

Docket No. TC-170824 - Vol. I

Beeline Tours Ltd. v. Puget Express, LLC

November 2, 2017



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1 BEFORE THE WASHINGTON
 2 UTILITIES AND TRANSPORTATION COMMISSION
 3
 4 BEELINE TOURS LTD. d/b/a)
 SEATTLE EXPRESS)
 5) DOCKET NO. TC-170824
 Complainant,)
 6 v.)
 7 PUGET EXPRESS, LLC)
 8)
 9 Respondent.)

11 BRIEF ADJUDICATIVE PROCEEDING, VOLUME I
 12 Pages 1-62
 13 ADMINISTRATIVE LAW JUDGES RAYNE PEARSON AND
 LAURA CHARTOFF

15 November 2, 2017
 16 9:30 a.m.
 17 Washington Utilities and Transportation Commission
 18 1300 South Evergreen Park Drive SW
 Olympia, Washington 98504

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1 A P P E A R A N C E S
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13 FOR PUGET EXPRESS:
 14 ISAIAH FIKRE

17 ALSO PRESENT:
 18 MICHAEL ROGERS
 19 MATTHEW SCHMER

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1 OLYMPIA, WASHINGTON; NOVEMBER 2, 2017
 2 9:30 A.M.
 3 --o0o--
 4 P R O C E E D I N G S
 5
 6 JUDGE CHARTOFF: We will be on the record.
 7 Good morning. Today is Thursday, November 2nd, 2017, at
 8 9:30 a.m., and we are here today for a brief
 9 adjudicative proceeding in Docket TC-170824, which is a
 10 formal complaint filed by Beeline Tours, doing business
 11 as Seattle Express against Puget Express, LLC.
 12 My name is Laura Chartoff. I am an
 13 administrative law judge with the Utilities and
 14 Transportation Commission. I am co-presiding today with
 15 Judge Pearson, who will be presiding over the portions
 16 of the hearing dealing with witness testimony.
 17 Because the complainant bears the burden of
 18 proof, Beeline's witnesses will testify first, and then
 19 we will hear from any witnesses for Puget Express.
 20 Let's start by taking short appearances.
 21 Please state your name and who you represent for the
 22 record.
 23 MR. FASSBURG: Good morning, Your Honor.
 24 Blair Fassburg with Williams Kastner, and I believe Dave
 25 Wiley may be on the --

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5

1 JUDGE PEARSON: Just start over.
 2 MR. FASSBURG: It's always hard to see if
 3 the light is on.
 4 JUDGE PEARSON: I know.
 5 MR. FASSBURG: Blair Fassburg with Williams
 6 Kastner. Dave Wiley may be on the telephone with us
 7 today as well and may chime in. We're here today on
 8 behalf of Beeline Tours.
 9 MR. ROGERS: Michael Rogers with Beeline
 10 Charters and Tours. I'm the owner and president of the
 11 company.
 12 MR. SCHMER: Matt Schmer, also with Beeline
 13 Tours, d/b/a Seattle Express.
 14 MR. FIKRE: Isaiah Fikre with Puget Express.
 15 JUDGE CHARTOFF: Thank you.
 16 Okay. Mr. Fassburg, if you have an opening
 17 statement, you may make it now.
 18 MR. FASSBURG: Sure. Thank you.
 19 Beeline Tours filed this complaint case
 20 because it holds a certificate to provide auto
 21 transportation service between hotels in SeaTac and the
 22 cruise terminals, No. 61 and 91, in downtown Seattle.
 23 In attempting to generate business, it made contact with
 24 several of the hotels that it was authorized to service
 25 and was told those hotels were served already by Puget

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6

1 Express. Puget Express is a company authorized to
 2 provide charter and excursion service with a certificate
 3 from the Utilities and Transportation Commission, but it
 4 does not have a certificate to provide auto
 5 transportation service.
 6 But because of the investigation that was
 7 performed by my client, we believe that, in fact, Puget
 8 Express is providing auto transportation service between
 9 those hotels and other points. Because that is not
 10 service they're authorized to provide but is service my
 11 client is authorized to provide, this formal complaint
 12 was filed so that hopefully the Commission will
 13 ultimately issue a cease and desist order so that Puget
 14 Express will cease to conduct auto transportation
 15 operations. Thank you.
 16 JUDGE CHARTOFF: Thank you. Okay. Please
 17 call your witness.
 18 MR. FASSBURG: I will call Michael Rogers.
 19
 20 MICHAEL ROGERS, witness herein, having been
 21 first duly sworn on oath,
 22 was examined and testified
 23 as follows:
 24
 25 JUDGE CHARTOFF: You may be seated.

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EXAMINATION OF ROGERS / FASSBURG
7

1 MR. ROGERS: Thank you.
 2 JUDGE CHARTOFF: And I will turn it over to
 3 Judge Pearson for witness testimony.
 4 JUDGE PEARSON: Go ahead, Mr. Fassburg.
 5 MR. FASSBURG: Thank you.
 6
 7 EXAMINATION
 8 BY MR. FASSBURG:
 9 Q. Will you please state your full legal name for
 10 the record.
 11 A. Michael Martin Rogers.
 12 Q. And will you please state your business address.
 13 A. 8110 - 7th Avenue South, Seattle, Washington
 14 98108.
 15 JUDGE PEARSON: Can I just stop you for a
 16 second? Can the court reporter get a business card for
 17 the spelling of his last name because it does have a D
 18 in it.
 19 THE WITNESS: It's a G.
 20 JUDGE PEARSON: And a G?
 21 THE WITNESS: No D.
 22 JUDGE PEARSON: Oh, there is no D?
 23 THE WITNESS: There is no D.
 24 JUDGE PEARSON: Okay. The list I got said
 25 R-o-d-g-e-r.

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EXAMINATION OF ROGERS / FASSBURG
8

1 MR. FASSBURG: And that was my mistake.
 2 JUDGE PEARSON: Oh, that was your mistake,
 3 okay. I just wanted to clarify that for the record so
 4 we have the correct spelling. Thank you.
 5 BY MR. FASSBURG:
 6 Q. Mr. Rogers, will you please explain for the
 7 Commission your occupation and position at Beeline?
 8 A. I'm the owner of Beeline Charters and Tours and
 9 occupation changes daily, but basically in charge of
 10 running Beeline Charters and Tours and managing the
 11 managers at Seattle Express.
 12 Q. What does Beeline Charters and Tours do?
 13 A. Beeline Charters and Tours is a charter
 14 excursion company who -- we also own Seattle Express,
 15 d/b/a Seattle Express, which provides auto
 16 transportation, cruise ship ground service, ground
 17 transportation for cruise ship passengers from SeaTac
 18 hotels to Pier 66 and 91.
 19 Q. And just to elaborate on that a little bit more,
 20 did you own a company that was separate from the company
 21 that operated at Seattle Express at one point?
 22 A. Yes, so I purchased Seattle Express about 18
 23 months ago.
 24 Q. And what was the reason why you purchased
 25 Seattle Express?

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EXAMINATION OF ROGERS / FASSBURG 9

1 **A. Identified the cruise ship market as a growing**
 2 **market and a complementary market to Beeline Charters**
 3 **and Tours, and so I looked at that as an opportunity to**
 4 **grow my business, but also looked at Seattle Express as**
 5 **an opp- -- as a business that complemented my current**
 6 **business.**

7 Q. So if I understand correctly, the company that
 8 you owned and operated did not hold a certificate to
 9 provide auto transportation service and you wanted to
 10 expand into auto transportation?

11 **A. Yeah, that's right, correct.**

12 Q. Okay. And so Seattle Express held a certificate
 13 to provide auto transportation service issued by the
 14 UTC?

15 **A. Correct.**

16 Q. And that's now been transferred to Beeline
 17 Tours?

18 **A. Correct.**

19 Q. Can you describe for the Commission what
 20 certificate authority Beeline Tours now holds? And I
 21 can provide you a copy of the certificate if you'd like
 22 to refresh your memory on that.

23 **A. Yeah, I will take that. So we currently -- the**
 24 **certificate provides auto trans authority to provide,**
 25 **again, the transfers of per person scheduled service**

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EXAMINATION OF ROGERS / FASSBURG 10

1 between the cities of SeaTac, Southcenter Mall -- excuse
 2 me, the city of Renton. Here it is. City of Tukwila,
 3 Southcenter Mall, Pike Place and SeaTac. I don't see --
 4 I will just read it, how's that. That might be better
 5 than me trying to summarize.

