

**In the Matter of the Cancellation of: Lake Union Ferry
Company, LLC**

Docket No. TS-230613 - Vol. I

February 27, 2024



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Page 1

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Cancellation)
of Commercial Ferry Certificate)
BC068215)
Held by)
))
LAKE UNION FERRY COMPANY,)
) Docket No. TS-230613
Complainant,)
))
))
))
Pursuant to WAC 480-51-150(1)(d).)
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BRIEF ADJUDICATIVE PROCEEDING - VOL. I
BEFORE ADMINISTRATIVE LAW JUDGE BIJAN HUGHES
FEBRUARY 27, 2024

Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, Washington 98504

TRANSCRIBED BY: ELIZABETH PATTERSON HARVEY, FAPR, RPR

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A P P E A R A N C E S

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ALSO PRESENT:

Esther Neal
Rachel Stark

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1 February 27, 2024 - 1:30 p.m.

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4 JUDGE HUGHES: Good afternoon.

5 ATTORNEY STRAUSS: Good afternoon, your
6 Honor.

7 DAVID STROBLE: Hello.

8 ESTHER NEAL: Good afternoon.

9 JUDGE HUGHES: The time is 1:30. This is
10 Docket TS-230613. The time set for the hearing, for
11 hearing the commission's complaint, was 1:30 today
12 against Lake Union Ferry Company, LLC, which I may
13 refer to as the company through the course of this
14 hearing.

15 Before we (inaudible) the proposed
16 cancellation of the company's commercial ferry
17 certificate of the alleged violation of WAC
18 480-51-150(1)(d).

19 My name is Bijan Hughes, and I'm an
20 administrative law judge with the Washington Utilities
21 and Transportation Commission.

22 Okay. Let us start by taking short
23 appearances. Staff?

24 ATTORNEY STRAUSS: Good afternoon, your
25 Honor. Josephine Strauss with the Washington State

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1 Attorney General's Office representing commission
2 staff.

3 I have with me today two staff witnesses,
4 Esther Neal and Rachel Stark.

5 JUDGE HUGHES: Very good.

6 And the company?

7 DAVID STROBLE: Good afternoon, your
8 Honor. David Stroble representing the company.

9 JUDGE HUGHES: And just to confirm for
10 the record, the company is?

11 DAVID STROBLE: Formerly Lake Union Ferry
12 Company, LLC, which is part of the issue that we'll be
13 talking about today because it was administratively
14 terminated, which was a wholly owned subsidiary of my
15 holding company, Eden Valley Investments, LLC.

16 JUDGE HUGHES: Very good. Thank you.

17 DAVID STROBLE: Which was also the
18 original permit holder.

19 JUDGE HUGHES: All right. We've got a
20 storied history, it looks like.

21 DAVID STROBLE: Yes.

22 JUDGE HUGHES: Okay. So any motions
23 before we jump into testimony?

24 ATTORNEY STRAUSS: No, your Honor.

25 JUDGE HUGHES: Great. And let's see.

1 For the record, I want to confirm the company's aware
2 of its right to have counsel present at this
3 proceeding, and that it's comfortable proceeding pro
4 ce?

5 DAVID STROBLE: Yes. Aware of the right,
6 and comfortable proceeding.

7 JUDGE HUGHES: Very good.

8 Okay. Let us progress to the merits.

9 Staff, I can swear in the first witness
10 and they may testify.

11 ATTORNEY STRAUSS: Yes, your Honor.
12 Staff's first witness is Esther Neal.

13 JUDGE HUGHES: All right. There you are.
14 Can you please raise your right hand.

15 Do you swear or affirm that the testimony
16 you give today will be the truth, the whole truth and
17 knowing but the truth?

18 THE WITNESS: I do.

19 JUDGE HUGHES: Thank you.

20 Please proceed, Counselor.

21

22 ESTHER NEAL, witness herein, having been first
23 duly sworn on oath, was examined
24 and testified as follows:

25

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1 EXAMINATION

2 BY ATTORNEY STRAUSS:

3 Q Good morning -- or good afternoon, I guess.
4 Good afternoon, Ms. Neal. Would you please state your
5 name and spell your last for the record.

6 A Good afternoon. My name is Esther Neal,
7 N-E-A-L.

8 Q And what is your current occupation?

9 A I'm a Regulatory Analyst 2 for the Utilities
10 and Transportation Commission.

11 Q And how long have you been in that position?

12 A Since December of 2022.

13 Q And what are your responsibilities within
14 that position?

15 A My duties include reviewing and analyzing
16 financial and operational data reported by
17 commission-regulated companies.

18 Q And what training or education have you
19 received relating to your role as an analyst?

20 A In my career as a Washington state employee,
21 I've gained over 19 years of experience working with
22 regulated entities, reviewing and analyzing policies,
23 laws, rules and regulations, and as well as over eight
24 years of accounting experience.

25 Q Thank you. I want to turn to the current

1 matter. Are you familiar with Lake Union Ferry
2 Company, LLC?

