BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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| **In the Matter of Application No. TS-160479 of**  MEI Northwest LLC  **For a Certificate of Public Convenience and Necessity under RCW 81.84 to Operate Vessels in Furnishing Ship Launch and Freight Service** | DOCKET NO. TS-160479  PROTEST OF ARROW LAUNCH SERVICE, INC. |

## COMES NOW Arrow Launch Service, Inc. (“Protestant”) by and through its attorney, David W. Wiley of Williams, Kastner & Gibbs PLLC, and respectfully protests the proposed ship launch and freight service authority for Applicant to operate in and between various anchorage zones in Puget Sound and the Strait of Juan de Fuca as noticed in the June 28, 2016 Washington Utilities and Transportation Commission (“Commission”) docket.

## **Name and Address of Protestant.**

Arrow Launch Service, Inc.

PO Box 2376

Port Angeles, WA 98362

Phone: 360.457-1544

Email: [jharmon@olypen.com](mailto:jharmon@olypen.com)

## **Represented** **by:**

David W. Wiley

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## **Statutes and Regulations Brought into Issue by This Proceeding.**

## RCW Ch. 81.84, WAC Chs. 480-07 and 480-51, et seq.

## **Protestant’s Interest in This Proceeding.**

## Protestant is a commercial ferry service company regulated by the Commission pursuant to its Certificate of Public Convenience and Necessity BC-97, a copy of which is attached hereto as **Exhibit A.** As is evidenced by its certificate, Protestant currently holds authority in conflict with the applied-for certificate.

## Protestant’s authority is fully effective and includes the authorization to provide regulated launch service in all the points sought by Applicant. Moreover, Protestant currently holds itself out to provide service 24 hours a day, 365 days a year at the fixed termini and/or anchorage zones requested by Applicant. Protestant therefore remains fully ready, willing and able to provide the duplicating services which the Applicant seeks herein to any and all of Applicant’s supporting witnesses and to the full satisfaction of the Commission. Authorization of any overlapping service would thus pose serious economic harm for Protestant in diminution of its revenues, customer base and threaten its continued viability under regulated rates strictly controlled by this Commission.

## **Statutory Analysis**.

## Pursuant to RCW 81.84.020(2):

. . . [T]he commission shall not have the power to grant a certificate to operate between districts and/or into any territory . . . already served by an existing certificate holder, unless such existing certificate holder has failed or refused to furnish reasonable and adequate service or has failed to provide the service described in its certificate or tariffs after the time period allowed to initiate service has elapsed.

## Protestant believes and therefore alleges that it has neither failed nor refused to furnish reasonable and adequate service and that this Application must therefore be denied. Moreover, Protestant believes that this applicant cannot establish that it is fit, willing, and able to be issued a certificate for regulated launch service in the territories sought.

## If a hearing is convened on this matter, Protestant would propose to present the testimony of four to five witnesses, requiring a hearing time of approximately one day, and would also propose to conduct cross-examination of the Applicant’s case and supporting witnesses which would entail additional hearing time.

## **The Protestant intends to:**

## **a.** Submit written testimony and/or exhibits from the following people:

One or more representatives of Arrow Launch Service, Inc., including but not limited to Jack L. Harmon, Jr. Other witnesses have not yet been identified; Protestant reserves the right to submit additional written testimony and exhibits.

## **b.** Submit written arguments and/or motions.

## **If a hearing is held regarding the Application and this Protest, Protestant also intends to:**

## **a.** Call the following witnesses to testify:

One or more representatives of Arrow Launch Service, Inc., including its President, Jack L. Harmon, Jr. Other witnesses have yet to be identified and may depend on the Applicant’s case in chief; Protestant reserves the right to call any additional witnesses, if necessary.

## **b.** Cross-examine the witnesses called by other parties.

## **Conclusion; Prayer for Relief.**

## Protestant therefore requests that the Commission deny MEI Northwest LLC’s Application for a Certificate of Public Convenience and Necessity on the grounds that Protestant already holds a certificate for that authority and that there is no need for duplicating service that would require granting Applicant a certificate of authority to engage in regulated launch service in the territory requested, and that indeed, granting of such duplicating authority would be contrary to the public interest and contravene statutory mandates. Protestant has invested millions of dollars in the infrastructure, resources and personnel to serve the shipping public in regulated launch services, all of which investments and employment are subject to irreparable harm if this application is granted.

## Alternatively, Protestant requests that the Commission schedule a hearing on Docket No. TS‑160479 and that the Application be carefully evaluated under law and rule before being acted upon development of a full adjudicative proceeding record.

## Signed at Seattle, Washington this \_\_\_\_ day of July, 2016

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|  | RESPECTFULLY sUBMITTED,  By  David W. Wiley, WSBA #08614  [dwiley@williamskastner.com](mailto:dwiley@williamskastner.com)  Attorney for Arrow Launch Service, Inc. |

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2016 I caused to be served the original and twelve (12) copies of the foregoing document to the following address via FedEx to:

Steven V. King, Executive Director and Secretary

Washington Utilities and Transportation Commission

Attn.: Records Center

P.O. Box 47250

1300 S. Evergreen Park Dr. SW

Olympia, WA 98504-7250

I certify I have also provided to the Washington Utilities and Transportation Commission’s Secretary an official electronic file containing the foregoing document via the UTC web portal;

and a copy via first class mail, postage prepaid, to:

Mr. Dan Bentson

Bullivant, Houser, Bailey, PC

1700 Seventh Ave, Suite 1810

Seattle, WA 98101

Mr. Randall Martin Esch

Mr. Randy C. Esch

MEI Northwest LLC

PO Box 4008

2085 N. Broadway, Suite 500

Walnut Creek, CA 94596

Signed at Seattle, Washington this \_\_\_\_ day of July, 2016.

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