

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

In re Application No. B-079285 of	)	DOCKET NO. TS-041007
	)	
KITSAP FERRY COMPANY, LLC	)	
d/b/a KITSAP FERRY CO.	)	ORDER NO. 01
	)	
For a Certificate of Public	)	
Convenience and Necessity to	)	GRANTING PERMANENT
Provide Commercial Ferry Service	)	CERTIFICATE OF PUBLIC
	)	CONVENIENCE AND NECESSITY
.....	)	

1 **SYNOPSIS:** *The Commission grants the application of Kitsap Ferry Company LLC for a permanent certificate to provide commercial passenger-only ferry service between Bremerton and Seattle.*

**SUMMARY**

2 **PROCEEDINGS:** On June 3, 2004, Kitsap Ferry filed an application (No. B-079285) for a permanent certificate of public convenience and necessity to provide passenger-only ferry service between Bremerton and Seattle.<sup>1</sup> Notice of the Application was published in the Commission's weekly docket of June 14, 2004. The Commission received no protests within the 30 days allowed under WAC 480-51-040 and/or WAC 480-51-050. RCW 81.84.020, however, requires that the Commission grant or deny the application for a certificate only after hearing.

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<sup>1</sup> On April 29, 2004, Kitsap Ferry Company, LLC, d/b/a Kitsap Ferry Co. (Kitsap Ferry or Applicant) filed an application (No. B-079276) for a temporary certificate of authority to provide passenger-only ferry service between Bremerton and Seattle. On May 6, 2004, the Commission entered Order No. 01 –Final Order Granting Temporary Certificate of Public Convenience and Necessity and provided notice of the temporary certificate as required by WAC 480-51-060(5). On June 29, 2004, following hearing, the Commission entered its Order No. 02, which denied Inlandboatmen’s Union of the Pacific (IBU) protest against the temporary certificate application.

3 The Commission conducted a public comment hearing on August 5, 2004, in  
Bremerton, Washington, before Commissioner Richard Hemstad and  
Commissioner Patrick J. Oshie. Twenty-five individuals, including state and  
local government officials, community leaders, and members of the general  
public, participated. Those who appeared were uniformly supportive of the  
application.

4 The Commission conducted a prehearing conference on August 6, 2004, in Port  
Orchard, Washington, before Administrative Law Judge Dennis J. Moss. Kitsap  
Ferry waived oral hearing. The Commission immediately conducted hearing  
proceedings, as previously noticed, adopted the record from Docket No. TS-  
040794 (i.e., the temporary certificate proceeding), and received additional  
evidence in support of Kitsap Ferry's application for permanent authority.<sup>2</sup>

5 **PARTY REPRESENTATIVES:** Matthew Crane, Bauer Moynihan & Johnson  
LLP, Seattle, Washington represents Kitsap Ferry. Lisa Watson, Assistant  
Attorney General, Olympia, Washington, represents the Commission's  
regulatory staff (Commission Staff or Staff).<sup>3</sup>

6 **COMMISSION DETERMINATION:** The Commission, finding that the  
Applicant has satisfied the statutory criteria for granting a certificate of public  
convenience and necessity under RCW 81.84.010(1) and RCW 81.84.020, grants  
Kitsap Ferry's application for a certificate authorizing the company to provide  
commercial passenger-only ferry service between Bremerton and Seattle,  
Washington.

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<sup>2</sup> Appendix A to this Order is a list of all exhibits received into the record.

<sup>3</sup> In 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.

MEMORANDUM

**I. Governing Law**

7 The Commission regulates commercial ferries under chapter 81.84 RCW. The Legislature has defined in RCW 81.84.010 the circumstances under which the Commission may grant a certificate of public convenience and necessity for operation of a commercial ferry, *i.e.*, whether the proposed service is required by the public convenience and necessity. RCW 81.84.010(1). The Commission evaluates the public convenience and necessity of the application by considering whether there is a present and future need for the proposed service. The Commission determines public need for the proposed service through the testimony of people who will use the proposed service if it is made available, as well as the testimony of the Applicant's personnel. *In re Dutchman Marine, LLC et al., Docket Nos. TS-001774 and 002055, First Supplemental Order, Initial Order Granting Applications at ¶ 33 (September 2001), adopted in Second Supplemental Order (October 2001).*

