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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3 In Re the Matter of)
) Docket No. TS-010062
4 Application of Pacific Boat) Volume I
 Enterprises, LLC for) Pages 1 to 17
5 Temporary Commercial Ferry)
 Authority,)
6 _____)

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8 A hearing in the above matter was held on
9 January 30, 2001, at 11:05 a.m., at 1300 South Evergreen
10 Park Drive Southwest, Olympia, Washington, before
11 Administrative Law Judge Tre Hendricks.

12 The parties were present as follows:

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15 THE COMMISSION, by SHANNON SMITH, Assistant
 Attorney General, 1400 South Evergreen Park Drive
 Southwest, Olympia, Washington 98504-0128.

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17 PACIFIC BOAT ENTERPRISES, LLC, by MICHAEL
 BENNETT, 1724 West Marine View Drive, Suite 7, Everett,
 Washington 98201.

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25 Joan E. Kinn, CCR, RPR
 Court Reporter

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2 INDEX OF EXAMINATION

3 -----

4 WITNESS: PAGE:

5 BONNIE ALLEN

6 Direct Examination by Ms. Smith 7

7 Examination by Judge Hendricks 15

8

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2 INDEX OF EXHIBITS

3 -----

4 EXHIBIT: MARKED: ADMITTED:

5 BONNIE ALLEN

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P R O C E E D I N G S

JUDGE HENDRICKS: My name is Tre Hendricks, Administrative Law Judge, and sitting next to me is C. Robert Wallis, who is also an Administrative Law Judge at the Commission. This is a hearing at the Washington Utilities and Transportation Commission in the matter of Docket Number TS-010062, Application Number B78950 for temporary authority as a commercial ferry service provider, set for today, January 30th, 2001, at the Commission's office upon due and proper notice to all interested parties. The application of Pacific Boat Enterprises, LLC, is for a temporary certificate of public convenience and necessity to provide commercial ferry service between Everett, Clinton, Edmonds, and Seattle.

I will take appearances at this time beginning with the Applicant, Pacific Boat Enterprises. Please state for the record your name, business address, and telephone number.

MR. BENNETT: Michael Bennett, B-E-N-N-E-T-T, business Pacific Boat Enterprises, address 1724 West Marine View Drive, Suite Number 7, Everett, Washington 98201, phone number (425) 252-6800.

JUDGE HENDRICKS: Thank you.
Commission Staff.

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1 MS. SMITH: Shannon Smith, Assistant Attorney
2 General, 1400 South Evergreen Park Drive Southwest, P.O.
3 Box 40128, Olympia, Washington 98504-0128. My telephone
4 number is (360) 664-1192, representing Commission Staff.

5 JUDGE HENDRICKS: Thank you.

6 Is there anyone else present who wishes to
7 make an appearance in this matter?

8 Let the record show there was no response.

9 Before we continue, I would just like to note
10 that this is an application for temporary authority.
11 Normally the Commission wouldn't have a hearing in
12 granting or denying temporary authority, but the
13 territory in which the Applicant wishes to serve falls
14 within the ten mile restriction in Title 47, and
15 therefore we are here primarily today to make a
16 determination as to whether or not to grant a waiver of
17 the ten mile restriction. Are there any other
18 preliminary matters before we proceed?

19 All right, then if we could begin with
20 Commission Staff by putting on its case, I believe. You
21 may begin.

22 MS. SMITH: Thank you, Your Honor. This is
23 Shannon Smith with the Attorney General's Office
24 representing Commission Staff, and I guess by matter of
25 preliminary matter, I should have spoken up just a

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1 second ago. The Commission Staff does have a packet of
2 documents that consists of the temporary application,
3 some statements from various port authorities with
4 respect to the use of the facilities for this temporary
5 authority, a statement from Washington State Ferries and
6 whatnot, and perhaps we could call that packet of
7 material Exhibit A. And I would have Bonnie Allen sworn
8 in to explain what that packet consists of and then to
9 provide for the record the Commission Staff's
10 recommendation on this matter. And that's one way we
11 could proceed. We could go through and separately
12 identify each part of the application and separately
13 mark it, but I think just one exhibit is sufficient.

14 JUDGE HENDRICKS: That would be fine, why
15 don't we proceed.

16 I have before me a copy of the exhibit, and
17 if you could just briefly explain what it contains
18 again.

19 MS. SMITH: I could do that very briefly.

20 JUDGE HENDRICKS: Well, why don't we have the
21 witness, why don't we go through it with the witness,
22 and we can do it that way.

