

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. D-079313 of)	DOCKET NO. TC-041820
)	
KOALA, BERTIN, d/b/a GREEN)	ORDER NO. 01
RIDE TRANSPORTATION,)	
)	
for a Certificate of Public)	PREHEARING CONFERENCE
Convenience and Necessity to)	ORDER
Operate Motor Vehicles in Furnishing)	
Passenger and Express Service as an)	
Auto Transportation Company)	
)	
.....)	

1 **NATURE OF PROCEEDING.** Docket No. TC-041820 is an application filed by Bertin Koala, d/b/a Green Ride Transportation (Green Ride), for a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in Furnishing Passenger and Express Service as an Auto Transportation Company.

2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on April 21, 2005, before Administrative Law Judge Theodora M. Mace.

3 **APPEARANCES.** Bertin Koala, owner and operator, Seattle, represents applicant Green Ride. David W. Wiley, attorney, Seattle, represents protestant Lake Stevens Airporter, Inc. (Lake Stevens Airporter). James N. Fricke, President, Olympia, represents protestant Pacific Northwest Transportation Services, Inc., d/b/a Capital Aeroporter d/b/a Airport Shuttle (Capital Aeroporter). David Rice, attorney, Seattle, represents protestants Wickkiser International Companies, Inc., d/b/a Airporter Shuttle (Wickkiser International); Shuttle Express, Inc. d/b/a Shuttle Express (Shuttle Express); and Evergreen

Trails, Inc. d/b/a Gray Line of Seattle (Gray Line). Lisa Watson, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff ("Commission Staff" or "Staff").¹ Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

4 **PROTESTS.** Wickkiser International, Shuttle Express, Gray Line, and Capital Aeroporter filed written Protests to the application. There was no objection to the protests. They met the Commission's requirements established in WAC 480-30-032 and are granted.

5 **PROTECTIVE ORDER.** The Commission must balance the need for an open record with the need for a free exchange of information in a contested proceeding. The Commission may, in its discretion, enter protective orders to protect the confidentiality of certain types of commercial information at issue in such proceedings. *RCW 80.04.095; WAC 480-07-160; 480-07-420.* The Commission's rules require parties to strictly limit what is designated confidential. *WAC 480-07-423.* Entry of protective orders depends on the type of proceeding and the interests at stake.

6 Green Ride requested entry of a protective order in this case before supplying either complete financial data pursuant to Item No. 15 of the application form or a complete statement of equipment to be used in connection with the proposed service pursuant to Item No. 16 of the form. Green Ride's owner, Mr. Bertin Koala, stated that he believed it unwise to give financial information to his competitors, or to provide equipment lists, prior to Commission approval of his application.

¹ 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 Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including Staff. *RCW 34.05.455.*

7 The protestants objected to entry of a protective order covering this type of threshold information that all carriers who seek authority have historically been required to provide to the Commission, whether or not the application is contested and goes to hearing.

8 Based on the nature of the proceeding and the objections to entry of a protective order, the Commission declines to enter a protective order as requested by the applicant. The Commission must have access to the designated financial and equipment data required in the initial application form in order to judge the fitness of the applicant. All applicants routinely provide this type of information, whether or not an application goes to hearing. A proceeding such as this, involving a request to provide auto transportation service in a limited area of the state of Washington, is not the type of proceeding where entry of a protective order such as the one requested by the applicant is reasonable or in the public interest.

9 **DISCOVERY.** The parties asked that the discovery rules be invoked in this docket, pursuant to WAC 480-07-400. The matter is one that qualifies for discovery, and the rules are invoked. In particular, Commission Staff stated that it would request that the applicant provide information that the applicant neglected to provide as part of the application form. The Staff's request for information and the deadline for the applicant's response are identified in the procedural schedule below.

10 **PROCEDURAL SCHEDULE.** The Commission adopts the following procedural schedule:

May 5, 2005 Staff discovery requests served on applicant

May 19, 2005 Applicant's response to Staff's requests due

July 12, 2005 Filing date for names of witnesses and exhibit lists

July 18-19, 2005 Evidentiary hearing (Seattle – exact location to be Determined)

August 16, 2005 Filing date for post-hearing briefs

September 16, 2005 Target date for initial order

11 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file with the Commission an original plus seven (7) copies of all pleadings, motions, briefs, and other prefiled materials. Paper copies of these materials are required to conform to the format and publication guidelines set forth in WAC 480-07-395 and 480-07-460, and must 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.

12 All filings must be mailed to the Commission Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250, or delivered by hand to the Commission Secretary at the Commission's Records Center at the Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington, 98504. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.

13 An electronic copy of all filings must be provided by e-mail delivery to <records@wutc.wa.gov>. Alternatively, Parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette including the filed document(s). The Commission prefers that parties furnish electronic copies in .pdf (Adobe Acrobat) format, supplemented by a separate file

in MS Word 6.0 (or later), or WordPerfect 5.1 (or later) format. Parties are required to organize and identify electronic files as specified in WAC 480-07-140(5).

14 **ALTERNATE DISPUTE RESOLUTION.** The protestants stated that they would discuss with the applicant restrictive amendments that would resolve the protestants' interests in the case. Commission Staff also agreed to work with the parties to provide information that would assist in their settlement discussions. The Commission supports the informal settlement of matters before it and urges the parties to continue their efforts to resolve the issues in this case informally.

15 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective this 28th day of April, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE
Administrative Law Judge

APPENDIX A

**PARTIES' REPRESENTATIVES
DOCKET NO. TC-041820**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Green Ride Transportation	Bertin Koala 12021 23 rd Avenue N.E. P.O. Box 25067 Seattle, WA 98125	(206) 696-6555		bkoala@qwest.net
Lake Stevens Airporter, Inc.	David W. Wiley Williams, Kastner & Gibbs PLLC 601 Union Street, Suite 4100 Seattle, WA 98101	(206) 233-2895	(206) 628-6611	dwiley@wkg.com
Pacific Northwest Transportation Services, d/b/a Capital Aeroporter Airport Shuttle	James N. Fricke 3285 Ferguson St. S.W. Suite 106 P.O. Box 2163 Olympia, WA 98507-2163	(360) 754-7113	(360) 876-5521	jimf@capair.com
Wickkiser International Companies, Inc., d/b/a Airporter Shuttle	David L. Rice Miller Nash LLP 4400 Two Union Square 601 Union Street Seattle, WA 98101-1367	(206) 622-8484	(206) 622-7485	david.rice@millernash.com
Shuttle Express, Inc., d/b/a Shuttle Express	David L. Rice Miller Nash LLP 4400 Two Union Square 601 Union Street Seattle, WA 98101-1367	(206) 622-8484	(206) 622-7485	david.rice@millernash.com
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 98101-1367	(206) 622-8484	(206) 622-7485	david.rice@millernash.com
Commission Staff	Lisa Watson Assistant Attorney General 1400 S. Evergreen Pk Dr S.W. P.O. Box 40128 Olympia, WA 98504-0128	(360) 664-1186	(360) 586-5522	lwatson@wutc.wa.gov

APPENDIX B

**PROCEDURAL SCHEDULE
DOCKET NOS. TC-041820**

EVENT	DATE	INTERVAL
Staff discovery requests served on applicant	May 5, 2005	
Applicant's response to Staff's requests due	May 19, 2005	14 days
Filing date for names of witnesses and exhibit lists	July 12, 2005	54 days
Evidentiary hearing (Seattle – exact location to be Determined)	July 18-19, 2005	6 days
Filing date for post-hearing briefs	August 16, 2005	28 days
Target date for initial order	September 16, 2005	31 days