8 The standards the Commission must apply in deciding whether, or under what conditions, to issue a certificate are set out in RCW 81.84.020. Under RCW 81.84.020(2), the Commission must consider whether the Applicant is fit, willing, and able financially and operationally to provide the proposed service:

(2) Before issuing a certificate, the commission shall determine that the Applicant has the financial resources to operate the proposed service for at least twelve months, based upon the submission by the Applicant of a pro forma financial statement of operations. Issuance of a certificate shall be determined upon, but not limited to, the following factors: Ridership and revenue forecasts; the cost of service for the proposed operation; an estimate of the cost of the assets to be used in providing the service; a statement of the total

assets on hand of the Applicant that will be expended on the proposed operation; and a statement of prior experience, if any, in such filed by the Applicant. The documentation required of the Applicant under this section shall comply with the provisions of RCW 9A.72.085.

- 9 During the 2003 legislative session, the Legislature amended chapter 81.84 RCW and chapter 47.60 RCW, both of which concern ferry operations in Washington.<sup>4</sup> In Section 1 of Chapter 373, the Legislature stated its policy for advancing passenger-only ferry service by entities other than the state, by removing entry barriers:

The Legislature finds that the Washington state department of transportation should focus on its core ferry mission of moving automobiles on Washington state's marine highways. The legislature finds that current statutes impose barriers to entities other than the state operating passenger-only ferries. The Legislature intends to lift those barriers to allow entities other than the state to provide passenger-only ferry service. The Legislature finds that the provision of this service and the improvement in the mobility of the citizens of Washington state is legally adequate consideration for the use of state facilities in conjunction with the provision of the service, and the legislature finds that allowing the operators of passenger-only ferries to use state facilities on the basis of legally adequate consideration does not evince donative intent on the part of the Legislature.

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<sup>4</sup> Chapter 373, Laws of 2003.

10 The Legislature removed barriers to entry to passenger-only ferries by providing an exemption from the so-called ten-mile rule.<sup>5</sup> The Legislature also added two sections to RCW 81.84.020, one of which adds a softer requirement that the Commission consider the effect of its decisions on public agencies operating, or eligible to operate, passenger-only ferry service:

(4) In granting a certificate for passenger-only ferries and determining what conditions to place on the certificate, the commission shall consider and give substantial weight to the effect of its decisions on public agencies operating, or eligible to operate, passenger-only ferry service.

(5) Until March 1, 2005, the commission shall not consider an application for passenger-only ferry service serving any county in Puget Sound, unless the public transportation benefit area authority or ferry district serving that county, by resolution, agrees to the application.

11 The State Department of Transportation, including its subdivision the Washington State Ferries, which operates the State ferry system, is a “public agency” as the term is used in RCW 81.84.020(4). Kitsap Transit is “the public transportation benefit authority,” as that term is used in RCW 81.84.020(5).

## **II. Kitsap Ferry’s Application and Supporting Evidence.**

12 Kitsap Ferry, a limited liability corporation wholly owned by Pacific Marine Group, Inc., filed its application for commercial passenger-only ferry service between Bremerton and Seattle, Washington, on June 3, 2004. The Company’s application identifies the vessel to be used, the proposed route, tariff, time

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<sup>5</sup> RCW 47.60.120(5). This statute prohibits commercial ferry operations within ten miles of a route operated by the Washington State ferry system, absent a waiver from the Commission.

schedule, proforma financial statement, and ridership and revenue forecasts. *Ex.* 7. The application also includes a Certificate of Inspection from the United States Coast Guard and Department of Homeland Security, a Certificate of Marine Insurance, and an Agreement for Submission of UTC Application for POF Service executed by Kitsap Transit and Kitsap Ferry on April 5, 2004. *Id.*

13 Kitsap Ferry's application for permanent authority includes a copy of the temporary certificate issued by the Commission on May 6, 2004. The recency of our proceedings concerning the Company's temporary authority to operate service identical to that for which it seeks permanent authority in this proceeding make the evidence presented in the earlier case pertinent here. The Commission adopted the hearing record from the temporary certificate proceeding as evidence in this docket. In addition, the company's sole officer, President, Mr. Gregory A. Dronkert, filed a Declaration to supplement the testimony he previously offered in Docket No. TS-040794.