3 A Yes.

4 Q Can you please tell us how you're familiar
5 with this company?

6 A Lake Union Ferry Company is regulated by the
7 commission.

8 Q Okay. And what do you know about this
9 company?

10 A I reviewed their annual reports. And I know
11 that this company has not filed -- has not reported any
12 intrastate operating revenue for the past few years.

13 Q Okay. And why were you looking at this
14 company's annual report?

15 A As part of my duties, I was reviewing their
16 financial and operational data reported for the
17 previous reporting year.

18 Q And what did this annual report tell you?

19 A It just showed that the company had no
20 operating revenue.

21 Q Okay. And was this the first report that the
22 company had submitted that showed no operating revenue?

23 A No.

24 Q How many annual reports have shown no
25 operating revenue?

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1 A Four.

2 Q And for how many years has the company been
3 filing annual reports?

4 A For the past four years.

5 Q Okay. And at the beginning of this,
6 Mr. Stroble mentioned that the prior holder of the
7 certificate was Eden Valley Investments, LLC. Has that
8 company ever filed an annual report?

9 A Yes.

10 Q Did that company's annual reports ever show
11 operating revenue?

12 A No, they did not.

13 Q Okay. What did you do with this information?

14 A I sent a notice of intent to cancel to the
15 company.

16 Q And when did you first send the notice of
17 intent to cancel?

18 A On July 27 of 2023.

19 Q And was that notice received?

20 A No, that notice was not received.

21 Q Okay. Why was that notice not received?

22 A That notice was submitted to the docket
23 unsigned.

24 Q Okay. And how many times did you send the
25 notice of intent to cancel after this?

1 A Three additional times.

2 Q And why was that?

3 A The second and third attempt, the notice was
4 sent to the company's previous e-mail address in error.

5 And the fourth attempt was successful.

6 Q Okay. And when was the last time you sent
7 this notice?

8 A That was on January 2 of 2024.

9 Q And did anyone respond to that notice?

10 A Yes. David Stroble of Lake Union Ferry
11 Company did respond.

12 Q Okay. And do you know, did you review that
13 response?

14 A Yes, I did.

15 Q And do you remember what it said?

16 A David's response included reasons why the
17 company had not initiated service, and a request to
18 extend their certification with the commission.

19 Q Okay. And what did you do after receiving
20 this response?

21 A I reached out to industry staff to verify the
22 company had indeed not initiated service.

23 Q And what did you learn from industry staff?

24 A I learned that the company did not initiate
25 service or had not initiated service, and as well as

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1 they had not followed some of the requirements for the
2 certification.

3 Q Okay. Did you look at any other resources
4 regarding your investigation of this company?

5 A Yes, I did.

6 Q What else have you reviewed regarding Lake
7 Union Ferry Company?

8 A I reviewed the company's information on the
9 Secretary of State's website.

10 Q And what did the Secretary of State website
11 show?

12 A The website showed that the company had been
13 administratively dissolved.

14 Q Okay. So I'm going to share my screen. Let
15 me -- sorry. I'm showing you a document that's been
16 previously marked as proposed Exhibit EN-1. Can you
17 see that on your screen?

18 A Yes, I can.

19 Q Ms. Neal, what is proposed Exhibit EN-1?

20 A So that is the Secretary of State's
21 explanation of why the company is being
22 administratively dissolved.

23 Q Okay. Do you have any changes you would like
24 to make to this exhibit at this time?

25 A No.

1 Q And is this a true and accurate copy of the
2 business information readout of Lake Union Ferry
3 Company, LLC from the Washington Secretary of State
4 website?

5 A Yes, it is.

6 ATTORNEY STRAUSS: Your Honor, at this
7 time I'd like to offer proposed Exhibit EN-1 into
8 evidence.

9 I apologize, your Honor. You're still
10 muted.

11 JUDGE HUGHES: Sorry. The three screens.
12 Any objection from the company in
13 admitting this piece of evidence?

14 DAVID STROBLE: No objection.

15 JUDGE HUGHES: All right. It is entered
16 as EN-1.

17 (Exhibit EN-1 admitted into evidence)

18 ATTORNEY STRAUSS: Thank you.

19 Q (By Attorney Strauss) Ms. Neal, when was
20 Lake Union Ferry Company dissolved?

21 A On August 3 of 2023.

22 Q Okay. And do you know why the company was
23 dissolved?

24 A Yes.

25 Q Why was the company dissolved?

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1 A The company was dissolved for not filing an
2 annual report last year that was required by the
3 Secretary of State's office.

4 Q Okay. And how do you know that this was the
5 reason for dissolution?

6 A The reason for the dissolution was provided
7 on the Secretary of State's website.

8 Q Okay. And do you know if, prior to the
9 company being dissolved in August 2023, if the
10 certificate that was granted to Lake Union Ferry
11 Company was transferred to any other company?

