

Docket No. TS-180677 - Vol. III

In re Application of Backcountry Travels LLC

April 22, 2019



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In re Application of) DOCKET NO. TS-180677
)
BACKCOUNTRY TRAVELS LLC)
)
For a Certificate of Public)
Convenience and Necessity to)
Operate Vessels in Furnishing)
Passenger Ferry Service)

EVIDENTIARY HEARING, VOLUME III

Pages 62 - 129

ADMINISTRATIVE LAW JUDGE ANDREW O'CONNELL

April 22, 2019
1:30 p.m.
104 West Woodin Avenue
Chelan, Washington

REPORTED BY:
DANI WHITE, CCR NO. 3352

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1 BE IT REMEMBERED that on Monday, April 22,
2 2019, at 1:30 p.m., at 104 West Woodin Avenue,
3 Chelan, Washington, the evidentiary hearing was
4 taken before Dani White, Certified Court Reporter.
5 The following proceedings took place:

6
7 JUDGE O'CONNELL: Good morning. Sorry, good
8 afternoon. We're here today for an evidentiary hearing
9 in Docket TS-180677, application for a commercial ferry
10 certificate requested by Backcountry Travels LLC to
11 operate on Lake Chelan. The time is approximately 1:30
12 p.m. on Monday, April 22, 2019.

13 My name is Andrew O'Connell, I'm an administrative
14 law judge with the Washington Utilities and
15 Transportation Commission. We are holding this
16 evidentiary hearing in Chelan, Washington, because I
17 moved the evidentiary hearing from Olympia to Chelan in
18 order to facilitate greater participation by the
19 public, including holding the public comment hearing to
20 receive comments from the public on this matter.

21 We had that hearing this morning from about 9 in
22 the morning until approximately 10:30. So this morning
23 we heard from the public and I believe it's important
24 to give the parties that same opportunity in this case.

25 Let's take appearances and because I believe all

1 parties are represented by counsel and I have a notice
2 of appearance on file for all of the attorneys, short
3 appearances are sufficient. Let's start with Staff
4 and, Mr. Roberson.

5 MR. ROBERSON: Good afternoon. Jeff Roberson,
6 R-o-b-e-r-s-o-n, I'm an Assistant Attorney General
7 representing Staff in this matter.

8 JUDGE O'CONNELL: And for Backcountry Travels.

9 MR. MILLER: Jordan Miller, Your Honor, attorney
10 at Jeffers, Danielson, Sonn & Alyward, counsel for
11 applicant Backcountry Travels.

12 MR. HITCHCOCK: And, Your Honor, Matt Hitchcock,
13 H-i-t-c-h-c-o-c-k, of Jeffers Danielson appearing on
14 behalf of Backcountry Travels.

15 JUDGE O'CONNELL: Okay. Thank you.

16 So at this point I want to say something to the
17 applicant. I've had a number of requests that I've
18 issued throughout this proceeding and I wanted to show
19 some appreciation for your responsiveness and
20 helpfulness, and I can tell that you put thought into
21 your answers and I appreciate that because it's going
22 to help me make a decision in this matter so thank you.

23 MR. MILLER: Thank you, Your Honor.

24 JUDGE O'CONNELL: Now as I believe I've indicated,
25 I'm interested in hearing from the parties about the

1 economic viability of a second operator on Lake Chelan,
2 and that being whether the issuance of a second
3 certificate on Lake Chelan would ultimately -- my
4 concern is would that result in the demise of both
5 operators because the Commission is charged with
6 evaluating whether the public convenience and necessity
7 requires the second certificate, and what I'm quite
8 certain is not in the public interest is that there end
9 up being no ferry service on Lake Chelan so that's
10 where some of my questions will be coming from.

11 I guess next I'd just like to emphasize that I'm
12 taking this decision very seriously. I believe it's
13 important for this community and the area of Lake
14 Chelan and for visitors to Lake Chelan.

15 So I want to address exhibits first. Is there --
16 well, first, let me address a couple of exhibits that I
17 want to -- I have a couple questions about.

18 Mr. Miller, Exhibits GH-3X and GH-4X, it's my
19 understanding that those are duplicates of the
20 application and of future number projections that is
21 already sponsored by Mr. Courtney as Exhibit CCC-3; is
22 that correct?

23 MR. MILLER: That is correct, Your Honor.

24 JUDGE O'CONNELL: Okay. So as it pertains to
25 those exhibits, I'm not going to admit those additional

1 exhibits into the record. I'm not striking the
2 originals but just that I don't need them in the record
3 and I don't want to burden the record. So you can
4 still -- if you have questions about the application or
5 the future projections you can ask those, and if you
6 intend to ask Mr. Hammond questions about those, you
7 can ask referring to the originals.

8 MR. MILLER: Thank you, Your Honor. We just
9 wanted to make sure everybody was aware of what
10 documents we felt relevant for each witness so there
11 was no surprise, if you will.

12 JUDGE O'CONNELL: Okay. I understand that. Thank
13 you.

14 Is there a stipulation as to exhibits other than
15 those two?

16 MR. RICHARDS: Staff is happy to stipulate to
17 Mr. Colter Courtney's testimony and exhibits, we have
18 not seen the exhibits from for Ms. Luchini or Mr. Logan
19 Courtney and we can't stipulate to something we haven't
20 seen.

21 JUDGE O'CONNELL: Correct.

22 Mr. Miller.

23 MR. MILLER: Stipulations, yes, Your Honor, no
24 objections. And we'll obviously introduce the
25 testimony, Ms. Luchini is present and Mr. Logan

1 Courtney also present so we'll produce those materials
2 through their testimony.

3 JUDGE O'CONNELL: Okay. Do you have copies that
4 you can give to Staff too?

5 MR. MILLER: Yes, Your Honor.

6 JUDGE O'CONNELL: You do, okay.

7 So while Staff is looking that over, I'd like to
8 say it isn't typical that the Commission allows direct
9 testimony at an evidentiary hearing like this one
10 because we've had several rounds of written direct
11 testimony.

12 Usually at these hearings we proceed by allowing
13 for cross-examination and questions from the bench, but
14 I believe there might be a reason to be a little
15 lenient on that in this hearing and I wanted to ask
16 you, Mr. Miller, a little bit about it.

17 The two witnesses that you've identified other
18 than Mr. Courtney who have not yet testified in this
19 case, judging from at least the titles of the exhibits
20 you plan to offer, I am assuming that these witnesses
21 are kind of in response to the question that I've said
22 I would have at this hearing and that being the
23 economic viability of a second operator.

24 Is that true that these witnesses are meant to be
25 helpful in answering that question?

1 MR. MILLER: Yes, Your Honor. That's precisely --
2 and I apologize, I don't know if Your Honor wants me to
3 stand.

4 JUDGE O'CONNELL: Oh, you don't need to stand.

5 MR. MILLER: Okay. Thank you, Your Honor.

6 JUDGE O'CONNELL: It's a little more informal than
7 an administrative hearing.

8 MR. MILLER: Thank you, Your Honor. Mr. Roberson
9 had mentioned that but I just wanted to make sure.

10 JUDGE O'CONNELL: Sure.

11 MR. MILLER: Yes, Your Honor, the intent and the
12 purpose of bringing particularly Ms. Luchini in to
13 offer testimony today is to address the financial
14 issues because, Your Honor, I thought that we heard you
15 and it sounds like we did in your last notes and
16 released information so that's the intent with respect
17 to Ms. Luchini.

18 Mr. Logan Courtney was brought forward more to
19 address his background, his experience as an operator,
20 because that seemed to have been raised, it seemed that
21 there were issues brought out during the course of the
22 initial exchanges and testimony particularly from the
23 former party, LCRI, so that was the purpose of his
24 testimony and the intent of bringing him before the
25 Commission today.

1 JUDGE O'CONNELL: Well, I do have very few
2 questions outside of the economic question about the
3 operations of the ferry which Mr. Logan Courtney may
4 have some insight and be able to answer.

5 With that understanding, I feel like it is
6 appropriate under these circumstances to allow these
7 witnesses to testify. I think that their testimony is
8 going to be helpful in making a decision in this
9 matter. So even though they have not been identified
10 for, you know, prior direct testimony, I think that
11 allowing them to testify at this hearing will be
12 helpful.

13 MR. MILLER: I appreciate it, Your Honor. And
14 just if I may add, this is an additional expense,
15 obviously, having an expert witness certainly cost my
16 client money, and to be blunt, it wasn't until Your
17 Honor and the proceedings made it clear that that was a
18 central focus that we kind of addressed the noneconomic
19 component so she was brought on toward the end of the
20 proceedings, and frankly, we didn't know -- it wasn't
21 until then so that's another reason why she has not
22 offered direct testimony prior to that point so we do
23 appreciate the Court's allowing her to have the
24 opportunity to speak here today.

