

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

In the Matter of Cancellation of)	DOCKET TS-080464
Certificate of)	
)	
SEAN MCNAMARA D/B/A PACIFIC)	NOTICE OF INTENT TO CANCEL
SEA TAXI (BC-130))	CERTIFICATE,
)	
)	NOTICE OF OPPORTUNITY FOR
)	HEARING
)	
.....)	

I. INTRODUCTION

- 1 **Nature of Proceeding.** The Washington Utilities and Transportation Commission (Commission), pursuant to RCW 81.84.010, hereby provides notice of its intention to cancel Certificate BC-130, granted to Sean McNamara d/b/a Pacific Sea Taxi (Sean McNamara).
- 2 The certificate holder may request a hearing to contest the factual allegations set out below. If the certificate holder requests a hearing, but cannot materially rebut the allegations set out below, the Commission will cancel the authority. If the certificate holder does not request a hearing, the Commission will cancel the certificate by further order or orders.
- 3 **Procedural Background.** On January 10, 2006, in Docket TS-060061, Sean McNamara filed an application for a certificate of public convenience and necessity to provide passenger-only commercial ferry service between various points on Puget Sound.
- 4 On January 20, 2006, in Docket TS-060133, Pacific Cruises Northwest, Inc. d/b/a Victoria San Juan Cruises filed an application seeking authority to transfer to it all rights under commercial ferry Certificate BC-120, held by San Juan Island Shuttle Express, Inc.

- 5 The Commission published notice of both applications on February 13, 2006. Pacific Cruises Northwest and Island Mariner Cruises, Inc. protested Sean McNamara's application to provide commercial ferry service in Docket TS-060061. Sean McNamara protested the application in Docket TS-060133.
- 6 The Commission conducted a joint prehearing conference in these dockets and encouraged the parties to engage in settlement negotiations. On May 26, 2006, the parties filed a settlement agreement to resolve both dockets, which included a restriction of Sean McNamara's application to vessels with maximum capacity of 18 passengers. The parties withdrew their respective protests.
- 7 On June 8, 2006, in Docket TS-060061, the Commission approved the settlement agreement and granted Sean McNamara's application as modified by the agreement.¹ The Commission issued a certificate of public convenience and necessity, authorizing Sean McNamara to provide passenger-only commercial ferry service between Squaticum Harbor and Rosario and Obstruction Pass with flagstops at: Eliza Island, Sinclair Island, Cypress Island, Lopez Island, and Blakely Island.

II. APPLICABLE LAW

- 8 RCW 81.84.010(2) provides that the holder of a certificate of public convenience and necessity for passenger-only commercial ferry service in Puget Sound must initiate service within twenty (20) months of obtaining the certificate.
- 9 If a certificate holder has not initiated service to all or any portion of a route described in its certificate, RCW 81.84.010(2) requires that the certificate holder must report to the Commission every six months after the certificate is granted on the progress toward initiating service on the certificated route. RCW 81.84.010(2) and WAC 480-51-120 provide that the reports must include a statement of progress toward overcoming impediments to initiating service, including the progress of environmental impact, parking, local government land use, docking, and financial considerations, the purchase or lease of a vessel or vessels, hiring of employees, advertising, and the ability to handle proposed traffic.

¹ See Order 02, TS-060061.

- 10 RCW 81.84.060 provides that certificates are subject to cancellation if a certificate holder for passenger-only ferry service in Puget Sound has not initiated service by the conclusion of the twentieth month after the certificate has been granted, or for violation of any provision in the chapter.²

III. FACTUAL ALLEGATIONS

- 11 The Commission takes official notice of the following facts, subject to the certificate holder's opportunity for rebuttal:
- 12 The twenty-month period following the granting of Sean McNamara's certificate by the Commission ended February 8, 2008.
- 13 Sean McNamara failed to file any six-month progress reports with regard to the authority granted under Certificate BC-130 on December 8, 2006, June 8, 2007, and December 8, 2007, as required by RCW 81.84.010.
- 14 Sean McNamara filed an annual report with the Commission in May of 2007. The company's annual report indicated no operating revenue from regulated operations for 2006. The annual report contained a hand-written note stating that the company had not initiated service.
- 15 Sean McNamara's tariff and time schedule on file with the Commission each state: "NOTE - Service not yet initiated – Company will revise time schedule prior to initiation of service."³
- 16 **NOTICE OF OPPORTUNITY FOR HEARING.** Sean McNamara d/b/a Pacific Sea Taxi may request a hearing to contest the factual allegations set out in this Notice. If the company wants to request a hearing to contest the cancellation of its certificate it must make a written request for a hearing with the Commission by **April 14, 2008**. An original and five (5) paper copies of the request must be directed to the attention of Carole Washburn, Executive Secretary of the Washington Utilities and Transportation Commission and must reference Docket TS-080464.

² RCW 81.84.060(2) and RCW 81.84.060(5).

³ The tariff and the time schedule were effective 10-18-06 and were never subsequently amended.

- 17 If the certificate holder requests a hearing, the Commission will schedule a brief adjudicative proceeding under RCW 34.05.482 and WAC 480-07-610. If a certificate holder requests a hearing, but cannot materially rebut the allegations set out above, the Commission will cancel the certificate. If the certificate holder does not request a hearing, the certificate will be cancelled by further Commission order.

DATED at Olympia, Washington, and effective March 14, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN
Executive Secretary