12 A No, not to my knowledge.

13 ATTORNEY STRAUSS: Okay. Ms. Neal, that
14 is all my questions for you this afternoon.

15 THE WITNESS: Thank you.

16 JUDGE HUGHES: Mr. Stroble, do you have
17 any questions for this witness?

18 DAVID STROBLE: No, no questions.

19 JUDGE HUGHES: Okay. Thanks.

20

21 QUESTIONS BY THE JUDGE

22 JUDGE HUGHES: So while I have you, I'll
23 ask one of mine instead of waiting to the end.

24 Scrolling.

25 I believe you said that the company has

1 not initiated service?

2 You're muted if you answered.

3 THE WITNESS: Sorry.

4 JUDGE HUGHES: No worries.

5 THE WITNESS: That's correct, your Honor.

6 JUDGE HUGHES: And can you -- what WAC
7 citation was in the NOIC?

8 THE WITNESS: I don't have that handy
9 right here. But I can pull that up.

10 JUDGE HUGHES: I'll wait.

11 THE WITNESS: Okay. Thank you.

12 It's WAC 480-51-150.

13 JUDGE HUGHES: And that's Subsection
14 (d)?

15 THE WITNESS: Sorry. Just a minute.

16 How did I just close that?

17 That is correct.

18 JUDGE HUGHES: Okay. It's my
19 understanding that that subsection calls for the filing
20 of annual reports after service has been initiated.

21 THE WITNESS: That's correct. That's my
22 understanding as well, your Honor.

23 JUDGE HUGHES: But service was never
24 initiated?

25 THE WITNESS: That is correct.

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1 JUDGE HUGHES: Okay. So is the
2 regulation in the NOIC applicable?

3 THE WITNESS: No. Not as filed.

4 JUDGE HUGHES: Okay. Then I will wait
5 for the next witness, then. Thank you.

6 THE WITNESS: Thank you.

7 ATTORNEY STRAUSS: Your Honor, staff
8 would like to call Rachel Stark.

9 JUDGE HUGHES: Okay. Can you please
10 raise your right hand.

11 Do you swear or affirm to tell the truth
12 the whole truth and nothing but the truth?

13 THE WITNESS: Yes.

14 JUDGE HUGHES: Good. Thank you. Please
15 proceed.

16

17 RACHEL STARK, witness herein, having been first
18 duly sworn on oath, was examined
19 and testified as follows:

20

21 EXAMINATION

22 BY ATTORNEY STRAUSS:

23 Q Good afternoon, Ms. Stark. Could you please
24 state your name and spell your last name for the
25 record?

1 A Rachel Stark, S-T-A-R-K.

2 Q And Ms. Stark, what is your current
3 occupation?

4 A Regulatory Analyst 3.

5 Q And how long have you been in that position?

6 A Since March 2023.

7 Q And what are your responsibilities in that
8 position?

9 A I review and analyze company filings for
10 changes to any company tariffs or rules in compliance
11 with commission rules and laws.

12 I'm also the backup for any annual report
13 questions that may arise.

14 Q Okay. And have you received any training or
15 education that relates to your role as an analyst?

16 A Yes.

17 Q And what is that training or education?

18 A I received training from senior staff members
19 and trainers and our supervisor in our division, as
20 well as I attended the National Association of
21 Regulatory Commissioners week-long rates school.

22 Q I want to turn to the current matter at
23 issue. Are you familiar with Lake Union Ferry Company,
24 LLC?

25 A Yes.

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1 Q And how are you familiar with that company?

2 A Lake Union Ferry Company, LLC is a company
3 that the commission has regulatory authority over.

4 Q And do you know if this company has a
5 commission-granted certificate to operate ferry
6 service?

7 A Yes.

8 Q When was the certificate granted?

9 A May 17, 2018.

10 Q Okay. I'm going to share my screen as soon
11 as I can find my mouse. There it is.

12 Ms. Stark, I'm showing you a document that
13 has been previously marked as proposed Exhibit RS-1.
14 Are you familiar with this document?

15 A Yes.

16 Q And what is RS-1?

17 A This is the certificate that was granted to
18 Eden Valley Investments, LLC, d/b/a Lake Union Ferry
19 Company on May 17, 2018.

20 Q Okay. Do you have any changes you would like
21 to make to this exhibit?

22 A No.

23 Q Is this a true and accurate copy of the
24 certificate granted by the commission to the best of
25 your knowledge?

1 A Yes.

2 ATTORNEY STRAUSS: Your Honor, at this
3 time I'd like to offer proposed Exhibit RS-1 into
4 evidence.

5 JUDGE HUGHES: Any objection?

6 DAVID STROBLE: None.

7 JUDGE HUGHES: Thank you. Okay. RS-1 is
8 admitted.

9 (Exhibit RS-1 admitted into evidence)

10 Q (By Attorney Strauss) Ms. Stark, according
11 to RS-1, who was the original grantee of the
12 certificate?

13 A Eden Valley Investments, LLC, d/b/a Lake
14 Union Ferry Company.

15 Q Okay. And was this certificate ever
16 transferred?

17 A Yes.

18 Q And have you seen the application
19 transferring the certificate to Lake Union Ferry
20 Company?

21 A Yes.

22 Q Okay. I'm now showing you proposed Exhibit
23 RS 2.

24 Ms. Stark, what is proposed Exhibit RS-2?

25 A This is the application for the ferry company

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1 to transfer their certificate from Eden Valley
2 Investments, LLC, d/b/a Lake Union Ferry Company, to
3 Lake Union Ferry Company, LLC.