25 If I may, in speaking with Ms. Luchini coming in,

1 my expectation is her testimony will do her best to
2 answer Your Honor's questions but it's somewhat
3 hampered by the lack of data available from LCRI.

4 As far as their fiscal information and details,
5 we've gleaned what Mr. Hammond was also able to review
6 as far as the data available, but I just want to let
7 the Court know in advance that as far as her being able
8 to say that this is economically viable, you know,
9 she'll answer that question but limited access to the
10 financial details of LCRI makes it somewhat difficult
11 for us to offer a fully-informed opinion as to their
12 viability moving forward.

13 JUDGE O'CONNELL: Okay. I understand.

14 So Mr. Colter Courtney being the primary witness
15 for Backcountry Travels, what I'd like to do is I have
16 several questions.

17 MR. MILLER: Yes, Your Honor.

18 JUDGE O'CONNELL: I don't expect them to take all
19 that long but I'd like to have Mr. Courtney testify
20 first, and then to the extent that he is unable to
21 really give a full answer and he knows that Ms. Luchini
22 or Mr. Logan Courtney can offer a better response, I'd
23 like at that point then to have them come next and
24 testify and kind of fill in those holes, does that make
25 sense?

1 MR. MILLER: Certainly, Your Honor, absolutely.

2 MR. ROBERSON: Before we begin, Staff can
3 stipulate to Mr. Logan Courtney's exhibits but we still
4 don't have the report from Ms. Luchini.

5 MR. MILLER: She wasn't able to compile an actual
6 report so it's really her testimony here today, Your
7 Honor. Again, the timing was just -- so we apologize,
8 we didn't know until this morning as well, sir.

9 MR. ROBERSON: Housekeeping, that's fine. So we
10 can stipulate to all the exhibits, they're going to be
11 exhibits, I guess, with the exception of that report
12 which does not exist. So Mr. Logan Courtney's exhibits
13 Staff will stipulate to, sounds like Ms. Luchini
14 doesn't actually have an exhibit so...

15 JUDGE O'CONNELL: Oh, I see. So what's been
16 identified as MPL-1 is -- that, we don't have that.

17 MR. MILLER: Correct, Your Honor.

18 JUDGE O'CONNELL: Okay. That makes sense.

19 I did want to note -- well, so let's then address
20 the exhibits other than GH-3X, GH-4X, and MPL-1. So
21 that's regarding the pre-filed testimony of Staff, the
22 application of materials and statements of support, the
23 direct and rebuttal testimony and exhibits of
24 Mr. Colter Courtney, Exhibit CCC-4 and Exhibit CCC-5
25 sponsored by Mr. Colter Courtney, and the

1 cross-examination Exhibits GH-2X and GH-5X as well as
2 MPL-2, LC-1, LC-2, and LC-3, am I correct that there's
3 a stipulation as to those exhibits?

4 MR. ROBERSON: Yeah. I will note that what is
5 marked as GH-5X appears to be the same exhibit as
6 CCC-4. I'm not sure if you want to admit that one
7 twice.

8 MR. MILLER: That is correct, Your Honor.

9 JUDGE O'CONNELL: Thank you. No, I'm not going to
10 admit GH-5X then. Having it in as CCC-4 I believe is
11 sufficient, and if you have questions for Mr. Hammond
12 about it, you can ask him whether he's familiar with
13 CCC-4 and then ask your questions.

14 MR. MILLER: Thank you, Your Honor.

15 JUDGE O'CONNELL: Okay. With that, the exhibits I
16 named with the exclusion of GH-5X are admitted to the
17 record.

18 MR. MILLER: Thank you, Your Honor. Would the
19 Court like a copy of the exhibits? I have another
20 binder for Your Honor if you would like.

21 JUDGE O'CONNELL: Yes, I would. Thank you.

22 And in addition, I noticed that the schedule for
23 Lake Chelan Boat Company is one of the exhibits. I am
24 going to take official notice of the Lake Chelan Boat
25 Company current tariff. I believe it will be helpful.

1 Okay. With that, I'd like to start with the
2 witnesses from Backcountry Travels. Would Mr. -- can
3 we please start with Mr. Colter Courtney?

4 MR. MILLER: Certainly. Of course, Your Honor.

5
6 COLTER COURTNEY, being first duly sworn to tell
7 the truth, the whole truth and
8 nothing but the truth,
9 testified as follows:

10

11 JUDGE O'CONNELL: Please be seated. Thank you.

12 I have a few questions but before I get started is
13 there something -- any questions that you'd like to
14 ask, Mr. Miller?

15 MR. MILLER: Well, Your Honor, certainly I have
16 prepared my list of questions but as the Court has
17 accurately pointed out with the exhibits being entered,
18 the direct testimony, and the rebuttal testimony has
19 been submitted so certainly Mr. Colter -- Mr. Courtney
20 and I are more than prepared to walk through that.

21 But in the interest of judicial economy, and quite
22 frankly, because I'm curious as to what Your Honor
23 wants to know so that I can try and guide my testimony,
24 I'd be very happy if the Court would like to initiate
25 the questions of Mr. Courtney and I can try to

1 follow-up as necessary on where the Court's gone.

2 JUDGE O'CONNELL: Okay. Let's do that way. And
3 perhaps my questions will spark some redirect that
4 you'll want to make.

5 MR. MILLER: Yes, sir.

6 JUDGE O'CONNELL: Okay.

7

8 EXAMINATION

9 BY JUDGE O'CONNELL:

10 Q. Good morning, Mr. Courtney. Thank you -- or afternoon,
11 again, second time I made that mistake. I apologize.

12 So I'm interested in hearing whether issuing a
13 second certificate to operate on Lake Chelan will
14 ultimately result in making either operation
15 economically feasible. Can you tell me what evaluation
16 you did, what your company did, and how you think Lake
17 Chelan can support economically two operators?

18 A. Yeah. I don't have any specific data to back it up in
19 front of me, but it's my experience in Stehekin that
20 basically, you know, every time there has been more
21 transportation offered, there has been more travelers
22 who use it. The float plane is a good example of that.
23 Lake Chelan Boat Company used to have a more extensive
24 schedule and when they did, the ridership was
25 increased.

1 And it's my belief in knowing everyone in Stehekin
2 and all the business owners that their -- Stehekin can
3 support it and will embrace it. And it's something
4 that, you know, I didn't specifically come up with the
5 schedule myself. It's an idea that many people have
6 wanted.

7 And so when I put the proposal in, made the
8 application, it was based on what I felt would be most
9 beneficial to Stehekin, what people wanted, and what
10 would enable people to ride the boat more, use the
11 transportation services more, and I ultimately believe
12 it will actually help both, especially in the winter.

13 Many people don't come to Stehekin in the winter
14 simply because it's not feasible or convenient to get
15 there. I don't ride the boat often in the winter and I
16 live there. I often take private boats when I have the
17 opportunity because I find them to be more convenient.
18 Does that answer your question?

19 Q. Sure. You mentioned the seaplane service, can you tell
20 me -- tell me about the seaplane service that's no
21 longer running to your knowledge?

22 A. Yes. The seaplane service has had a few owners in my
23 lifetime. When I was young, my Uncle Jim who testified
24 this morning ran a seaplane service year around.
25 People told him he was crazy to operate in the winter

1 and he did anyway and it worked out well for him. He
2 since retired from that.

3 Parker Nolen who testified this morning, his dad
4 operated a seaplane business for many, many years, I
5 don't know how long. And Parker expressed his approval
6 of our application even though I know it is in his
7 interest to bring the seaplane back to Lake Chelan and
8 that's something I would fully support and think it
9 would be good.

10 Recently, the seaplane has been more of a summer
11 operation and then economically they couldn't sustain a
12 base in Chelan as of two years ago I believe.

13 Q. Thank you. That's what I was interested in learning
14 about.

15 Do you know if there are any other seaplane
16 businesses that are, you know, I guess coming to Lake
17 Chelan or Stehekin?

18 A. Not that I know of. Chelan Seaplanes, they have
19 partnerships or businesses over in the Puget Sound, I
20 don't know what all they do over there but I know it's
21 a lot, and I have heard that they would like to come
22 back but I have not heard anything specific or whether
23 or not it's actually a reality any time in the near
24 future. There again, Parker works for them or has
25 worked for them.

1 Q. So I saw in your application that you have submitted a
2 letter from the National Forest Service.

3 A. Uh-huh.

4 Q. Can you tell me about the status of gaining access to
5 docks and other services necessary for fueling and
6 pumping, et cetera, are there conditions that you know
7 of for obtaining these permits?

8 A. Yes. They've been very open to hearing about it, but
9 the Forest Service, I'll address that first, they
10 manage Fields Point Landing and the Forest Service has
11 told me they will a lot of times have a lengthy process
12 that they go through, but since the UTC already
13 conducts that process in probably a more efficient
14 capacity, they wanted to wait and see what the UTC's
15 opinion was about our application.

