

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of	)	DOCKET TS-121253 ( <i>Consolidated</i> )
	)	
MCNAMARA, SEAN d/b/a	)	ORDER 03
BELLINGHAM WATER TAXI	)	
	)	INITIAL ORDER GRANTING
For Extension of Authority Under	)	APPLICATION OF BELLINGHAM
Certificate BC-64619	)	WATER TAXI WITH CONDITIONS
.....	)	
In the Matter of the Application of	)	DOCKET TS-121395 ( <i>Consolidated</i> )
	)	
PACIFIC CRUISES NORTHWEST,	)	ORDER 03
INC. d/b/a SAN JUAN CRUISES	)	
	)	INITIAL ORDER GRANTING
For a Certificate of Public Convenience	)	APPLICATION OF SAN JUAN
and Necessity to Operate Vessels in	)	CRUISES WITH CONDITIONS
Furnishing Passenger Ferry Service	)	
.....	)	

Petition for Administrative Review

As per WAC 480-07-825, Island Mariner Cruises seeks an administrative review of Docket numbers TS-121253 and TS-121395 from the hearing dated January 31, 2013 and February 1, 2013. The following information was unavailable or and not reasonably discoverable at the time of the hearing, and this request is also sought for other good and sufficient cause.

The Order issued by the Commission discusses the term, “express boat.” This issue was not raised at the hearing. I have never heard of an express boat being used on a UTC route, which seems inconsistent. Had it been raised, I would have addressed the issue, as follows.

In its application to provide passenger-only ferry service, Pacific Cruises Northwest, Inc., d/b/a Victoria San Juan Cruises claimed it would provide a direct, nonstop trip from Bellingham to Friday Harbor. Island Mariner Cruises is already making a commuter trip to Friday Harbor from Bellingham with stops along the way. Drew Schmidt, owner of Pacific Cruises Northwest, stated that the company would be using its 100’ Victoria

Star on the proposed route (Transcript, p. 293). He further testified that the Victoria Star cruises at 18 knots and carries 149 passengers.

The Victoria Star has been operating in the area for many years as a whale watching boat, and I am very familiar with this boat and its capabilities. Pacific Cruises Northwest is asking for permission to run a scheduled service (while operating whale watching cruises). On most days both boats will arrive at Friday Harbor within minutes of each other, which essentially means overlapping service. If the two boats arrive at the same time, the Vitoria Star will appear to be travelling about as fast as the commuter boat. In addition, since the Victoria Star will regularly detour for whale watching, the problem will be compounded (see below). This ignores RCW 81.84.020 and raises three practical concerns:

- (1.) The proposed route for Pacific Cruises Northwest's vessel directly to Friday Harbor should be with no stops and no deviation for whale watching. It does not so provide.

It is important to consider the nature of the two services. In the past the Victoria Star has normally gone 10-15 miles off its promised course to look at whales. As a result, commuters will be delayed. This puts the Friday Harbor and Bellingham stops far behind the scheduled time. This is a big inconvenience to commuters planning to spend time in Friday Harbor or Bellingham, and is not a direct or "express" trip. This ruling gives an unfair advantage to the non-certificate holder and it disadvantages the current certificate holder (me), as well as commuters. How is this fair or appropriate?

- (2.) The Victoria Star cannot be expected to run at the stated speed of 18 knots without deviation and should not be given the option to run slower and make whale watching detours.

While it is true that theoretically, the Victoria Star can reach Friday Harbor in one hour and a half at 18 knots. This is a promise that Pacific Cruises Northwest will not keep. Since it bases its certificate request on a speed (18 knots), it should be obligated to travel at this speed. Does the Commission agree?

Further, if the Pacific Cruises Northwest vessel runs under 18 knots, as it has in the past, the commuter boat will arrive ahead of it. This again results in

an overlap and negates the purpose of an express boat. The fair outcome would be to deny the request of the non-certificate holder, in accordance with my protest and that of Bellingham Water Taxi as well. Isn't this what RCW 81.84.020 requires? If not, what does the language, "already served by an existing certificate holder," really mean?

- (3.) Pacific Cruises Northwest cannot be expected to set aside 20-30 seats for Friday Harbor walk-on passengers or be allowed to fill the vessel with whale watchers and leave the commuters behind.

Common sense says that it is highly unlikely that Pacific Cruises Northwest will waive off whale watchers to leave sufficient room for commuters (20-30 seats). These are our bread-and-butter clients. The effect of the Commission's decision is to allow Pacific Cruises Northwest to hurt our business while favoring theirs. How is this practical or fair to either my company or commuters? How does it follow RCW 81.84.020? Please explain in detail so that I can understand what Pacific Cruises Northwest is being allowed to do, and what it is being required to do, and the reasons why I am being disadvantaged in this way, particularly in the summer.

The Administrative Judge's ruling fails to comply with RCW 81.84.020 as written. It should be altered to provide as a finding of fact that the service sought by Pacific Cruises Northwest is overlapping and violates RCW 81.84.020 (1) (already served by existing certificate holder). This affects the entire award, which should be invalidated. Pacific Cruises Northwest's application should be denied because it extends into the territory of an existing certificate holder (Island Mariner Cruises) that has not failed or refused to furnish reasonable or adequate service.

Filed and served on all parties this 15<sup>th</sup> day of April, 2013.

Very truly yours,

Island Mariner Cruises, Inc.

By: \_\_\_\_\_  
Terry Buzzard