6 Q. That would be great.

7 **A. All right. (As read) So passenger service,**
 8 **hotels in the city of Renton and to Pike Place Market in**
 9 **downtown Seattle. We also have a certificate for hotels**
 10 **in the city of SeaTac, Southcenter Mall, Pike Place**
 11 **Market and cruise ship terminals 66 and 91. Also**
 12 **between hotels in the city of Tukwila, Southcenter Mall,**
 13 **Pike Place Market, cruise terminals 66 and 91.**
 14 **Passenger service from hotels in the cities of Tukwila**
 15 **or SeaTac to the SeaTac Airport with a required stop at**
 16 **cruise terminal 66 and 91 on a single fare ticket.**

17 Q. Now, the respondent in this case, Puget Express,
 18 is that a company with whom you are familiar?

19 **A. I am familiar with them, correct.**

20 Q. How long have you known about Puget Express in
 21 some form or another?

22 **A. Since I purchased the company in 2016.**

23 Q. Why is it that they came onto your -- or that
 24 they became someone about whom you were familiar?

25 **A. We realized they were providing the same service**

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EXAMINATION OF ROGERS / FASSBURG 11

1 that we were without an auto trans certificate. So,
 2 again, as we -- as we did our -- as I did my research
 3 into the business, you know, they came up -- that's when
 4 they came on my radar.

5 Q. So can you describe for the Commission, you
 6 know, what sort of information you had available to you
 7 then that sort of put them on your radar?

8 **A. Well, the information I came about was that**
 9 **there were three hotels they were providing scheduled**
 10 **passenger service from that when we approached those**
 11 **hotels to introduce ourself and the new owner and our**
 12 **new service, that we were declined. They said that they**
 13 **already had that service being provided by Puget**
 14 **Express.**

15 Q. When you found out that they were providing that
 16 service, did you do anything to investigate further and
 17 confirm for yourself what exactly Puget Express was
 18 doing?

19 **A. I did. The first year we were a bit overwhelmed**
 20 **with just owning the business, and so I didn't really do**
 21 **too much about it. But in this last season of 2017, I**
 22 **decided to go investigate further and get proof if this**
 23 **was actually happening or not, and so I did. I -- I did**
 24 **my own investigation and purchased a ticket. I**
 25 **approached the front desk staff, purchased a ticket, was**

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EXAMINATION OF ROGERS / FASSBURG 12

1 provided transportation, scheduled transportation, from
 2 the Comfort Inn, I believe it was, to Pier 66.

3 Q. And so I would like to take you through that
 4 just a little bit more in detail.

5 When you first went to the hotel in order to use
 6 Puget Express' service as part of your investigation,
 7 did you speak to anyone at the hotel?

8 **A. Yeah, I spoke to the front desk staff, and then**
 9 **I asked them if they had any transportation to the**
 10 **cruise piers, and they said, Yes, we do. We have two**
 11 **departures, one at 9:45 and one at 11:15. I asked them**
 12 **how much it was. They told me \$25. I made a**
 13 **reservation for the 9:15. Puget Express, and Isaiah**
 14 **happened to be the driver that day, picked me up,**
 15 **transported me to Pier 66. I paid for the**
 16 **transportation and discovered three weeks later on my**
 17 **receipt, a week later on my receipt, I should say, that**
 18 **he charged me \$29.**

19 Q. Now, when you approached the front desk about
 20 the transportation services that were offered, did they
 21 say that you could depart at any time you liked or did
 22 they offer options on what times you could depart?

23 **A. There was only two options and there was only**
 24 **one company.**

25 Q. Did they, in fact, have a sign-in sheet?

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EXAMINATION OF ROGERS / FASSBURG 13

1 **A. They did have a sign-in sheet.**
 2 MR. FASSBURG: And, Your Honor, I didn't
 3 include this on my exhibit list because I did not know
 4 it existed. I found out yesterday when we were
 5 discussing today's hearing, which we, in fact, took a
 6 picture of the sign-in sheet that I would like to submit
 7 as an exhibit. Unfortunately, I only have one copy, so
 8 what I would propose is let everyone have an opportunity
 9 to look at it first.
 10 JUDGE PEARSON: Sure. Let's start with
 11 Mr. Fikre.
 12 MR. FIKRE: Thank you.
 13 JUDGE PEARSON: Mr. Fikre, does that look
 14 familiar to you? Have you seen the sign-in sheet
 15 before?
 16 MR. FIKRE: Occasionally for, you know --
 17 not on a daily basis, but I'm familiar with it, yes.
 18 JUDGE PEARSON: Okay. So do you have any
 19 objection to admitting it into evidence?
 20 MR. FIKRE: No, not at all.
 21 JUDGE PEARSON: Okay.
 22 MR. FASSBURG: And I can leave that up with
 23 you all.
 24 JUDGE PEARSON: We can keep it?
 25 MR. FASSBURG: Yeah.

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EXAMINATION OF ROGERS / FASSBURG 14

1 JUDGE PEARSON: Okay. So I will go ahead
 2 and admit that, and since you already numbered your
 3 other exhibits, do you want to put this at the end --
 4 MR. FASSBURG: Yes.
 5 JUDGE PEARSON: -- of the numbering?
 6 Okay. So what number would it be?
 7 MR. FASSBURG: Good question.
 8 JUDGE PEARSON: Looks like it would be MR-9?
 9 (Exhibit MR-9 admitted.)
 10 MR. FASSBURG: Okay.
 11 BY MR. FASSBURG:
 12 Q. So, Mr. Rogers, when you arranged to receive
 13 transportation from Puget Express, did you use the
 14 sign-in sheet that was offered by the hotel?
 15 **A. I didn't use it. I mean, she just entered my**
 16 **information to the sign-in sheet.**
 17 Q. So the hotel entered your information and,
 18 again, what times were available for transportation?
 19 **A. I believe it was 9:45 and 11:15.**
 20 Q. Okay. Now, you were told that the charge would
 21 be \$25, I think you said, was that for you individually?
 22 **A. Correct, yep.**
 23 Q. Was there anyone else there with you who was
 24 going to be transported with you with whom you had made
 25 plans to be transported?

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EXAMINATION OF ROGERS / FASSBURG 15

1 **A. No.**
 2 Q. Okay. Now, when the vehicle arrived to pick you
 3 up, what kind of vehicle was it?
 4 **A. It was a -- looks like an older 25- or**
 5 **28-passenger bus, and I took pictures of the -- the bus**
 6 **itself.**
 7 MR. FASSBURG: Okay. So I've got notebooks
 8 that might make the rest of this a little easier.
 9 JUDGE PEARSON: Okay.
 10 MR. FASSBURG: Actually two tabs because I
 11 have one notebook for both hearings.
 12 JUDGE PEARSON: Oh, okay.
 13 MR. FASSBURG: But if you look, there should
 14 be a tab for this hearing.
 15 I'm handing the witness a copy of the same
 16 exhibits.
 17 BY MR. FASSBURG:
 18 Q. Mr. Rogers, if you will look at what has been
 19 marked Exhibit MR-2. Can you explain for the Commission
 20 what that exhibit depicts?
 21 **A. I was just documenting the vehicle that provided**
 22 **me with transportation that day.**
 23 Q. Now, if you'll turn to what's been marked
 24 Exhibit MR-6, is this a photograph of the interior of
 25 that vehicle?

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EXAMINATION OF ROGERS / FASSBURG 16

1 **A. Yes, it is, correct.**
 2 Q. And this was the same vehicle that was being
 3 operated by Mr. Fikre that day?
 4 **A. Correct.**
 5 Q. Are any of these other people that were on the
 6 vehicle people that you knew?
 7 **A. No.**
 8 Q. So if I recall, you were at a hotel, which hotel
 9 was it where you got on the bus?
 10 **A. The Comfort Inn & Suites.**
 11 Q. After the bus left the Comfort Inn, did it go
 12 anywhere before it went to your final destination?
 13 **A. Yeah, it made an additional stop at the Hampton**
 14 **Inn.**
 15 Q. Okay. Now, so if you'll flip to the next page,
 16 Exhibit MR-7, is that a depiction of the same vehicle at
 17 the Comfort Inn on that day?
 18 **A. Correct, yes.**
 19 Q. And if you'll flip to Exhibit MR-8, what's
 20 depicted there?
 21 **A. That was the second stop that the bus made on**
 22 **the way to Pier 66.**
 23 Q. While you were at the Hampton Inn, did anyone
 24 else get on the bus?
 25 **A. Yes, picked up additional passengers.**

Page 17

EXAMINATION OF ROGERS / FASSBURG 17

1 Q. Were those passengers that you knew anything
 2 about, did you know those people?
 3 **A. I did not.**
 4 Q. So those weren't people with whom you had
 5 coordinated to receive transportation?
 6 **A. Correct.**
 7 Q. And I think you indicated a moment ago you
 8 arrived at Pier 66, the -- if you will turn to Exhibit
 9 5, MR-5. What is depicted in Exhibit MR-5?
 10 **A. This was the disembarkation of the group.**
 11 Q. And so was this at the pier?
 12 **A. Yes, it is, yes. Pier 66.**
 13 Q. Now, when you made your payment for
 14 transportation, did you make that to the hotel or did
 15 you make that directly to Puget Express?
 16 **A. I made it directly to Puget Express.**
 17 Q. Did you observe whether anyone else was making a
 18 payment directly to Puget Express?
 19 **A. Yes, I did.**
 20 Q. And how much exactly were you charged?
 21 **A. I was quoted \$25, but when I received my**
 22 **statement or I looked online, I was actually charged**
 23 **\$29.**
 24 Q. Will you turn to Exhibit MR-1, can you explain
 25 for the Commission what is shown here in Exhibit MR-1?