16 But they told me that upon receiving a certificate
17 they will start the process of giving me permission
18 because Fields Point Landing was not designed for one
19 carrier, it was designed for the public. So I have not
20 been given any reason to believe why if I obtain a
21 certificate to operate why they would not allow me to
22 use the facility.

23 Q. I have a question about purchasing tickets. I notice
24 in your application that you submitted all tickets are
25 going to be buyable online or through an app. Have you

1 thought about what you're going to do for people who
2 don't have access to the internet or an app and how can
3 they book a ticket?

4 A. Yes, I have thought about that. And we intend to have
5 a phone number that can be called for questions or
6 ticketing. We do want to encourage people to use the
7 online reservations because that's just going to be a
8 lot more economical.

9 The previous seaplane business did use an online
10 reservation service and it worked quite well I thought,
11 and it kept people from standing out on the dock
12 purchasing tickets and that's especially not fun in the
13 winter for most people.

14 Q. So this morning I heard a lot of comments from people
15 in the public asking -- who were commenting about flag
16 stops, is that part of the service that you're
17 proposing?

18 A. Yes. If reserved, we intend to stop anywhere that is
19 safe for our vessel and that's why in our schedule
20 we've attempted to leave a little bit of time to
21 accommodate these kinds of stops. What I've told folks
22 who have asked me is that we will evaluate each private
23 dock based on a case-by-case basis to determine whether
24 it's safe and that, of course, will change with water
25 level. But there have been a couple who have

1 approached me that I can definitely say I've been to
2 their dock, yes, we'll stop at any time.

3 Q. So you mentioned your vessel, can you tell me about
4 this particular vessel's ability to operate in winter
5 conditions? And I'm thinking specifically about any
6 operational limitations that it may have, for example,
7 whether the engines are rated for the winter conditions
8 here on Lake Chelan.

9 A. Yes, I believe that they are. It will be Suzuki
10 engines and we -- I have consulted with them and the
11 boat builder and designer to decide what power units we
12 want to put on the vessel. Obviously, it's not my
13 vessel, I've had a little bit of input on it but I will
14 be leasing it.

15 As far as limitations, I don't know of any, and
16 Logan Courtney can speak further to that, he will know
17 more than I do. But the vessel is a 50-foot catamaran
18 and there's already a 50-foot catamaran on Lake Chelan
19 that was approved for use prior. This one varies in
20 design, it's designed to go slower, it's designed to be
21 more efficient, and it will be much smoother in rough
22 weather.

23 Predominantly wind conditions are worst in the
24 spring, and I have been out on Lake Chelan in many 20-
25 to 30-foot boats and I've always felt quite safe. And

1 a 50-foot vessel which is specifically designed for
2 this use, I'm 100 percent confident that it will be
3 safe in all conditions.

4 Q. So that brings up my last question I wanted to ask you
5 about. Tell me about your plans for safety should
6 something happen with this vessel. And I'm thinking
7 about that you don't have a second vessel and the
8 safety of having a second vessel might provide.

9 A. Yes. If it's okay, I'd actually have Logan Courtney
10 answer that question. I can attempt to answer it if
11 you'd like.

12 Q. Sure. To your knowledge and experience I'd like to
13 hear from you but I think I can ask Mr. Courtney as
14 well.

15 A. Logan owns a private boat which we plan to keep on
16 standby basically for emergencies. The Lake Chelan
17 Assist is a business here in Chelan that offers
18 emergency services for boats who experience
19 difficulties, the fire department and the Chelan County
20 Sheriff's Department both operate vessels.

21 And it is my intention to seek a cooperative
22 agreement with the Lake Chelan Boat Company that in the
23 event that something happens to either of their vessels
24 or mine that, given that it is safe, for passengers and
25 vessel to go to the other one's aid. There's been no

1 specific agreement at this time but that is something
2 that I will pursue given the opportunity.

3 JUDGE O'CONNELL: Okay. Those are the questions I
4 had. Mr. Miller, did that raise some questions that
5 you'd like to recover?

6 MR. MILLER: You know, Your Honor, I was going
7 through the various topics I had and Your Honor did
8 cover several of them but I do think there's some
9 additional questions I'd certainly like to ask
10 Mr. Courtney and try to focus in more on the economics
11 as Your Honor is interested in.

12 JUDGE O'CONNELL: Sure.

13 MR. MILLER: Yeah, absolutely.

14 MR. ROBERSON: Go ahead.

15 JUDGE O'CONNELL: Yeah, please go ahead.

16 MR. MILLER: Thank you, Your Honor.

17

18

EXAMINATION

19 BY MR. MILLER:

20 Q. Colter, I'm just going to kind of try and fill in some
21 of the ideas that we've talked about and discussed with
22 Judge O'Connell.

23 Just thinking back to the boat design, I failed to
24 cover this, is there anything about the design that's
25 intentional with respect to allowing you to have access

1 to areas on the lake shore that the current boats
2 really aren't suited for?

3 A. Yes. It's smaller, it will be more maneuverable just
4 by nature of the catamaran. It's a shallower draft and
5 I think mostly it's just a willingness to try to supply
6 a service for those people, that's the main thing that
7 will allow us to provide service to more people is the
8 willingness to do so. But the vessel is -- it was our
9 intent to make it as versatile as possible to serve
10 everyone on the lake, not just Stehekin.

11 Q. You prepared future numbers projections, correct?

12 A. Uh-huh.

13 Q. Is your assessment that it's necessary for Backcountry
14 to rely on cannibalizing the Lake Chelan Boat Company's
15 ridership in order to sustain your own?

16 A. No, absolutely not. And I think that's well documented
17 in history that we can go back and show that when there
18 is more options, there are more travelers, and that the
19 owner of Lake Chelan Boat Company -- the previous
20 owner, I guess, has stated activity creates activity
21 and that's certainly the case with Stehekin, and that
22 is my belief and it's not just mine. It's these people
23 you saw testify -- heard testify this morning.

24 There are many new plans in Stehekin, people
25 attempting to start new businesses, make new ways for

1 themselves to be able to make a living in Stehekin and
2 provide more opportunities for tourism. And those
3 things are happening but I believe that a service like
4 this will really, really help them especially shorter
5 and off seasons but just the consistency of having a
6 year-round boat will really help them.

7 Q. Do you, then, agree it sounds like with the public
8 testimony that by increasing the amount of persons who
9 can get up the lake you increase not only the economic
10 viability of Stehekin but also provide additional
11 persons for the Boat Company to transport back?

12 A. Yes, absolutely, and specifically in the winter.
13 Because the Lake Chelan Boat Company, their prices are
14 lower than the prices that I've proposed, if it's more
15 convenient for passengers to ride with Lake Chelan Boat
16 Company, I'm sure they will do that often.

17 And my service is, by nature of a daily service,
18 it will be more convenient more often, but when it is
19 not the most convenient service I'm sure that many
20 people will be riding the Lake Chelan Boat Company.
21 Plus, when there is a large number of people, we cannot
22 accommodate more than 32 and that is the case I can't
23 say the number of days but almost every day in the
24 summer and most every day in the winter.

25 Q. Are you one of those persons who's considering economic

1 opportunities that could be dependent upon these
2 additional riders and additional options for potential
3 visitors to Stehekin?

4 A. Yes.

5 Q. In what way?

6 A. My wife and I have been looking into other
7 opportunities in Stehekin, deciding whether that's
8 really where we want to put down our roots, whether
9 that's where we want to put our effort and grow our
10 family. I'm half owner in a guide service in Stehekin
11 currently that for the last five years I have been, I'm
12 a half owner and manager of Stehekin Outfitters.

13 My parents own and operate Stehekin Valley Ranch,
14 and they have expressed interest in passing that along
15 to my brother and myself. And we have considered it
16 but we want to know that there is going to be more
17 opportunity, that opportunity is not going to be
18 closing in on us, it's going to be expanding and
19 getting better if that's where we're truly going to put
20 our effort as a family.

21 Q. In your future numbers projections, that's CCC-3, you
22 discuss the difference between ridership in two date
23 ranges, 1996 through 2006 and 2007 through 2017, what
24 did you find noteworthy about comparing those time
25 periods?

1 A. 1996 through 2006 numbers were significantly higher.
2 And I believe that the numbers were if I averaged those
3 numbers, they were -- they actually were higher than
4 what the numbers are currently today plus the numbers I
5 have projected. So -- and that was when there was more
6 opportunities to travel to Stehekin and that has been
7 my belief all along, that with the opportunity the
8 numbers will come back with more expanded opportunity
9 not just in transportation but the excitement and
10 growth in Stehekin that people will get onboard in
11 pretty short notice and that those numbers will come
12 back like they were in the late '90s.

13 Q. So I guess is it then your position that it's not a
14 lack of persons available to ride the boat but rather a
15 lack of options for those persons to take a boat to
16 Stehekin that's driven this reduction in ridership?

