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BEFORE THE WASHINGTON UTILITIES AND

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TRANSPORTATION COMMISSION

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4 In Re Application No. D-78932 )Docket No. TC-001566  
of ) Volume I

5 ) Pages 1-17

VALENTINETTI, STEVE & BRIAN )

6 HARTLEY, D/B/A SEATTLE SUPER )

SHUTTLE, )

7 )

for a Certificate of Public )

8 Convenience and Necessity to )

Operate Motor Vehicles in )

9 Furnishing Passenger and )

Express Service as an Auto )

10 Transportation Company. )

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14 A hearing in the above matter was

15 held on March 13, 2001, at 9:33 a.m., at 1300

16 Evergreen Park Drive Southwest, Olympia, Washington,

17 before Administrative Law Judges WILLIAM HENDRICKS

18 and MARJORIE R. SCHAER.

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20 The parties were present as

follows:

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22 SEATTLE SUPER SHUTTLE, by Steve  
Valentinetti, 1224 153rd Street South, Spanaway,  
Washington, 98387. (Appearing via teleconference  
23 bridge.)

24 Barbara L. Nelson, CSR,  
Court Reporter

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SHUTTLE EXPRESS and GRAY LINE, by  
David L. Rice, Attorney at Law, Miller, Nash, Two  
Union Square, 601 Union Street, Suite 4400, Seattle,  
Washington 98101.

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THE COMMISSION, by Sally G.  
Johnston, Assistant Attorney General, 1400 Evergreen  
Park Drive, S.W., P.O. Box 40128, Olympia, Washington  
98504-0128.

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1                   JUDGE HENDRICKS: Let's be on the record.  
2 We're here this afternoon for a prehearing conference  
3 in Docket Number TC-001566. This matter arises from  
4 Application Number D-78932, filed by Steve  
5 Valentinetti and Brian Hartley, d/b/a Seattle Super  
6 Shuttle, for a certificate of public convenience and  
7 necessity to operate motor vehicles in furnishing  
8 passenger and express transportation service.

9                   Today is March 13, 2001, and we're  
10 appearing today in Room 108 in the Commission's  
11 headquarters building in Olympia, Washington. My  
12 name is Tre Hendricks, and Marjorie Schaer, who is  
13 seated to my left, and I are the Administrative Law  
14 Judges assigned by the Commission to this stage of  
15 the proceeding.

16                   So now we'll just take appearances from the  
17 parties. And why don't we begin, Mr. Valentinetti,  
18 with you. If you could just please state for the  
19 record your name, who you represent, your address,  
20 telephone number, fax number, and an e-mail, if you  
21 use one.

22                   MR. VALENTINETTI: My name is Steve  
23 Valentinetti. I represent Seattle Super Shuttle. We  
24 just purchased a new building, so I don't even know  
25 the address, but I can give you an old address, which

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1 is 1224 153rd Street South, Spanaway, Washington,  
2 98387. Phone number is 206-423-5500; fax number is  
3 253-535-6000.

4 JUDGE HENDRICKS: And do you use an e-mail?

5 MR. VALENTINETTI: No, not currently for  
6 the business.

7 JUDGE HENDRICKS: Okay. You mentioned this  
8 is an old address. Can you obtain the new address  
9 for us sometime after this hearing?

10 MR. VALENTINETTI: Yes.

11 JUDGE HENDRICKS: Okay, great. That will  
12 be helpful. You can either call that in to me or to  
13 Nancy Moen and we can record that. And will this  
14 phone number remain your business phone number when  
15 you move?

16 MR. VALENTINETTI: Yes, yes, it will.

17 JUDGE HENDRICKS: Okay. All right. Mr.  
18 Rice.

19 MR. RICE: Yes, this is David Rice, here on  
20 behalf of Shuttle Express and Gray Line. I'm with  
21 the firm of Miller Nash, LLP. My address is 4400  
22 Two, spelled out, Union Square, 601 Union Street,  
23 Seattle, 98101. My phone number is 206-777-7424; fax  
24 is 206-622-7485; my e-mail address is  
25 rica@millernash.com.

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1           And for the record, I can read my clients'  
2 addresses into the record. Shuttle Express, Inc. is  
3 -- their address is 805 Lenora Street, Seattle,  
4 Washington, 98121. Also, Evergreen Trails, Inc.,  
5 d/b/a Gray Line of Seattle, their address is 405 West  
6 Marginal Way, S.W., Seattle, Washington, 98106.  
7 Phone number I have for Shuttle Express is 425 --

8           JUDGE HENDRICKS: Mr. Rice, that's all  
9 right. We don't need all that. Thank you.

10          MR. RICE: Sure.

11          JUDGE HENDRICKS: Ms. Johnston.

12          MS. JOHNSTON: Sally Johnston, Assistant  
13 Attorney General, appearing on behalf of Commission  
14 Staff. My business address is 1400 South Evergreen  
15 Park Drive, S.W., Olympia, Washington, 98504. My  
16 telephone number is area code 360-664-1193. My fax  
17 number is area code 360-586-5522. And my e-mail  
18 address is sjohnston@wutc.wa.gov.