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EXAMINATION OF ROGERS / FASSBURG 18

1 **A. This was a screen shot, screen capture of my**
 2 **Bank of America online statement, and on May 22, you can**
 3 **see the charge from Puget Express for \$29.**
 4 Q. And was that charge for the transportation that
 5 you received for Puget -- excuse me, from Puget Express?
 6 **A. Yes, it is.**
 7 Q. Okay. Now, there's a few more photos here in
 8 the exhibits I would like to ask you about.
 9 What is depicted here in MR-3?
 10 **A. This is the driver, Isaiah, leaving the lobby of**
 11 **the Hampton Inn carrying a guest -- a couple of guest**
 12 **bags with guests following him.**
 13 MR. FASSBURG: Okay. So, Your Honor, I
 14 would like to go ahead and move for admission all of
 15 Exhibits MR-1 through MR-8.
 16 JUDGE PEARSON: Mr. Fikre, do you have any
 17 objection?
 18 MR. FIKRE: Not at all.
 19 JUDGE PEARSON: Okay. Then I will go ahead
 20 and admit those and mark them as Exhibits MR-1, MR-2,
 21 MR-3, MR-4, MR-5, MR-6, MR-7, and MR-8.
 22 (Exhibits MR-1 through MR-8 admitted.)
 23 BY MR. FASSBURG:
 24 Q. And when you arrived at the pier, was there any
 25 discussion from Mr. Fikre about return travel?

Page 19

EXAMINATION OF ROGERS / FASSBURG 19

1 **A. Yeah, I inquired about return travel, and he**
 2 **handed me his business card and told me to call once I**
 3 **disembarked from the cruise ship.**
 4 Q. And so what kind of service was available to
 5 return to the hotel?
 6 **A. It wasn't -- it didn't appear to be scheduled,**
 7 **so I'm not -- I'm not -- there wasn't really a lot of**
 8 **detail on the return service, how I would get from the**
 9 **pier back to the airport, but assuming he would make**
 10 **some arrangements somehow. I wasn't sure.**
 11 Q. Okay. To be clear, the hotel from which you
 12 departed to get to the pier, where was that located?
 13 **A. SeaTac.**
 14 Q. So would that have been a hotel within the area
 15 where you hold the certificate or Beeline Tours holds a
 16 certificate to provide service from the hotels to the
 17 pier?
 18 **A. Yes.**
 19 Q. Would you have liked to be able to provide
 20 service from that hotel to the pier for the same
 21 customers that rode Puget Express?
 22 **A. Absolutely.**
 23 Q. In fact, did you approach the hotel about
 24 setting up service there at the hotel?
 25 **A. I did, yes.**

Page 20

EXAMINATION OF ROGERS / FASSBURG 20

1 Q. And did they indicate to you they weren't
 2 interested?
 3 **A. Yes, they did and in no uncertain terms.**
 4 Q. And why is it they weren't interested based on
 5 what they said to you?
 6 **A. Because they have already had an agreement or**
 7 **arrangement with Puget Express.**
 8 Q. Do you have an estimation of how many passengers
 9 rode Puget Express from those hotels to the pier?
 10 **A. A rough estimate is, you know -- we know that**
 11 **Isaiah operates two mini busses, anywhere from 20- to**
 12 **28-passenger mini busses. Conservatively, with two**
 13 **departures from two different -- from three different**
 14 **hotels, very conservatively, it's 50 passengers a day**
 15 **conservatively. Each one of those passengers are, you**
 16 **know, very conservatively averages for us probably \$20 a**
 17 **person.**
 18 Q. So when you say "50 passengers a day," does that
 19 mean every day or is that on a particular day?
 20 **A. That's on a particular day. There's a hundred**
 21 **sailings, so there's a hundred cruise ship days in a**
 22 **season. And so you're looking at a hundred days, and so**
 23 **you're looking at 50 guests a day and then at \$20 a**
 24 **head. So conservatively, we're looking at a hundred**
 25 **thousand dollars' worth of business lost.**

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EXAMINATION OF ROGERS / FASSBURG 21

1 Q. And while the Commission may generally
 2 understand, I want to make sure that we're clear. When
 3 you say 100 sailing days, is this 100 days on which
 4 cruise ships depart from the pier?
 5 **A. Correct.**
 6 Q. And the passengers that are traveling from those
 7 hotels in SeaTac to the pier, are they typically
 8 passengers that are going to the cruise ship to be there
 9 for a departure?
 10 **A. 100 percent, absolutely.**
 11 Q. So if there's 100 days and about -- sorry, I
 12 missed the number that you said or I forgot the number
 13 you said of passengers, but you've done the math to
 14 determine ultimately about how many passengers are
 15 traveling by Puget Express for those cruise ship
 16 departures?
 17 **A. I mean, if you average it out over a hundred**
 18 **days and you -- super conservative at 50 passengers a**
 19 **day between three hotels and two vehicles with two**
 20 **departures a day, 50 is a very conservative number to**
 21 **average, again, and each one of those passengers are**
 22 **worth \$20 and there's a hundred sailing days. If you do**
 23 **the math, very conservatively, we're losing at least a**
 24 **hundred thousand dollars a year.**
 25 Q. Now, to make sure there's more foundation for

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EXAMINATION OF ROGERS / FASSBURG 22

1 what you're saying, when you say the passengers are
 2 worth about \$20 a person to you, what are you basing
 3 that on?
 4 **A. Well, our tariff rates. So we charge \$18 one**
 5 **way and \$30 roundtrip. When I say conservatively, some**
 6 **of our guests that we carry may be at \$15, 75 percent of**
 7 **our ticket sales are roundtrip. And just to make the**
 8 **math easy today, I just assigned a value of \$20 per**
 9 **person just to make the math -- and be super**
 10 **conservative on our estimate.**
 11 Q. So your estimate is at a minimum you're losing
 12 \$100,000 a year to a service being provided by Puget
 13 Express?
 14 **A. Yes.**
 15 Q. How does that affect Beeline's viability?
 16 **A. Well, if it was just this one company, it would**
 17 **be -- it's a significant amount due when you take it**
 18 **into the whole that our gross revenues are only 300,000**
 19 **this year, so that's a third of our business. But**
 20 **there's -- there's also a trend where other hotels or**
 21 **front desk people and managers are striking up similar**
 22 **agreements that are also infringing on our auto**
 23 **transportation license, which accumulatively is having a**
 24 **major impact on the significant investment I made when I**
 25 **purchased Seattle Express and my ability to repay that**

Page 23

EXAMINATION OF ROGERS / PEARSON 23

1 loan and employ my drivers and provide maintenance and
 2 safety on my equipment. So it's definitely making a
 3 difference in my operation.
 4 MR. FASSBURG: Thank you. I have no further
 5 questions for Mr. Rogers.
 6 JUDGE PEARSON: Thank you. I have a
 7 clarifying question.
 8
 9 **EXAMINATION**
 10 BY JUDGE PEARSON:
 11 Q. Your certificate says hotels within the city of
 12 SeaTac, I'm assuming that means that you don't provide
 13 service from all those hotels, but you are permitted to,
 14 you're authorized to?
 15 **A. No, we -- we intend to, and it's our intention**
 16 **to provide service from all those hotels.**
 17 Q. Okay.
 18 **A. Within the city of SeaTac.**
 19 Q. I'm just clarifying, that's what your
 20 certificate grants you --
 21 **A. Right.**
 22 Q. -- is any hotel within those cities that are
 23 named in your certificate you're authorized to provide
 24 service --
 25 **A. Yes.**

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EXAMINATION OF ROGERS / FIKRE 24

