

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re Application of

MEI NORTHWEST LLC

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

Docket TS-160479

**ARROW LAUNCH SERVICE, INC.  
WRITTEN OBJECTIONS TO PRE-  
FILED TESTIMONY AND EXHIBITS  
SPONSORED BY RANDY S. ESCH**

Arrow Launch Service, Inc. asserts the following objections to pre-filed testimony and Exhibits sponsored of Randy S. Esch, proffered by MEI Northwest LLC:

**I. Testimony and Exhibits of Randy S. Esch, filed October 4, 2016**

| <b>Page: Lines/Exhibit</b> | <b>Basis of Objection</b>   |
|----------------------------|---|
| p. 3: 20-26                | Mr. Esch's testimony regarding what commercial shipping customers have told him about their needs and whether Arrow Launch is meeting those needs is inadmissible self-serving testimonial hearsay. The statement is plainly hearsay within the definition of hearsay because it is an unsworn out of court statement offered to prove the truth of the matter asserted. Although the Commission typically permits hearsay of the kind relied upon in the ordinary course of business, Mr. Esch's statement is not reliable because it does not identify the speaker and was not recorded in written form by the speaker. |
| p. 9: 4-5.                 | Mr. Esch's statement about the business MEI has been told is "out there for" MEI is again unreliable hearsay. There are no documents or records recorded by the alleged speaker to which the statement is attributed offered.   |
| p. 10: 2, 9-10             | Mr. Esch's statements that "They would like to see us in Puget Sound too" and "the clients... have informed us that they would welcome our support in the Puget Sound" are again unreliable   |

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|                            | hearsay. There is no identification of the speaker or document to corroborate the statement.   |
| p. 16: 2-3                 | Mr. Esch's statement that "customers become frustrated at the lack of alternatives to Arrow Launch" is again unreliable hearsay.   |
| p. 16: 17-20               | Mr. Esch's statement that "we have heard from our clients that Arrow Launch is not providing the level of services that they receive in other ports..." is again unreliable hearsay. This statement is purely self-serving testimony, unsupported by any record created by the alleged speaker, and incapable of cross examination of the alleged speaker who is not identified. |
| p. 16: 24-25               | Again, Mr. Esch's statement regarding the frustrations of customers about delays is unreliable hearsay based upon uncorroborated alleged statements of unidentified speakers who cannot be cross-examined.   |
| p. 17: 7-26<br>p. 18: 1-17 | Mr. Esch's testimony about an incident, which by the documents provided in Exhibit No. ___ (RSE-5) and Exhibit No. ___ (RSE-6) are alleged to have occurred 17 years ago, are plainly outside the test period. Therefore, they are incapable of establishing a service failure or refusal. Accordingly, testimony regarding the incident is irrelevant and inadmissible.         |
| Exhibit No. ___ (RSE-5)    | This exhibit references an incident alleged to have occurred 17 years ago which is, again, outside the test period and therefore plainly irrelevant and inadmissible.  |
| Exhibit No. ___ (RSE-6)    | This exhibit references an incident alleged to have occurred 17 years ago which is, again, outside the test period and therefore plainly irrelevant and inadmissible.  |
| p. 18: 18-25               | Mr. Esch again testifies as to what unidentified speakers have told him, this time addressing the number of unidentified speakers and frequency of their statements. This is unreliable hearsay and not of the type typically permitted by the Commission.   |
| p. 19: 5-26.               | Mr. Esch's testimony is again unreliable hearsay.  |

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| p. 20: 1-5. | It is attributed to unidentified speakers and is uncorroborated by any record or document created by the purported speaker. |
| p. 20: 25   | This is again self-serving hearsay uncorroborated and from unidentified speakers.   |

**II. Rebuttal Testimony of Randy S. Esch, filed December 5, 2016**

| <b>Page: Lines/Exhibit</b> | <b>Basis of Objection</b>   |
|----------------------------|---|
| p. 9: 8-11                 | Mr. Esch yet again references out of court hearsay statements by unidentified speakers. |
| p. 11: 16-17               | Mr. Esch yet again references out of court hearsay statements by unidentified speakers. |
| p. 13: 5-8, 17-18.         | Mr. Esch yet again references out of court hearsay statements by unidentified speakers. |
| p. 15: 9-10                | Mr. Esch yet again references out of court hearsay statements by unidentified speakers. |

DATED this 14<sup>th</sup> day of February, 2017.

RESPECTFULLY SUBMITTED,

By

  
 David W. Wiley, WSBA #08614  
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CERTIFICATE OF SERVICE

I certify that on February 14, 2017, I caused to be served the original and one copy of the foregoing document to the following address via FedEx to:

Steven V. King, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
Attn: Records Center  
PO Box 47250  
1300 S. Evergreen Park Dr. SW  
Olympia, WA 98504-7250

I further certify that I have also provided to the Washington Utilities and Transportation Commission's Secretary an official electronic file containing the foregoing document via the WUTC web portal; and served a copy via email to the following parties:

|  |  |
|--|--|
| <p><b><i>For Washington Utilities and Transportation Commission Staff:</i></b><br/>Julian Beattie<br/>Office of the Attorney General<br/>Utilities and Transportation Division<br/>1400 S. Evergreen Park Drive SW<br/>P.O. Box 40128<br/>Olympia, WA 98504-0128<br/>Phone: (360) 664-1225<br/>Email: <a href="mailto:jbeattie@utc.wa.gov">jbeattie@utc.wa.gov</a></p> | <p><b><i>For MEI Northwest, LLC:</i></b><br/>Mr. Dan Bentson<br/>Bullivant, Houser, Bailey, PC<br/>1700 Seventh Ave, Suite 1810<br/>Seattle, WA 98101<br/>Email: <a href="mailto:dan.bentson@bullivant.com">dan.bentson@bullivant.com</a></p>    |
| <p><b><i>For Pacific Cruises Northwest, LLC:</i></b><br/>Judy Endejan<br/>Garvey, Schubert, Barer<br/>Second &amp; Seneca Building<br/>1191 Second Avenue<br/>18<sup>th</sup> Floor<br/>Seattle, WA 98101-2939<br/>Phone: 206-816-1351<br/>Email: <a href="mailto:jendejan@gsblaw.com">jendejan@gsblaw.com</a></p>   | <p><b><i>Administrative Law Judge</i></b><br/>Judge Marguerite E. Friedlander<br/>WUTC<br/>1300 S. Evergreen Park Dr. SW<br/>PO Box 47250-7250<br/>Olympia, WA 98504<br/>Email: <a href="mailto:mfriedla@utc.wa.gov">mfriedla@utc.wa.gov</a></p> |

Signed at Seattle, Washington this 14<sup>th</sup> day of February 2017



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