

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**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.

1 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.

2 **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)

3 **Represented by:**

David W. Wiley  
Williams, Kastner & Gibbs PLLC  
601 Union Street, Suite 4100  
Seattle, WA 98101-2380  
Phone: 206.628.6600  
Fax: 206.628.6611  
Email: [dwiley@wkg.com](mailto:dwiley@wkg.com)

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

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

5                   **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.

6                   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.

7                   **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.

8 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.

9 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.

10 **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.

11 **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.

12 **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.

13           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 22 day of July, 2016

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 22 day of July, 2016.



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Maggi Gruber  
Legal Assistant  
Williams Kastner & Gibbs, PLLC  
[mgruber@williamskastner.com](mailto:mgruber@williamskastner.com)

# **EXHIBIT A**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**For the Operation of Motor Propelled Vehicles**

pursuant to the provisions of Chapter 81 RCW

THIS IS TO CERTIFY that authority is granted to operate as a MOTOR CARRIER in the transportation of the commodities and in the territory described herein to

ARROW LAUNCH SERVICE, INC.  
POST OFFICE BOX 2376  
PORT ANGELES, WA 98362

CERT NO.  
BC-0097

PASSENGER AND FREIGHT SERVICE

(Launch Service)

BETWEEN:

Anacortes and March Point General Anchorage Zone. (Also known as Anacortes General Anchorage Zone.)

Seattle and the Seattle General Anchorage Zone.

Tacoma and the Tacoma General Anchorage Zone.

Bellingham City Dock and Bellingham Anchorage Zone.

Cherry Point, Sandy Point, Arco Dock, and Mobil Dock at Ferndale, including Sandy Point Marina.

PASSENGER AND FREIGHT LAUNCHING SERVICE

BETWEEN:

Ocean-going vessels at anchor in the harbors and the following Puget Sound Ports: Ferndale-Cherry Point, Bellingham, Anacortes, Everett, Seattle, Tacoma, Manchester, Olympia, Port Angeles, Willapa Harbor and Grays Harbor.



WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

By \_\_\_\_\_

*S. M. L.*

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Continuation

PASSENGER AND FREIGHT SERVICE

BETWEEN:

Anacortes and Vendovi Island Anchorage Zone.

Bellingham and the Vendovi Island Anchorage Zone.

Port Angeles and anchorage zones bounded by Crescent Bay to the west and Dungeness Bay to the east.

Fisherman's Cove and ships at anchor off Cherry Point/Ferndale/Sandy Point.

Anacortes and Sandy Point/Cherry Point/Ferndale.

Bellingham and ships at anchor off Cherry Point/Ferndale/Sandy Point.

Bellingham and the Anacortes Anchorage Zone.

Anacortes and the Bellingham Anchorage Zone.

PASSENGER AND FREIGHT SERVICE (Launch Service)

BETWEEN:

Ships at anchor in Port Townsend Bay on the one hand and Point Hudson and Port Townsend Marinas on the other hand.

Restriction: This authority is restricted against invading jurisdiction of Washington State Ferries under Chapter 47.60 RCW.

S. B. C. NO. 537

10-13-97