14 At hearing on August 6, 2004, Kitsap Ferry offered additional documentary evidence concerning the Company's financial fitness. The Commission accepted into the record additional evidence of community support in the form of correspondence and newspaper reports and op-ed.

#### **A. Need for the Proposed Service**

15 From the mid-1980's through September 2003, the Washington State Ferries (WSF), a division of the Department of Transportation, operated both car ferry service and passenger-only ferry service between Bremerton and Seattle. Both services were successful. During all of 2002, for example, the WSF car ferries transported 448,682 vehicle passengers and 1,048,082 foot passengers.<sup>6</sup> During the same period, the WSF passenger-only ferries transported 681,830 people

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<sup>6</sup> Exhibit No. 4, exhibit "G." A "passenger" means one passenger-ride. Thus, on passenger making a round trip counts as two passengers.

between Bremerton and Seattle. During 2003, the corresponding figures were 486,203 vehicle passengers and 1,040,831 foot passengers on the car ferries through December, and 443,756 passengers on the passenger-only ferries through September, when WSF ceased providing passenger-only service.

16 WSF terminated passenger-only service between Bremerton and Seattle not because there was a lack of demand for such service, but because of significant reductions in public funds available to support the WSF that followed from Initiative 695. Mr. Greg Dronkert<sup>7</sup> testified for Kitsap Ferry that he believes the termination of WSF's passenger-only service on the passage between Bremerton and Seattle has resulted in significant unmet need for such service. Mr. Richard M. Hayes, who is the Executive Director of Kitsap Transit, testified to similar effect and related his agency's efforts as the local Public Transportation and Benefit Area (PTBA), to initiate publicly funded passenger-only service to meet this need. According to Mr. Hayes, the PTBA efforts failed due to lack of county-wide voter support for increased taxes to subsidize a service that would benefit primarily residents in the more densely populated areas (*e.g.*, Bremerton).

17 Mr. Dronkert testified that after WSF terminated its passenger-only service, and the PTBA initiative failed, a privately owned and operated service appeared to be viable. Accordingly, on April 29, 2004, Kitsap Ferry filed its application B-79276 requesting temporary authority to provide commercial ferry service between Bremerton and Seattle.<sup>8</sup> Kitsap Transit, as the local PTBA, supported Kitsap Ferry's application for temporary authority. The Commission granted Kitsap Ferry's application for temporary authority and found in the temporary certificate proceeding that there was an urgent and immediate need for such service. There is nothing in the record in this proceeding that suggests any change relative to the pressing need for this service since the Commission

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<sup>7</sup> Mr. Dronkert is President of Pacific Marine Group, Inc., which has a 100 percent ownership interest in Kitsap Ferry.

<sup>8</sup> *See, supra*, fn. 1.

granted Kitsap Ferry temporary authority to operate on the Bremerton/Seattle route. Indeed, much of the evidence presented earlier is equally relevant to Kitsap Ferry's application for permanent authority.

18 Thus, the record in both proceedings includes supporting statements from:

- Kitsap County Board of Commissioners, 614 Division Street, MS-4, Port Orchard, WA.
- Cary Bozeman, Mayor of the city of Bremerton Mayor, 239 4<sup>th</sup> Street, Bremerton, WA.
- Kim Abel, Mayor of the city of Port Orchard, 216 Prospect Street, Port Orchard, WA.
- Silvia Klatman, Executive Director, Bremerton Area Chamber of Commerce, 301 Pacific, Bremerton, WA.
- Elizabeth A. Gilje, President KPS Health Plans

19 These letters describe passenger-only ferry service between Bremerton and Seattle as "a key element" in the state's transportation network, and a "vital link" between Kitsap and King Counties. The letters relate that current WSF service on this route does not fully meet demand in terms of frequency, transit time, and connection opportunities. The letters state that there is an urgent and immediate need for this service. Mayor Kim Abel, states that the "citizens of Port Orchard rely on the ferry for work, education, and entertainment opportunities." Silvia Klatman, Executive Director, Bremerton Area Chamber of Commerce states that:

For many years, the Chamber has been on record as a strong proponent of passenger-only ferry service. It is key to Bremerton's revitalization efforts and an important link for commuters, tourists and commerce.



