

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of

MILLER SCHMER, INC.

for Certificate of Public Convenience and
Necessity in Furnishing Passenger and Express
Service.

Docket No. TC-082064

PROTEST AND REQUEST FOR
ADJUDICATIVE PROCEEDING
AND HEARING OF EVERGREEN
TRAILS, INC.

1 Evergreen Trails, Inc. d/b/a Gray Line of Seattle (“Gray Line”) protests the above-captioned application of Miller Schmer, Inc. (“Applicant”) under WAC 480-30-116. Gray Line requests that the Commission commence an adjudicative proceeding and set this application for hearing for the reasons identified in this protest.

2 Gray Line is an auto transportation company operating under authority issued in Certificate No. 819 by this Commission. *See Attachment*. This certificate authorizes Gray Line to provide passenger and express airporter services between the Seattle-Tacoma International Airport and points in Seattle, including the Seattle cruise terminals. *Id.* at p. 2. Gray Line is actively engaged in transportation of passengers and express between the Seattle-Tacoma International Airport and these points. Gray Line provides this service using a large fleet of equipment that it owns and maintains. Gray Line’s address is 4500 W. Marginal Way S.W., Seattle, Washington 98106.

3 Gray Line believes that a grant of the Applicant’s application is not in the public interest and is not required by the public convenience and necessity. Applicant requests

PROTEST & REQUEST FOR ADJUDICATIVE PROCEEDING &
HEARING OF EVERGREEN TRAILS, INC. - 1

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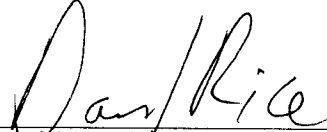
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authority to serve downtown Seattle, including the cruise terminals. *See Application.* Gray Line already provides satisfactory service in that area. There is no public need for the Applicant's proposed duplicative service, as Gray Line's existing equipment is not fully utilized and is available to provide additional service should the need and opportunity arise. Gray Line also believes that the Applicant is not fit, willing, and able to provide the proposed service in accordance with applicable laws, rules, and regulations. Gray Line may be willing to accept a restrictive amendment that eliminates this duplicative service from the Applicant's application, although it not possible at this time to speculate about the exact form of that amendment.

4 If the Commission sets this matter for hearing, Gray Line will appear, submit evidence, and present one to two witnesses at the hearing in support of this protest, each of whom will testify for about one hour each. The witness estimate may change during the course of this proceeding. Gray Line will be represented by its attorneys, Brooks E. Harlow and David L. Rice, Miller Nash LLP, 4400 Two Union Square, 601 Union Street, Seattle, WA 98101, 206.622.8484.

DATED this 17th day of February, 2009.

MILLER NASH LLP

By: 
David L. Rice

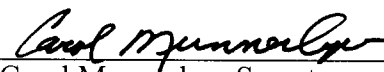
Attorneys for Evergreen Trails, Inc.
d/b/a Gray Line of Seattle

CERTIFICATE OF SERVICE
WUTC DOCKET NO. TC-082064

I hereby certify under penalty of perjury that I caused to be served as noted below,
a copy of the Protest and Request for Adjudicative Proceeding and Oral Hearing on the
Applicant at the following address, by certified mail, return receipt requested:

Miller Schmer, Inc.
d/b/a Seattle Express
8020 180th St SE
Snohomish, WA 98296

Dated this 17th day of February, 2009.



Carol Munnerlyn, Secretary

ATTACHMENT

For the Operation of Motor Propelled Vehicles

pursuant to the provisions of Chapter 81 RCW

THIS IS TO CERTIFY that authority is granted to operate as a MOTOR CARRIER in the transportation of the commodities and in the territory described herein to

EVERGREEN TRAILS, INC.
D/B/A EVERGREEN TRAILWAYS AND
GRAYLINE OF SEATTLE
4500 W. MARGINAL WAY SW
SEATTLE, WA 98106

CERT NO.
C-819

Seattle and Snohomish via Maltby and Cathcart and via Clearview.

Snohomish and Monroe and between Monroe and Halford via U.S. Highway No. 2.

Seattle and a point three miles east of Monroe, via Duvall and as an alternate route, between Monroe and Grace intersection via State Highways 522 and 9.

Monroe, Snohomish and Everett, Washington via U.S. Highway No. 2.

Sedro Woolley and Northern State Hospital.

Oak Harbor and Whidbey Island Junction at the intersection of Secondary State Highway No. 1-D with State Highway No. 1.

Seattle and East Entrance to Paine Field via State Road No. 1 to Fleming Way, thence over Fleming Way to Edmonds-Beverly Park Road, thence via Edmonds-Beverly Park Road to Airport Way South to East Entrance of Paine Field; also from Airport Way South to Army Housing Project and Southwest Corner of Paine Field.