1 Q. -- from those points to the other points named
 2 in your certificate?
 3 **A. Correct.**
 4 Q. Okay.
 5 **A. And we are actively pursuing that business.**
 6 Q. Okay.
 7 JUDGE PEARSON: Thank you.
 8 And, Mr. Fikre, do you have any questions
 9 for Mr. Rogers?
 10 MR. FIKRE: I do -- I do.
 11
 12 **EXAMINATION**
 13 BY MR. FIKRE:
 14 Q. Actually, in reference to -- to -- to that
 15 letter that was sent initially from you and then, you
 16 know -- and you indicated that I believe -- I don't have
 17 the email, but it was indicated that 25 -- so I'm
 18 charging \$25 to get there and then coming back, there
 19 was discount offered for \$18 or something like that that
 20 was indicated on that letter that I got from the
 21 gentleman, I believe?
 22 **A. I'm not aware of any discount or discussing**
 23 **anything with the attorneys about a discounted return.**
 24 Q. You're not aware about the letter he sent to me?
 25 As well -- and by the way, that same letter was sent to

Page 25

EXAMINATION OF ROGERS / FIKRE 25

1 every town car. I don't want to say every, but I know
 2 several people actually contacted me about that. So are
 3 you aware what that letter said or are you aware that
 4 there was a letter that was sent?
 5 **A. I'm aware -- yeah, I'm aware of the letter. I**
 6 **haven't -- I didn't memorize it, but in no discussion**
 7 **with --**
 8 MR. FASSBURG: And I'm sorry, but because of
 9 attorney-client privilege being potentially waived, you
 10 should not answer questions that pertain to our
 11 discussions.
 12 THE WITNESS: Okay.
 13 **A. All right. So I knew a letter was sent out, but**
 14 **I didn't memorize the details of the letter.**
 15 MR. FIKRE: Okay. Well, Your Honor -- okay.
 16 Just for your information on that letter, I believe that
 17 the attorney --
 18 MR. FASSBURG: I'm going to object. He'll
 19 have a chance to testify.
 20 JUDGE PEARSON: Yeah, I'll explain that to
 21 him, and I'm going to give him a little bit of leeway
 22 because he is representing himself this morning.
 23 So right now what you can do is ask
 24 Mr. Rogers related to his -- questions related to his
 25 testimony, and if you want to talk about that letter

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EXAMINATION OF ROGERS / FIKRE 26

1 when it's your turn to testify, you will be able to
 2 address whatever you'd like to.
 3 MR. FIKRE: Okay.
 4 JUDGE PEARSON: So right now if you have a
 5 question for him, go ahead and ask it, but anything you
 6 want to bring to my attention, you can wait until it's
 7 your turn to testify.
 8 MR. FIKRE: Okay.
 9 BY MR. FIKRE:
 10 Q. So just to reiterate, you are -- are you or are
 11 you not aware that whether we are -- that Puget Express
 12 offers a discount for roundtrip or not again?
 13 **A. I'm not aware that you offer a discount for**
 14 **roundtrip.**
 15 MR. FIKRE: Okay. Thank you.
 16 JUDGE PEARSON: Is that your only question?
 17 MR. FIKRE: That was my only question.
 18 JUDGE PEARSON: All right. So, Mr. Fikre,
 19 I'll have Judge Chartoff swear you in right now, and you
 20 can proceed to give testimony. And you did submit a
 21 proposed exhibit, which was the letter from the Comfort
 22 Inn & Suites, so I assume you will want to offer that
 23 into evidence?
 24 MR. FASSBURG: Your Honor, if I may, we were
 25 also going to ask Mr. Schmer a couple questions if

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EXAMINATION OF SCHMER / FASSBURG 27

1 that's okay.
 2 JUDGE PEARSON: Oh, I'm sorry. I didn't
 3 realize.
 4 Okay. Why don't we go ahead and do that
 5 first, then, and then it will be your turn, Mr. Fikre.
 6 MR. FIKRE: Sure.
 7 JUDGE PEARSON: Okay.
 8
 9 MATTHEW SCHMER, witness herein, having been
 10 first duly sworn on oath,
 11 was examined and testified
 12 as follows:
 13
 14 JUDGE CHARTOFF: You may be seated.
 15
 16 E X A M I N A T I O N
 17 BY MR. FASSBURG:
 18 Q. Mr. Schmer, will you please state your full
 19 legal name.
 20 **A. Matthew Edward Schmer.**
 21 Q. And what is your business address?
 22 **A. 8110 - 7th Avenue South, Seattle, Washington**
 23 **98108.**
 24 Q. Will you please describe your occupation and
 25 your relationship to Beeline Charters and Tours?

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EXAMINATION OF SCHMER / FASSBURG 28

1 **A. Yes, I'm the former owner of Seattle Express,**
 2 **and I currently am the operations manager for Seattle**
 3 **Express under Beeline Tours.**
 4 **JUDGE PEARSON: Okay. One second. Do we**
 5 **have a spelling for his last name?**
 6 MR. FASSBURG: S-c-h-m-e-r; is that right?
 7 MR. SCHMER: Yes.
 8 JUDGE PEARSON: Thank you. Go ahead.
 9 MR. FASSBURG: Perhaps I should ask
 10 witnesses to spell that, make it easier for you.
 11 BY MR. FASSBURG:
 12 Q. Now, Mr. Schmer, in your experience operating
 13 Seattle Express before it was purchased by Beeline
 14 Tours, were you personally familiar with Puget Express?
 15 **A. Yes.**
 16 Q. Can you describe for the Commission why you were
 17 familiar with Puget Express?
 18 **A. Because I've been an owner of the company for 12**
 19 **years. I've known about Isaiah and Puget Express I**
 20 **believe starting in 2009 when he first came out here and**
 21 **had just one small 10-passenger van. And then over the**
 22 **years, I've seen him grow to where he's at now with two**
 23 **24-passenger coaches and then the one 40-passenger**
 24 **coach.**
 25 Q. Now, when you were the owner of the company, did

Page 29

EXAMINATION OF SCHMER / FASSBURG 29

1 you ever make an informal complaint about Puget Express

2 to the UTC?

3 **A. Yes, I did.**

4 Q. What was the basis of your informal complaint?

5 **A. That he was going through hotels at the city of**

6 **SeaTac that we had the auto transportation certificate**

7 **for and picking up guests on a set schedule at a set**

8 **time at a set price.**

9 Q. Do you have an understanding of what resulted

10 from your informal complaint?

11 **A. No.**

12 Q. Do you have any reason to believe that Puget

13 Express was ever informed that it needed auto

14 transportation authority to provide the service that you

15 observed?

16 **A. Yes, I do believe they were informed that they**

17 **needed auto transportation.**

18 Q. What was the basis of your understanding?

19 **A. At the time, it was through the phone calls with**

20 **Tom MacVaugh, who I had dealt with with the WUTC at the**

21 **time and had talked to him specifically about Puget**

22 **Express and what they were providing.**

23 Q. So it was through your communications with UTC

24 Staff that you came to understand Puget Express had been

25 told they couldn't do what they were doing without a

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EXAMINATION OF SCHMER / FASSBURG 30

1 certificate?

2 **A. That was my understanding, yes.**

3 Q. Now, you mentioned that you observed the fleet

4 that Puget Express was operating. Have you had an

5 opportunity to observe their fleet recently?

6 **A. Yes.**

7 Q. When did you do that?

8 **A. It was over the summer while I was driving**

9 **cruise ships.**

10 Q. Okay. And what were your observations about the

11 number of vehicles they were operating?

12 **A. That I'd seen them out on the road passing us**

13 **while we're going to the cruise ships as well as the**

14 **location of where they park their busses and physically**

15 **seen them at that spot.**

16 Q. Where do they park their busses?

17 **A. Behind the Country Inns & Suites in the city of**

18 **SeaTac.**

19 Q. Have you made any observations about the number

20 of drivers they use?

21 **A. Yes.**

22 Q. How many drivers have you seen?

23 **A. I have seen myself, three.**

24 Q. Are you familiar with who those drivers are by

25 name?

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1 **A. The only one I'm familiar by name is Isaiah.**

2 MR. FASSBURG: Okay. All right. I think

3 that's it. Thank you, Mr. Schmer. I have no further

4 questions.

5 JUDGE PEARSON: Mr. Fikre, do you have any

6 questions for Mr. Schmer?

7 MR. FIKRE: I do, but it won't be related --

8 am I allowed to ask as far as just about Beeline in

9 general?

10 JUDGE PEARSON: It's not --

11 MR. FIKRE: I'm sorry, about Seattle

12 Express?

13 JUDGE PEARSON: What's your question?

14

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

16 **BY MR. FIKRE:**

17 Q. Like, for example, if, you know -- I'm aware

18 about, you know, a lot of -- a lot of companies that

19 they -- they get -- they get overflow of Seattle Express

20 including from hotels that are, you know, within the

21 vicinity of SeaTac Airport. I just wanted to know, how

22 often do you give -- do you farm out your calls?

23 THE COURT REPORTER: I'm sorry, can you

24 repeat that?

25 JUDGE PEARSON: Yeah, what did you say?

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1 MR. FIKRE: How often do you farm out calls.