The service is not simply a convenience—it is a necessity for our community. Kitsap County has about 90,000 employable people but roughly only 70,000 jobs. While many organizations and businesses work hard to bring more employment opportunities to the area, there remains a large gap between employees and jobs. Until that gap is eliminated, our friends and neighbors must have reliable and timely ferry service so they can support their families. Passenger-only ferry service is essential because it enables commuters to spend less time away from their families.

Kitsap Ferry Company's services are also essential for commerce . . . Passenger-only ferry service provides an efficient means for businesspeople to meet with clients and suppliers while saving an hour of valuable travel time. The time saved enhances productivity and adds to the bottom line of businesses.

Passenger-only ferry service is a key component of revitalization, quality of life and economic development.

20 State Representative Phil Rockefeller, State Senator Bob Oke, and Mr. Fred Chang as Chair of the Bremerton Ferry Advisory Committee filed additional letters of support directly with the Commission. Speaking from his vantage point as Vice-Chair of the House Transportation Committee, Representative Rockefeller states with respect to passenger-only ferry service between Bremerton and Seattle:

As you know, this vital service was provided for several years by Washington State Ferries (WSF). In the face of severe budget cuts, WSF eliminated the passenger-only service, maintaining instead only auto ferries on the Bremerton/Seattle run. This limited service

does not appear to meet the demand of commuters for increased trip frequency and shorter transit time.

Under legislative authority granted during 2003, Kitsap Transit, acting as the local Public Transportation and Benefit Area, failed in its attempt to reestablish this service. Kitsap Ferry Company has subsequently reached agreement with Kitsap Transit, and has Transit's support to apply to the [WUTC] for a permit to serve this route on an ongoing commercial basis.

With Kitsap Ferry Company's permit application, a new opportunity has been created to reintroduce the much needed transportation system. This service will benefit both daily commuters and visitors, and help stimulate economic activity throughout our region.

21 Senator Oke's letter is to similar effect. His letter states, among other things, that:

Current WSF service between Bremerton and Seattle does not fully meet demand, in terms of frequency and transit time (speed). This restricts economic activity throughout our county and region and affects the lives of many of my constituents.

22 Mr. Chang states that "commuters have suffered" in the wake of losing passenger only ferry service on the Bremerton/Seattle route. He specifically cites the relatively slower transit times and less frequent service that remains available from the WSF car ferry runs between the two communities.

23 State Senator Betti Sheldon, and State Representatives Pat Lantz and Lois McMahan, entered appearances at the Commission's public comment hearing on

August 5, 2004, and spoke in support of the proposed service as one that would fill an important transportation need. Mayor Bozeman and Daren Mygren, City Council President for the City of Bremerton, also appeared and spoke favorably regarding the application, as did Kitsap County Commissioner Patty Lent.

Various members of the public echoed the testimony by these public officials and testified to the savings in time, convenient schedule, and other attributes of the service that make it an important addition to existing services offered by WSF.

- 24 The testimony of community leaders, commuters, and other members of the public in support of the application demonstrate a substantial present and future unmet need and a strong desire for passenger-only service between Bremerton and Seattle. The proposed service would provide an alternative to the current transportation routes between the two communities, reduce highway congestion, save time and money for commuters, and support economic development in the Kitsap peninsula.