23 And before we do that, we can swear the
24 witness.
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1 A. I do.
2 Q. Is that Exhibit a compilation of several
3 documents?
4 A. Yes.
5 Q. Could you begin to identify those documents
6 for the record beginning with the very top document in
7 this packet.
8 A. Okay. The top document is a master service
9 list.
10 Q. And the second document?
11 A. The second document is the application filed
12 by Pacific Boat Enterprises, LLC.
13 Q. And that is the application for temporary
14 authority?
15 A. Yes, it is.
16 Q. And the third document?
17 A. The third document is a copy of my memorandum
18 to the file, to the Regulatory Services Deputy Director
19 of January 17th.
20 Q. And does that memorandum include Commission
21 Staff's recommendation for this application?
22 A. No, it does not.
23 Q. And can you identify the next document,
24 please.
25 A. The next document is a letter from the Port

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1 District of South Whidbey Island.
2 Q. The next document.
3 A. Is a certificate of insurance covering the
4 vessel proposed to be used in the temporary application.
5 Q. And the next document.
6 A. The next document is the additional
7 information provided by the Applicant regarding the
8 access to the Clinton docking facilities.
9 Q. The next --
10 A. Oh, I'm sorry, and a copy of a certificate of
11 inspection, Coast Guard certificate of inspection of the
12 vessel.
13 Q. And the next document, please.
14 A. The next document is a copy of a letter from
15 the Washington State Ferry System.
16 Q. And the next.
17 A. The next is the proof of service indicating
18 that the party observers were served with notice of the
19 prehearing conference and notice of hearing.
20 Q. And the next document just appears to be a
21 fax confirmation sheet, does it not?
22 A. Yes.
23 Q. And can you identify the -- it appears to be
24 three pages that go together, yet they're not stapled
25 together.

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1 A. This is a list of the existing certificated
2 commercial ferry operators and other parties of interest
3 and filing observers in this docket.

4 Q. The next document, please.

5 A. The next document is a copy of a letter from
6 the Port of Edmonds.

7 Q. And the final document in the packet.

8 A. The final document is a copy of a request to
9 be placed on the list as an interested party from David
10 Wiley.

11 Q. Are the documents included in Exhibit 1 true
12 and correct copies of the original documents that were
13 provided to the Commission with respect to this
14 application?

15 A. Yes.

16 MS. SMITH: With that identification and
17 authentication, I move for the admission of Exhibit 1.

18 JUDGE HENDRICKS: Is there any objection?

19 Let the record show there was no response,
20 and the exhibit is admitted as I believe we will call it
21 Exhibit A.

22 MS. SMITH: Thank you.

23 BY MS. SMITH:

24 Q. Ms. Allen, in Exhibit A, there was a
25 memorandum from you to Paul Curl, the Regulatory

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1 Services Deputy Director. Do you recall that
2 memorandum, or do you have it in front of you?

3 A. Yes, I do.

4 Q. And in that memorandum, the Commission Staff
5 did not at that time have a recommendation regarding
6 whether the Commission should approve or deny the
7 temporary permit; is that correct?

8 A. Yes.

9 Q. Has the Commission Staff reviewed additional
10 information with respect to this application that would
11 allow the Commission Staff to make a recommendation on
12 this temporary application?

13 A. Yes, we have received additional information.

14 Q. Do you have a recommendation?

15 A. Yes.

16 Q. Could you please give that recommendation for
17 the record?

18 A. Based on support statements from the Port
19 District of South Whidbey Island and the Port of Edmonds
20 and the additional statements from the Applicant, Staff
21 believes that the Applicant has shown that there is
22 sufficient need for this demonstration ferry service
23 between Everett, Clinton, Edmonds, and Seattle, and that
24 the demonstration is needed to gather additional
25 information regarding the viability of a route to the

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1 destinations, and that further statements were that the
2 service would be an additional option that would -- an
3 excellent alternative service for the South Whidbey
4 community and appropriate experiment in view of
5 significant discussions underway.

6 Based on the support statements, based on the
7 statement of the Company and the two port districts
8 regarding limited access to the docking facilities
9 available during February, Staff would recommend that
10 the authority be granted.

11 MS. SMITH: May I ask you one question. You
12 had made a statement with respect to the availability of
13 docking during the month of February. Is it your
14 understanding that the exigent circumstances
15 accompanying this request for a temporary authority are
16 related to the availability of docking during the month
17 of February so that say a temporary application to
18 decide whether or not there is enough ridership for this
19 type of route might not be feasible if it were conducted
20 during a different time?

