

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

In the Matter of the Petition of)	
)	DOCKET TS-070889
AQUA EXPRESS, LLP,)	
)	ORDER 02
Petitioner,)	
)	PREHEARING CONFERENCE
For Commission Permission to)	ORDER; NOTICE OF SECOND
Temporarily Discontinue Commercial)	PREHEARING CONFERENCE
Ferry Service)	(STATUS CONFERENCE)
)	(Set for July 18, 2007, at
)	9:30 a.m.)
.....)	

1 **NATURE OF PROCEEDING.** Docket TS-070889 involves a petition by Aqua Express, LLP, to temporarily discontinue passenger-only commercial ferry service from June 4, 2007, through June 4, 2009, pursuant to WAC 480-51-130.

2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington, on June 14 2007, before Administrative Law Judge (ALJ) Adam E. Torem.

3 **APPEARANCES.** John Blackman and Kevin Clark, partners in Aqua Express, LLP, Seattle, Washington, appeared *pro se* on behalf of Aqua Express. Richard Hayes, Executive Director, Bremerton, Washington, appeared *pro se* on behalf of Kitsap Transit. Donald Trotter, 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 **PETITIONS FOR INTERVENTION AT PREHEARING CONFERENCE.** Kitsap Transit voiced its substantial interest in the outcome of this matter and

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

indicated its intention to formally file a Petition to Intervene.² Commission staff did not object to the granting of intervenor status to Kitsap Transit. The undersigned ALJ concurred that Kitsap Transit's interest in the matter met the requirements set out in WAC 480-07-355 and granted intervenor status.

5 **DEADLINE FOR ADDITIONAL PETITIONS FOR INTERVENTION.** By letter dated June 19, 2007, Commission staff notified the undersigned ALJ that the Notice of Prehearing Conference served on May 5, 2007, was not sent to all interested persons in this matter. Therefore, due process, fairness, and the interests of a full and complete record require that the deadline for filing a Petition to Intervene be extended for several more weeks. Unless additional petitions are received by 5:00 p.m. on July 6, 2007, the case shall proceed with the petitioner, one intervenor (Kitsap Transit), and Commission staff as parties.³ Any party wishing to respond to newly filed petitions must file its response no later than 5:00 p.m. on July 13, 2007.

6 **POTENTIAL SETTLEMENT.** The parties, indicating the potential for a full and complete settlement of the matter, requested that no hearing on the merits be scheduled until an opportunity to exchange documents and hold settlement negotiations had occurred.

7 **NOTICE OF SECOND PREHEARING CONFERENCE.** The Commission will hold a second prehearing conference in this matter, to commence on **Wednesday, July 18, 2007, at 9:30 a.m., in Room 108 of the Commission's headquarters, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

8 The purpose of the second prehearing conference is to allow the undersigned ALJ to rule on any pending petitions for intervention. Further, the parties will discuss the status of settlement negotiations and address whether any disputed issues remaining in the case would best be resolved through motions for summary determination under

"*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*.

² Kitsap Transit electronically filed its Request for Intervenor Status on June 18, 2007.

³ Tom Waggoner and Sonny Woodward participated telephonically in the prehearing conference on behalf of the Kingston Chamber of Commerce and its Passenger Ferry Committee. However, neither filed for intervenor status on behalf of the Chamber, wishing instead to remain as interested persons in this case.

WAC 480-07-380, a brief adjudicative proceeding (BAP) under WAC 480-07-610, or a full hearing on the merits.

- 9 The parties must file any proposed settlement in advance of the second prehearing conference, in compliance with WAC 480-07-740, to allow time for provision of the requisite notice for scheduling a hearing on the consideration of the proposed settlement. As necessary, the second prehearing conference may be stricken in favor of a hearing to consider the proposed settlement on that same date or, in the alternative, during the week of July 30, 2007, through August 3, 2007.

- 10 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file an original plus ten (10) 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.

- 11 All filings must be mailed or delivered to the Executive 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.

- 12 An electronic copy of all filings must be provided through the Commission's Web Portal (www.wutc.wa.gov/e-filing) or 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 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.

- 13 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Pursuant to WAC 480-07-145(6), the presiding officer grants a one-day extension of the paper-filing requirement, allowing electronic submission of documents with the Commission on the filing deadline. Parties must submit documents through the Commission's Web Portal (www.wutc.wa.gov/e-filing) or by e-mail to records@wutc.wa.gov, and file an

original, plus ten (10) paper copies, of the documents with the Commission by noon on the following business day. Parties must provide courtesy copies of their electronic submissions to the presiding administrative law judge and the parties to the proceeding.

14 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. Here, the petitioner, intervenor, and commission staff have already indicated their intent to enter into negotiations that should allow all parties to settle their matters without the rigors and expenses associated with a hearing on the merits. 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.

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 June 20, 2007.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

APPENDIX A

**PARTIES' REPRESENTATIVES
DOCKET TS-070889**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
AQUA EXPRESS, LLP	JOHN BLACKMAN Managing Member 1101 Alaskan Way Pier 55, Suite 201 Seattle, WA 98101	206-623-1445	206-623-5474	johnb@argosycruises.com
KITSAP TRANSIT	RICHARD M. HAYES Executive Director 60 Washington Avenue, Suite 200 Bremerton, WA 98337	360-478-6230 360-479-6962	360-377-7086	ktexec@kitsaptransit.org
COMMISSION STAFF	DONALD T. TROTTER Asst. Attorney General 1400 S Evergreen Park Dr SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1189	360-586-5522	dtrotter@utc.wa.gov
Admin. Law Judge	ADAM E. TOREM 1300 S Evergreen Park Dr SW P.O. Box 47250 Olympia, WA 98504-7250	360-664-1138	360-664-2654 [ALD fax only – do not use to file]	atorem@utc.wa.gov

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET TS-070889

EVENT	DATE	INTERVAL
Prehearing Conference	Thursday, June 14, 2007	—
Deadline for Petitions to Intervene	Friday, July 6, 2007	22 Days
Deadline for Responses to Petitions to Intervene	Friday, July 13, 2007	7 Days
Prehearing Conference (Second)	Weds, July 18, 2007	5 Days
Evidentiary Hearing	To be Determined	—
Closing Arguments / Briefs	To be Determined	—