### **B. Financial Fitness**

- 25 Kitsap Ferry's application includes its proposed tariff sheets. Based on the fares indicated (*e.g.*, \$7.00 one-way adult, \$5.25 one-way senior, \$1.00 per bicycle), projected ridership, onboard concession sales, and expenses, the Company expects that it will experience a net loss during the first year of slightly more than \$100,000. Based on letters from Kitsap Ferry's banks, and on Mr. Dronkert's Declaration, it appears the Company has sufficient resources to offset the projected loss and continue operations beyond the initial 12-month period. Mr. Dronkert states in his Declaration that:

Although we anticipate a net loss over the first twelve months of operations, on a cash flow basis we anticipate generating positive cash flow after two full months of operations. We also anticipate breaking even after twenty-four months, and to generate profit

thereafter in our third year of operations. Our projections of break-even after twenty-four months is based on what we estimate to be modest load factors, increasing the initial load of approximately 100 passengers per trip to approximately 125 per trip after two years. In addition, this break-even includes elective capital improvements to the vessel that we plan to make each year to make the vessel more comfortable and attractive for our passengers. Thus, all of the cumulative startup costs that we have incurred, the initial negative cash flow generated, and the cost of all capital improvements are expected to be fully recovered from revenues by the end of two years of operations.

### C. Operational Fitness

26 Kitsap Ferry plans to operate a motor vessel known as the Spirit of Adventure, an 86 foot, high speed catamaran capable of carrying 250 passengers. The Company will continue to lease the vessel from Four Seasons Marine (formerly TMT Corporation). Kitsap Ferry already has approximately five years of operating experience with this vessel, and has used it for the past year to fulfill a contract with the Department of the Navy to provide passenger ferry service between Bremerton and Everett.<sup>9</sup> Kitsap Ferry submitted as part of its application a Certificate of Inspection from the Coast Guard indicating it is safe to operate the Spirit of Adventure in Puget Sound, as well as in other coastal and intracoastal waters.<sup>10</sup>

27 Kitsap Ferry has developed a proposed tariff and time schedule. The Company has arranged for docking facilities at the City of Bremerton, POF (passenger only ferry) dock, and in Seattle at Argosy piers 54 through 57.<sup>11</sup>

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<sup>9</sup> Exhibit No. (TR. 102:17-22).

<sup>10</sup> Exhibit No. 7.

<sup>11</sup> *Id.*

- 28 Kitsap Ferry's operational fitness is supported by the fact that the Company successfully initiated service under its temporary certificate on August 2, 2004. As indicated by positive response from riders noting on-time departures and arrivals, clean and comfortable accommodations, "friendly crew," and so forth, the Company's operations appear to be more than satisfactory from the commuters' perspectives.
- 29 Mr. Dronkert's Declaration states that Kitsap Ferry has chartered the Spirit of Adventure through April 2006. The Company is operating the vessel with two licensed masters aboard, one of whom sails as the mate, a licensed engineer and two deckhands. Mr. Dronkert describes Kitsap Ferry's "comprehensive training program" that focuses on company and vessel orientation, safety, preparedness training, seamanship, and guest services. Kitsap Ferry uses its own personnel to perform preventative maintenance and complete most repairs. The Company's engineering staff are available at any time, as needed, according to Mr. Dronkert's Declaration. The Company follows a preventative maintenance schedule including regular inspections of the hull and machinery, propulsion and steering systems, electrical systems, lifesaving and fire fighting equipment, and sanitation system. The Company has two backup vessels, the Orca Song, a 150 passenger vessel, and the Sundance, a 117 passenger vessel.
- 30 Kitsap Ferry has certified that it is familiar with and will comply with all relevant statutes and rules governing commercial ferries that operate upon the waters of the state of Washington. Kitsap Ferry further acknowledges that it must observe all Federal and State laws providing for the registration of vessels, the observance of navigation and maritime rules and regulations, and other matters subject to Federal or State enactments.<sup>12</sup>

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<sup>12</sup> *Id.*

31 The record shows that Kitsap Ferry is operationally ready, willing, and able to  
provide the proposed service, and plans to comply with all applicable laws and  
rules.

#### **D. Approval of Affected PTBA**

32 The Commission may not “consider an application for passenger-only ferry  
service serving any county in Puget Sound, unless the public transportation  
benefit area authority or ferry district serving that county, by resolution, agrees  
to the application.” *RCW 81.84.020(5)*.

33 Kitsap Transit is a municipal corporation and public transportation benefit area  
authority, or PTBA, formed pursuant to chapter 36.57A RCW. On April 5, 2004,  
Kitsap Transit and Kitsap Ferry entered into an Agreement For Submission of  
UTC Application For POF [Passenger Only Ferry] Service between Bremerton  
and Seattle. The Agreement includes, among other things, Kitsap Transit’s  
acknowledgement of its execution based on Resolution No. 04-15, adopted on  
March 2, 2004, by Kitsap Transit’s Board of Commissioners.