2 **BY MR. FIKRE:**

3 Q. Give out calls to other companies that you

4 cannot pick up?

5 **A. So is that in reference to when I owned the**

6 **company or to currently with Beeline owning the company?**

7 Q. Currently, since you joined.

8 **A. We never do now.**

9 Q. And prior to that?

10 **A. Prior to that, when I did own the company, I**

11 **used -- I did broker with other companies to help**

12 **provide transportation because when I owned the company,**

13 **I only had six weeks.**

14 MR. FIKRE: Okay. Thank you.

15 JUDGE PEARSON: And to clarify, were you

16 brokering out door-to-door service or scheduled service?

17 THE WITNESS: Scheduled service.

18 JUDGE PEARSON: Okay.

19 **BY MR. FIKRE:**

20 Q. And actually if I can answer that, the companies

21 that you farm out calls to, do they have similar -- what

22 kind of license do they have?

23 MR. FASSBURG: I'm going to object. This

24 isn't really relevant to the proceeding here today.

25 This is a complaint against Puget Express.

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1 JUDGE PEARSON: Okay. And I will sustain
 2 the objection only because Mr. Schmer no longer owns the
 3 company.
 4 MR. FIKRE: Okay.
 5 JUDGE PEARSON: So I see what you're getting
 6 at with past practices, but Beeline's under new
 7 ownership now, and this is a complaint related to your
 8 conduct.
 9 MR. FIKRE: Okay.
 10 JUDGE PEARSON: Okay?
 11 MR. FIKRE: All right.
 12 BY MR. FIKRE:
 13 Q. And -- okay. Since merging of Beeline, you're
 14 telling me that you haven't farmed out any calls to
 15 anybody else, no town car company or anything like that
 16 at all?
 17 **A. If a guest wants a town car, then I do work with**
 18 **a town car company, then I will have them be picked up**
 19 **in a town car, yes.**
 20 Q. Okay. That's not actually a license that you
 21 guys have, but in reference to auto tran, vehicles who
 22 actually -- people who actually signed up to be picked
 23 up by Seattle Express or Beeline, were you able to send
 24 them, you know, a private car that are licensed under
 25 town car?

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1 MR. FASSBURG: I'm going to object again.
 2 It's just not related to what we're here for today.
 3 JUDGE PEARSON: I will sustain the
 4 objection.
 5 Again, I see where you're going with this --
 6 MR. FIKRE: All right. Then I am done,
 7 then.
 8 JUDGE PEARSON: Okay. All right. So,
 9 Mr. Fikre, let's go ahead and swear you in, and we're
 10 ready for that now, right? Okay.
 11
 12 ISIAH FIKRE, witness herein, having been
 13 first duly sworn on oath,
 14 was examined and testified
 15 as follows:
 16
 17 JUDGE PEARSON: All right. So, Mr. Fikre,
 18 if you want to just give your side of the story. Did
 19 you bring the documents with you that you were asked to
 20 provide?
 21 MR. FIKRE: I pretty much -- no, and simply
 22 because I was going to speak, you know, briefly to the
 23 nature of the transportation service that I provide and,
 24 you know -- so, you know, I have some -- I have some I
 25 would like to -- you know, these are not necessarily

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1 everything, but --
 2 JUDGE PEARSON: What exactly did you bring
 3 with you?
 4 MR. FIKRE: So just some of the reservations
 5 that I had from these hotels. I just picked out --
 6 among other hotels, I just picked out the two -- yeah,
 7 the two hotels that Beeline was referring to. So these
 8 are just reservation sheets to and from the dates and
 9 stuff like that.
 10 JUDGE PEARSON: Okay. So you didn't bring
 11 everything that was asked for?
 12 MR. FIKRE: I don't have --
 13 JUDGE PEARSON: You don't have it, okay.
 14 MR. FIKRE: Yeah, so what I have is what I
 15 have basically.
 16 JUDGE PEARSON: Okay. All right. Well, if
 17 you want to go ahead and respond to the allegations,
 18 and why don't give us an explanation of exactly what
 19 type of service you're providing.
 20 MR. FIKRE: All right. I'm going to start
 21 off with the -- what was initially -- initial letter
 22 that I received, which it mentioned the two hotels
 23 specifically. Thankfully, I do work with, you know, a
 24 bunch of hotels out there, and I don't believe I have
 25 exclusive contracts with any of these hotels. I have

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1 established a relationship with all the hotels, and if
 2 they want to use this as a viable option as all sort of
 3 transportation, then I will be more than happy to go
 4 ahead and provide. So on that letter that I believe the
 5 Commission also got, it did mention the two hotels, the
 6 price that we charge, as well as we offer a discounted
 7 price coming back. Our prices are actually the same
 8 there and same back and, you know, anybody who wants to
 9 pay with, you know -- with a card, there is \$4
 10 transaction fee, whether it be one person or a hundred
 11 people.
 12 In reference to the services that are
 13 provided by Puget Express, I actually owned -- Matt was
 14 correct, I had approached him in the past when I first
 15 came to the business, and there was some violation on a
 16 consistent basis. I did, you know, initially pick up.
 17 This was going back, you know, when I first started and
 18 had pretty much the same meeting. It was kind of like
 19 urgent meeting. It wasn't like this. Anyways, we had a
 20 meeting with Mr. King and I believe Beattie, Young. You
 21 know, and some I can't think of. It was way back.
 22 It was an honest mistake. I wasn't aware
 23 that it's something that needed to be done differently.
 24 And immediately, that was corrected; however, you know,
 25 this is when I was kind of somewhat, you know, coming to

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1 the business. I started off with -- with, you know,
 2 basically town cars, vans, and SUVs, which is, you know,
 3 license basically, and at some point, I had this idea if
 4 somebody wants a taxicab, I'll be able to provide them a
 5 for-hire vehicle. And if somebody wants car service,
 6 private car service like town cars, vans, and SUVs, that
 7 was a license that I specialize on right now.
 8 You know, I understand with the emergence of
 9 Uber and it triggered a lot of, you know, small amount
 10 of business owners like myself wanting to have multiple
 11 SUVs and those kind of, you know, vehicles that would --
 12 it would be able to use them for Uber, and if they're
 13 not working, the hotels that they have relationship with
 14 similar in the same way that I have and they have,
 15 they'll be able to cover them.
 16 And so I understand that with the emergence
 17 of Uber, a lot of businesses have gone down, and I would
 18 like to, you know -- I would like to -- I would like to,
 19 you know, assume the success that Mr. Rogers was
 20 referring to, 50 people, you know, on a daily basis. I
 21 wish, you know, I had that, but I believe a lot of that
 22 numbers that he's talking about, loss of business, has
 23 probably a lot to do with Uber, and I don't work with
 24 Uber. My vehicles are, you know -- my limousine
 25 license, I have a -- a limousine license here as well

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1 as -- as well as Puget Express license, which is charter
 2 and excursion. So --
 3 JUDGE PEARSON: Let me just stop you right
 4 now. You don't have a certificate for that, for charter
 5 and excursion anymore. That was cancelled on Friday.
 6 MR. FIKRE: I don't think it was cancelled.
 7 JUDGE PEARSON: I cancelled it on Friday for
 8 your unsatisfactory safety rating.
 9 MR. FIKRE: I was told it was actually for
 10 money.
 11 JUDGE PEARSON: I'm sorry, what?
 12 MR. FIKRE: I was told that it was
 13 actually -- that wasn't the understanding that I had.
 14 JUDGE PEARSON: Okay. Well, that's what
 15 happened. We had that hearing --
 16 MR. FIKRE: Right.
 17 JUDGE PEARSON: -- a couple weeks ago.
 18 MR. FIKRE: Right.
 19 JUDGE PEARSON: You failed to bring your
 20 compliance plan into compliance.
 21 MR. FIKRE: I wasn't -- I wasn't aware about
 22 that. This is news to me actually.
 23 JUDGE PEARSON: Okay. So you were served
 24 with that order -- you would have received an electronic
 25 copy on Friday the 27th.

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1 MR. FIKRE: Right.
 2 JUDGE PEARSON: You have a 30-day period
 3 right now where you can continue to work with Staff to
 4 get your compliance plan --
 5 MR. FIKRE: Yeah, I got that actually.
 6 And --
 7 JUDGE PEARSON: Okay. So hold on. Don't
 8 speak while I'm speaking, please. If you're able to,
 9 you can get your certificate reinstated, but as of right
 10 now, you do not have authority to operate as a charter
 11 and excursion carrier. So that order directed you to
 12 cease and desist providing any charter or excursion
 13 carrier services, advertising, or offering to provide
 14 those services.
 15 So I'm putting you on notice right now if
 16 you weren't aware that you may not operate your charter
 17 and excursions vehicles. And my understanding from that
 18 hearing was that you only had one 30-passenger bus. So
 19 it is true you have two busses that hold more than 25
 20 passengers?
 21 MR. FIKRE: Yeah, exactly, yes, correct. It
 22 was actually added somewhere new once -- remember we
 23 talked about the possible expansion of all that so --
 24 but when -- with the whole investigation with the UTC at
 25 the time, it was, you know -- it was just one. So yeah.

