

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

Application of:)	DOCKET TS-091835
)	
ISLAND EXPRESS CHARTERS, INC.)	ORDER 01
)	
For a Certificate of Public Convenience and Necessity to provide Commercial Ferry Service.)	ORDER DISMISSING APPLICATION
)	
.....)	

BACKGROUND

- 1 On November 23, 2009, Island Express Charters, Inc. (Island Express or Company), filed an application (Application) with the Washington Utilities and Transportation Commission (Commission) for a certificate to operate as a commercial ferry. In the Application, Island Express seeks to serve “between Anacortes and all the islands of the San Juans.” A Statement of Support included with the Application describes the service as a “water taxi” that is capable of providing persons access to their homes by beach landing.

- 2 The proposed service is on a reservation-only basis, with the origin and destination points varying day to day. In its proposed tariff, Island Express names numerous islands as service areas, as well as specific named points on certain islands. Thus, there is not any apparent limitation as to the points to be served by Island Express. Island Express is able to pick up passengers at private docks and private beaches, for example.

DISCUSSION

- 3 Island Express proposes to serve the area known as the San Juan Islands. The San Juan Islands present an unusual topography in which the landscape is dotted with several large islands and numerous much smaller islands. The unique features of this area present challenges in applying the Commission’s commercial ferry statutes. For example, among other things, the scope of Commission jurisdiction over commercial ferry service is limited to service “between fixed termini or over a regular route.” RCW 81.84.010(1).

- 4 It is apparent from the Application that Island Express proposes to offer irregular route service, i.e., on call, anytime, anywhere, for-hire service. The proposed service is not “over a regular route,” because the service varies daily in regard to the points served. In other words, the route changes daily based on customer demand. The proposed service is not “between fixed termini” because the number of points Island Express proposes to serve is limited only by the large number of docks or beach landings practically available. For example, a map Island Express attached to the Application shows that the Company has provided service (and thus prospectively will hold itself out to serve) to over 55 separate locations, involving many different islands.
- 5 Given these diverse, geographically dispersed and large number of service locations, it is not reasonable for the Commission to consider all of the islands collectively as a “fixed terminus” or a handful of “fixed termini.” Consequently, the proposed service does not qualify as “between fixed termini.”
- 6 In sum, because the proposed service is not “between fixed termini” or “over a regular route,” the Application does not define a service which requires a commercial ferry certificate from the Commission. However, this conclusion is subject to change if Island Express’ service is not a bona fide on call, anytime, anywhere, for-hire service. In that case, the Commission will consider various factors, such as if Island Express’ service is regular, scheduled or fixed between specific points for significant periods of time. As we have noted, these factors are not exclusive.

ORDER

THE COMMISSION ORDERS:

- 7 Based on the foregoing discussion, the Commission dismisses the Application filed by Island Express Charters, Inc. in this docket on November 23, 2009, and closes the docket.

DATED at Olympia, Washington, and effective July 23, 2010.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman,

PATRICK J. OSHIE, Commissioner