17 A. Yes. As the testimony of somebody this morning, I
18 can't remember who talked about how Chelan I believe
19 the Chamber of Commerce said that it has increased
20 tourism in the last 15 years to 78 percent or something
21 like that. And yes, Stehekin has remained flat and
22 actually declined. And it's just inexplicable to me
23 after growing up there and how amazing of a place it is
24 and how many opportunities there are for recreation
25 there that the numbers would actually decline.

1 Q. Do you believe that there's a built-in clientele that
2 your service can capitalize on?

3 A. Yes. I think that people staying the night in Stehekin
4 will far prefer my service because of convenience and
5 many of the support statements that we received said
6 that very thing, just because if you have to drive a
7 few hours over the passes to get here, it'd be far
8 nicer to start after it gets light, be able to make the
9 boat, and be in Stehekin in time to check into your
10 room before dinner rather than as the current case
11 where you have to either get up very early in the
12 morning or leave the day before which often requires a
13 whole extra day of vacation which sometimes people
14 don't have.

15 Q. Is this one of the reasons that you believe it is
16 economically viable for your service to operate and
17 also not cause kind of the Boat Company to go under?

18 A. Yes, because it's different and that was the intention
19 when we applied, is that it was different than the
20 current service. It is not a head-to-head competition,
21 it is here to enhance what we currently have and to
22 just make it better, that was my intention all along.
23 It was never to take anyone away from the Lake Chelan
24 Boat Company.

25 Plus, you know, our price point will be higher, so

1 if anybody leaves the Lake Chelan Boat Company it will
2 be because it is more convenient or a higher quality.
3 It's not because they don't have other options or
4 because of price.

5 Q. So you're not trying to undercut the --

6 A. No. I think that's -- yeah, that would be a ridiculous
7 thing to try.

8 Q. Do you know Reed Courtney?

9 A. Yes.

10 Q. How do you know Reed?

11 A. Reed's my cousin.

12 Q. To your knowledge, is Reed a member of the entity
13 that's seeking to acquire the certificate?

14 A. Yes, he is.

15 Q. Okay. Is it correct that he submitted a statement in
16 support when you filed your initial application?

17 A. Yes, he did.

18 Q. Have you had any conversations with him subsequent to
19 it becoming known that he was -- I guess that his
20 entity was seeking to acquire the Boat Company's
21 assets?

22 A. Yes, I have had many.

23 Q. And you heard his testimony here this morning?

24 A. Uh-huh.

25 Q. Do you believe that his testimony in support is

1 indicative of the likelihood that he believes the Boat
2 Company is economically viable even if your certificate
3 is issued?

4 A. Yes. Actually, I had already applied, to the best of
5 my knowledge, he didn't tell me exactly the date in
6 which he started speaking to the Lake Chelan Boat
7 Company, but I had already applied for the certificate
8 and he knew that full well, I've been transparent
9 throughout this whole process with my friends and
10 family.

11 And obviously, he believes that that company is
12 still viable even if the certificate is issued just
13 because they went ahead with their plans to purchase
14 despite knowing exactly what we were doing. And he --

15 Q. Please.

16 A. He hasn't -- as seen this morning, he is not in
17 opposition of it and that remains to this day so I
18 think that's very telling.

19 Q. You mentioned another catamaran that had previously
20 been operating, was that the Lady Cat?

21 A. Uh-huh.

22 Q. Your earlier testimony was that based on your personal
23 experience having seen additional options, did the
24 operation of the Lady Cat bring additional persons up
25 the lake?

1 A. It seemed to. I was fairly young when the Lady Cat
2 stopped operating but it seemed to. When we looked
3 back at the historical numbers, I don't think it failed
4 due to lack of people, I think it was design.

5 Q. Are there any other, I guess, design characteristics or
6 attributes of your boat that would allow certain
7 persons, specifically handicapped or other mobility-
8 restricted persons, to travel that's not available to
9 your knowledge on the current operator?

10 A. We have done the best we can with a small vessel to
11 accommodate people with disabilities.

12 Q. How?

13 A. Just by making the aisleways, the doorways wide enough
14 to accommodate a wheelchair. And the aisleways and as
15 well as the restroom, there will be handrails in the
16 restroom. And so that has been our goal, it is not --
17 as far as I know, there is no specific criteria for
18 handicap-accessible vessels but we have attempted to
19 make it as close as we can.

20 We're working with a small vessel. I believe it
21 will be better. There are no flights of stairs to go
22 up. One issue with the Lady Cat or the Lady Express
23 too is oftentimes you board the vessel on one floor and
24 you have to depart the vessel on another, and the only
25 way to get from floor to floor is the stairs, and that

1 is an extreme problem for many people with
2 disabilities.

3 Stehekin already offers many problems, just
4 navigating docks and things like that, so we want to
5 accommodate those folks the best we can.

6 Q. Do you have kids?

7 A. Yes.

8 Q. How old are they?

9 A. My son is 14 months and we have another baby due in
10 August.

11 Q. Congratulations. Do you intend for them to go to
12 school in Stehekin?

13 A. Yes. I was homeschool -- or I was in the Stehekin
14 school up till the third grade and then I was
15 homeschooled until after that so it will be one or the
16 other.

17 Q. You heard the testimony today about difficulty and kids
18 traveling. As a lifelong resident of Stehekin, do you
19 have any personal knowledge of whether that's accurate
20 or not?

21 A. Yes, absolutely, especially after I believe it was 2007
22 when the Lake Chelan Boat Company stopped their winter
23 Sunday run despite objection from the local community.
24 And that's why -- one reason why I think things like
25 this are so important, giving the community an

1 opportunity to make their opinions known in a forum
2 like this is -- it became really difficult for families
3 with children in schools to go out for the weekend. If
4 they did, they had to miss at least one day of school
5 and perhaps part of another, that was if they left on
6 Friday and came back on Monday.

7 MR. MILLER: Okay. I don't think I have any
8 further questions that will not cover the things that
9 are covered in the direct and rebuttal testimony so I
10 don't want to stray too far from what the Court's
11 looking for today regarding the public necessity and
12 convenience testimony.

13 So I'll just let the Court know that the
14 additional testimony would be focusing on that and I
15 don't want to be redundant for Your Honor today as it
16 seems like that's an important aspect of it and I
17 agree.

18 JUDGE O'CONNELL: Thank you.

19 Mr. Roberson.

20 MR. ROBERSON: It seems like it would be friendly
21 cross, Your Honor, so Staff has nothing.

22 JUDGE O'CONNELL: Okay. Thank you, Mr. Courtney,
23 you can step down.

24 Can we please hear from Ms. Luchini next?

25 MR. MILLER: That's our intent, yes, Your Honor.

1 JUDGE O'CONNELL: Thank you.

2

3 MARIETTA LUCHINI, being first duly sworn to tell
4 the truth, the whole truth and
5 nothing but the truth,
6 testified as follows:

7

8 JUDGE O'CONNELL: Please be seated.

9 Mr. Hitchcock, I believe --

10 MR. HITCHCOCK: Yes, Your Honor.

11 JUDGE O'CONNELL: Is it okay if I --

12 Mr. HITCHCOCK: Yes, similar to what we did with
13 Mr. Courtney, I think it would be appropriate for you
14 to begin and then I'll redirect with any additional
15 information.

16 JUDGE O'CONNELL: That was my intent.

17

18 EXAMINATION

19 BY JUDGE O'CONNELL:

20 Q. So, Ms. Luchini, thank you for being here this
21 afternoon. You heard what I asked to Mr. Colter
22 Courtney about the economic viability of having a
23 second operator on Lake Chelan. Can you tell me what
24 evaluation you did and what your determination was?

25 A. Well, I had limited information, right, I'm working

1 from projections. And so economic viability of his
2 entity based on the information that I've reviewed
3 depends on the timeframe, I was told specifically if
4 12 months -- is he going to remain in operation for
5 12 months, is he a going concern, and my answer would
6 simply be yes based on my analysis of the information
7 provided to me.

8 You know, economically speaking, I can't speak to
9 the competitor company because I don't have any
10 information. I have very little ridership information
11 and all I was given was an exhibit marked D that spoke
12 to their loss -- potential loss of revenue but it
13 doesn't show me anything like their bottom line, their
14 cash reserves, a balance sheet, or any kind of
15 statement information. So simply put is Backcountry
16 Travels economically viable? Yes.

17 Q. Have you reviewed any of the public comments submitted
18 by Lake Chelan Boat Company in this proceeding?

19 A. I was -- I don't believe I was provided with that
20 information. I don't think so.

21 JUDGE O'CONNELL: Mr. Hitchcock.

22 MR. HITCHCOCK: Yes, Your Honor.

23 JUDGE O'CONNELL: That's really all the questions
24 I have for Ms. Luchini. I'll turn it over to you.

25 ///

1 EXAMINATION

2 BY MR. HITCHCOCK:

3 Q. So you just testified that you have reviewed
4 Backcountry's application and their projections, have
5 you reviewed Mr. Hammond's testimony and written
6 analysis and his recommendation?