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1 JUDGE PEARSON: But do you -- oh, at the
 2 time of the investigation --
 3 MR. FIKRE: Yeah, exactly.
 4 JUDGE PEARSON: -- there was one
 5 30-passenger bus, you have since acquired --
 6 MR. FIKRE: Right.
 7 JUDGE PEARSON: So how many busses do you
 8 have?
 9 MR. FIKRE: So basically there would be
 10 three.
 11 JUDGE PEARSON: Three busses, and how many
 12 passengers do those hold?
 13 MR. FIKRE: 25, 29.
 14 JUDGE PEARSON: Okay.
 15 MR. FIKRE: And then a 56.
 16 JUDGE PEARSON: So and a 56-passenger bus?
 17 MR. FIKRE: Right.
 18 JUDGE PEARSON: Okay. So do you dispute the
 19 allegations in the complaint or do you admit that you
 20 were providing this scheduled service at 9:45 and 11:15
 21 between the Comfort Inn and the piers?
 22 MR. FIKRE: That was the time -- no, I
 23 don't -- I don't -- I don't -- I don't believe that's
 24 accurate. For the simple fact that one -- how I
 25 typically get my reservation, my intention when I work

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1 with the hotel is if you have larger groups, let me
 2 know. I would be able to use these, you know -- the
 3 shuttles. So they would call me in the morning or night
 4 before, something like that, and they will say we have
 5 this many number of people. And -- and I -- it is true,
 6 you know, that we have in situations when we have -- you
 7 know, when there's a marathon or something like that, we
 8 might be able to go ahead and, you know -- if there's
 9 some sort of emergency or, you know, we might be able
 10 to, you know, use -- we have used, you know, vehicles,
 11 you know, we have picked up from one place as well as
 12 another place.

13 JUDGE PEARSON: So you're saying you made
 14 multiple stops?

15 MR. FIKRE: Yeah.

16 JUDGE PEARSON: Do you carry unrelated
 17 passengers?

18 MR. FIKRE: You know, typically when they
 19 tell me, I don't ask. When they make a reservation,
 20 they just say, Hey, Isaiah, we have this many people,
 21 you know, to pick up. Is there any way you can actually
 22 be here from this time, from 9 o'clock to 9:30 or
 23 something like that, you know. But I never set the time
 24 to -- you know, I don't have a set time I -- you know,
 25 to be able to tell the hotels that I work with that I

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1 will be able to pick you up at this time or that time,
 2 you know.

3 Turnover ratio at hotels are pretty high.
 4 It's possible that people might have given the wrong
 5 information, but I deal with the management and the
 6 management deals with the front desk, you know, so --
 7 and -- but, you know, my pick-ups, you know, I have what
 8 is -- I want to say six or eight, you know, vehicles
 9 combination. Mostly vans and SUVs that fall under --
 10 they're actually under Sound Express, not Puget Express.
 11 So I own both, and I only use the big ones as needed,
 12 but typically, most of my -- I want to say almost all my
 13 pick-ups -- my pick-ups are done through my limousine
 14 license simply because you're not, you know --
 15 oftentimes you won't be able to get people that might --
 16 that might be related -- to that large and not to be
 17 able to utilize the shuttle busses.

18 JUDGE PEARSON: Okay. So Mr. Rogers offered
 19 testimony about a trip that he took on May 21st. He
 20 offered photos to which you did not object that pretty
 21 clearly depict you transporting a large number of
 22 passengers.

23 MR. FIKRE: Right.

24 JUDGE PEARSON: But he said he wasn't
 25 related or traveling with any of them and you took them

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1 to the pier and you dropped them off. You didn't
 2 dispute that any of the photos weren't accurate. Are
 3 you saying that that didn't happen?

4 MR. FIKRE: No, no. I'm not saying that
 5 didn't happen, but what I'm saying is, you know, it's
 6 quite common when, you know -- that morning that I came
 7 to pick up, I don't know what day it was, but I might
 8 have been called and say, Hey, we have 15 people to pick
 9 up. Just, you know -- just as an example, it's quite
 10 common that without my knowledge, they might be able to
 11 add, you know, people that I may not know, you know,
 12 whether it be a couple or a party of four or a party of
 13 six or a party of one. So -- and I might -- you know,
 14 it's possible it might have happened is what I'm saying.
 15 He might have been added with that, you know, without my
 16 knowledge or -- or what have you so -- but yeah, I'm not
 17 denying the fact that I picked up, yeah.

18 JUDGE PEARSON: Okay. And you're aware of
 19 what your charter and excursion authority allows you to
 20 do or not do?

21 MR. FIKRE: Yeah, and reality -- so that's
 22 what I'm saying. I don't -- you know, I don't pick
 23 up -- I don't have a specific time that I pick up. That
 24 is not accurate. Even with my limousine license, okay,
 25 all these, you know, six, eight vans and SUVs, when we

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1 go pick up, they will sign them up for whatever --
 2 whatever time they want to get picked up. If somebody
 3 wants get picked up at 9:15, doesn't mean they will get
 4 picked up at 9:15. If a van or SUV is available, then
 5 I'll go up and send them, you know -- within, you know,
 6 30 minutes or 45 minutes we'll be there type of thing.
 7 So I don't, you know -- it's not something that I do on
 8 a consistent basis.

9 Do we pick up groups on a consistent basis?
 10 You know, it's miss or hit -- it's hit or miss, but we
 11 do, you know -- we do have people that go to downtown.
 12 You know, I work with hotels in downtown as well. And
 13 so it's not like we work with only these two hotels. We
 14 work with the Double Tree Hotel that they work with, you
 15 know. While Seattle Express and Beeline pick up from
 16 the same hotel, we're talking about a hotel that's what,
 17 850 rooms. They're not able to accommodate, so
 18 oftentimes the hotel will call me and say, You know
 19 what, can you pick up a party of 17 that want to go to
 20 the Space Needle? Yeah, true, unfortunately, you know,
 21 the same route. There's only two ways to get to
 22 downtown Seattle. Either, you know, Highway 99, you
 23 know, 508, the waterfront side or I-5. So -- so many
 24 times, you know, if I'm heading out on 99, I'm -- you
 25 know, vehicles, you know, spotted, it doesn't

