs of the public. While this is entirely understandable, it is not what is best. A focus on whale watchers and high-volume tourists makes second- or third-class citizens of ferry passengers, and they are always there - a captive market. Reliability, speed, and convenience are sacrificed for monetary performance. Complaints from citizens do not carry the weight necessary for serious improvement, as years of dwindling service show.

Fourth, his schedule is very inconvenient. His sightseeing and whale watching excursions trap island residents in Bellingham with an intermittent, two day turnaround service (at best). The public who rely on him, a very unhappy captive market, are forced to incur high related costs – overnight stays, lodging, ground transportation, and meals. This is not fair to the

public or the competition. A poorly run company should never be awarded a monopoly that provides a disincentive to improvement. No unfavorable monopoly should be allowed to stay that way by using a state certificate as a barrier to entry. A state certificate is a privilege that should be granted to improve service, not protect profits. My schedule offers same day service. Passengers can finally travel to Bellingham, or the islands, returning home the same day.

Fifth, the economics work for me, but not for him. What for Mr. Schmidt is extra gravy, will be bread and butter for my company. My highest goal is speedy, reliable, and safe transportation, while his is better margins. That spells decreased services and cost reductions for him, where I will add them -- public transportation. He simply has no monetary incentive to provide what I want to offer. He just wants to keep me out of his way.

Sixth, his claims of quality and performance are untrue. As the saying goes, he has voted with his feet. By running his ferry service for nine days in 2011 and claiming fifty in 2012, then canceling altogether. His whale watching, bar, and dinner cruises left the public high and dry for 356 days and 315 days – more than 90% of the time over the last two years. This could not possibly have met the transportation needs of 200,000 people in and around Bellingham, nearly 20,000 residents of the San Juan Islands, and hundreds of thousands of tourists. Mr. Schmidt testified he fulfilled the public need. Indeed, he counted 4,500 passengers in 5 months in his own 2006 study. That's a rate of 12,000 passengers a year, or 1,000 a month. And that study is seven years old. He has made it clear that for him, income trumps service.

In 2012, Mr. Schmidt transferred the bulk of his Certificate BC-10 to me, then canceled his certificate and service to Friday Harbor in July, ignoring the public's need. He now claims he could not run regulated and non-regulated services together, but he has done so for over twelve

years. Two Commission staffers testified that he was told he could operate both in the same vessel. He does not remember that conversation. Perhaps realizing that this did not have the ring of truth, he claimed that he re-applied due to “seller’s remorse.” However, he did not remember being told by Penny Ingram that could undo the cancellation by asking for a review. He did not ask. It is clear that what caused him to re-apply was a concern that he might face real competition. Fortunately for the public, the right to award the route is owned by the State, not the biggest and most powerful vessel owners.

Finally, my company and I are qualified. On June 4, 2012 the Transportation Commission found me fit, willing, and able to provide a passenger ferry service under RCW 81.84.020 (2) and issued me Certificate BC-64619. Further, if fitness means the willingness and ability to serve the real needs of the public, my company is far more fit than his, regardless of the number of vessels or cash on hand. Mr. Schmidt and his lawyer attacked my fitness because they cannot defend his performance.

I have been on the water all my life. I own a current WUTC Certificate, am a U.S. Coast Guard Licensed Captain, have operated vessels from 20 to 300 feet, from the South Pacific to the Bering Sea, and have over 5 years operating a water taxi business in these San Juan Islands. I have moved my wife and three small children from Alaska to pursue this goal. I am completely dedicated to creating a viable and reliable passenger ferry service, serving the public need for decades to come. My desire is intense, my commitment is total, and my interest is for the community as well as myself, and I would appreciate the chance to improve the transportation needs of Bellingham and the San Juan Islands. I believe I can do so considerably.

My company is a startup, but we have shown sufficient assets and funding for the required minimum of 12 months of operation. My ridership and revenue forecast is reasonable and demonstrates a profitable operation the first and following years. As Neil Armstrong said, “There can be no great accomplishment without risk.” Small businesses are the life blood of this country, and these islands in particular. With the support of the public, which I already have, and the Commission, which I also have in the surrounding waters, I cannot fail with Friday Harbor. I will make it better.

In sum, it is often said that history repeats itself. Mr. Schmidt’s performance demonstrates this. His service has dwindled year after year, leaving the entire community of Bellingham, the Islands, and Friday Harbor, greatly underserved. The public has spoken. They need what he will not provide. Should he be rewarded for this failure by giving him yet another chance? I submit that this is not in the best interest of the public, the local economy, the Commission, or the State of Washington. I would greatly appreciate the chance to serve what others have not. If allowed, I will provide timely, efficient, safe, reliable, and speedy service, and I am here to stay.

For these reasons, I respectfully request that the Commission grant me the Extension of Authority and add Friday Harbor, Cypress and Vendovi Islands to Certificate BC-64619.

Thank you.

Respectfully Submitted,

Sean C. McNamara
Bellingham Water Taxi
1028 17th Street
Bellingham, Washington 98225
bellinghamwatertaxi@gmail.com