

Agenda Date: December 27, 2006  
Item Number: B8

**Docket:** TS-061812  
Company Name: Aqua Express, LLP (Certificate No. BC-129)

Staff: Dan Kermode, Regulatory Analyst

### **Recommendation**

Grant the petition to allow Aqua Express, LLP permission to temporarily discontinue passenger-only ferry service (Certificate No. BC-129) pursuant to WAC 480-51-130 beginning January 1, 2007, and ending June 4, 2007.

### **Discussion**

Aqua Express, LLP (Aqua Express or company) has authority to provide commercial passenger-only ferry service between the communities of Kingston and Seattle. The Washington Utilities and Transportation Commission (commission) granted Aqua Express its certificate in July 2004 and it provided ferry service up until September 30, 2005, when it was given authority to temporarily discontinue service.

On December 7, 2006, the company requested permission to continue its authority for discontinued passenger-only ferry service an additional six months, from December 31, 2006, to July 1, 2007. On December 22, 2006, the commission received an amended request from the company to end the discontinuance on June 4, 2007, rather than the originally proposed July 1, 2007. Aqua Express states in its original request for extension, that it needs more time to finalize and implement its agreement with Kitsap Transit.

### **Background**

On September 1, 2005, Aqua Express filed a petition with the Utilities and Transportation commission requesting permission to discontinue passenger-only ferry service for a nine-month period pursuant to WAC 480-51-130.<sup>1</sup> The commission granted the company's petition to discontinue ferry service from October 1, 2005, to July 1, 2006.

On June 1, 2006, Aqua Express filed a petition with the commission requesting to extend its discontinuance of service for an additional six-month period.<sup>2</sup> In its application, the company stated it was working with Kitsap Transit developing a viable business model and required the additional time to complete the study. The Kingston Express Association, a group of former Aqua Express riders, voiced concerns over the requested extension. The group questioned the feasibility of Aqua Express actually resuming service on January 1, 2007, as suggested in the petition.<sup>3</sup> On June 28, 2006, the commission granted Aqua Express permission to extend its discontinuance of service until December 31, 2006.

Aqua Express states in its current petition requesting an extension, filed December 7, 2006, that it needs more time to finalize its agreement with Kitsap Transit. Staff discussions also indicate

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<sup>1</sup> Docket TS-051318

<sup>2</sup> Docket TS-060903

<sup>3</sup> Letter dated June 9, 2006

that the additional time is needed to implement the agreement. The company requests an extension from December 31, 2006, to June 4, 2007.<sup>4</sup> Based on staff's discussions with the company and Kitsap Transit, it is clear that resumption of service and the continued viability of the Aqua Express depend on a substantial operating subsidy from Kitsap Transit. Aqua Express and Kitsap Transit entered into a "Joint Development Agreement" that has as a key component approval of a ballot measure increasing sales tax by 3/10 of one percent. The measure comes before voters in Kitsap County on February 6, 2007.

If the sales tax measure passes, it is reasonable to expect service to resume no later than June 4, 2007. Staff believes that a four month period is sufficient to begin service given that the operating assets are in place. However, if the measure fails, Aqua Express should consider requesting cancellation of its certificate to allow the commission to grant authority to another carrier prepared to meet the needs of the traveling public.

The commission received a comment from Mr. DeBoer, a commissioner from the Port of Kingston requesting that the UTC approve the company's request because of the economic impact the ferry has on the area. In addition, the commission received a comment from the Kingston Express Association supporting the extension only until March 31, 2007, stating it believes Aqua Express could provide "at least a minimal level of service" by that time.

### **Conclusion**

Staff recommends the commission grant the petition to allow Aqua Express, LLP permission to temporarily discontinue passenger-only ferry service (Certificate No. BC-129) pursuant to WAC 480-51-130 beginning January 1, 2007, and ending June 4, 2007.

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<sup>4</sup> Docket No. TS -060903 previously authorized discontinuation until December 31, 2006. Therefore the discontinuation period before the commission actually begins January 1, 2007, rather than the December 31, 2006, cited in the company's petition.