1		WASHINGTON ORTATION COMMISSION	
2	In re Application of	NO. TS-180677	
3	BACKCOUNTRY TRAVELS LLC	BACKCOUNTRY TRAVELS, LLC'S OBJECTION TO LAKE CHELAN	
4 5 6	For a Certificate of Public Convenience and Necessity to Operate Vessels in Furnishing Passenger Ferry Service	RECREATION, INC. AND DISCOVER LAKE CHELAN, LLC RESPONSES TO JUDICIAL REQUEST NO. 3	
7	I INTRODUCTION		
8	1 On March 5, 2019, Honorable Administrative Law Judge Andrew J. O'Connell		
9	distributed Notice of Bench Request No. 3 to all parties to the above entitled action. Both the		
10	Utilities and Transportation Commission ("Commission") and Backcountry Travels, LLC		
	("Backcountry") responded to the Request on March 12, 2019. Submissions were also made		
11	by Lake Chelan Recreation, Inc. ("LCRI") and Discovery Lake Chelan, LLC (Discover).		
12	Backcountry objects to the submissions by LCRI and Discover as follows.		
13	II STATEMENT OF FACTS		
14	Backcountry filed an application for a certificate of public convenience and		
15	3 In October, 2018 LCRI filed its protest to Backcountry's application.		
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17	BACKCOUNTRY TRAVELS, LLC'S OBJECTION TO LCRI A DISCOVER LLC RESPONSE TO BENCH REQUEST NO. 3 Page 1 of 4 4648901	JEFFERS, DANIELSON, SONN & AYLWARD, P.S. Attorneys at Law (509) 662-3685 / FAX (509) 662-2452 2600 Chester Kimm Road / P.O. Box 1688 Wenatchee, WA 98807-1688	

1	4 On November 21, 2018 a procedural schedule was issued and hearings were to
2	begin on April 22, 2019. The Commission adopted the procedural schedule as Order 01.
3	Order 01 required that Backcountry submit direct testimony by December 18, 2018 and
4	that LCRI and Staff submit responsive testimony by January 14, 2019.
5	5 On January 3, 2019 LCRI submitted its Motion to Withdraw Protest requesting that
6	it be allowed to withdraw as a party. The Motion to Withdraw was granted by Order 02
7	issued on January 10, 2019.
8	6 Discover has never been nor, to the knowledge of Backcountry, ever attempted to
9	become a party to these proceedings.
10	III STATEMENT OF THE ISSUE
11	6 Should LCRI and Discovery be permitted to submit responses to Bench Request
12	No. 3 when neither entity is a party to these proceedings?
13	IV ARGUMENT
14	7 Neither LCRI or Discover are parties to these proceedings. Bench Request No. 3
15	was addressed "To All Parties" and nowhere indicated that any person or entity other than
16	the parties were to respond.
17	8 To allow LCRI and/or Discover to participate in these proceedings in the same
18	capacity as is Backcountry and the Commission is inequitable and should not be permitted.
19	It is noted that neither LCRI or Discover responded to Bench Request No. 2 which was
20	also issued "To All Parties" in the same manner as Bench Request No. 3.
21	9 Whereas Backcountry has borne the cost and expense to comply with each Request
22	issued to it by the Court, LCRI and Discover are picking and choosing which parts of the
23	proceedings they wish to participate in and doing so to the detriment of Backcountry. It is
24	submitted that to allow LCRI and Discover to have the benefit of being permitted to
25	JEFFERS, DANIELSON, SONN & AYLWARD, P.S. Attorneys at Law DISCOVER LLC RESPONSE TO BENCH REQUEST NO. 3 Page 2 of 4 4648901

1	respond as if they had remained a party (LCRI) or actually ever sought to be a party	
2	(Discover) unfairly burdens Backcountry's ability to navigate this already difficult and	
3	expensive process without having to guess when these non-parties will choose to submit	
4	materials.	
5	10 If LCRI or Discover wanted to oppose the application and have their viewpoint	
6	given substantial weight, LCRI should have remained a party and Discover should have	
7	made an effort to join as a party. They should not be given a second bite at the proverbial	
8	apple.	
9	V RELIEF REQUESTED	
10	10 That the submissions by LCRI and Discover be stricken due to the fact that they	
11	are not parties to these proceedings and therefore not permitted to respond to Bench	
12	Requests issued solely to the parties. If the submissions are considered, that they be treated	
13	as nothing more than additional public comment.	
14	DATED the 13th day of March, 2019.	
15	JEFFERS, DANIELSON, SONN & AYLWARD, P.S.	
16		
17	By /s/ Jordan L. Miller	
18	JORDAN L. MILLER, WSBA #38863	
19	MATTHEW S. HITCHCOCK, WSBA # 38863 Attorneys for Applicant Backcountry Travels, LLC	
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25	BACKCOUNTRY TRAVELS, LLC'S OBJECTION TO LCRI AND DISCOVER LLC RESPONSE TO BENCH REQUEST NO. 3 Page 3 of 4 4648901 JEFFERS, DANIELSON, SONN & AYLWARD, P.S. Attorneys at Law (509) 662-3685 / FAX (509) 662-2452 2600 Chester Kimm Road / P.O. Box 1688 Wenatchee, WA 98807-1688	

1	CERTIFICATE OF SERVICE		
2	Pursuant to RCW 9A.72.085, the undersigned hereby certifies under penalty of		
3	perjury under the laws of the state of Washington, that on the 13th day of March, 2019,		
	the foregoing was delivered to the following persons in the manner indicated:		
4	Hathaway Burden D. U.S. Mail		
5	Garvey Schubert Barer, P.C.Image: Hand Delivery – Messenger1191 Second Avenue, Suite 1800Service		
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11	Office of the Attorney General Service		
12	Utilities and Transportation Division 1400 S. Evergreen Park Drive SWImage: Construction Division Division Division 		
13	P.O. Box 40128		
14	jeff.roberson@utc.wa.gov		
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17	/s/ Jerei Bargabus		
18	JEREI BARGABUS		
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25	JEFFERS, DANIELSON, SONN & AYLWARD, P.S.BACKCOUNTRY TRAVELS, LLC'S OBJECTION TO LCRI AND DISCOVER LLC RESPONSE TO BENCH REQUEST NO. 3JEFFERS, DANIELSON, SONN & AYLWARD, P.S. Attorneys at Law (509) 662-3685 / FAX (509) 662-2452 2600 Chester Kimm Road / P.O. Box 1688 Wenatchee, WA 98807-1688Page 4 of 4 4648901Wenatchee, WA 98807-1688		