

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. B-079364 of)	
)	DOCKET NO. TS-050443
MIKE LAUVER AND JOHN SOLIN,)	
d/b/a FEET WET PARTNERS;)	ORDER NO. 01
SARATOGA SHUTTLE)	
)	
For a Certificate of Public)	PREHEARING CONFERENCE
Convenience and Necessity to)	ORDER ESTABLISHING
Provide Commercial Ferry Service)	PROCEDURAL SCHEDULE
)	
.....)	

1 **NATURE OF PROCEEDING.** Docket No. TS-050443 is an application by Mike Lauver and John Solin, d/b/a Feet Wet Partners; Saratoga Shuttle, for a certificate of public convenience and necessity to provide commercial passenger and freight-only ferry service between Oak Harbor and Coupeville, Coupeville and Madrona Beach, Oak Harbor and Mukilteo, and intermediate points on those routes.

2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on Thursday, June 30, 2005, before Administrative Law Judge Karen M. Caillé.¹

3 **APPEARANCES.** Mike Lauver and John Solin appeared *pro se*, on behalf of the Applicant Feet Wet Partners; Saratoga Shuttle. Jonathan Thompson, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Commission Staff or Staff).² Contact information provided at

¹ The assigned administrative law judge was unavailable on the day of the prehearing conference.
² In formal proceedings, such as this case, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the

the conference for the parties' representatives is attached as Appendix A to this order.

4 **PROTESTS.** The Commission received no protests within the 30 days required by WAC 480-51-040 and/or WAC 480-51-050.

5 **PETITIONS FOR INTERVENTION.** No party appeared at the conference seeking to intervene.

6 **AMENDMENT OF APPLICANT NAME.** Applicant noted that the name of the Applicant, as set forth on the Application, the Commission's Record Management System, and captioned pleadings has caused confusion and should be amended. Commission Staff and Applicant agreed to discuss the issue to arrive at a solution. In the event that the parties are unable resolve the issue, Applicant will file a Motion to Amend Application, according to the procedural schedule set forth in Appendix B.

7 **DISCOVERY.** It does not appear that discovery will be required in this proceeding. If the need for discovery becomes apparent later, any party may request by motion that the Commission allow for discovery pursuant to the Commission's discovery rules, WAC 480-07-400 – 425.

8 **PROCEDURAL SCHEDULE.** The parties discussed the necessity for a hearing on the Application in light of the recent legislation that amends RCW 81.84.020, effective July 24, 2005. Substitute Senate Bill 5105, section 7, amends RCW 81.84.020 to allow the Commission to issue a certificate to operate commercial ferry service without a hearing, as long as proper notice and an opportunity for a hearing was originally provided, and no objections are made regarding the

proceeding. There is an "ex parte wall" separating the Commissioners, the presiding ALJ, and the Commissioners' policy and accounting advisors from all parties, including Staff. RCW 34.05.455.

issuance of the certificate. The Application in this proceeding is not protested. Additionally, no other commercial ferry provides service on the proposed routes.

9 Commission Staff and Applicant contend that the new legislation should be applied to this Application, even though the Application was filed with the Commission prior to the effective date of the legislation. Staff argues that there is no mention in the language of the legislation itself that would require exclusion of those applications filed before the effective date of the legislation. Commission Staff and Applicant suggest that as long as the decision is entered after the effective date, the Application in this proceeding can be considered under the new legislation.

10 Alternatively, Commission Staff and Applicant propose that the proceeding be decided by the Commission on a paper record since there are no protests to the application.

11 The Commission recognizes that this commercial ferry application is a good example of the type of application that the legislature intended to address with SSB 5105 when it becomes effective on July 24, 2005. However, since this Application was filed on March 21, 2005, and the matter was commenced as an adjudicative proceeding,³ the Commission finds it appropriate to follow the adjudicative process, which will result in the entry of an order by the Commission. In the spirit of the new legislation, the Commission will allow the adjudication to proceed on a paper record following the procedural schedule attached to this Order as Appendix B, and incorporated into the body of this Order by this reference.

12 **ISSUES.** Commission Staff raised several issues relating to the sufficiency of the Application, including the absence of a vessel on the application materials, whether the boat would meet the definition of a vessel, whether the 10 mile

waiver would apply, and what time-frame would apply for commencing service. The parties agreed to discuss these and any other issues that may arise, and Applicant will supplement or amend the Application with information or documents, as needed.

13 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file with the Commission **an original plus 3** copies of all pleadings, motions, briefs, and other prefiled materials. Paper copies of these materials are required to conform to the format and publication guidelines set forth in WAC 480-07-395 and 480-07-460, and must be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

14 All filings must be mailed or delivered to the Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.

15 An electronic copy of all filings must be provided by e-mail delivery to <records@wutc.wa.gov>. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette including the filed document(s). The Commission prefers that parties furnish electronic copies in .pdf (Adobe Acrobat) format, supplemented by a separate file in MS Word 6.0 (or later), or WordPerfect 5.1 (or later) format. Parties are required to organize and identify electronic files as specified in WAC 480-07-140(5).

16 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Pursuant to WAC 480-07-145(6), the presiding officer may grant parties a one-day extension of the paper-filing requirement, allowing electronic submission of documents with the

³ RCW 34.05.413(5)

Commission on the filing deadline. Parties may only submit documents electronically with the Commission in this proceeding with the permission of the presiding officer. If, at any time during this proceeding, parties are authorized to file documents with the Commission electronically under WAC 480-07-145(6), Parties must submit the document to records@wutc.wa.gov, and file **an original, plus 3** paper copies, of the document with the Commission by the following business day.

- 17 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective this 18th day of July, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KAREN M. CAILLÉ
Administrative Law Judge

APPENDIX A

PARTIES' REPRESENTATIVES
DOCKET NO. TS-050443

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Mike Lauver and John Solin d/b/a Feet Wet Partners; Saratoga Shuttle	Mike Lauver 1321-B SW Barlow Street P.O. Box 2895 Oak Harbor, WA 98277	360-240-8287	360-323-8894	mike@seatacshuttle.com
	John Solin 1321-B SW Barlow Street P.O. Box 2895 Oak Harbor, WA 98277	360-240-8287	369-323-8894	john@seatacshuttle.com
Commission Staff	JONATHAN THOMPSON Assistant Attorney General 1400 S. Evergreen Park Dr. SW P. O. Box 40128 Olympia, WA 98504-0128	360-664-1225	360-586-5522	jthompso@wutc.wa.gov
Administrative Law Judge	ANN E. RENDAHL Washington Utilities and Transportation Comm'n 1300 S. Evergreen Park Dr. SW P. O. Box 47250 Olympia, WA 98504-7250	360-664-1144	360-664-2654	arendahl@wutc.wa.gov

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET NO. TS-050443

EVENT	DATE	INTERVAL
Applicant's Motion to Amend Application (if needed)	August 15, 2005	—
Staff's Response to Motion to Amend Application (if needed)	August 22, 2005	7 days
Applicant updates and/or supplements Application	August 24, 2005	2 days