

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of

BACKCOUNTRY TRAVELS LLC

For a Certificate of Public Convenience
and Necessity to Operate Vessels in
Furnishing Passenger Ferry Service

DOCKET TS-180677

ORDER 03

GRANTING MOTION IN PART,
DENYING MOTION IN PART

BACKGROUND

- 1 On August 10, 2018, Backcountry Travels LLC (Backcountry or Applicant) filed with the Washington Utilities and Transportation Commission (Commission) an Application for Commercial Ferry Certificate (Application) in accordance with RCW 81.84.
- 2 On October 8, 2018, Lake Chelan Recreation, Inc., (LCRI) filed a protest to the Application.¹
- 3 On January 3, 2019, LCRI filed a motion to withdraw its protest. LCRI clarified its motion on January 4, 2019, as a motion to withdraw as a party and withdraw its protest, and also to modify the procedural schedule to allow LCRI to file public comments in lieu of filing testimony and exhibits, and to provide an opportunity for the Applicant to respond to any comments.
- 4 On January 10, 2019 the Commission entered Order 02, granting LCRI's motion, in part, and allowing LCRI to withdraw its protest, withdraw as a party, and to allow the withdrawal of its legal counsel.
- 5 Since then, the two remaining parties, Commission staff (Staff) and Backcountry, have each filed written testimony supporting their positions. Additionally, the Commission has

¹ Persons who oppose an application for authority to operate in any industry, other than auto transportation, may file a protest. WAC 480-07-370(7); WAC 480-51-040. Such a protest, in the context of an application for a commercial ferry certificate, is an objection to the issuance of the certificate under RCW 81.84.020. *See* Chapter 81.84 RCW; WAC 480-07-370(7); WAC 480-51-040.

issued three bench requests to the parties. The last of these bench requests, Bench Request No. 3, was issued on March 5, 2019, and required responses from the parties by March 12, 2019.

6 On March 12, 2019, both Staff and Backcountry each filed responses to Bench Request No. 3.

7 Also on March 12, 2019, LCRI and Discover Lake Chelan, LLC (Discover Lake Chelan), each filed responses to Bench Request No. 3. Neither LCRI nor Discover Lake Chelan, LLC, are parties to this proceeding. Rather, LCRI and Discover Lake Chelan have filed with the Commission a joint application to transfer LCRI's authority to operate passenger, freight, and ferry service on Lake Chelan under Certificate BC000034 to Discover Lake Chelan, Docket TS-190146.

8 On March 13, 2019, Backcountry filed a motion to strike the responses to Bench Request No. 3 filed by LCRI and Discover Lake Chelan or, in the alternative, regard them as public comments (Motion). Backcountry argues, among other things, that Bench Request No. 3 was addressed to the parties in this docket, and it is inappropriate to allow non-parties such as LCRI and Discover Lake Chelan to participate as parties.

DISCUSSION AND DECISION

9 We deny Backcountry's Motion insofar as it seeks to strike non-party responses from the record entirely, but grant its request to treat those responses as public comments. We largely agree with the arguments set out in Backcountry's Motion. Bench Request No. 3 was addressed to the parties of record in this docket. LCRI voluntarily withdrew as a party more than two months ago, and Discover Lake Chelan never sought party status.

10 We recognize, however, that all of our adjudications are public proceedings. The public may comment on any proceeding pending before the Commission. Likewise, the bench requests the Commission issues are readily available for public viewing on our website. This case is no exception. As is true for any member of the public, LCRI and Discover Lake Chelan are entitled to submit public comments regarding this proceeding.

11 Accordingly, we will consider the responses to Bench Request No. 3 filed by LCRI and Discover Lake Chelan as public comments rather than striking them from the record entirely.

ORDER

THE COMMISSION ORDERS:

- 12 (1) Backcountry Travels LLC's motion to strike the responses to Bench Request No. 3 filed by Lake Chelan Recreation, Inc. and Discover Lake Chelan, LLC, is DENIED.
- 13 (2) Backcountry Travels LLC's alternative motion to consider the responses to Bench Request No. 3 filed by Lake Chelan Recreation, Inc. and Discover Lake Chelan, LLC, as public comments is GRANTED.

DATED at Olympia, Washington, and effective March 22, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANDREW J. O'CONNELL
Administrative Law Judge