7 A. Yes, I have.

8 Q. And what is your opinion of Mr. Hammond's financial
9 review?

10 A. Yeah, I looked at it pretty closely, I looked at his
11 testimony and his report, and I would say that I
12 largely agree with him. I had some minor areas where I
13 might disagree in opinions and perhaps that might be
14 because of my location.

15 He just made a comment that the wage rates are
16 relatively stable in this area, and I would argue that,
17 yes, one could argue that, however, we are in a
18 phasing-in period of an increase in the minimum wage so
19 right now we're at \$12 an hour minimum wage, we are
20 facing a 13.50, which is the largest increase over the
21 last three years, minimum wage starting January 1,
22 2019.

23 That said, he's likely not going to have minimum
24 wage jobs, but being a small business owner myself with
25 40 employees in a sort of an end-of-the-road kind of

1 business, my husband and I own a grocery store in
2 Manson with 40 employees. We do feel what we call wage
3 parody, that means as you increase your minimum wage
4 employees you have to have some sort of parody to your
5 longer-standing employees so everybody in the store
6 isn't at minimum wage.

7 And so I think there will be some effects of that
8 but that's such a minor issue in terms of total work
9 hours because he doesn't have a lot of work hour
10 demand. So that's not really an issue but some small
11 disagreements in terms of that, but otherwise, I really
12 agree with Mr. Hammond's assessment.

13 Q. And have you reviewed the projections prepared by
14 Mr. Courtney and Backcountry Travels?

15 A. Yes.

16 Q. And what is your opinion as to the reasonableness of
17 those projections?

18 A. Well, I would tell you upon first glance before
19 speaking with Mr. Courtney, I always hesitate to -- I
20 wonder where round numbers come from. There's a lack
21 of precision indicated when large round numbers are
22 used.

23 But in speaking with Mr. Courtney, he did what a
24 lot of people who just do a business plan or projection
25 do, I have reviewed a number of them, and they

1 basically estimate the cost based on the facts that
2 they have available to them and then they round to the
3 nearest large number so they kind of remove the
4 significant digits.

5 In that case, having spoken with him in person and
6 asking him where he kind of determined his estimates,
7 I'm comfortable with his numbers. They do appear
8 reasonable based on my knowledge of small businesses in
9 the area so I believe that his estimates are quite
10 reasonable.

11 Q. And you had previously testified that you would have
12 some challenges in determining whether two ferry
13 operators are viable. What would you need to determine
14 whether they were viable, what additional information
15 would you require?

16 A. So generally speaking, when I look at something like
17 that I'm going to need an economic background, I could
18 get that information largely on my own, but I also need
19 then specific information. All of Mr. Courtney's stuff
20 was either provided or I could kind of research some of
21 it myself, but the other entity I don't have any data.

22 So I would need a balance sheet, an income
23 statement, ideally a cash flow statement. Typically,
24 when I look at those I like a historical five years,
25 three would be okay. Less than that and I just -- I

1 can't really make a basis for my judgment as to knowing
2 what their economic viability is in terms of
3 competition.

4 I would say just based on the Exhibit D that they
5 provided, they're looking at complete cannibalization
6 of ticket numbers which I would think would be
7 unreasonable to expect in this situation. So it just
8 was not enough information for me to determine dual
9 economic viability.

10 Q. And why do you think it would be unreasonable for there
11 to be complete cannibalization of ticket numbers?

12 A. Well, I mean, there's a number of reasons. One of
13 which is this is an unknown quantity at this point,
14 nobody knows it exists or plans to exist, maybe the
15 local community does but I had never heard of it and I
16 live in this area so it will take some time in order to
17 build up a ridership.

18 And then I also agree with Mr. Courtney in that
19 the more availability will increase because Stehekin is
20 a desired area and the economics of our local
21 community, I'm also on the Chelan Chamber of Commerce
22 Board, and we've had strong economic vitality in recent
23 years. So I believe that the economics of the whole
24 situation is well positioned.

25 Q. And now moving on to the quality of service, are you

1 able to determine that the competition will not result
2 in diminished levels of service?

3 A. I'm not just because I don't have data. I mean, if
4 we're talking about diminished levels of service, is
5 somebody going to have to offer fewer scheduled rides,
6 well -- or will they have to pull one of their, you
7 know, boats from service, I can't tell because I don't
8 know what they're doing. I don't have any information
9 on theirs.

10 Common sense tells me that with the availability
11 of this one, if this one is financially viable and that
12 dials back, at the very least we will have one that
13 remains financially viable. It's, you know, I don't
14 really like to base things on common sense, but short
15 of anything else, if you're asking me for my opinion, I
16 would say that, yes, it appears to be economically
17 viable but I wouldn't be able to prove that or document
18 with any kind of numbers.

19 Q. And it might be a different rephrasing of the question
20 that may have kind of already been asked but just to be
21 clear, is there anything in the data, the information
22 that you've reviewed, that indicates it will not be
23 economically viable?

24 A. No. No. I looked at a number of things, if you don't
25 mind me expanding, I looked at their working capital

1 ratios, I even went very conservatively calculating
2 very high cash flow requirements for those three months
3 of summer and at the worst based on the cash they
4 already have, working capital, which is in case you're
5 wondering, it is the entity's ability to pay its
6 current debts as they come due. So on a month-to-month
7 basis, do I have enough cash in my pocket to pay my
8 monthly debts.

9 They have a minimum of 1.25 to 1, which means they
10 have \$125 for every \$100 they owe on a monthly basis at
11 the very worst. Starting out they have over I believe
12 a 2.3, 2.4. If you're looking just from a basic
13 standpoint, any kind of working capital situation under
14 1.0 to 1 is poor and anything over 2 is great, and so I
15 don't have any concerns in that regard.

16 MR. HITCHCOCK: Okay. Your Honor, I think that
17 covers it for Backcountry Travels. If the Staff has
18 any questions for Ms. Luchini.

19 JUDGE O'CONNELL: Mr. Roberson.

20 MR. ROBERSON: Again, we're not really adverse in
21 terms of parties so it doesn't seem like a process
22 necessary or appropriate.

23 JUDGE O'CONNELL: I understand. Thank you.

24 I guess then I have no further questions for you.
25 So thank you, Ms. Luchini, for coming and testifying.

1 You're excused.

2 Mr. Logan Courtney, if you would, please, come
3 take the stand.

4

5 LOGAN COURTNEY, being first duly sworn to tell
6 the truth, the whole truth and
7 nothing but the truth,
8 testified as follows:

9

10 JUDGE O'CONNELL: Please sit down.

11

12 EXAMINATION

13 BY JUDGE O'CONNELL:

14 Q. So a couple of the questions I asked for Mr. Colter
15 Courtney, he said that you might have some more
16 information on them. Let me ask about the vessel, the
17 50-foot catamaran, that is being proposed. Are there
18 any concerns for operating in winter conditions here at
19 Lake Chelan, what is its capability in that low
20 temperatures?

21 A. I do not believe that winter operations are going to be
22 a problem for it. It shouldn't be. It's set up to do
23 that. Even the current provider occasionally does not
24 run a trip, they basically leave it up to their
25 captains to say is it safe to go, and I believe that

1 Backcountry Travels will have the same policy. If you
2 get out there and something -- your heater quits,
3 you're not having good visibility, it's really high
4 winds, I believe they'll have the same policy that if
5 the captain says, I don't feel comfortable, we turn
6 around. But as far as the vessel goes, I believe that
7 it is completely capable.

8 Q. And can you please recap your experience with vessels
9 on Lake Chelan?

10 A. On Lake Chelan for the previous two years I was the
11 captain for Mountain Barge Services operating the barge
12 on the lake, I have also owned my own boat that I have
13 had for also the last two years, and before that my dad
14 has always owned boats that I have ran up and down Lake
15 Chelan. That's, yeah, my basic experience on Lake
16 Chelan.

17 Q. And I'm unsure about whether you're going to know the
18 answer to this question but maybe Mr. Miller can help
19 explain because I don't recall, are you going to be the
20 captain for this boat?

21 A. Yes, I believe for at least the first year. I am at
22 least going to be operations manager for the company
23 for two years. And I will be the primary captain for
24 at least the first year here to get through all the
25 testing phases and making sure that the boat is set to

1 go and then we will start training -- hopefully
2 training new operators.

3 And my Uncle Jim, who testified this morning, also
4 has told me that he will be a back-up operator and help
5 with training and get people set up.

6 Q. Okay. I think that might answer another question that
7 came to my mind which was if you're the captain for the
8 boat and the schedule is a daily schedule, what happens
9 if you get sick or something happens to you?