<p>Page 45</p> <p>45</p> <p>1 necessarily mean, you know, they're always going to 2 the -- to the pier. 3 JUDGE PEARSON: Okay. So I just want to be 4 clear with you, under the rules, the definitions and 5 WAC 480-30-036, a charter carrier means a person engaged 6 in the transportation over public highways, who, 7 pursuant to -- transport a group of persons pursuant to 8 a common purpose and under a single contract. So with 9 your charter certificate, you can only carry people -- 10 related passengers. One group, one contract, okay? 11 Excursion carrier service, the definition 12 means that you pick up passengers, you cannot pick up or 13 drop off any passengers after leaving or before 14 returning to the area of origin. So those would be 15 pick-ups from the hotel that didn't make any stops along 16 the way, went to a location, and then would have to 17 return everyone back to the hotel all within the same 18 trip. 19 So it sounds to me like what you're 20 describing doesn't meet either of those definitions, but 21 what you're disputing is whether or not there's a 22 schedule; is that accurate? So you're admitting that 23 your conduct is neither charter nor excursion because 24 you've admitted that you have unrelated parties and that 25 you're taking people and dropping them off at the pier.</p>	<p>Page 47</p> <p>47</p> <p>1 the way. And you're admitting that that's also not what 2 you're doing? 3 MR. FIKRE: That's -- that's -- I do allow 4 that. I do -- 5 JUDGE PEARSON: But we're not talking about 6 that. You're admitting that you also pick people up at 7 the hotel and drop them at the cruise terminal and the 8 trip ends at that point. 9 MR. FIKRE: So -- 10 JUDGE PEARSON: Just answer my question. 11 MR. FIKRE: Yes -- yes and no because, you 12 know, there's times where we may stop at the -- you 13 know, I do what we call pre- and post-cruise, you know, 14 tours so... 15 JUDGE PEARSON: But we're not talking about 16 that. I'm talking about where you pick up, you stop at 17 two hotels and drop people off at the cruise terminal. 18 Do you admit that you do that? 19 MR. FIKRE: Yeah, I have done that and -- 20 and -- and -- and -- yeah, I've done that occasionally. 21 Not on a consistent basis. 22 JUDGE PEARSON: Okay. So you do that with 23 unrelated parties? 24 MR. FIKRE: Possibly unrelated and, you 25 know -- yeah.</p>
<p>Page 46</p> <p>46</p> <p>1 You're not taking them to the Space Needle for the hour 2 and then taking them back to the hotel. 3 MR. FIKRE: Basically what I'm trying to 4 tell you is basically -- 5 JUDGE PEARSON: Just answer my question. 6 Are you admitting that? Do you want me to rephrase it? 7 MR. FIKRE: Please. 8 JUDGE PEARSON: So with charter service, it 9 would have to be a single group of related passengers, 10 and you're admitting or saying that you don't know 11 whether or not passengers are related because the hotel 12 just says, Hey, we have this many people to pick up. 13 MR. FIKRE: Right. 14 JUDGE PEARSON: So it's possible, you're 15 admitting it's possible that the parties are unrelated 16 parties? 17 MR. FIKRE: Yeah, they might be. Yeah, 18 possibly, yeah. 19 JUDGE PEARSON: Okay. 20 MR. FIKRE: I have no way of knowing that, 21 but yes. 22 JUDGE PEARSON: With excursion service, you 23 would be picking them up from the hotel, taking them 24 somewhere, and then taking them all back to the original 25 location where you departed from without any stops along</p>	<p>Page 48</p> <p>48</p> <p>1 JUDGE PEARSON: Okay. So what you're 2 disputing is that there is a schedule with a 9:45 and 3 11:15 departure time. You're disputing that? 4 MR. FIKRE: Right. 5 JUDGE PEARSON: Okay. So what -- how do you 6 explain the sign-up sheet that has those times listed on 7 it? 8 MR. FIKRE: I explained to you with -- with, 9 you know -- with the business license of Sound Express, 10 we actually use a bunch of vans and SUVs. So if 11 somebody wants to get picked up, that's their record, 12 not my record. 13 JUDGE PEARSON: Okay. 14 MR. FIKRE: They call me and let me know, 15 and I sent one of the, you know -- you know, whether be 16 a town car, SUV, or van. 17 JUDGE PEARSON: Okay. 18 MR. FIKRE: So that might be their record 19 for that. 20 JUDGE PEARSON: Okay. 21 MR. FIKRE: And I don't know if that's their 22 record for me. I don't know what record they keep and 23 how they keep that. 24 JUDGE PEARSON: Okay. And do you -- the 25 letter you submitted, did you want to offer that into</p>

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1 evidence? The letter from the Comfort Inn explaining
 2 your relationship with them. You filed it with us, but
 3 it's not officially in the record. If you want to offer
 4 that into evidence, you can do that now.
 5 MR. FIKRE: Yes.
 6 JUDGE PEARSON: And, Mr. Fassburg, do you
 7 have any objection?
 8 MR. FASSBURG: No objection.
 9 JUDGE PEARSON: Okay. So will go ahead and
 10 admit that and mark that as Exhibit IF-1.
 11 (Exhibit IF-1 admitted.)
 12 MR. FIKRE: Okay.
 13 JUDGE PEARSON: Okay? Do you have anything
 14 else you want to add before I turn it over to
 15 Mr. Fassburg?
 16 MR. FIKRE: I think -- I just don't -- I
 17 don't think -- I don't know if they were aware that I
 18 have another company that had, you know -- you know,
 19 combination of town cars, vans, mostly vans and SUVs.
 20 But most of my business is done with that. And, you
 21 know, I do -- I don't, you know -- I have not done
 22 pretty good job of keeping track of this, but I have
 23 done a bunch of trips to downtown. People who want to
 24 go to Space Needle or restaurant out there, you know,
 25 whether it be the Space Needle, the waterfront, the

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1 market, and as well as the cruise. So it's not, you
 2 know -- just wanted to share that with them so...
 3 JUDGE PEARSON: Okay. Mr. Fassburg.
 4 MR. FASSBURG: Sure. I have a few
 5 questions.
 6
 7 E X A M I N A T I O N
 8 BY MR. FASSBURG:
 9 Q. Mr. -- is it Fikre?
 10 A. Yes.
 11 Q. Mr. Fikre, I'm going to ask you first some
 12 questions about this letter that was submitted from
 13 Alysia Cantu at the Comfort Inn.
 14 Is what she stated in this letter an accurate
 15 description of the relationship between the Comfort Inn
 16 and Puget Express?
 17 A. Right.
 18 Q. She says here in this letter that people who
 19 receive transportation from your company have a mini
 20 city tour narrated with stops here and there.
 21 Do those stops include them getting off the bus?
 22 A. No, they -- they get -- they get off at the very
 23 end, but not necessarily at -- you know, along the stop.
 24 Q. Do you use a single bus to make stops at both
 25 Pier 66 and 91?

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1 A. Yeah.
 2 Q. So you have people who will get off at one of
 3 those piers and then you take additional people to the
 4 other pier?
 5 A. I have done that, yes.
 6 Q. Okay. Now, when you do this tour, do you stop
 7 anywhere else?
 8 A. Yeah.
 9 Q. Where else do you stop?
 10 A. We stop by pretty much along -- you know, the --
 11 along the entrance, you know, First Avenue, you know,
 12 to -- that's not the case every time, but, you know,
 13 along the First Avenue, which is the transparel [sic] to
 14 the market.
 15 Q. Do you have people who get off the bus on First
 16 Avenue?
 17 A. No.
 18 Q. And it says here in the letter the destinations
 19 may be the piers, Pikes marker, which I assume meant
 20 Pikes Market, and downtown.
 21 Do you have people who get off the bus at Pikes
 22 Market on the way to the piers?
 23 A. We've had -- we've had people that have gotten
 24 off there.
 25 Q. Now, with respect to the way you charge the

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1 customers, it says here in the letter the guest is told
 2 the rate is \$25 per person each way.
 3 Now, is that regardless of whether or not it is
 4 a group of people or a bunch of people that you don't
 5 know if they're a group or not?
 6 A. It's -- it's for everybody.
 7 Q. So for every time you provide a trip, you charge
 8 them individually \$25 per person?
 9 A. It's up to them. If they want -- family of four
 10 want to pay together, that's up to them, but, I mean,
 11 that's how we charge.
 12 Q. Okay. So let me rephrase my question and make
 13 it more clear. If you provide -- if you provide a trip
 14 to a family of four, you charge them \$25 per person for
 15 a total of \$100; is that right?
 16 A. That's correct, yeah.
 17 Q. And if it's four people who want to pay
 18 separately, you charge them \$100 plus 25 to each of them
 19 separately; would that be right?
 20 A. Yeah.
 21 Q. Now, have you had trips where you had a family
 22 of four who paid \$100 and someone else who paid
 23 separately \$25?
 24 A. Yeah.
 25 Q. In fact, you do that on a consistent and regular

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1 basis, correct?

2 **A. Sometimes, you know, people -- people that you**

3 **pick up, doesn't necessarily mean, you know, two**

4 **brothers if they're siblings don't mean they'll pay**

5 **together, so yeah.**

6 Q. So sometimes they'll pay separately?

7 **A. Yeah.**

8 Q. Okay. Now, Judge Pearson asked you a question

9 earlier that related to a definition in WAC 480-30-036.

10 I'd like to ask you a question about that as well. So

11 I'll hand you a copy of that so you can see it as I ask

12 the question.

13 **A. Sure.**

14 Q. Here under the definition of charter -- party

15 carrier for charter carrier, this is the definition that

16 Judge Pearson referred you to earlier, it states, (as

17 read) A charter party carrier or charter carrier means

18 every person engaged in the transportation over any

19 public highways in this state or of a group of persons

20 who, pursuant to a common purpose and under a single

21 contract, acquired the use of a motor vehicle together

22 as a group to a specified destination or for a

23 particular itinerary either agreed upon in advance or

24 modified by the chartering group after leaving the place

25 of origin.

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1 And I'll stop there because my question pertains

2 to the part I just read.

3 A single contract is required under this rule

4 for charter carrier, and if you will turn, there's a

5 definition of single contract provided here in the rule.

6 And it states, (as read) Single contract means an

7 agreement between the charter carrier and a group of

8 passengers to provide transportation services at a set

9 price for the group or trip. Under a single contract

10 passengers are not charged individually.

11 Do you agree that because you are charging

12 passengers individually that you are not complying with

13 the definition of single contract?

14 **A. I wasn't aware about that, but yeah.**

15 Q. But my question is do you agree? So I think if

16 I understood the end of your response, you've indicated

17 you agree?