19          JUDGE HENDRICKS: Thank you, Ms. Johnston.  
20 Are there any motions or other preliminary matters at  
21 this time to come before the Commission? Hearing  
22 nothing, we'll move on. We have one protest filed.  
23 And in the protest I read that the protestants wish  
24 to appear, and I wasn't clear whether they were going  
25 to appear for the entire proceeding by counsel or --

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1 there was some mention of appearing unrepresented.

2 Are you --

3 MR. RICE: If you're referring to Shuttle  
4 Express and Gray Line, I'm going to be representing  
5 them through the whole proceeding.

6 JUDGE HENDRICKS: Okay, okay. I just  
7 wanted to clarify that.

8 MR. RICE: Sure.

9 JUDGE HENDRICKS: I'd like to discuss the  
10 issues that are presented in the proceeding. If we  
11 could begin maybe with Commission Staff as to what  
12 issues Staff sees as presented.

13 MS. JOHNSTON: Well, I believe the issues  
14 are outlined well in Appendix A to the notice of  
15 prehearing conference. There was reference to the  
16 statutory standard, the nature of the evidence that  
17 would be considered by the Commission, and also  
18 reference in (2) to financial fitness of the  
19 applicant, Seattle Super Shuttle. And just  
20 generally, those are the issues that I see that the  
21 Commission will need to address in this matter.

22 JUDGE HENDRICKS: So as I hear it, the  
23 issues would be the application, as you said, of the  
24 public convenience and necessity requirement, whether  
25 there's a public need, and are the existing

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1 certificate holders in the territory providing  
2 service to the satisfaction of the Commission;  
3 whether the applicant is fit, willing and able, which  
4 includes, in the Commission's -- as this Commission  
5 has said in the past, financial fitness and  
6 regulatory fitness are both components of that.

7 Mr. Rice, is that consistent with your view  
8 of what the issues are in this proceeding, or is  
9 there anything that you have to add?

10 MR. RICE: I agree with that. That's  
11 correct, as far as the issues.

12 JUDGE HENDRICKS: Okay. Mr. Valentinetti,  
13 are those issues that you're familiar with or that  
14 you understand at this point?

15 MR. VALENTINETTI: You mean the financial  
16 fitness and the regulatory issues? Yes.

17 JUDGE HENDRICKS: And also I believe we've  
18 been talking about the public convenience and  
19 necessity requirement, which includes whether there's  
20 a public need for the service and whether existing  
21 certificate holders are providing service to the  
22 satisfaction of the Commission also. Is that  
23 consistent with your understanding?

24 MR. VALENTINETTI: Yes.

25 JUDGE HENDRICKS: Okay. And then, of

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1 course, we also spoke of the evidentiary issues that  
2 will arise with regard to the application, as well.

3 MR. VALENTINETTI: I'm sorry, I missed that  
4 part.

5 JUDGE HENDRICKS: The evidentiary issues  
6 that might arise with regard to the application,  
7 also. That was one other issue that was mentioned.  
8 I'd like to ask now if any of the parties are going  
9 to see a necessity to have any discovery to invoke  
10 the discovery rule. I know that in these sorts of  
11 cases, it's typically not done, just the nature of  
12 the applications and so forth. Is that your view on  
13 it, as well, Mr. Rice?

14 MR. RICE: I would like to request  
15 discovery in this case to inquire about some fitness  
16 issues, and I don't foresee a great deal of  
17 discovery, so --

18 JUDGE HENDRICKS: Is that something that  
19 you think can be done in hearing just as well as in  
20 discovery? Typically, I know that these things have  
21 been dealt with pretty easily at the hearing stage,  
22 especially when it's fairly limited in nature.

23 MR. RICE: These are -- we would like to  
24 know a little bit about some of the fitness of the  
25 applicant before we go into the hearing.

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1 JUDGE HENDRICKS: Okay.

2 MR. RICE: Which will enable us to prepare  
3 our witnesses and also prepare our case, so that is  
4 something I think that we could -- that is best  
5 handled through initial discovery.

6 JUDGE HENDRICKS: And you think that would  
7 be fairly limited in nature?

8 MR. RICE: It will be limited in nature,  
9 absolutely.

10 JUDGE HENDRICKS: Ms. Johnston.

11 MS. JOHNSTON: Well, typically, the  
12 discovery rule is not invoked in these sorts of  
13 proceedings, I think probably for a lot of reasons,  
14 not the least of which is that we frequently see pro  
15 se applicants for certificates of public convenience  
16 and necessity. So I guess I would ask that you  
17 inquire of Mr. Rice as to whether or not the  
18 submission and the papers already that were filed  
19 with the Commission as part of the application are  
20 deficient. And if Mr. Rice could be more precise as  
21 to the deficiencies, it might be helpful.

