

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application TC-082064 of)	DOCKET TC-082064
)	
MILLER SCHMER, INC., d/b/a)	
SEATTLE EXPRESS)	ORDER 01
)	
For Extension of Authority under)	
Certificate No. C-1052, For a)	PREHEARING CONFERENCE
Certificate of Public Convenience and)	ORDER
Necessity to Operate Motor Vehicles in)	
Furnishing Passenger and Express)	
Service as an Auto Transportation)	
Company)	
)	
.....)	

1 **NATURE OF PROCEEDING.** On November 14, 2008, Miller Schmer, Inc., d/b/a Seattle Express (Seattle Express or Applicant), filed with the Washington Utilities and Transportation Commission (Commission) an application for an extension of Certificate No. C-1052 for a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in Furnishing Passenger and Express Service as an Auto Transportation Company (Application).¹ On February 18, 2009, Evergreen Trails, Inc., d/b/a Gray Line of Seattle (Evergreen Trails) filed a protest with the Commission.²

¹The Applicant requests its authority be revised to include passenger service between hotels in the City of Tukwila, South Center Mall, Pike Place Market, and Cruise Terminals 90-91 along the following route: East on 180th Street, merging onto Highway 509 North which becomes East Marginal Way, then take the Western Avenue exit off East Marginal Way, then take Western Avenue 1.1 miles, then turn slight left onto Elliot Avenue for 1.2 miles, then turn right onto Magnolia Bridge, go over bridge and proceed into Terminal 90-91 Lot and return over the same route.

²A prehearing conference was originally noticed for February 4, 2009 in this matter. However, on January 28, 2009, the Commission cancelled the February 4, 2009, prehearing conference upon determining that the Commission’s notice of the application in the Transportation Docket contained an erroneous description of the proposed service route. The application was

2 **CONFERENCE.** The Commission convened a prehearing conference in this docket
at Olympia, Washington on March 25, 2009, before Administrative Law Judge
Marguerite E. Friedlander.

3 **APPEARANCES.** Matt Schmer, Snohomish, Washington, appeared pro se on behalf
of Seattle Express. David L. Rice, attorney, Miller Nash, LLP, Seattle, Washington,
appeared on behalf of Evergreen Trails. Donald T. Trotter, Assistant Attorney
General, Olympia, Washington, represents the Commission's regulatory staff
(Commission Staff or Staff).³ Contact information provided at the conference for the
parties' representatives is attached as Appendix A to this order.

4 **PROTECTIVE ORDER.** No protective order is required.

5 **DISCOVERY.** The parties do not require discovery in this proceeding.

6 **PROCEDURAL SCHEDULE.** During the conference, the parties indicated that a
settlement agreement has been formulated and is now awaiting signature by the
parties. The parties agreed that the deadline for filing the settlement agreement is
Monday, April 20, 2009, with the Commission convening a hearing in this matter, if
no settlement is reached, on **Tuesday, May 5, 2009**. The Commission adopts the
procedural schedule, which is set forth above and attached to this Order as
Appendix B.

7 **NOTICE OF HEARING.** The Commission will hold a hearing in this matter, to
begin on **Tuesday, May 5, 2009, at 9:30 a.m., in Room 108 of the Commission's
headquarters, Richard Hemstad Building, 1300 S. Evergreen Park Drive SW,
Olympia, Washington.**

subsequently re-noticed in the Commission's Transportation Docket, and a new prehearing
conference was scheduled for March 25, 2009.

³In formal proceedings, such as this case, the Commission's regulatory staff functions as an
independent party with the same rights, privileges, and responsibilities as any other party to the
proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding ALJ, and
the Commissioners' policy and accounting advisors from all parties, including Staff. RCW
34.05.455.

8 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an original plus five copies of all pleadings, motions, briefs, and other prefiled materials. These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

9 **ELECTRONIC SUBMISSION OF DOCUMENTS.** All filings must be mailed or delivered to David W. Danner, Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.

10 An electronic copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to [<records@utc.wa.gov>](mailto:records@utc.wa.gov). Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.

11 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1144.

12 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective April 2, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

APPENDIX A

**PARTIES' REPRESENTATIVES
DOCKET TC-082064**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Miller Schmer, Inc., d/b/a Seattle Express	Matt Schmer 5020 180 th Street SE Snohomish, WA 98296	(206) 793-8430	(360) 668-1107	<u>matt@seattleexpress.com</u>
Evergreen Trails, Inc., d/b/a Gray Line of Seattle	David L. Rice Miller Nash, LLP 4400 Two Union Square 601 Union Street Seattle, WA 98101	(206) 777-7424	(206) 622-7485	<u>david.rice@millernash.com</u>
Commission Staff	Donald T. Trotter Assistant Attorney General 1400 S. Evergreen Park Drive SW P.O. Box 40128 Olympia, WA 98504-0128	(360) 664-1189	(360) 586-5522	<u>dtrotter@utc.wa.gov</u>

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET TC-082064

EVENT	DATE
Deadline for Filing Settlement Agreement	Monday, April 20, 2009
Hearing (if no settlement filed)	Tuesday, May 5, 2009