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STATE OF WASH.  
UTIL. AND TRANSP.  
COMMISSION

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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the PETITION of )  
SAN JUAN EXPRESS, INC. for a ) NO. *TS-940956*  
CEASE AND DESIST ORDER )  
) PETITION FOR CEASE AND DESIST  
) ORDER  
)  
\_\_\_\_\_)

For its Petition for a Cease and Desist Order, petitioner San Juan Express, Inc. states as follows:

1. Petitioner San Juan Express, Inc. ("San Juan Express") is a Washington Corporation with offices at 2701 Alaska Way, Seattle, WA.
2. San Juan Express, in this matter, seeks the issuance of a cease and desist order pursuant to the provisions of RCW 81.84.010, WAC 480-50-020, RCW 81.04.510 and 81.68.040.
3. San Juan Express holds Permit No. BC-000117 issued by this Commission which, among other things, authorizes petitioner to transport passengers and freight between Seattle and Friday Harbor on San Juan Island.
4. At times material hereto and, in particular, at the time of this Petition, San Juan Express has provided and continues to provide

LAW OFFICES OF  
CULP, GUTERSON & GRADER  
27th Floor, One Union Square  
600 University Street  
Seattle, Washington 98101-3643  
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1 regular, daily passenger service between Seattle and Friday Harbor.  
2 Petitioner's vessel boards passengers each morning at Pier 69 in  
3 downtown Seattle and then sails to San Juan Island. Passengers are  
4 permitted to disembark in Friday Harbor. San Juan Express's vessel  
5 again boards passengers each afternoon in Friday Harbor and returns  
6 to Pier 69 in Seattle.

7 5. Petitioner's San Juan Island service operates upon a  
8 regular, published schedule. Passengers are charged fares according  
9 to a tariff which has been approved by this Commission. San Juan  
10 Express provides one-way and round-trip service. Round-trip  
11 passengers, including those making round-trips in a single day, are  
12 the most important source of San Juan Express' revenues on this  
13 route.

14 6. Petitioner's service and business are currently being  
15 injured by competition on the San Juan Island route from two boat  
16 operators, Mosquito Fleet Enterprises, Inc. ("Mosquito Fleet"), and  
17 Yachtship Cruiseline, Inc. ("Yachtship"), which are unlawfully  
18 operating without certificates of convenience and necessity.

19 7. Mosquito Fleet, like Petitioner, offers daily passenger  
20 service from the Seattle area to San Juan Island. Mosquito Fleet  
21 operates over a regular route and between the fixed termini of  
22 Everett and Friday Harbor. Said company advertises and sells tickets  
23 for its voyages to the general public.

24 8. Each day, on a regular, advertised schedule, Mosquito  
25 Fleet's boat boards passengers at the Marina Village dock in Everett.  
26 The vessel then sails to Friday Harbor where passengers disembark.

1 Mosquito Fleet's boat again boards passengers at the Friday Harbor  
2 dock at a regularly scheduled time each afternoon and returns to the  
3 Everett dock. Mosquito Fleet also offers bus service between Seattle  
4 and Everett for passengers on Mosquito Fleet's boat. Each morning,  
5 on a regular schedule, Mosquito Fleet's bus picks up passengers at  
6 downtown Seattle hotels and delivers them to the Everett dock in time  
7 to board Mosquito Fleet's boat to Friday Harbor. In the evening, the  
8 bus returns passengers from the Everett dock to downtown Seattle.

9 9. Yachtship, like Petitioner, offers daily passenger  
10 service between Seattle and San Juan Island. Yachtship operates a  
11 vessel over a regular route, between the fixed termini of Seattle and  
12 Roche Harbor. Said company advertises and sells tickets for its  
13 voyages to the general public.

14 10. According to a regular, advertised schedule, Yachtship, at  
15 the same time each day, boards passengers at the Shilshole Bay Marina  
16 in Seattle and sails to Roche Harbor on San Juan Island where it  
17 disembarks passengers. The vessel boards passengers at Roche Harbor  
18 for a return trip to Seattle approximately 4 hours later.