18 **A. If that's what the law says, then yeah, yeah.**

19 Q. Now, part of that definition of charter carrier

20 also included the phrase "common purpose." Common

21 purpose is also defined. It states in the rule, (as

22 read) Common purpose means that a group of persons is

23 traveling together to achieve a common goal or

24 objective. For example, a group of persons traveling

25 together to attend a common function or to visit a

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1 common location.

2 And so if you have passengers who are getting

3 off at Pier 66 and then your bus continues to Pier 91,

4 obviously you had people that had different purposes in

5 their trip, some of which were to go to Pier 66 and some

6 of which were to go to Pier 99; do you agree?

7 **A. Yeah, but I've done -- like I said, things like**

8 **that were done in a situation, you know, we've had -- I**

9 **do get a lot of groups that want to go to one place, and**

10 **some cases, you know, you know, unrelated people might**

11 **get in the bus due to confusion or maybe the -- you**

12 **know, the hotel instruct them to do so, but yeah. So**

13 **yeah.**

14 Q. Okay. Then reading further, it states (as read)

15 For the purposes of these rules, it does not mean a

16 group of persons who have no common goal other than

17 transportation to or from the airport.

18 Would you agree that your customers that go from

19 the Comfort Inn and the Hampton Inn to Pier 66 and Pier

20 91 frequently have no other common purpose but

21 transportation between those two locations?

22 **A. That's when I use, you know -- yeah, true.**

23 Q. Now, you indicated earlier that you charge a \$4

24 transaction fee in addition to the \$25. Do you make

25 sure the passengers know that they're going to be

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1 charged a transaction fee?

2 **A. Yeah, I have always say, you know, there will**

3 **be, you know -- I will let them know that there will be**

4 **a transaction fee if you choose, if that's okay with**

5 **you. If you want roundtrip, then when we can go ahead**

6 **and we can include that price in the roundtrip, and that**

7 **way it won't be a repeat of the same fee.**

8 Q. So how do you tell them that?

9 **A. I verbally tell them that.**

10 Q. You just tell them that in person?

11 **A. I tell them, you know -- I just stand up, I'll**

12 **pass out business cards, I'll tell them I'll accept the**

13 **payment however you want to do it, roundtrip, one-way,**

14 **that's fine. And I'll also give them information on how**

15 **to get ahold of us on the return and how it works, where**

16 **to meet us and, you know -- so...**

17 Q. What's the reason you charge a \$4 transaction

18 fee?

19 **A. What's that?**

20 Q. Why do you charge a transaction fee at all?

21 **A. That is simply because, you know, we do have**

22 **fees associated with that so -- and he might have**

23 **charged -- he might have been charged \$4 for \$25, but if**

24 **there is a group of, you know, 30, they want to do**

25 **roundtrip, still be the same, that \$4 anyways. And so**

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1 just depends on, you know, a charge that's passed onto
 2 us by the, you know, credit card companies so...
 3 Q. So if I heard -- if I understood you correctly,
 4 you're basically passing along the expense to you and
 5 accepting credit card payments?
 6 **A. It's not necessarily passing, you know, just --**
 7 **you know, you know, it costs a lot to process a credit**
 8 **card so...**
 9 Q. Now, these rules that I discussed with you a
 10 moment ago in WAC 480-30-036, were these rules you had
 11 read before?
 12 **A. No.**
 13 Q. So is it correct that you're simply unfamiliar
 14 with the rules that apply to the charter or excursion
 15 carrier?
 16 **A. Yeah.**
 17 MR. FASSBURG: I think I have no further
 18 questions.
 19 JUDGE PEARSON: Okay. Thank you.
 20 Is there anything else from either party?
 21 MR. FASSBURG: If you're inviting a closing
 22 statement, I could make one, but I don't think we have
 23 anything else from the witnesses.
 24 JUDGE PEARSON: Okay. I want to ask as a
 25 courtesy to the Bench if the parties will waive the

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1 ten-day requirement for the order to come out because I
 2 would like to have the transcript available to me, which
 3 takes seven to ten business days. So if that's okay?
 4 MR. FASSBURG: Yes, we'd be willing to waive
 5 that.
 6 JUDGE PEARSON: Okay. Mr. Fikre? Can you
 7 state that into the microphone so we have it for the
 8 record.
 9 MR. FIKRE: Yeah, can you -- I don't know
 10 what that means. Can you explain that to me?
 11 JUDGE PEARSON: So presently, the rules
 12 would require that we issue an order within ten days of
 13 today's date of the hearing date, and I'm asking for
 14 more time because I would like to have the court
 15 reporter's transcript available.
 16 MR. FIKRE: Yes.
 17 JUDGE PEARSON: Okay. Thank you very much.
 18 And you can go ahead, Mr. Fassburg.
 19 MR. FASSBURG: As I indicated at the
 20 beginning, this complaint was filed because my client
 21 believes Puget Express was providing auto transportation
 22 service in the territory for which my client holds a
 23 certificate. And although I didn't want to give a
 24 roadmap at the beginning, I understood that the evidence
 25 would show, and ultimately I think it did, that

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1 Mr. Fikre's company is providing auto transportation
 2 service between hotels in SeaTac and apparently other
 3 places that weren't explored today on the record, and
 4 the cruise piers and Pike Place Market.
 5 He doesn't hold a certificate or rather his
 6 company does not hold a certificate to provide that
 7 business. But by doing it nonetheless, he has cost a
 8 conservative estimate of \$100,000 per year to my client,
 9 and that was, again, based upon an estimate of the
 10 number of passengers who receive transportation on
 11 cruise departure days which are approximately 100 per
 12 year with a certain number of passengers that he
 13 provided earlier on those -- I think it was 28-passenger
 14 vans, two of them departing twice a day.
 15 That costs my client a significant amount of
 16 revenue, and while we understand damages are not
 17 available in a complaint case here at the Commission,
 18 we're not asking for an award of money, we're asking
 19 this be taken seriously. And although I understand his
 20 certificate for charter and excursion service has also
 21 been revoked, we would like for the Commission to take
 22 serious action against Puget Express, at the very least
 23 issuing a cease and desist order so that the loss to my
 24 client will not continue and so that they can attempt to
 25 form relationships with those hotels and provide the

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1 service for which they hold the certificate to provide.
 2 Thank you.
 3 JUDGE PEARSON: Mr. Fikre, do you have
 4 anything else that you'd like to say?
 5 MR. FIKRE: Yeah, I do. I'm sorry for
 6 your -- for -- for what you planned or what you, you
 7 know, forecasted didn't happen. But I can assure you
 8 that most of my business is done through the -- through
 9 my limousine license and -- and whatever violations I
 10 have done, it was not my intent -- my intention was not
 11 to cause you any harm or anything like that. And, in
 12 fact, I would like to, you know, establish a
 13 relationship down the road how I might be able to work
 14 with you down the road at some point.
 15 And the cruise has been done and over with
 16 in September, I believe, and moving forward, you won't,
 17 you know, unless -- unless, you know -- unless it's
 18 within the guidelines, you wouldn't be able to see
 19 those, you know, big busses, but limousine license are,
 20 you know -- you know, limousine license, and I got to
 21 make a living. I have a family to feed, and I will obey
 22 with -- with the smaller vehicles that I have according
 23 to the -- to -- to the limousine license and rules and
 24 regulations, which I am more familiar with, and I intend
 25 to get familiar with the charter and excursion as well.

1 JUDGE PEARSON: Okay. And just to be
 2 perfectly clear, those busses, those three large busses
 3 that you referred to should not be on the road right now
 4 in any capacity whatsoever unless and until your
 5 certificate is reinstated by the Commission, and you can
 6 contact Mr. Perkinson and work with him --

7 MR. FIKRE: Yeah, yeah. I wasn't aware
 8 about that, but yes.

9 JUDGE PEARSON: So the 30-day clock started
 10 running on Friday, so you will need to work towards
 11 getting that reinstated within the next 30 days or else
 12 you will have to reapply and you'll have to repay the
 13 application fee and go through the vetting process once
 14 again. So right now you have a grace period that I urge
 15 you to take advantage of if you desire to continue
 16 operating your charter and excursion carrier business.

17 MR. FIKRE: Thank you so much. Appreciate
 18 that.

19 JUDGE PEARSON: All right. Anything else?

20 MR. FASSBURG: That's it from us. Thank
 21 you.

22 JUDGE PEARSON: Okay. Then we will adjourn
 23 and be off the record. Thank you.

24 (Adjourned at 10:39 a.m.)

25

C E R T I F I C A T E

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 3 STATE OF WASHINGTON
 4 COUNTY OF THURSTON

5
 6 I, Tayler Garlinghouse, a Certified Shorthand
 7 Reporter in and for the State of Washington, do hereby
 8 certify that the foregoing transcript is true and
 9 accurate to the best of my knowledge, skill and ability.

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Tayler Garlinghouse, CCR 3358