



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY (360) 586-8203

June 29, 2012

Drew Schmidt, President  
Pacific Cruises Northwest, Inc.  
d/b/a San Juan Cruises  
355 Harris Ave, Ste. 104  
Bellingham, WA 98225

Dear Mr. Schmidt,

The Utilities and Transportation Commission (commission) regulates commercial ferries that operate between fixed termini or over regular routes under chapters 81.84 RCW and 480-51 WAC.

In 1995 the legislature amended RCW 81.84 to require certificates of public convenience and necessity for "excursion service over the waters of this state," with various exceptions. 1995 Laws of Wash., ch. 361. That legislation contained an expiration date of January 1, 2001. Because the legislature amended RCW 81.84 to require a certificate for excursions, and then repealed that requirement, it is apparent that excursions are no longer required to have a certificate of public convenience and necessity under RCW 81.81.010.

The definition of an excursion under the now expired statute was "the carriage or conveyance of persons for compensation over the waters of this state from a point of origin and returning to the point of origin with an intermediate stop or stops at which passengers leave the vessel and reboard before the vessel returns to its point of origin." Laws 1995, ch. 361, sec. 1. The purpose of the service is not transportation between points on a route, but rather a sightseeing tour that returns customers to the point of origin.

The commission does not regulate the rates and services of sightseeing tours. The statutory basis for this exception to the commission's economic regulation is that such tours ordinarily are not "between fixed termini or over a regular route." The policy reason is that a sightseeing tour, to use a term from the era in which commercial ferry statutes were enacted, is not an industry "affected with the public interest." See Charles F. Phillips, Jr., *The Regulation of Public Utilities*, pp. 93-118 (1993). The rationale for rate-regulated monopoly service does not exist with regard to a sightseeing tour as it might for a true transportation service. See *id.* At 117, ("The public utility status generally has been conferred on an industry that possess those distinct economic characteristics which indicate that administrative, as opposed to market, regulation can improve



the industry's economic performance. Such activities are closely associated with the processes of transportation and distribution").

Pacific Cruises Northwest, Inc., d/b/a San Juan Cruises' current certificate BC-10 allows the company to provide the following commercial ferry service:

**"PASSENGER SIGHTSEEING CRUISES**

Between: North Bellingham (Squalicum Harbor) and South Bellingham (Bellingham Cruises Terminal), point to point, with a flag stop at Boulevard Park Dock.

**PASSENGER AND FREIGHT SERVICE**

Between Bellingham and Friday Harbor."


In phone conversations relating to the company's general rate case filed in Docket No. TS-120803, staff explained the commission's rate making policies regarding cost allocations between regulated service and non-regulated service, such as excursions. On June 20, 2012, Mr. Schmidt spoke with staff to further discuss the option to voluntarily cancel the company's existing certificate in whole and provide only excursion service to the public. Staff concludes that should the company provide only "excursion service," the commission would not regulate the company's rates or services, and therefore the company would not need a certificate of public convenience and necessity.

To voluntarily relinquish Pacific Cruises' commercial ferry certificate BC-10, Pacific Cruises will need to send a letter to the commission requesting to voluntarily relinquish its commercial ferry service in whole, including its filed tariff and time schedule, and request to withdraw its pending rate case in Docket No. TS-120803. In addition, the letter should describe how the company plans to operate only an excursion service between Bellingham and Friday Harbor and between North and South Bellingham.

Should you have any further questions regarding this process or this letter, please contact Penny Ingram at 360-664-1242 or [pingram@utc.wa.gov](mailto:pingram@utc.wa.gov).

*This letter states the informal opinions of commission staff, offered as technical assistance, and are not intended as legal advice. We reserve the right to amend these opinions should circumstances change or additional information be brought to our attention. Staff's opinions are not binding on the commission.*

Sincerely,

  
Gene Eckhardt,  
Assistant Director of Water and Transportation