Mukilteo and a point approximately .50 mile west of the intersection of Mukilteo-Beverly Park Road with Emander Road via Mukilteo-Beverly Park Road, Larson Road from Nelson's Corner to the intersection with Fleming Way, and Fleming Way.

SERVICE DATE

APR 15 2003

COPY

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COMMISSION

By



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Everett and Arlington via I-5 to Marysville thence to Arlington County Airport via States Avenue and Shoultes Road; thence via Stillaguamish Highway to Olympic Avenue to its intersection with 224th Street N.E., Arlington.

Everett and Lake Stevens and Hartford, Washington.

Arlington and Darrington and Sound Timber Company's Camp, Washington.

Sedro Wooley and Mount Vernon, Washington, via the following routes: (A) Via Clear Lake; (B) Via New Lateral Highway No. 16 to Burlington, thence Pacific Highway to Mount Vernon; (C) Via Cook Road to Burlington, thence Pacific Highway to Mount Vernon.

LIMITATIONS:

- (1) No local service shall be rendered under this certificate between Seattle and Bothell or intermediate points.
- (2) No local service shall be rendered under this certificate between Seattle and the junction of the new Pacific Highway with Fleming Way (near Lake Serene) and intermediate points.
- (3) No through service shall be rendered or tickets sold or honored between Everett and Seattle via Mukilteo or otherwise.
- (4) No local service shall be rendered under this certificate between Mukilteo and the City of Everett.

The following authority and Limitations was obtained from C-849, Western Tours, Inc., by Order M.V.C. No. 1498.

PASSENGER SERVICE

BETWEEN: Seattle and the Seattle-Tacoma Airport.

LIMITATIONS:

1. Service hereunder is expressly limited to the transportation of airline passengers and flight crews between Seattle-Tacoma Airport on the one hand, and hotels and air and water and ground transportation offices and facilities in Seattle on the other hand, at rates substantially higher than the fares of regular common carriers.
2. No express service may be rendered hereunder except in the carrying of baggage and excess baggage of passengers and flight crews.



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3. No service may be rendered hereunder from, to or between intermediate points.

The following authority and Limitations was obtained from C-771, The Gray Line of Seattle, Inc., by Order M.V.C. No. 1499.

PASSENGER SERVICE

BETWEEN:

Seattle and Rainier National Park via Southwest Entrance; Tacoma and Rainier National Park via Southwest Entrance; Ashford and Rainier National Park via Southwest Entrance; Seattle and Rainier National Park via Northeast Entrance; Tacoma and Rainier National Park via Northeast Entrance; Yakima and Rainier National Park via Northeast Entrance.

BETWEEN:

Seattle and Summit of Chinook Pass both via Tukwila, Renton Junction, West Valley Highway, Auburn, Greenwater and Silver Springs and via Lake Washington Floating Bridge, Kenneydale, Renton, Maple Valley, Black Diamond, Enumclaw, and Greenwater.

BETWEEN:

Seattle, Newhalem and Washington Pass via U.S. Highway I-5 to Burlington; thence via State Highway 20 to Newhalem and Washington Pass as a closed door operation between Seattle and points intermediate to Concrete. One-way or round-trip passengers may be handled between Seattle on the one hand and points Concrete to Washington Pass on the other hand. Also locally between Concrete and Washington Pass and intermediate points.

LIMITATIONS:

Service authorized between Seattle and the Summit of Chinook Pass is limited to sight-seeing passengers only in round-trip transportation from Seattle and with no stopovers allowed.

Tour service commencing at Seattle, WA, thence north via I-5 to junction of SR-20, thence east via SR-20 to junction of SR-153, thence south via SR-153 to junction of U.S. Route 97, thence via U.S. Route 97 to junction of U.S. Route 2 & 97, thence north via U.S. Route 2 & 97 to Leavenworth thence south via U.S. Route 2 & 97 to junction of U.S. Route 97 thence south via U.S. Route 97 over Blewett Pass to junction of I-90, thence east via I-90 to junction of I-82 thence south via I-82 to Yakima thence west via SR-410 over Chinook Pass to Mount Rainier National Park thence south via SR-123 to the access road leading to Paradise, thence via the Paradise access road to Paradise and continuing to the junction of SR-706 thence west via



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SR-706 to junction of SR-161, thence north via SR-161 thence north on I-5 returning to Seattle and, as an alternative route, the same service commencing at Seattle following the same route in a reverse order.