22 JUDGE HENDRICKS: Yeah, I'd agree.

23 MR. RICE: Okay.

24 JUDGE HENDRICKS: Could you answer that? I  
25 am concerned as to whether the application itself is

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1 insufficient or if there's possibly something else  
2 that needs to be done.

3 MR. RICE: Well, there's one aspect that I  
4 was interested in obtaining discovery on. This  
5 actually pertains to the actual application itself,  
6 is the response to Question 16, which is a request  
7 for information regarding the equipment to be used.  
8 And it's blank here, so we don't have information on  
9 that. Yet I noted that above, in response to 15,  
10 there was a statement that there is \$110,000 worth of  
11 bus equipment which the applicant owns.

12 And we would just like to inquire, you  
13 know, is that the particular equipment that he plans  
14 to use in his operation, you know, how old is it? In  
15 addition, we'd like to know some other information  
16 about whether or not he has operated one of these  
17 types of services before, and that's all information  
18 that goes to his fitness to be able to obtain a  
19 certificate in this state, and it's not addressed in  
20 the application that he submitted.

21 MS. JOHNSTON: Well, may I say something?

22 JUDGE HENDRICKS: Please.

23 MS. JOHNSTON: Typically, the fitness  
24 questions are generally addressed through live  
25 testimony at the hearing itself. I had also made the

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1 observation that Question 16 had not been answered,  
2 and I communicated that to Commission Staff in early  
3 February. And it was indicated to me that Mr.  
4 Valentinetti had indicated that he intended to submit  
5 a separate document listing his equipment. So  
6 perhaps you could inquire of Mr. Valentinetti whether  
7 he's responded to Question 16 of the application, and  
8 if not, when he intends to do so.

9 JUDGE HENDRICKS: That's a good question,  
10 Mr. Valentinetti. Did you hear that? Have you  
11 responded to Question 16? The application doesn't  
12 list -- now, I don't know if you have your  
13 application with you, but Question 16 says, Complete  
14 the following statement of equipment to be used in  
15 connection with proposed service or attach equipment  
16 list with appropriate information. And as I  
17 understand it, it sounds as though you had  
18 represented that you would send in an equipment list  
19 with the year, make, state license number, motor or  
20 ID number, and the seating capacity for the vehicles.  
21 Have you done that or is that something you intend to  
22 do?

23 MR. VALENTINETTI: I have not done that. I  
24 could do that. And we are purchasing new equipment  
25 bi-weekly, so if I sent it in today, it would be --

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1 it would be, you know, not -- I can give you a verbal  
2 equipment list right now, if you'd like. You want me  
3 to do that?

4 JUDGE HENDRICKS: No, I'd rather see  
5 something to come into the Commission via regular  
6 service requirements.

7 MR. VALENTINETTI: Okay.

8 JUDGE HENDRICKS: And I'll discuss those at  
9 the end, at the end of the conference. So that's how  
10 I prefer to see that come in. Other than -- Mr.  
11 Rice, other than the fitness issues, which I agree  
12 are dealt with most expeditiously at the hearing,  
13 would the filing of this information satisfy your  
14 other concerns?

15 MR. RICE: That's correct.

16 JUDGE HENDRICKS: Okay.

17 MR. VALENTINETTI: We will provide the  
18 answer to Question 16 to the Commission.

19 JUDGE HENDRICKS: And you'll do that when?  
20 You said you will do that today, or when could you  
21 have that here?

22 MR. VALENTINETTI: I could have it to you  
23 tomorrow.

24 JUDGE HENDRICKS: Okay.

25 MR. VALENTINETTI: I'm actually out of town

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1 today.

2 JUDGE HENDRICKS: Okay. What you could do  
3 is -- I'll discuss this again later at the end of the  
4 conference, but provide a courtesy fax copy and then  
5 follow that up with a properly served document  
6 addressed to the Commission. Just a moment.

7 MR. VALENTINETTI: Sally Johnston, are you  
8 there during the break for a second?

9 MS. JOHNSTON: Yes, I'm here.

10 MR. VALENTINETTI: I'm out of town on a  
11 cell phone. In case I -- could you check with me  
12 periodically and make sure I'm still here?