4 Q Okay. And do you have any changes you would
5 like to make to this exhibit?

6 A No.

7 Q Okay. And Ms. Stark, to the best of your
8 knowledge, is this a true and accurate copy of the
9 application to transfer the certificate?

10 A Yes.

11 ATTORNEY STRAUSS: Your Honor, at this
12 time I'd like to offer RS-2 into evidence.

13 JUDGE HUGHES: Any objection?

14 DAVID STROBLE: No objection.

15 JUDGE HUGHES: Okay. Thank you. RS-2 is
16 admitted. Please proceed.

17 (Exhibit RS-2 admitted into evidence)

18 Q (By Attorney Strauss) Ms. Stark, was this
19 application to transfer the certificate granted?

20 A Yes.

21 Q And have you seen the order transferring that
22 certificate?

23 A Yes, I have.

24 Q Okay. And I'm now showing you what has been
25 previously marked as proposed RS-3.

1 Is this the order that was granting the
2 authorization of transfer of that certificate?

3 A Yes.

4 Q And do you have any changes you would like to
5 make to this exhibit?

6 A No.

7 Q And to the best of your knowledge, is this a
8 true and accurate copy of that order transferring the
9 certificate?

10 A Yes.

11 ATTORNEY STRAUSS: And your Honor, at
12 this time I'd like to offer RS-3 into evidence.

13 JUDGE HUGHES: Any objection?

14 DAVID STROBLE: No objection.

15 JUDGE HUGHES: Okay. RS-3 is entered
16 into evidence. Please proceed.

17 (Exhibit RS-3 entered into evidence)

18 Q (By Attorney Strauss) Ms. Stark, going back
19 to Exhibit RS-2, I'm going to scroll down to page 6,
20 eventually.

21 Who was the principal of Eden Valley
22 Investment, LLC?

23 A David Stroble.

24 Q And who is the principal of Lake Union Ferry
25 Company, LLC?

Page 21

1 A David Stroble.

2 Q Okay. Ms. Stark, is a certificate holder
3 required to file progress reports prior to initiating
4 service?

5 A Yes.

6 Q And did Eden Valley Investment ever file a
7 progress report while it held the certificate?

8 A No.

9 Q Did Lake Union Ferry Company, LLC ever file a
10 progress report?

11 A No.

12 Q And did staff ever follow up with Lake Union
13 Ferry Company about the lack of progress report?

14 A Yes.

15 Q When did staff follow up with the company?

16 A May 25, 2021.

17 Q And can you describe that conversation?

18 A Yes. It was an e-mail that went to the
19 company from -- excuse me; let me get to it -- from a
20 staff member, Scott Sevall, asking the company if
21 there's any updates, that the company was last told by
22 commission staff that they're working on agreements
23 with Seattle to lock in access points for the company
24 stops, and if they were pursuing contracts to be able
25 to build their boats, and if the company put things on

1 hold.

2 Q Okay. And then since 2021, has Lake Union
3 filed any other progress reports?

4 A No. But they did respond to that e-mail.

5 Q Okay. And what was their response to that
6 e-mail?

7 A They responded on the same day.

8 Mr. Stroble responded. He indicated that the
9 company did have some challenging points for the year
10 due to trying to get those permits with the City of
11 Seattle, as well with the Muckleshoot Tribe opposition
12 to be able to get their permits. The opposition
13 stopped the company from being able to work on anything
14 until the Muckleshoot oppositions were -- concerns were
15 resolved.

16 The company also had indicated that COVID --
17 and the Muckleshoot Tribe shut down during COVID for 12
18 months, and that the company was unable to get any
19 responses from the tribe to be able to move forward due
20 to the shutdown.

21 The company also stated that they have been
22 in contact with the tribe in the past two months from
23 that May 25 date, and that they were working on a broad
24 resolution.

25 The company also stated that they had

Page 23

1 expected a resolution in a month or so, and this would
2 allow the company to move forward with their city
3 permits, which would then take an additional 6 to 12
4 months.

5 They then stated they would expect to be able
6 to build boats within a year and then operate after
7 that time.

8 Q Ms. Stark, are you familiar with WAC
9 480-51-120?

10 A Yes.

11 Q What is your understanding of that provision?

12 A The rules are that -- the rule states that
13 failure for a company to initiate service, they need to
14 file for an extension of time to initiate service and
15 provide progress reports.

16 Paragraph (1)(a) within WAC 481 -- excuse me;
17 480-51-120 states if the certificate holder has not yet
18 initiated any or all of the portion of their route or
19 routes that are granted in their certificate, that
20 during the first five years after obtaining that
21 certificate, the certificate holder may petition the
22 commission to extend the certificate on a 12-month
23 basis for up to three years.