10 A. Yeah. So my uncle is -- he has formerly been licensed,
11 he is going to be licensed again, and said he will
12 assist. Colter Courtney has also applied for his
13 license and they have given him -- he's already passed
14 his application with Labor and Industries so he just
15 has to -- I believe he's waiting on his test results
16 right now. I have another cousin that is also
17 currently licensed. I think we have back-up operators
18 that are available right now, basically.

19 Q. Okay. And from your experience operating on Lake
20 Chelan, are you familiar with any conditions or permits
21 for getting authority to use docks, for example, at
22 Fields Point or other places?

23 A. Colter has basically been the one that's been dealing
24 with that and I have not dealt with that personally.

25 JUDGE O'CONNELL: Okay. Mr. Miller,

1 Mr. Hitchcock, I don't have any other questions.

2 MR. MILLER: Thank you, Your Honor.

3

4

EXAMINATION

5 BY MR. MILLER:

6 Q. You provided a resume, correct?

7 A. Yes.

8 MR. MILLER: And that's, Your Honor, for purposes

9 of reference, LC-1, Mr. Courtney's resume's just

10 available.

11 Q. I noted in that that you have some background in

12 operating equipment. As the captain of the boat, do

13 you believe that the engines are appropriate and

14 suitable for navigating Lake Chelan that are going to

15 be installed in this vessel?

16 A. Yes, I think that they are perfectly adequate. My boat

17 has outboard motors, I'm used to being around them,

18 working on them, I do my own maintenance, so I believe

19 they are completely adequate. And they have actually

20 been slightly oversized for what the boat designer said

21 that they have to be to make this vessel performs

22 properly. And he told us that it will just enhance its

23 performance and will just be better so that's what we

24 hope.

25 Q. Is it able to operate functionally if one of the

1 engines goes down?

2 A. Yes. Most of the systems, fuel systems, batteries,
3 they're all separate. So if one motor quits, the other
4 motor should be completely operational. And it changes
5 its handling characteristics but that's something that
6 as an operator you're always watching for and tinkering
7 with so it changes the way you do things but does not
8 cause safety concerns.

9 Q. Based on your experience and background, do you have
10 any capacity to identify, diagnose, and/or potentially
11 fix a problem if the motor goes kaput on the way up
12 lake?

13 A. Yes. If I -- if the -- if it's reasonable, depending
14 on the situation, then I would definitely feel
15 comfortable going back and checking the motor and, you
16 know, if we're near a port to pull in, stop, check
17 things over, and I think I would have a good chance of
18 figuring out the problem because I own my own boat, do
19 my own maintenance, did a lot of maintenance for
20 Mountain Barge Services before so...

21 Q. Okay. Are you familiar with the safety plan or is
22 there a safety plan for Backcountry?

23 A. Yes. There's a -- it's limited, there's not a complete
24 overview, but there have been -- there's a couple
25 starts to the safety plan.

1 Q. Does that include maintenance?

2 A. Yes. There is also a maintenance plan that has been --
3 just a general guideline, it's not completed until the
4 manufacturer of the motors gives us all the information
5 on what they want and the boat designer gives us
6 everything they want but we have general overviews,
7 yes.

8 Q. So the safety plan that's been compiled is subject to
9 supplementation and refinement?

10 A. Yes.

11 Q. Didn't take anything off the list that you already put
12 on there?

13 A. I don't believe that there's anything that will be
14 taken off, no. I believe that's all very basic stuff
15 that's going to be included.

16 Q. What are you going to do if you're out in the middle of
17 the lake, nasty weather, and the mechanics start to go
18 sideways? Where do you start as a captain of the
19 vessel, you lose power?

20 A. Like I said before, most systems are redundant so the
21 chances of losing the whole boat or the mechanical
22 systems or most systems on the whole boat are very
23 slim.

24 If you did, then it would probably be something
25 like a fuel contamination problem and you would

1 basically contact whoever the nearest help was, let
2 them know what your situation was. You'd make sure
3 that your passengers were informed of what was going
4 on, get them into life jackets, make sure everybody was
5 ready to depart the vessel or something if it collided
6 with the shore, but that's a scenario that we don't see
7 ever happening. And then you would start looking at
8 the motors and trying to see what your actual problem
9 was.

10 Q. Do you have communication devices that are going to be
11 installed and operational on the boat?

12 A. Yes. We'll have VHF Radio, Marine 16, and the local
13 Stehekin channels. I believe we're going to have a
14 Garmin inReach onboard that is satellite based that
15 will be able to contact Stehekin and probably Lake
16 Chelan for emergency services.

17 Q. Are the persons that you and/or Colter have identified
18 as back-up, do they have access to those same
19 communication devices?

20 A. Yes, I believe -- yeah, I believe they all have access
21 to all of those.

22 MR. MILLER: Just one second, I apologize. If I
23 could just confer with Mr. Courtney.

24 JUDGE O'CONNELL: Sure.

25 MR. MILLER: Thank you, sir.

1 I think we're, Your Honor, satisfied so no further
2 questions for this witness. Thank you.

3 JUDGE O'CONNELL: Okay. Thank you, Mr. Courtney.
4 You're excused.

5 Oh, Staff, am I assuming that your response is the
6 same?

7 MR. ROBERSON: It is.

8 JUDGE O'CONNELL: I apologize for skipping you.

9 MR. ROBERSON: No worries.

10 JUDGE O'CONNELL: All right. Well, let's hear
11 next from Mr. Hammond.

12

13 GREG HAMMOND, being first duly sworn to tell
14 the truth, the whole truth and
15 nothing but the truth,
16 testified as follows:

17

18 JUDGE O'CONNELL: Please be seated.

19 Now, Mr. Miller and Mr. Hitchcock, in this case, I
20 think it's probably appropriate since he's not one of
21 your witnesses that you go ahead and ask your questions
22 and if there's something that I think I'm still curious
23 about I'll go after you.

24 MR. MILLER: Thank you, Your Honor.

25 MR. HITCHCOCK: Certainly, Your Honor. I'll

1 begin.

2

3

EXAMINATION

4 BY MR. HITCHCOCK:

5 Q. Mr. Hammond, my name is Matt Hitchcock. I'll ask you a
6 few questions. I don't think I have a ton of
7 questions.

8 One of the things, the recurring theme of the
9 Ms. Luchini's testimony and also Mr. Courtney's
10 testimony first was this concept of financial viability
11 of two options, the Court has requested that we discuss
12 that, and no one has been able to give a definite
13 answer so I'll ask -- I'll start by asking you are
14 there particular challenges in this case that hinder
15 precisely determining the financial viability of two
16 commercial ferry operators on Lake Chelan?

17 A. So just to clarify, I reviewed the financial viability
18 of Backcountry Travels so I wasn't looking at LCRI in
19 that sense. I would say that, yes, there is challenges
20 especially with Backcountry and that's because it deals
21 with a lot of projections especially of ridership that
22 may not be known and measurable. I feel the applicant
23 did a good job and I found that what they had put was
24 reasonable.

25 Q. And what would you need to see, what additional

1 information would you need in order to feel confident
2 in a determination that the two operators were or were
3 not economically viable?

4 A. I don't know that I could make that determination with
5 future projections and that's really not the focus of
6 my testimony.

7 Q. Certainly. So you would need an operating history from
8 both companies in order to determine -- to have
9 confidence in such a determination?

10 A. I would say yeah.

11 Q. And now sort of moving on to in follow-up with some of
12 your pre-filed testimony, when you were reviewing the
13 ridership and revenue forecast, what information were
14 you reviewing in that analytical process?

15 A. For the ridership and revenue, I looked at the
16 incumbent's annual reports, I looked at I think it was
17 2017 that I based my analysis off of which was the
18 total capacity of the boats that were used in a given
19 year. I found that Mr. Courtney's projection was in
20 line with what we would see with LCRI.

21 Q. And what was that projection?

22 A. I believe it was about 38 to 40 percent of the total
23 capacity would be used on average over the year for
24 both companies.

25 Q. And that was based upon LCRI's 2017 numbers and

1 Backcountry Travels' projections?

2 A. That's right.

3 Q. And is there a particular methodology that you used to
4 analyze those comparisons and those two document sets?

5 A. As far as what?

6 Q. Did you evaluate numbers based on a weighted average
7 from season to season or did you just do a calendar
8 year, any seasonal and/or special instances where
9 travel may be exceptionally high or exceptionally low?

10 A. I would say in general I looked at the year as a whole.
11 I believe in my financial review memo I do mention the
12 different seasonality ridership as a percentage of
13 total capacity between the two companies.

14 I believe I said that Backcountry may have gone a
15 little bit on the high side in the winter and a little
16 bit on the low side in the summer when compared to
17 LCRI, but in general, no, I was looking at a full
18 12-month period.