13 MS. JOHNSTON: Okay. I will.

14 MR. VALENTINETTI: All right. Thank you.

15 JUDGE HENDRICKS: What we can do and what  
16 we'll do here is trigger the discovery rule, and it's  
17 under WAC 480-09-480(2), which is the general  
18 discovery provisions that provide for subpoena and  
19 subpoena duces tecum, and not trigger the remaining  
20 subsections of the rule unless Super Shuttle and Gray  
21 Line feels it's necessary and can show that the  
22 elements under (2) are met to trigger further  
23 discovery. But at this point, we'll trigger only (2)  
24 of the discovery rule.

25 Next I'd like to ask if there's any request

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1 for a protective order at this point. And typically,  
2 again, because of the nature of these proceedings and  
3 the public need requirement and just the public  
4 nature of these filings, no protective order is  
5 necessary. And I'd just -- I'll ask the parties now  
6 if there's anybody, in light of that, who would like  
7 to have a protective order in this case? I don't  
8 hear anything from anyone here at the Commission.  
9 Mr. Valentinetti.

10 MR. VALENTINETTI: Protective, you mean  
11 this hearing being public or --

12 JUDGE HENDRICKS: That's right, yes.  
13 Essentially, it would hold confidential certain  
14 documents based upon the request, confidential in the  
15 matter. And much of these documents already are  
16 publicly disclosed, so it's really typically not done  
17 in these proceedings.

18 MR. VALENTINETTI: Okay. Well, I think  
19 that everything should -- everything can be  
20 disclosed, as far as I'm concerned. I don't think  
21 there's anything to hide, really.

22 JUDGE HENDRICKS: Okay, thank you. Now I'd  
23 like to just go off the record for a moment to  
24 discuss the evidentiary hearing procedure, if we  
25 could.

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1 (Discussion off the record.)

2 JUDGE HENDRICKS: Why don't we be back on  
3 the record, then. The hearing will be held on May  
4 1st and 2nd, and somewhat flexible, depending upon  
5 the availability of facilities in King County. The  
6 applicant and the parties, other parties have agreed  
7 that the hearing will be best held in King County or  
8 near Sea-Tac Airport, if possible. Again, May 1st  
9 and 2nd will be the dates for the hearing.

10 We'll schedule a conference on the 26th of  
11 April in order to exchange witness lists, exchange  
12 proposed exhibits, and establish an order of  
13 presentation for the hearing. And to the extent that  
14 discovery is available in this proceeding, the  
15 deadline for that discovery will be the 25th for any  
16 responses.

17 Any objection to the provisions of the  
18 prehearing conference order, which will follow this  
19 conference, must be filed within 10 days after the  
20 entry of the order. Absent such objections, the  
21 prehearing conference order will control further  
22 proceedings in this matter subject to Commission  
23 review.

24 I'll ask, are there any other matters to  
25 come before the Commission at this time?

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1 MR. VALENTINETTI: Not from our side,  
2 Seattle Super Shuttle.

3 JUDGE HENDRICKS: All right, then. I'll  
4 just briefly go over filings. On filings, we need an  
5 original and, at this point, 19 copies for internal  
6 distribution at the Commission, although that may be  
7 too many. That 19 copies may be too many. What  
8 we'll do is check with our distribution and determine  
9 how many copies, in fact, will need to be filed in  
10 addition to the original, and that will also come out  
11 in the prehearing conference order.

12 Remember that all filings must be made  
13 through the Commission's secretary, either by mail to  
14 the secretary, and that address is Washington  
15 Utilities and Transportation Commission, P.O. Box  
16 47250, 1300 South Evergreen Park Drive, S.W.,  
17 Olympia, Washington, 98504-7250. And that, again,  
18 that address will be available in the prehearing  
19 conference order.

20 We require that filings of substance, such  
21 as testimony, briefs, motions and answers include an  
22 electronic copy on a 3.5-inch diskette, in ASCII or  
23 in PDF format, Microsoft Word, and also WordPerfect  
24 5.0 or later is acceptable format.

25 Service on the parties must be simultaneous

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1 with filing. Ordinarily the Commission does not  
2 accept filings by facsimile, so don't rely on that  
3 without prior permission, which can be granted on  
4 request and in extraordinary circumstances.

5           The Commission will enter a prehearing  
6 conference order. That order will include  
7 requirements for witness lists and exhibit lists to  
8 be submitted shortly before the evidentiary hearings.  
9 The order also will remind the parties that the  
10 Commission encourages stipulations both as to facts,  
11 under 480-09-470, and to issues that can be resolved  
12 via the settlement process, under 480-09-466, or  
13 other means under alternative dispute resolution,  
14 under 480-09-465. In the case of any settlement  
15 discussions, the Commission should be advised of any  
16 progress that you make.

17           Okay. Is there anything -- any other  
18 matters now to come before the Commission? Hearing  
19 nothing, this prehearing conference is adjourned.  
20 Thank you.

21           MR. VALENTINETTI: Thank you.

22           MS. JOHNSTON: Thank you.

23           (Proceedings adjourned at 10:14 a.m.)

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