24 Additionally, WAC 480-51-120(4)(a)(i) states
25 that the petition for an extension of time to initiate

1 service, a certificate holder must file a petition with
2 the commission seeking an extension of time to initiate
3 service no later than 90 days prior to the date upon
4 which that five-year period following the granting of
5 the certificate expires.

6 Q And Ms. Stark, when was the certificate at
7 issue here granted?

8 A May 17, 2018.

9 Q And when did the five-year time frame to
10 initiate service expire?

11 A May 17, 2023.

12 Q Did Lake Union initiate service prior to May
13 2023?

14 A No.

15 Q Did Mr. Stroble or any representative of Lake
16 Union Ferry Company apply for extension of the
17 certificate within the appropriate time frame under the
18 WAC?

19 A No.

20 Q Ms. Stark, I now want to turn your attention
21 to WAC 480-51-150(1)(a) -- or (1)(b); apologies. Are
22 you familiar with that subsection?

23 A Let me get to it so I can familiarize myself.

24 Q Take your time.

25 A 1(b). Okay. Yes.

Page 25

1 Q And what is that subsection?

2 A It's a failure for a certificate -- or to
3 initiate service by the conclusion of the fifth year
4 after the certificate holder, to initiate service by
5 the conclusion of the fifth year after the certificate
6 has been granted.

7 Q And is that regarding cancellation?

8 A Yes.

9 Q Do you know the basis for staff's issuance of
10 the notice of intent to cancel on January 2, 2024?

11 A Yes.

12 Q And do you know Lake Union Ferry Company's
13 response to that notice?

14 A Yes.

15 Q Have you spoken to Mr. Stroble about the
16 company's failure to initiate service?

17 A Yes.

18 Q And when did you speak to him?

19 A I spoke to him twice. The first time was on
20 February 14 on the phone stating that the notice of
21 intent to cancel by the commission that was initiated
22 by Esther Neal was due to the company's failure to
23 initiate service, and also that their annual reports
24 were reporting zero operating -- excuse me; zero
25 intrastate operating revenue for more than five years.

1 Q Okay. And what did you learn from that
2 conversation with Mr. Stroble?

3 A Mr. Stroble and I talked about, again, what
4 he had responded to in the e-mail from Scott Sevall;
5 that the Muckleshoot Tribe were dragging their feet and
6 that COVID had shut down the tribe so he was not
7 receiving any responses from the tribe, which stopped
8 him being able to do anything.

9 He indicated that the tribe and the company
10 had come to an agreement prior to shutting down due to
11 COVID-19, but that there was no signed agreement
12 between the tribe and himself.

13 He also indicated that when the tribe came
14 back from being shut down, that there was a new person
15 in that position, and the new person had indicated that
16 they were denying any agreement and would not sign any
17 agreement. Mr. Stroble did indicate to me that that
18 wasn't just their company, but any companies. So it
19 was kind of a broad no to everyone to be able to run on
20 Lake Union.

21 He did indicate that he was also looking at
22 what his ridership would be at this point because
23 before COVID -- the ridership had changed after COVID,
24 and he didn't understand -- he didn't fully have a
25 comprehension of how many customers or riders that he

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1 would have due to now COVID, and he would need to do
2 that.

3 He also said that he -- part of his permits
4 that were stopping him was that he would need to
5 rebuild the floats or the docks that his boats would
6 come to to be able to load and unload his passengers,
7 and that he thinks now at this point, that he wouldn't
8 need to rebuild anything. So he believes that the
9 permit process would be easier for his company to
10 receive at this point, because the current docks or
11 floats there on the water, on Lake Union, would suffice
12 with his boats getting his customers on and off; and
13 that at this point he would really need to do some land
14 permits with various City of Seattle customers. What
15 that entails I don't know. I would let Mr. Stroble be
16 able to be able to expand on that, but that also that
17 he feels that the City of Seattle would be easier to
18 work with with just getting the land permits.

19 He did indicate -- I asked him if he would
20 send me the document for the timeline, because I told
21 him I did take some notes, but I would rather have it
22 in his writing.

23 And he said he would do that for me, and also
24 he would give, you know, a better timeline, that he
25 would do that.

1 And then I spoke to him on the 15th. We kind
2 of talked over things again, same type of things. He
3 did say -- he didn't send me the e-mail yet because he
4 was thinking about things more. He started doing it,
5 but he was thinking about what he should do at this
6 point.

7 I did confirm that the Secretary of State's
8 office shows that his company was administratively
9 dissolved, and if he was aware of that.

10 And he said yes, he was aware of that because
11 that was an intentional action by Lake Union Ferry
12 Company because his company wasn't doing business under
13 Lake Union Ferry Company, but instead he was doing
14 things under his investment company, Eden Valley
15 Investments, LLC. So he didn't send me an e-mail.

16 But I also discussed with him the parameters
17 of WAC 480-51-120. He also indicated during that
18 conversation that he now understands the rules, under
19 the WAC rules, that he should have provided progress
20 reports and had not.

21 Q Thank you.

22 And so outside of the certificate from the
23 commission, does -- is it your understanding, does
24 Mr. Stroble have any other permits he needs to operate?