19 11. The president and owner of Yachtship is Robert Giersdorf.  
20 Mr. Giersdorf is also the president and owner of Glacier Bay Lodge,  
21 Inc. ("Glacier Bay"). At times material hereto, Glacier Bay has  
22 offered regular passenger service between Seattle and San Juan Island  
23 similar to that currently being offered by Yachtship.

24 12. Mosquito Fleet, Yachtship and Glacier Bay provide  
25 passenger service for hire between fixed termini and/or over regular  
26 routes. RCW 81.84.010 and WAC 480-50-020 prohibit such operations

1 except where the operator has applied for and obtained a certificate  
2 of convenience and necessity from the Commission. Neither Mosquito  
3 Fleet, Yachtship, nor Glacier Bay holds a certificate of convenience  
4 and necessity to provide water transportation service to San Juan  
5 Island. The operations of said companies are, therefore, in  
6 violation of law.

7 13. Mosquito Fleet provides bus transportation for hire over a  
8 regular route and/or between the fixed termini of Seattle and  
9 Everett. RCW 81.68.040 prohibits such operations except where the  
10 operator has applied for and obtained a certificate of convenience  
11 and necessity from this Commission. Mosquito Fleet does not hold a  
12 certificate of convenience and necessity to operate its bus  
13 transportation service between Seattle and Everett. Its operations  
14 are, therefore, in violation of law.

15 14. Yachtship acknowledged that it needs a certificate of  
16 convenience and necessity for its San Juan Island service when, on or  
17 about April 1, 1994, it applied to this Commission for transfer to it  
18 of Permit No. SBC-103 which, if valid, would, according to Yachtship,  
19 authorize service between Seattle and Roche Harbor. That permit is,  
20 however, no longer valid. Although Yachtship's application for  
21 transfer of the certificate has never been granted, Yachtship has,  
22 since April 1, 1994, continued to operate on the San Juan Island  
23 route.

24 15. Mosquito Fleet and Yachtship have aggressively competed and  
25 continue to aggressively compete with Petitioner on the San Juan  
26 Island route. They frequently advertise the transportation services

1 that they provide, their schedules and their fares. Operating free  
2 from any regulation, said companies skim the most important source of  
3 revenues upon which San Juan Express, operating as a regulated  
4 carrier, depends.

5 16. Mosquito Fleet and Yachtship have engaged in extensive  
6 promotional pricing and temporary price discounting in order to take  
7 business away from San Juan Express. Because Mosquito Fleet and  
8 Yachtship are operating without a certificate of convenience and  
9 necessity, they do not submit their fare schedules for approval by  
10 the Commission. In the absence of regulation by the Commission,  
11 Mosquito Fleet and Yachtship are free to change their prices at will,  
12 with little or no advance notice. Petitioner, because its prices are  
13 governed by a Commission-approved tariff, is prevented from adjusting  
14 its prices in response to the short-term price moves of Mosquito  
15 Fleet and Yachtship.

16 17. In the absence of regulation by the Commission, Mosquito  
17 Fleet, Yachtship and Glacier Bay are free to discontinue or change  
18 their operations at will, to operate without adequate financial  
19 resources, to discriminate in price, and to operate with inadequate  
20 or no insurance.

21 18. On one or more occasions, Yachtship has canceled or  
22 interrupted its scheduled service to San Juan Island without notice  
23 or explanation even to passengers with reservations on the canceled  
24 voyages. Prospective passengers have learned of such cancellations  
25 only when Yachtship's vessel failed to appear at the Seattle dock at  
26 the scheduled time. Many passengers have been seriously

1 inconvenienced and disappointed as a result of Yachtship's unreliable  
2 service.