34 Given this, and other evidence of Kitsap Transit’s agreement to the proposed  
service, the requirements of *RCW 81.84.020(5)* have been met.<sup>13</sup>

#### **E. Effect of Proposed Service on Public Agencies**

35 *RCW 81.84.020(4)* requires the Commission to “consider and give substantial  
weight to the effect of its decisions on public agencies operating, or eligible to  
operate, passenger-only ferry service.” As discussed above, Kitsap Transit, the

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<sup>13</sup> Mr. Richard M. Hayes, who is the Executive Director of Kitsap Transit, testified concerning  
Kitsap Transit’s support of the proposed service in Docket No. TS-040794. *Exhibit No. 8 (TR.  
138:10 – 153:17)*.

PTBA in Kitsap County, supports the application and the proposed passenger-only service.

- 36 The only other potentially affected public agency is the Washington State Ferries Division of the State Department of Transportation (WSF). Stan Kuntz, Chief Financial Officer, WSF, submitted a letter dated June 28, 2004, to the Commission stating that WSF had no objection to Kitsap Ferry's application for temporary authority. If the WSF had significant concerns about the effect of the proposed service on its own car and passenger-only ferry service, including the financial impact, the WSF would have expressed those concerns either in connection with the temporary certificate application, or the permanent application, of which WSF is on notice.

### **III. Discussion and Decision**

- 37 As discussed above, the Commission concluded, on the basis of Kitsap Ferry's application and supporting documentation, that it should grant Kitsap Ferry a temporary certificate of public convenience and necessity to provide passenger-only ferry service on the Bremerton/Seattle route. Taking into consideration all of the evidence and testimony provided by the Applicant and the comments of state and local elected officials and members of the public, the Commission also finds considerable merit in Kitsap Ferry's application for permanent authority. We find that Kitsap Ferry has met the statutory requirements for a certificate of public convenience and necessity for commercial ferry service.

- 38 There is a substantial need for the proposed passenger-only ferry service between Bremerton and Seattle, and a strong desire by the public for such a service. It appears that Kitsap Ferry has the financial resources to operate the proposed service for at least twelve months. As required by RCW 81.84.020(2), Kitsap Ferry has provided ample information as to the cost of the proposed service and a statement of its total assets on hand. Kitsap Ferry has

demonstrated that it has substantial experience in operating similar passenger-only ferries in Puget Sound and is fit, willing, and able to provide the service.

39 Finally, we have considered and given substantial weight to the effect of the proposed service on public agencies operating or eligible to operate passenger-only ferry service, namely the Department of Transportation, WSF Division, and Kitsap Transit. The WSF does not object to the service proposed in the application, and Kitsap Transit actively supports the application. The proposed service will contribute to and complement the integrated transportation system developed by Kitsap Transit.

40 Based on the above findings, we grant the requested certificate of public convenience and necessity to Kitsap Ferry. We applaud the efforts of the Applicant, Kitsap Transit, and state and local representatives who have worked long and hard to promote passenger-only ferry service between Bremerton and Seattle. Kitsap Ferry has met the statutory requirements to obtain a commercial ferry certificate and should have the opportunity to provide the service that the public needs and demands.

#### **FINDINGS OF FACT**

41 Having discussed above all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary findings of fact. Those portions of the preceding discussion that include findings pertaining to the ultimate decisions of the Commission are incorporated by this reference.

42 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including electric companies.