Round trip passenger and sightseeing service beginning in Seattle thence south on I-5 to Olympia thence north on US-101 to junction of SR-20 thence east on SR-20 to Port Townsend, thence west on SR-20 to junction of US-101, thence west on US-101 to Hurricane Ridge Road, thence south on Hurricane Ridge Road to end of road and back again to junction of US-101, thence south on US-101 to junction of Rain Forest Road, thence east on Rain Forest Road to end and back again to US-101, thence south on US-101 to junction of SR-109, thence south on SR-109 to junction of US-12, thence east on US-12 to junction of SR-8, thence east on SR-8 to junction of US-101, thence south on US-101 to junction of I-5, thence north on I-5 to Seattle.

PASSENGER AND EXPRESS SERVICE

Sightseeing service round trip from Seattle south on I-5 to Castle Rock and the junction of I-5 and SR-504, thence east on SR-504 to the end of SR-504 and, as an alternate route dependent upon highway closures, south from Seattle on I-5 to junction of SR-505, thence east on SR-505 to SR-504, thence east on SR-504 to the end of SR-504.

Return via one of four alternate routes depending upon road closures and the origin of passengers:

1. From the end of SR-504 west to Castle Rock and the junction of I-5, thence north on I-5 to the junction of SR-505; thence east on SR-505 to Jackson Hwy (or, depending on availability of SR-505, from end of SR-504 east to junction of SR-505; thence west on SR-505 to Jackson Hwy.); thence north on Jackson Hwy. to Lewis & Clark State Park and continuing north to Chehalis; thence south on Jackson Hwy. to junction of Jackson Hwy. and US-12, thence east on US-12 to SR-7; thence north on SR-7 to junction of SR-161; thence north on SR-161 to junction of I-5 (or north on SR-161 to junction of SR-410 and thence west on SR-410 to I-5 at Tacoma); thence north on I-5 to Seattle.
2. Alternate route as described in No. 1 above to the junction of SR-7 and SR-161; thence north on SR-7 to junction of SR-702; thence west on SR-702 to junction of SR-510; thence west on SR-510 to junction of I-5; thence north on I-5 to Seattle.
3. From the end of SR-504 west to junction SR-505; thence west on SR-505 to junction of I-5; thence north on I-5 to Seattle.
4. From the end of SR-504 west to junction of SR-505; thence west on SR-505 to Jackson Hwy.; thence north on Jackson Hwy. to Lewis & Clark State Park and continuing on to Chehalis and junction of I-5; thence north on I-5 to Seattle.

Round trip passenger and sightseeing service beginning and ending in Seattle.



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OPTION 1

Day 1 from Seattle via Winslow Ferry, thence via SR-305 and SR-3 to Port Gamble, thence via Lofall Ferry, and SR-104 to the junction of US-101, thence north on US-101 to the junction of SR-20, thence north on SR-20 to Port Townsend, return south on SR-20 to the junction of US-101, thence west on US-101 to the Hurricane Ridge Road, thence south on Hurricane Ridge Road to end of road and return to junction of US-101, thence west on US-101 to Port Angeles.

Day 2 from Port Angeles west on US-101 to the junction of the Rain Forest Road, thence east on the Rain Forest Road to the end of the road and return to the junction of US-101, thence south on US-101 to the junction of US-12 thence via US-12 to the junction of SR-8, thence east on SR-8 to the junction of US-101, then east on US-101 to the junction of I-5, thence north on I-5 to Seattle.

OPTION 2

Day 1 from Seattle via I-5 to the junction of SR-16, thence west via SR-16 to the junction of SR-3, thence south on SR-3 to the junction of SR-106, thence via SR-106 to the junction of US-101, thence north on US-101 to the junction of SR-20, thence north on SR-20 to Port Townsend, thence south on SR-20 to the junction of US-101, thence west on US-101 to Hurricane Ridge Road, thence south on Hurricane Ridge Road to end of road and return to junction of US-101, thence west on US-101 to Port Angeles.

Day 2 from Port Angeles west on US-101 to the junction of the Rain Forest Road, thence east on the Rain Forest Road to the end of the road and return to the junction of US-101, thence south on US-101 to the junction of US-12, thence via US-12 to the junction of SR-8, thence east on SR-8 to the junction of US-101, thence east on US-101 to the junction of I-5, thence north on I-5 to Seattle.

OPTION 3

Day 1 from Seattle via I-5 through Olympia to the junction of US-101, thence west on US-101 to the junction of SR-8, thence north on US-101 to the junction of SR-20, thence north on SR-20 to Port Townsend, thence south on SR-20 to the junction of US-101, thence west on US-101 to Hurricane Ridge Road, thence south on Hurricane Ridge Road to the end of road and return to junction of US-101, thence west on US-101 to Port Angeles.

Day 2 from Port Angeles west on US-101 to the junction of the Rain Forest Road, thence east on the Rain Forest Road to the end of the road and return to the junction of US-101, thence south on US-101 to the junction of US-12, thence via US-12 to the junction of SR-8, thence east on SR-8 to the junction of US-101, thence east on US-101 to the junction of I-5, thence north on I-5 to Seattle.