25 A Muckleshoot Tribe, you mean? The Muckleshoot

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1 Tribe and City of Seattle.

2 Q Is there --

3 A He said that he had to do individual land use
4 permits for people that he would utilize that area in
5 the city. But he may be able to explain that better
6 than I could.

7 Q And based on your understanding, does he have
8 any of those other permits?

9 A No.

10 Q Ms. Stark, does staff have a recommendation
11 on if this request for extension of the certificate
12 should be granted?

13 A Yes.

14 Q And what is staff's recommendation?

15 A Staff would recommend that we deny the
16 extension of this certificate because the company does
17 not have a signed agreement with the Muckleshoot Tribe,
18 nor do they have an anticipated agreement date.

19 The company also does not have any permits
20 with the City of Seattle and has no anticipation of
21 dates of when they would obtain those.

22 The company also does not have any permits
23 for individual land use, and no anticipation date for
24 when they'll be able to obtain those.

25 And also the company states that they need to

1 do a new ridership analysis. And they have not
2 provided it. They have not provided an anticipated
3 date of when they would complete that.

4 Q Okay. And does staff have a recommendation
5 for cancellation under WAC had 80-51-150(1)(b)?

6 A Yes. The company has failed to -- yeah. We
7 would recommend cancellation of their certificate
8 because the company has not initiated service, nor have
9 they provided any progress reports of financials or
10 when they anticipate beginning service.

11 ATTORNEY STRAUSS: Okay. Thank you, Ms.
12 Stark. That's all my questions for you this afternoon.

13 JUDGE HUGHES: Mr. Stroble, do you have
14 any questions for this witness?

15 DAVID STROBLE: No questions. Thank you.

16 And thank you, Ms. Stark, for your
17 summary of our conversations without my e-mail notes.

18 THE WITNESS: Quite all right.

19 JUDGE HUGHES: Okay. Then I suppose I do
20 have a question or some questions.

21

22 QUESTIONS BY THE JUDGE

23 JUDGE HUGHES: Who does staff consider to
24 be the certificate holder right now?

25 THE WITNESS: Lake Union Ferry Company,

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1 LLC.

2 JUDGE HUGHES: Okay. Are you familiar
3 with the definition of a person under the
4 regulations?

5 THE WITNESS: No, sir. If you would
6 direct me, I could --

7 JUDGE HUGHES: Sure. WAC 480-51-020(10).

8 THE WITNESS: 480 what?

9 JUDGE HUGHES: 51-020.

10 THE WITNESS: Thank you.

11 And it's specifically which paragraph?

12 JUDGE HUGHES: 10.

13 THE WITNESS: 10. Thank you.

14 The term person means any natural persons
15 or persons by the entity legally capable of taking
16 action. I would say yes, I'm familiar with that. I
17 would say it's --

18 JUDGE HUGHES: Okay. My question is, is
19 a dissolved company capable of taking any legal action?

20 So does staff consider Lake Union Ferry
21 Company to be a person?

22 THE WITNESS: I would say yes under the
23 definition. Because they're not able to do anything.

24 JUDGE HUGHES: But the -- okay.

25 THE WITNESS: No person -- any natural

1 persons of any -- oh, no. Lake Union Ferry -- excuse
2 me, your Honor. No. I would say a company is not a
3 person.

4 JUDGE HUGHES: I believe it does include
5 companies, but it doesn't include dissolved companies
6 because -- perhaps this question would be better
7 directed to your attorney.

8 Ms. Strauss, do you have any thoughts on
9 this?

10 ATTORNEY STRAUSS: Yes, your Honor.
11 Staff views Lake Union Ferry Company as a person for
12 the context of wrapping up business since it does have
13 an outstanding certificate that needs to be actively
14 canceled by the commission, even though the company
15 itself is dissolved.

16 JUDGE HUGHES: Is the ability to wind
17 down business the same as being capable of taking any
18 action?

19 ATTORNEY STRAUSS: I believe being able
20 to wind down business is a part of a company's ability
21 to take action, even if the company cannot -- is no
22 longer in existence for the purpose of effectuating
23 business, it still exists so long as it can wind down
24 its business actions.

25 JUDGE HUGHES: It does say take any

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1 action. But there are -- you'd acknowledge there's
2 actions they can take?

3 ATTORNEY STRAUSS: Correct, your Honor.

4 JUDGE HUGHES: Okay. Okay. So staff
5 doesn't think there's a need for an exemption to
6 include -- change the definition of person?

7 ATTORNEY STRAUSS: No, your Honor. Not
8 at this point.

9 JUDGE HUGHES: Shoot. Sorry. I was way
10 too excited to ask that question. So thank you for
11 indulging me.

12 ATTORNEY STRAUSS: -- your Honor.

13 JUDGE HUGHES: Very good. I asked that.
14 On the five years, let me ask Ms. Strauss
15 again. In this construction where the certificate
16 holder has been a single entity, it seems like is how
17 the case has been presented, that the five years
18 started at the beginning.