3 19. San Juan Express and the public interest have been and  
4 continue to be seriously injured by the unregulated operations of  
5 Mosquito Fleet, Glacier Bay and Yachtship. San Juan Express has lost  
6 business and, as a result, has been forced to abandon plans to  
7 upgrade its San Juan Island service and add a new, better-equipped  
8 boat.

9 NOW, THEREFORE, petitioner San Juan Express, Inc. prays for the  
10 issuance by the Commission of an order requiring Mosquito Fleet,  
11 Enterprises, Inc., Yachtship, Inc. and Glacier Bay Lodge, Inc., and  
12 their respective owners, officers and affiliated corporations, to  
13 cease and desist from offering or providing water transportation  
14 services between the Seattle-Everett area and San Juan Island without  
15 first applying for and obtaining a certificate of convenience and  
16 necessity pursuant to the provisions of RCW 81.84.010.

17 DATED: July 15, 1994.

18 CULP, GUTERSON & GRADER

19  
20 By 

21 John S. Ebel

22 WSBA No. 2016

23 Bradley D. Stam

24 WSBA No. 5363

25 Michael D. Helgren

26 WSBA No. 12186

Attorneys for Petitioner San Juan  
Express, Inc.

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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the PETITION of )  
SAN JUAN EXPRESS, INC. for a ) NO.  
CEASE AND DESIST ORDER )  
 ) MOTION FOR EXPEDITED HEARING AND  
 ) CONSOLIDATION  
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Petitioner San Juan Express, Inc. ("San Juan") moves the Commission for an order (1) consolidating, pursuant to WAC 480-09-610, San Juan's Petition for a Cease and Desist Order with the pending petitions of Mosquito Fleet, Inc. and Yachtship Cruiseline, Inc. for declaratory orders; (2) instituting, with respect to said consolidated matter, a "special proceeding" under RCW 81.84.510 upon an expedited basis such that the Commission's final order shall be rendered within 45 days of the filing of San Juan's petition; and (3) permitting the parties to said "special proceeding" to submit briefs, offer oral argument, present live testimony and offer exhibits for consideration by the Commission.

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1 Consolidation is appropriate for the reason that all of the  
2 petitions to be consolidated arise from a common set of facts and  
3 raise the same or closely-related issues. An expedited "special  
4 proceeding" is required because Mosquito Fleet and Yachtship are  
5 currently operating in violation of law, and petitioner San Juan and  
6 the public interest are suffering immediate and continuing harm as a  
7 result of said violations.

8 This motion is based upon RCW 81.84.510, WAC 480-09-610 and San  
9 Juan's petition in this matter, which is hereby incorporated by  
10 reference.

11  
12 DATED: July 15, 1994.

13 Respectfully submitted,

14 CULP, GUTERSON & GRADER

15  
16 By: 

17 John S. Ebel  
18 WSBA No. 2016  
19 Bradley D. Stam  
20 WSBA No. 5363  
21 John J. Lapham  
22 WSBA No. 23254

23  
24 Attorneys for Petitioner San  
25 Juan Express, Inc.  
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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the PETITION of )  
SAN JUAN EXPRESS, INC. for a ) NO.  
CEASE AND DESIST ORDER )  
 ) CERTIFICATE OF SERVICE  
 )  
 )  
 )

I certify that on this 15th day of July, 1994, I caused  
(1) Motion for Expedited Hearing and Consolidation and (2) Petition  
for Cease and Desist Order to be:

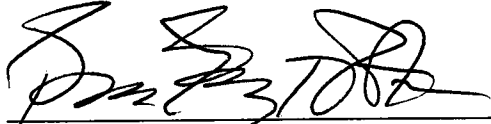
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88 Spring Street  
Seattle, WA 98104-1095
- David W. Wiley  
10500 NE Eighth Street, #1700  
Bellevue, WA 98004-4332

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1 I declare under penalty of perjury under the laws of the State  
2 of Washington that the foregoing is true and correct.

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5 Bradley D. Stam  
6 Seattle, Washington

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