21 A. That's my understanding from the statements.
22 The Port of Edmonds had indicated that February -- that
23 if this were proposed -- because this was proposed in
24 February, there was very little impact on their docking
25 facilities and parking for passengers. Further

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1 statement from the Applicant indicated that access to
2 docks and loading facilities that were available at
3 Clinton are still in place at this time and may not be
4 at a future time.

5 Q. So given those statements, it would then be
6 an exigent circumstance that the temporary authority
7 should be granted, it would support a statement of
8 exigent circumstances for temporary authority?

9 A. Yeah, I believe it would support the urgent
10 need for temporary authority.

11 Q. Are you aware as to the position of
12 Washington State Ferries with respect to the ten mile
13 restriction in this case?

14 A. Yes, I am.

15 Q. And what is the position, as you know it?

16 A. The Washington State Ferries have submitted a
17 letter. They have indicated that they do not oppose the
18 request for a waiver and that they do not believe the
19 route as proposed will directly compete with the
20 existing Washington State Ferry service, nor will it
21 have a detrimental effect on Washington State traffic or
22 revenues.

23 Q. Does the Commission Staff have any caveats to
24 a recommendation?

25 A. Yeah. Because this is a temporary authority,

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1 temporary request for authority, and it's only been
2 suggested or only been proposed between the dates of
3 February 12th through February 23rd, that any waiver
4 that would be granted in this case should only be
5 effective until that same February 23rd date, that it
6 should expire at the same time as the temporary
7 authority.

8 Q. Are there any other potential restrictions
9 that the Commission Staff would suggest with respect to
10 the temporary authority if granted by the Commission?

11 A. Yes, Staff would recommend that the authority
12 be granted as amended, that it be passenger service
13 excluding launch and excursion service between Everett,
14 Clinton, Edmonds, and Seattle, that it be set to expire
15 February 23rd, and that any waiver also be set to expire
16 February 23rd. I don't believe the supporting documents
17 addressed launch excursion, and therefore Staff would
18 recommend that that not be included.

19 Q. Ms. Allen, does the Commission Staff have any
20 other statement it believes it should make for the
21 record regarding this application or regarding the
22 Commission Staff's recommendation in this case?

23 A. I believe my initial recommendation, the file
24 was not complete at that time, we were missing the
25 support statements, the vessel inspection, and the

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1 insurance, and the statement from State Ferries. At
2 this time, I believe we have all of those pieces that
3 were missing, and I believe we have enough information
4 here to recommend granting the temporary authority as
5 requested with the amendments that Staff recommended.

6 MS. SMITH: Commission Staff has no further
7 questions for Ms. Allen, and she is available for
8 cross-examination from the Applicant or questions from
9 the Bench.

10 JUDGE HENDRICKS: Thank you.

11 Mr. Bennett, do you have any questions for
12 Ms. Allen?

13 MR. BENNETT: I have no questions.

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15 E X A M I N A T I O N

16 BY JUDGE HENDRICKS:

17 Q. Ms. Bennett, I will just ask one question.

18 Are you aware that, in the record, is there any
19 information regarding any of the other factors the
20 Commission considers when granting a waiver, for
21 instance the possibility of congestion mitigation or air
22 quality improvement, those sorts of things?

23 MR. BENNETT: Yes.

24 MS. SMITH: Was that question for Ms. Allen
25 or Mr. Bennett?

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1 JUDGE HENDRICKS: That was directed for
2 Ms. Allen, yes.
3 MR. BENNETT: Oh, thank you.
4 A. Yes, in the application, the Applicant's
5 statement for justifying their grant addresses the auto
6 congestion that exists along the Interstate 5 corridor.
7 Providing the service will help relieve this congestion,
8 and I think that was it.
9 JUDGE HENDRICKS: Okay, thank you, Ms. Allen.
10 Mr. Bennett.
11 MR. BENNETT: Yes.
12 JUDGE HENDRICKS: Do you wish to make any
13 statements?
14 MR. BENNETT: I have no further statements.
15 JUDGE HENDRICKS: Thank you.
16 And I believe we spoke at the prehearing
17 conference regarding waiver of the initial order. Do
18 the parties wish to waive the initial order and go
19 straight to a Commission final order in this matter?
20 MS. SMITH: The Commission Staff would waive
21 the initial order.
22 JUDGE HENDRICKS: And Mr. Bennett?
23 MR. BENNETT: Yes.
24 JUDGE HENDRICKS: Okay, thank you.
25 All right, then is there anything further to

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1 come before the Commission at this time?

2 Hearing no response, this hearing is

3 adjourned. Thank you.

4 (Hearing adjourned at 11:40 a.m.)

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