19 Q. Okay. And now based on the information that you've
20 been tasked to review and the questions that you were
21 specifically tasked to answer which was Backcountry
22 Travels' financial viability, how confident are you
23 that your analysis of their numbers is accurate and
24 will likely play out the way you predict it?

25 A. I am confident that what I stated in my testimony is

1 accurate.

2 Q. And why are you confident, what gives you that
3 confidence?

4 A. Well, I looked at LCRI's -- basically, I scaled down
5 their total expenses in proportion to the amount of
6 ridership that Mr. Courtney was projecting and I feel
7 that his expense numbers are possibly high on the
8 conservative side. I would say with the balance sheet
9 he has plenty of cash to cover a loss for a 12-month
10 period, a pretty substantial loss, and so that's what
11 I'm basing that opinion on.

12 Q. Okay. Now, you mentioned cost of service and other
13 numbers that you factored in, specifically to cost of
14 service, what information did you review to determine
15 that cost of service?

16 A. So I looked to see that the accounts were all there so
17 I looked at incumbent's income statement, making sure
18 that the applicant had the correct accounts, and I
19 would compare amounts in there based on the level of
20 ridership just to get a general idea.

21 There were times when I would just look at the
22 applicant's projections and, you know, those
23 projections are given under penalty of perjury, I
24 believe, so there are instances where I would take the
25 judgment of the company at face value.

1 Q. And did you compare their projected cost of service to
2 Lake Chelan -- the existing Boat Company or to any
3 other commercial ferry operators?

4 A. Like I mentioned, I did look at LCRI's 2017 annual
5 report and scaled it down based on I think it was a
6 15 percent factor which was the ridership that
7 Mr. Courtney is projecting, and then like I said, I
8 thought expenses were possibly overstated on the high
9 side, they were conservative, and they seemed
10 reasonable.

11 Q. And that balance that Backcountry Travels has, I
12 believe they did attempt to strike that balance through
13 kind of overestimating costs and taking a conservative
14 approach to their business plan, is that the reason
15 that you have confidence in your conclusion about the
16 cost of service and the viability of -- the financial
17 viability of the operation?

18 A. Yes.

19 MR. HITCHCOCK: Your Honor, that does it for my
20 questions. I reserve if something comes up with your
21 direct, with your questions, if I may redirect, I'll
22 secede the floor to you.

23 JUDGE O'CONNELL: Any redirect?

24 MR. ROBERSON: I don't think I have any redirect
25 as yet. I may have some.

1 JUDGE O'CONNELL: Then I do have a couple
2 questions for Mr. Hammond.

3

4

EXAMINATION

5

BY JUDGE O'CONNELL:

6 Q. I realize that I indicated I had some questions for you
7 regarding the economic viability analysis, I also have
8 a couple other questions that I'm hoping that you
9 thought about. What does Staff think about the issue
10 of having only one vessel?

11 A. Well, I think it -- I would say, you know, there really
12 isn't a precedent for it so it's hard to determine the
13 effect. I think if it were an instance where the
14 pie -- let's say the pie is the demand -- stays the
15 same, the incumbent would certainly see a decrease in
16 revenue, but I don't know that that is the case in this
17 case. I think the pie could grow in this instance and
18 that there is a possibility that both could be viable,
19 but I think there are a lot of factors at play so...

20 Q. Okay. So I think what I'm hearing is and the testimony
21 you heard earlier, you're saying that it's possible
22 that demand may grow with supply in this instance?

23 A. Correct.

24 Q. Did you assume that the incumbents -- that the existing
25 certificate holder would maintain its current level of

1 service and levels of equipment?

2 A. Yes.

3 Q. In your determination of whether public convenience and
4 necessity -- or Staffs' determination, did you consider
5 the impact to the public if the existing certificate
6 holder is unable to continue operations or intends to
7 increase its rates?

8 A. No, that was not considered.

9 Q. Okay. Is there a reason why it wasn't considered? Was
10 it thought about and not done or what was the reason?

11 A. So to clarify, I did not testify to that portion. I
12 think the reason, it was basically the overwhelming
13 support with the comments that I believe that
14 determination was made.

15 Q. Do you know if -- pertaining to docks and facilities,
16 do you know of any conditions that the facilities and
17 docks -- any conditions they may have that are
18 necessary for service in this case?

19 A. Not that I'm aware of.

20 Q. Do you know of whether there's any new seaplane service
21 coming to Lake Chelan?

22 A. Not that I'm aware of, no.

23 Q. So about purchasing tickets, what does Staff think
24 regarding whether there's a need for another method of
25 purchasing tickets other than through an app online?

1 A. I believe Mr. Courtney mentioned telephone purchasing.
2 I do want to clarify that I don't really know much
3 about the consumer rules regarding ticket purchasing so
4 I'm not sure if there's some WAC requirements that may
5 not meet, I'm not certain.

6 Q. And for the court reporter, I believe you're referring
7 to the Washington Administrative Code as WAC?

8 A. Yes.

9 Q. Okay. So I noticed that Staff has recommended that the
10 issuance of the certificate should be conditioned on
11 the provision of documentation meeting the insurance
12 requirements by Commission rule, are there any other
13 conditions that Staff believes would be appropriate
14 should the certificate be issued?

15 A. I believe there was some minor formatting issues on the
16 tariff that would need to be fixed. I am not
17 recommending any other conditions.

18 JUDGE O'CONNELL: Mr. Hitchcock, did any of my
19 questions bring up something for you?

20 MR. HITCHCOCK: No, Your Honor.

21 MR. MILLER: No, Your Honor.

22 JUDGE O'CONNELL: Mr. Roberson.

23 MR. ROBERSON: I have just a couple.

24 JUDGE O'CONNELL: Go ahead.

25 ///

1 EXAMINATION

2 BY MR. ROBERSON:

3 Q. So you were here this morning, correct?

4 A. Yes.

5 Q. You heard, I guess, she's the operations manager of the
6 incumbent talk about possible rate pressures of a
7 competitive ferry, correct?

8 A. Yes.

9 Q. Did she mention that she was afraid that the current
10 ferry would go out of business?

11 A. I did not get that sense, no.

12 Q. Do you think she might have mentioned that, that she
13 thought that that was a possibility?

14 A. Probably, yes.

15 Q. And you're aware that the incumbent was a party to this
16 case, correct?

17 A. Yes.

18 Q. And the incumbent had the opportunity to protest so --
19 well, you're aware of that opportunity to protest,
20 correct?

21 A. Yes.

22 Q. And if they had maintained their protest, there could
23 have been no certificate absent certain findings by the
24 Commission, correct?

25 A. Correct.

1 Q. So if the incumbent really wanted to veto the
2 certificate, they could have done that, correct?

3 A. Correct.

4 Q. But they did not?

5 A. Correct.

6 MR. ROBERSON: I think that's all I have, Your
7 Honor.

8 JUDGE O'CONNELL: Okay. Mr. Hammond, you're
9 excused. Thank you very much.

10 So at this point, I'd like to invite and give the
11 opportunity to the attorneys, if you'd like, to make
12 any closing statements.

13 MR. MILLER: Briefly, Your Honor, I'd appreciate
14 that.

15 JUDGE O'CONNELL: Go ahead, Mr. Miller.

16 MR. MILLER: Your Honor, Mr. Courtney and his
17 family came to this proceeding and made this
18 application -- I apologize, I'm just used to standing
19 when I'm making a closing argument.

20 JUDGE O'CONNELL: Whatever you're comfortable
21 doing.

22 MR. MILLER: To our mind, the case has been simple
23 from the beginning. The public, the members of this
24 community, the people who value and utilize Stehekin
25 have overwhelmingly and at an unprecedented level

1 supported this application.

2 Today Your Honor asked and was provided the
3 opportunity to hear from these people directly. I
4 believe we counted 30 persons who actually spoke here
5 today, 29 of which were strongly in support, one of
6 which offered concerns and best wishes effectively to
7 the purchaser of her business. And I agree, I think
8 that Mr. Hammond testified accurately, she didn't say,
9 We're going down if you let this happen, it's going to
10 end.

11 And I agree with Mr. Courtney's logical
12 inferences. Reed Courtney is the principal, they have
13 invested significantly. Nobody gave a firm number but,
14 I mean, to be blunt, there's seven figures, probably
15 multiple of seven figures that are being invested in
16 this process, a process that he's known from beginning
17 to end and where it's at, a process that they continue
18 to pursue the acquisition after knowing that the
19 Commission comes before and says, you know, the
20 Commission say, Yeah, we think this should be issued.

21 He comes here today and -- I'm sorry. And that's
22 an excellent point. It's not even that they're not
23 going to take them down, it's supplemental, there's a
24 hand-in-glove theory, and I appreciate my colleague
25 pointing that out. The testimony -- the overwhelming

1 testimony is that this is not a danger, this is an
2 opportunity for everyone to grow, this provides
3 services that can't be provided.

