

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

In re Application No. D-078959 of	)	DOCKET NO. TC-010273
	)	
PEARSON, SHARYN & ZEPP,	)	
LINDA, D/B/A CENTRALIA-	)	PREHEARING CONFERENCE
SEATAC AIRPORT EXPRESS,	)	ORDER; NOTICE OF SECOND
	)	PREHEARING CONFERENCE
For Authority to Transfer all Rights	)	(February 7, 2002)
Under Certificate No. C-993 to	)	
Centralia-SeaTac Airport Express,	)	
LLC	)	
.....	)	

- 1     **Proceeding.** Docket No. TC-010273 is an application to transfer Auto Transportation Bus Certificate C-993 from Pearson, Sharyn & Zepp, Linda, d/b/a Centralia-SeaTac Airport Express to Centralia-SeaTac Airport Express, LLC.
  
- 2     **Conference.** The Commission convened a prehearing conference in this docket at Olympia, Washington on June 26, 2001, before Administrative Law Judge Marjorie R. Schaer. That conference was reconvened on July 18, 2001.
  
- 3     **Appearances.** Greg W. Haffner, attorney, Kent, represents Centralia-SeaTac Airport Express, LLC (“the applicant”). David K. Palmer, Attorney, Olympia, represents protestant Linda Zepp. James N. Fricke, President, Olympia, represents protestant Pacific Northwest Transportation Services, Inc. Gregory J. Trautman, Assistant Attorney General, represents the staff of the Washington Utilities and Transportation Commission. Contact information provided at the conference for the parties’ representatives is attached as Appendix A to this order.
  
- 4     **Issues.** The applicant seeks to transfer auto transportation bus certificate No. C-993 currently in the name of Pearson, Sharyn & Zepp, Linda, d/b/a Centralia-SeaTac Airport Express to Centralia-SeaTac Airport Express, LLC.
  
- 5     **Issue One.** The immediate concern expressed by the Commission Staff is whether the public is protected during the pendency of this proceeding. Staff expressed concern that during the entire pendency of the proceeding and afterwards the certificate holders’ insurance should cover all of the vehicles and personnel involved in the operation. If this issue is resolved, the Staff is willing to postpone consideration of the other issues pending the resolution of the superior court proceeding (Issue Two).

- 6 The first prehearing conference was continued for three weeks to allow the applicant to obtain insurance to cover any possible operators of the permit. An insurance binder was filed with the Commission on July 18, 2001, which covers all of these persons. That document has been admitted into evidence as exhibit one. An insurance binder is effective for 60 days, during which time the insurance company files a Form E evidence of insurance directly with the Commission. That document should be filed by now, and the Commission staff should file a copy of it in this docket as a late-filed portion of exhibit one. That filing should be made by September 27, 2001, any party objecting to its admission must file an objection by October 4, 2001. If no objection is received, the Form E will be admitted.
- 7 **Issue Two.** A dispute needs to be resolved over who controls the permit. The certificate was originally issued to a partnership of Ms. Pearson and Ms. Zepp. This partnership is listed as the proposed transferor in this docket, but only Ms. Pearson supports the application. Ms. Zepp has protested the application. The partnership received its certificate in 1991. Additional persons became involved with the business a few years later. Ms. Pearson and the new investors have since incorporated a limited liability corporation, Centralia-SeaTac Airport Express, LLC. That corporation is the proposed transferee in this transfer application.
- 8 Issues regarding ownership of the partnership and its assets are currently the subject of a lawsuit. The case is demoninated Linda Zepp versus Sharyn Pearson, in the Superior Court for Thurston County, Number 01-2-00418-0. The case is scheduled for trial on January 28, 2002. The key issues to be resolved are represented by counsel for Ms. Pearson to be governed by the new, revised partnership act. The issue presented here is whether the Commission should act on transferring this permit when the issue of its ownership is an issue that also needs to be resolved as part of the civil litigation.
- 9 The parties agreed that this issue should be resolved by the superior court before the Commission goes into a hearing examining the fitness of the applicant or the transferee. The Commission will stay the proceeding until early in 2002, to allow the parties to resolve their partnership issues in the superior court.
- 10 **Issue Three.** The issue primarily concerning protestant Pacific Northwest Transportation Services, Inc., is whether the transferee is fit to operate the permit. Included in its concerns are questions about whether the company is following the Commission's laws and rules, and whether the company is using confusing operating names. Since the transfer is one reflecting a change in company structure, with the same or most of the same persons operating the company, this protestant argues that the current operation of certificate C-993 are relevant to determining whether the transferee will be fit. This protestant agrees with the other parties that the ownership issue should be resolved before the Commission goes into a hearing examining the fitness of the applicant or the transferee.

- 11 **Hearing schedule.** The parties agreed that this proceeding should be stayed until the superior court proceeding scheduled for late-January, 2002, is concluded. The parties agreed with the administrative law judge that it is appropriate for a follow-up hearing to be scheduled in early February, 2002, in which the parties can report on the outcome of the lawsuit, and the remainder of this proceeding can be planned. That hearing will be scheduled for February 7, 2002. The parties acknowledge that some resolution of that dispute may occur which would trigger the applicant to withdraw this transfer application and file a new application. Any application to withdraw will be addressed on its merits when it is filed.
- 12 **Notice of Prehearing Conference.** The Commission convenes a prehearing conference in this matter, to address a plan for concluding the proceeding. The conference will be held in Room 206, of the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S. W., Olympia, Washington, **9:30 a.m. on February 7, 2002.**
- 13 **Document preparation and process issues.** Parties must file 12 copies of each document filed with the Commission. Appendix B states relevant Commission rules and other directions for the preparation and submission of evidence and for other process in this docket. Parties will be expected to comply with these provisions.

Dated at Olympia, Washington, and effective this                      day of September, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARJORIE R. SCHAER  
Administrative Law Judge

**NOTICE TO PARTIES:** Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement, pursuant to WAC 480-09-460(2). Absent such objections, this prehearing conference order will control further proceedings in this matter, subject to Commission review.