19 So my question is, is that because he
20 transferred it to another company he controls, or would
21 the reasoning be if he had transferred it to a third
22 party, would staff have reset the five-year clock or
23 kept the original, is --

24 ATTORNEY STRAUSS: Sorry, your Honor. I
25 apologize.

1 Your Honor, so staff used the five-year
2 clock as starting when the certificate is first
3 granted.

4 This five-year clock does not restart
5 upon transfer. And the reasoning behind that is if the
6 clock resets every time a certificate is transferred,
7 that five-year clock would never run out. It could be
8 perpetually extended for each transfer. And they would
9 never need to apply for a transfer, but rather could
10 just continually transfer the certificate between LLC's
11 every time the clock got near to running out or at this
12 point in time during that five years.

13 So staff's view is that that five-year
14 time really begins when the certificate is granted, and
15 does not reset upon transfer.

16 JUDGE HUGHES: Would a company be able to
17 perpetually move it?

18 Would they not need to seek permission to
19 transfer it?

20 Wouldn't that be an opportunity to say
21 no?

22 ATTORNEY STRAUSS: Your Honor, it could
23 be an opportunity to say no.

24 However, in certain situations, it could
25 very easily explain why the transfer would be needed,

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1 and at least in the short term, be used as a way to get
2 around the five-year regulation.

3 JUDGE HUGHES: Okay. Then back to Ms.
4 Stark. So I believe -- how many reports did the
5 company fail to make that it was required to make?

6 THE WITNESS: I would say with the rule
7 -- so the company, in -- let's see. They didn't file
8 any extension or any progress reports.

9 (Overlapping speech)

10 THE WITNESS: -- WAC 480-51-120. So the
11 certificate holder, if they don't initiate service
12 within the first five years, they should file progress
13 reports yearly.

14 JUDGE HUGHES: I'm seeing every six
15 months, Subsection (a)?

16 THE WITNESS: Thank you, your Honor.
17 Let's see. A. Here we are. Yes, every six months.
18 Yes, your Honor.

19 JUDGE HUGHES: Okay. And so it would be
20 fair to say that the company has missed at least ten
21 reports?

22 THE WITNESS: Yes, sir.

23 JUDGE HUGHES: Okay. That is all I have.
24 Any other witnesses?

25 ATTORNEY STRAUSS: Your Honor, staff has

1 no other witnesses at this time.

2 JUDGE HUGHES: Okay. Thank you,
3 witnesses, for coming.

4 Mr. Stroble, would Lake Union Ferry
5 Company like to present any evidence or testimony?

6 And you can proceed by testifying in
7 narrative form if that's what you'd like.

8

9 DAVID STROBLE, witness herein, having been duly
10 sworn on oath at the conclusion of
11 testimony, testified as follows:

12

13 NARRATIVE TESTIMONY BY DAVID STROBLE

14 DAVID STROBLE: I don't have any
15 evidence. I thought I would make more of a statement
16 testimony rather than a defense.

17 It's clear, given staff's presentation
18 today, the -- you know, between the termination of Lake
19 Union Ferry Company and that turn of events essentially
20 forfeiting my permit, which was an unfortunate
21 oversight on my part, as well as deficient progress
22 reports and five years of no revenue, I don't have much
23 of a leg to stand on, other than to say I feel as
24 though over the last five years, I've become a subject
25 matter expert in starting a ferry on Lake Union and

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1 that body of water.

2 I'm a Seattle resident. I use that body
3 of water, and incredibly familiar with it. I've gotten
4 to know every property owner around the perimeter of
5 the lake.

6 Over the course of the five years, I've
7 met with every single Seattle City Council member,
8 which had almost 100 percent turnover during that
9 period of time. So it felt like a bit of an exercise
10 in futility.

11 I met with almost every single city
12 agency and transportation agency in the region.

13 I did purchase a piece of waterfront
14 property real estate for a terminal at the base of
15 University of Washington, which I am still a partner
16 in.

17 I accomplished a lot over this five-year
18 period. What I didn't do was actually put boats on the
19 water and generate revenue for the company and for UTC.

20 We had significant permitting challenges.
21 I would say it was a period of time defined by some
22 significant and unexpected adversity, COVID being one,
23 that had the effect of shutting the city down and more
24 lasting effects on commuter behaviors that drove our
25 ridership analysis and feasibility that we presented to

1 UTC when we first applied.

2 The second, you know, major piece of
3 adversity was the city of Seattle unrest and political
4 distress that is still present today.

5 Those two major things combined really
6 created some insurmountable hurdles to get a ferry
7 started within the five-year period.

8 That said, we do feel very strongly that
9 there is a good case for a ferry service on Lake Union.
10 And we do believe that there is a path forward without
11 the Muckleshoot Tribe agreement, which is not a
12 Muckleshoot requirement. It's a requirement -- just to
13 be clear, it's a requirement that was brought up
14 through a permit that we desired to obtain through the
15 Army Corps of Engineers to rebuild a dock. And we see
16 a path forward without meeting either of those things.