OPTION 4



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Day 1 from Seattle to Port Angeles using the routes of Day 1 in Options 1, 2 or 3.

Day 2 from Port Angeles west on US-101 to the junction of the Rain Forest Road, thence east on the Rain Forest Road to the end of the road and return to the junction of US-101, thence south on US-101 to the junction of the unnumbered road south of Neilton, thence west on this unnumbered road to Moclips at the junction of SR-109, thence south on SR-109 to the junction of US-12, thence east on US-12 to the junction of SR-8, thence east on SR-8 to the junction of US-101, thence east on US-101 to the junction of I-5, thence north on I-5 to Seattle.

THE FOLLOWING INTRASTATE AUTHORITY WAS TRANSFERRED FROM BREMERTON-TACOMA STAGES, INC. C-345 UNDER 49 U.S.C. 11341(a) OF THE INTERSTATE COMMERCE COMMISSION.

PASSENGER AND EXPRESS SERVICE

BETWEEN:

Tacoma and Bremerton, Washington over SR 16, SR 3 and SR 304 via Narrows Bridge, Gig Harbor and Port Orchard or direct SR 16, SR 3 and SR 304.

BETWEEN:

Bremerton and Shelton, Washington via the following routes: Bremerton to Junction with SR 3 over SR 304; and via the Old Belfair Highway to Belfair, SR 106, via Union to junction with US 101 and US 101 to Shelton.

Bremerton and Port Angeles, Washington via SR 304 and SR 3 to Hood Canal Bridge and/or (over Clear Creek Road) (Pioneer Way) and Sr 3 between Silverdale and Hood Canal Bridge; Hood Canal Bridge to Port Angeles via SR 104 and US 101 via Center, Discovery Bay, Blyn and Sequim.

Bremerton and Seattle, Washington Via the following Routes:

1. Direct Bremerton-Seattle Ferry; 2. Kitsap Lake, Chico, Silverdale over Kitsap Way and SR 3, or direct to Silverdale on SR 3, and from Silverdale to Poulsbo over SR 3 and SR 305 or via Bangor (Trident Site) and Keyport on Clear Creek Road; Luoto Road, SR 3 and SR 308 to Keyport; 3. Over SR 308 and SR 3 and SR 305 to Poulsbo, Poulsbo to Winslow over SR 305, and Washington State Ferries between Winslow and Seattle.

Bremerton and Keyport, Washington via Brownsville on SR 303 and SR 308, or via Central Valley over Riddell Road, Central Valley Road.



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BETWEEN:

Silverdale and Brownsville, Washington over Bucklin Hill Road and SR 303.

BETWEEN:

Silverdale and Bangor, Washington over Anderson Hill Road, Old Frontier Road and Olympic View Road; or over Clear Creek Road and Half Mile Road.

BETWEEN:

Bremerton and Hood Canal Bridge, Washington over SR 304 and SR 3 to Hood Canal Bridge or over Clear Creek Road, Pioneer Way, and Sr 3 between Silverdale and Hood Canal Bridge.

BETWEEN:

Hood Canal Bridge and Port Angeles, Washington via SR 104 and US 101 via Center, Discovery Bay, Blyn and Sequim.

BETWEEN:

Hood Canal Bridge and Kingston, Washington Via Port Gamble over SR 104.

BETWEEN:

Lynnwood and Poulsbo, Washington from the intersection of 44th Avenue West and SR 524 over SR 524 to Edmonds and Edmonds to Kingston via Washington State Ferries; West from Kingston to Bond Road via SR 104; South on Bond Road to Poulsbo.

BETWEEN:

Lake Ballinger and Poulsbo, Washington, from the Corner of 19th Avenue N.E. and N.E. 205th (56th Avenue West and 244th Street S.W.) via the following route: North on 56th West to 220th Street S.W.; East on 220th Street to 52nd Avenue West; North on 52nd Avenue West to 212th Street S.W.; East on 212th Street S.W. to 44th Avenue West; North on 44th Avenue West to SR 524; West on SR 524 to Edmonds; Edmonds to Kingston via Washington State Ferries; West from Kingston to Bond Road via SR 104; South on Bond Road to Poulsbo.

ALTERNATE ROUTE:



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From the Junction Interstate Highway 5 with State Highway 104 over State Highway 104 to Edmonds; thence via the routes specified above to Poulsbo.

Between: Seattle and Olympia via I-5

Between: Tacoma and Seattle via I-5

LIMITATIONS:

No local service shall be rendered under this certificate between Hood Canal and Port Angeles; No local service shall be rendered within King County; No local service shall be rendered within Snohomish County.

TC-030122

04-08-03