- 43 (2) On April 29, 2004, Kitsap Ferry Company, LLC, d/b/a Kitsap Ferry Co. filed an application (No. B-079276) for a temporary certificate of authority to provide passenger-only ferry service between Bremerton and Seattle. The Commission granted Kitsap Ferry's application and issued a temporary certificate to the Company on May 7, 2004.
- 44 (3) On June 3, 2004, Kitsap Ferry filed an application (No. B-079285) for a permanent certificate of public convenience and necessity to provide passenger-only ferry service between Bremerton and Seattle.
- 45 (4) There is an unmet need for the proposed passenger-only ferry service between Bremerton and Seattle.
- 46 (5) Kitsap Ferry has demonstrated sufficient financial resources to operate the proposed service for at least twelve months, and has submitted the required information concerning revenue and ridership forecasts, cost of operations and assets, and assets on hand.
- 47 (6) Kitsap Ferry is operationally and financially fit to provide the proposed service.
- 48 (7) Kitsap Transit, the public transportation benefit area authority in Kitsap County, supports Kitsap Ferry's application.
- 49 (8) The Washington State Ferries Division of the State Department of Transportation does not object to Kitsap Ferry's application.
- 50 (9) The public convenience and necessity require the proposed service and the requested certificate is otherwise consistent with the public interest.

CONCLUSIONS OF LAW

51 Having discussed above in detail all matters material to our decision, and having  
stated general findings and conclusions, the Commission now makes the  
following summary conclusions of law. Those portions of the preceding detailed  
discussion that state conclusions pertaining to the ultimate decisions of the  
Commission are incorporated by this reference.

52 (1) The Washington Utilities and Transportation Commission has jurisdiction  
over the subject matter of, and parties to, these proceedings. *Title 81 RCW.*

53 (2) The proposed service will be complementary, not detrimental, to the  
Washington State Ferries and Kitsap Transit, public agencies operating, or  
eligible to operate, passenger-only ferry service. *RCW 81.84.020(4).*

54 (3) The Applicant, Kitsap Ferry, has met all statutory requirements for issuing  
a certificate of public convenience and necessity, including the  
requirement that the public convenience and necessity require the service  
proposed in Application B-079285. *RCW 81.84.010(1); RCW 81.84.020.*

55 (4) The Commission should retain jurisdiction to effectuate the terms of this  
Order. *Title 81 RCW.*

ORDER

THE COMMISSION ORDERS THAT:

56 (1) Application No. B-079285 of Kitsap Ferry Company, LLC, d/b/a Kitsap  
Ferry Co., for a certificate of public convenience and necessity to operate  
commercial passenger-only ferry service between Bremerton and Seattle,  
Washington is GRANTED.

57 (2) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective this 13<sup>th</sup> day of August, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

**NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.**

**APPENDIX A – EXHIBIT LIST**

<b>NUMBER</b>	<b>SPONSOR</b>	<b>A/R</b>	<b>DATE</b>	<b>D. DESCRIPTION</b>
1	Kitsap Ferry	A	8/6/04	Commercial Ferry Application B-79276
2	Staff	A	8/6/04	Declaration of Eugene K. Eckhardt
3	Staff	A	8/6/04	Declaration of Bonnie Allen
4	IBU	A	8/6/04	Composite Exhibit including Declaration of Judith Krebs and exhibits “A” through “H”
5	Staff	A	8/6/04	Composite Exhibit—Multiple Letters filed with the Commission concerning Application B-79276
6	Staff	A	8/6/04	Letter from Stan Kuntz, Chief Financial Officer, WSF, dated June 28, 2004 (no objection to application)
7	Kitsap Ferry	A	8/6/04	Commercial Ferry Application B-79285 with attachments (Permanent Authority)
8	Bench	A	8/6/04	Transcript: Record of hearing proceedings in Docket No. TS-040794, Vols. I and II
9	Kitsap Ferry	A	8/6/04	Declaration of Greg Dronkert, 8/5/2004
10	Kitsap Ferry	A	8/6/04	e-mail to Greg Dronkert forwarding 8/2/2004 e-mail from Kitsap Ferry passenger to Fred Chang
11	Kitsap Ferry	A	8/6/04	Correspondence from Ivan Davis to Greg Dronkert, 8/5/2004
12	Kitsap Ferry	A	8/6/04	Bremerton Sun Article, 8/3/2004: Footing It To Seattle, Again
13	Kitsap Ferry	A	8/6/04	Bremerton Sun Op-ed, 8/3/2004: Ourviews Private ferries offer lessons in customer service
14	Bench	A	8/6/04	Composite Exhibit—Multiple Letters filed with the Commission concerning Application B-79285