17 So without going into too much more
18 detail, I think I would just like to say that, you
19 know, again, I feel like I'm a subject matter expert
20 in, you know, developing a ferry service on this body
21 of water. We do see a path forward, although somewhat
22 pared back from the original plan, but a path forward
23 nonetheless.

24 I do recognize the deficiencies on my
25 part with the UTC, and will accept should the ruling be

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1 to cancel the permit.

2 And so I'll let it lay at that. And just
3 my final word being to thank staff and their diligence
4 and patience and communication with me when mine did
5 not meet theirs. So thank you very much.

6 JUDGE HUGHES: Thank you, sir.

7 Well, you know what? I forgot to swear
8 you in. Okay. Can you raise your right hand?

9 Do you swear or affirm that the testimony
10 you give today will be the truth, the whole truth, and
11 nothing but the truth?

12 THE WITNESS: I do.

13 JUDGE HUGHES: And do you affirm all the
14 things you just said were true?

15 THE WITNESS: I do affirm that all the
16 things I just said were true.

17 JUDGE HUGHES: Okay. Thank you. That's
18 my bad.

19 THE WITNESS: No worries.

20 JUDGE HUGHES: Okay. I got to ask my
21 person question. So that's exciting.

22 If -- I guess more of a question for
23 staff. If Mr. Stroble produced five years' worth of
24 progress reports detailing his efforts for the past
25 five years, would that be something staff could work

1 with, or the desire is to cancel?

2 ATTORNEY STRAUSS: Your Honor, I would
3 have to confer with staff briefly to --

4 JUDGE HUGHES: Sure.

5 ATTORNEY STRAUSS: -- actually talk about
6 that. If we can do a short five-minute recess, I can
7 give staff a call and ask if that is something they are
8 interested in.

9 JUDGE HUGHES: Okay. I guess I'd ask
10 Mr. Stroble, have you been maintaining records?

11 Could you create these progress reports
12 if given the opportunity to?

13 DAVID STROBLE: I could. It would take
14 me a few days, but I could certainly do that.

15 JUDGE HUGHES: Okay. So why don't we
16 take a five-minute recess just on the off chance
17 there's a way we can resolve this without a couple more
18 rounds of things.

19 Okay. Let us meet back at 2:20. Let us
20 go off the record.

21 (Recess.)

22 JUDGE HUGHES: Okay. Ms. Strauss, did
23 you have a chance to confer with your client?

24 ATTORNEY STRAUSS: Yes, your Honor.

25 So staff has some concerns. You know,

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1 staff is always very willing to work with companies.

2 I guess the concern here is that Lake

3 Union Ferry Company is a dissolved company.

4 Mr. Stroble would need to figure out how to transfer
5 that certificate.

6 But more importantly, staff is really
7 concerned by the other roadblocks in Lake Union Ferry
8 Company, Eden Valley Investment Company, whichever
9 company ends up being the company in this situation.
10 You know, the lack of permits from other required
11 entities, potentially this ridership survey, staff
12 would really need some sort of definitive date of when
13 these extra road barriers are coming down to really be
14 okay with not supporting cancellation.

15 At this point, given the uncertainties,
16 staff still favors cancellation.

17 JUDGE HUGHES: Okay. All right. It
18 seemed like the progress reports would give staff some
19 of the information needed to --

20 ATTORNEY STRAUSS: So based on staff's
21 current understanding --

22 JUDGE HUGHES: -- evaluate that. But
23 very good.

24 ATTORNEY STRAUSS: I apologize, your
25 Honor. I think the audio is cutting out. I may have

1 missed the last bit that you said.

2 JUDGE HUGHES: Oh, sorry. I was writing
3 something down. I think my paper just moved or --
4 sorry.

5 ATTORNEY STRAUSS: Oh, okay.

6 JUDGE HUGHES: Please continue.

7 ATTORNEY STRAUSS: I was just going to
8 say, you know, in staff's current conversations with
9 the company, it doesn't sound like there's any dates
10 definitive that would be revealed in a progress report,
11 if any, of the existing information there is now. And
12 because of that, staff is uncertain about supporting an
13 extension.

14 If there was some sort of definitive date
15 of when those other permits would be, you know,
16 obtained, staff would be willing to reconsider.

17 But at this point, just given the lack of
18 certainty, staff has some concerns about that.

19 JUDGE HUGHES: Okay. That's totally
20 fair.

21 Okay. Does anyone else have anything
22 else to add, or is there any other matters that we
23 would need to address?

24 Okay. Hearing nothing, I will take all
25 of this under advisement, and I will issue an order

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1 shortly. So thank everyone for coming here today, and
2 we are adjourned. We can go off the record.

3 ATTORNEY STRAUSS: Thank you, your Honor.

4 DAVID STROBLE: Thank you, everyone, for
5 your time.

6 (Proceeding concluded at 2:24 p.m.)

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STATE OF WASHINGTON)
) ss
COUNTY OF KING)

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IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of March, 2024.

Elizabeth Patterson Harvey



ELIZABETH PATTERSON HARVEY, FAPR, RPR