4 If someone -- and the testimony I think was fairly
5 clear, if someone brings more people up to Stehekin,
6 the Stehekin Valley benefits. As Mr. Nolen testified,
7 hey, if they get people up there and they don't have a
8 ride back or they have a different timing they want to
9 come back, perfect, then I've got another ride from
10 Stehekin down lake.

11 The logic behind the desperate -- the logic behind
12 the explanation of the desperate economical development
13 of Chelan versus Stehekin, there's really just one
14 variable: People can get here. They can drive here,
15 they can train here, they can take a bus here, they've
16 got options. They've got the ability to make a choice
17 and to determine what is the best thing for their
18 intended use of this unique slice of the world that is
19 inaccessible but for this type of service particularly
20 now. At best, it sounds like a seaplane in a year but
21 even that person is akin coming before the Court and
22 saying, you know, I want to provide a competitive
23 service.

24 And I think this service that's to be provided by
25 Mr. Courtney, it's not competitive, it's supplemental,

1 it's an addition to. It provides opportunities.

2 The rising tide floats all boats, there's a lot of
3 very simple, straight forward ways of looking at this
4 and I appreciate Ms. Luchini saying, I kind of hate
5 testifying based on common sense but I think the common
6 sense, when it comes to it, the economic viability, I
7 think the Court can apply that.

8 And as Mr. Roberson has pointed out, if it wasn't
9 viable and they really believed it wasn't viable,
10 they'd be here. They'd be cross-examining witnesses,
11 they would have provided a financial expert rather than
12 just a simple opinion statement, Mr. Luchini looking
13 over the materials they provided, it doesn't show what
14 needs to be shown.

15 We have overwhelming public support, the testimony
16 regarding the various conveniences or lack thereof are
17 numerous. They involve school children, they involve
18 disabled persons, they involve people who have to make
19 a healthcare decision based on the ability to go down
20 lake or not. These are not, boy, you know, I'm really
21 rich and I would like to have somebody to take me
22 around and drop me off on my boat. These are real
23 people with real problems with real business concerns
24 with real investments that they can't even make.

25 And Mr. Courtney and his family, other people in

1 the valley, they want to see it grow, they want to see
2 it thrive, and they can't because they don't know that
3 the people that they will rely on to grow this -- the
4 demand to grow this valley, to grow the opportunity for
5 the entire public to reach and get access to this
6 unique place, they don't know that it's available
7 because right now it's not. Because the services that
8 exist today don't provide them that certainly and don't
9 provide them that knowledge that they'll have the
10 opportunity to realize those dreams.

11 Mr. Courtney's case is very simple and we believe
12 the evidence certainly supports the determination by
13 this Court that it is necessary for the public
14 convenience that the current provider is not meeting,
15 they're refusing to meet in one instance. In all
16 candor, I'm a Miller too so, you know, I can speak to
17 all of the persons who testify and the Court can hear
18 them, and the message is the same message Mr. Courtney
19 gave when he submitted the application.

20 I know this place, I've lived here, I breathe
21 here, I believe that I have a unique opportunity this
22 point in time, this unique slice, today and looking
23 forward, the time is right to provide something to
24 people that I care about, to his family, to all of
25 those persons who wish to build on the -- well, the

1 opportunity the place like Stehekin provides but you
2 can only provide them if you allow them to get there
3 and enjoy it.

4 So for every possible reason, Your Honor, I submit
5 that the evidence demonstrates the Court should agree
6 with the Commission, agree with Mr. Courtney, and issue
7 the certificate understanding the conditions. I think
8 Mr. Courtney addressed the insurance, it's just a
9 matter of you don't write the check until you know you
10 have something to insure.

11 They're ready, they're willing, they're able. I
12 hope you'll give them a chance, Your Honor. Thank you.

13 JUDGE O'CONNELL: Thank you. Mr. Roberson, do you
14 have --

15 MR. ROBERSON: Sure.

16 JUDGE O'CONNELL: Please go ahead.

17 MR. ROBERSON: RCW 81.84.020 authorizes the
18 Commission to enable commercial public ferry service
19 upon making two findings, the first is a finding of
20 public convenience and necessity. Mr. Dotson's
21 testimony is in the record, the striking thing from it
22 is that he testifies he'd never seen so many comments
23 in support of an application before.

24 This is my way of noting that the Commission
25 normally measures public convenience and necessity by a

1 filled out form to that extent that goes with the
2 application. There was voluminous public testimony
3 this morning as to the necessity and the convenience
4 both in terms of, you know, sometimes it's nice to get
5 out of the valley, sometimes you really need to get out
6 of the valley, you know, this service seems like it
7 would enable people to do both.

8 The second finding is a finding that the applicant
9 has the financial resources to provide service for
10 12 months. Mr. Hammond's review is in the record,
11 you've heard from him. The striking thing there is
12 that it appears that all of Backcountry Travels'
13 estimates are conservative, which means that, you know,
14 even in their almost worst case scenario they're more
15 than able to provide service. So Staff submits that
16 the evidence necessary to make the findings the
17 Commission has to make is in the record.

18 The one thing I would address is there is a way to
19 measure public convenience and necessity by having a
20 boat on the lake, that's certainly probably an
21 important factor in public convenience and necessity.
22 The testimony that I would direct you to is
23 Mrs. Luchini's testimony that there's no way both boats
24 would go out of business if there's competition. So it
25 seems like the Commission should make the requisite

1 findings and issue a certificate.

2 JUDGE O'CONNELL: Okay. Thank you.

3 So directed at Staff, I'm going to make a venture
4 request right now that you please work with the
5 Commission's Consumer Production Staff, Mr. Andrew
6 Roberts, to compile another bench exhibit made up of
7 any comments received by the Commission or Staff that
8 have not already been included in Exhibit BE-1, that
9 would be those that have been submitted up until the
10 end of this week, April 26, 2019. So I would like to
11 leave the public comment period open until the end of
12 this week for people to submit any further comments.

13 With that in mind, how much time does Staff need
14 in order to compile, work with Mr. Roberts, and submit
15 that exhibit?

16 MR. ROBERSON: I think that there are four
17 comments in the record that are not yet compiled plus
18 one of the Mr. Courtneys had written comments today.
19 It should go pretty fast.

20 JUDGE O'CONNELL: Okay. So how about sometime
21 next week; is that reasonable?

22 MR. ROBERSON: Yeah. Wednesday.

23 JUDGE O'CONNELL: Okay. So by Wednesday, May 1st,
24 please submit that bench exhibit.

25 Next thing I want to talk about is post-hearing

1 briefs. Currently the procedural schedule indicates
2 that they're due on May 27th, and as I indicated, the
3 Commission's closed that day so their due date's
4 actually the day after, May 28th.

5 But I want to hear from the parties as to two
6 questions, first, do the parties think post-hearing
7 briefs are still necessary, and second, if you do think
8 they're necessary, can they be done sooner than
9 May 28th? Let's start with Staff.

10 MR. ROBERSON: Given the non-adversarial nature of
11 the proceeding, it doesn't seem like briefing is
12 necessary but if you feel like it would be informative
13 or helpful we're more than happy to provide briefing.

14 JUDGE O'CONNELL: Mr. Miller.

15 MR. MILLER: I think it would be redundant, Your
16 Honor. We've made our argument, the facts are clear,
17 the law has been correctly stated so we believe it's
18 unnecessary.

19 JUDGE O'CONNELL: Okay. I'm not going to require
20 post-hearing briefs and so I am removing that from the
21 procedural schedule given that both parties have agreed
22 that they're unnecessary.

23 Is there anything else we need to address today?

24 MR. MILLER: Not for the applicant, Your Honor,
25 no. Thank you.

1 MR. ROBERSON: Not from Staffs' perspective.

2 JUDGE O'CONNELL: Okay. Thank you all for your
3 efforts and your work in this proceeding. I will issue
4 an initial order in this proceeding soon, and with
5 that, we are adjourned. Thank you.

6 MR. MILLER: Thank you, Your Honor.

7 MR. HITCHCOCK: Thank you, Your Honor.

8 (Discussion held off the record.)

9 JUDGE O'CONNELL: Back on the record for one
10 moment. My apologies. One thing that I forgot to
11 mention that we need to discuss, Mr. Miller,
12 Mr. Hitchcock, I am without electronic versions of
13 certain exhibits, the ones for Ms. Luchini and
14 Mr. Logan Courtney and also CCC-5.

15 I realize that that is a Commission report but if
16 you could please submit it as you were sponsoring it,
17 would you please do that as soon as you can submitting
18 them electronically?

19 MR. MILLER: We'll do that immediately, Your
20 Honor.

21 MR. ROBERSON: That addresses my question.

22 JUDGE O'CONNELL: Okay. With that, we are
23 adjourned and we'll close for the day. Thank you.

24 (PROCEEDINGS ADJOURNED AT 3:00 P.M.)

25

