

[Service Date September 25, 2009]

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In re the Matter of the Petition of)	Docket TS-091353
)	
UNITED STATES DEPARTMENT OF)	
AGRICULTURE FOREST SERVICE)	ORDER 01
)	
For a Declaratory Order Disclaiming)	DISMISSING PETITION FOR
Jurisdiction)	DECLARATORY ORDER
.....)	

MEMORANDUM

- 1 On August 27, 2009, the United States Department of Agriculture (USDA) Forest Service filed with the Washington Utilities and Transportation Commission (Commission) a letter requesting a formal opinion concerning proposed boat transportation on Lake Chelan that would require a special use permit from the Forest Service. Stehekin Boat Service needs the special use permit to use National Forest docking facilities on the lake. The USDA’s specific question to the Commission was whether the proposed operation would be jurisdictional “commercial ferry service,” as defined in statute and rule, or “charter” service that would be exempt from Commission jurisdiction.
- 2 The Commission elected to construe liberally the USDA’s letter request, treating it as a petition for declaratory order. Pursuant to RCW 34.05.240 and WAC 480-07-930, the Commission gave notice of the petition to all persons required by law and such other persons as deemed appropriate.
- 3 On September 18, 2009, Mr. Robert J. Sheehan, District Ranger, filed on behalf of the Forest Service a letter stating, in relevant parts (emphasis in original):

I would like be clear that my intent in sending the request **was not for a hearing or a Petition for a Declaratory Order because I am not interested in presenting any argument concerning how the Commission should classify Mr. Courtney's service.**

I believe that an advisory opinion letter, similar to those that you sent to Cliff Courtney on Nov. 7, 2008 and Feb. 2, 2009, would satisfy my inquiry.

- 4 Mr. Sheehan's letter establishes good cause to dismiss this matter and close this formal declaratory judgment docket.

ORDER

- 5 THE COMMISSION ORDERS That the United States Department of Agriculture (USDA) Forest Service's petition for declaratory order, filed in the form of a letter request on August 27, 2009, is dismissed. This docket is closed.

Dated at Olympia, Washington, and effective September 25, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge

NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a Petition for Review, filed within ten (10) days of the service of this Order pursuant to WAC 480-07-810.