

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

BREMERTON-KITSAP AIRPORTER, INC.

Complainant,

SHUTTLE EXPRESS, INC.

Respondent.

DOCKET NO. TC-110230

MOTION FOR LEAVE TO FILE  
REPLY TO RESPONDENT SHUTTLE  
EXPRESS, INC.'S ANSWER TO  
MOTION TO AMEND COMPLAINT

1 Bremerton-Kitsap Airporter, Inc. (“BKA” or “Complainant”), by counsel, respectfully requests leave of the Commission, pursuant to WAC 480-07-370(d)(ii), to file a brief Reply to Shuttle Express, Inc.’s (“Shuttle Express”) Answer in Opposition to Motion to Amend Complaint of July 12, 2011. On July 7, 2011, BKA filed its Motion to Amend the Complaint and a proposed Amended Complaint with the Commission asking that the Commission find, *inter alia*, that Shuttle Express’ actions in repeatedly amending its tariff in 2010 and ongoing operations potentially exceed the scope of its authority in C-975 and otherwise violate law and rule and, among other relief, asked that its tariffs be revised to conform to its authority and that its certificate authority be appropriately interpreted so as to avoid potential violations of its authority which clearly impact BKA in overlapping territories in which the companies operate.

2 BKA now seeks leave to Reply in order to address new claims that BKA lacks standing and more importantly that it lacks standing under the threshold jurisdictional statute of RCW 81.04.110 when analogized by the Respondent to previous instances of standing in applications and petition matters under an allegation that BKA’s Motion to Amend is

“futile.” This is a profound misperception of the legal issues surrounding the ability to file an Amended Complaint and BKA’s threshold standing as a certificated carrier alleging a violation of law and rules by a competitor.

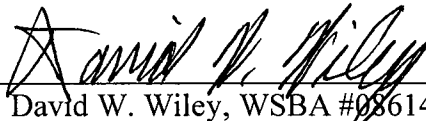
3 Thus, in its Answer to the Motion to Amend, Respondent has raised inappropriate defenses to the filing of the Complaint in an “apples and oranges” jurisdictional premise that Complainant believes should be considered by the Commission.

4 Because Respondent’s Motion seeks to deprive BKA of its right to any hearing under RCW 81.04.110, BKA respectfully requests the Commission allow filing of the proposed Reply, consistent with its own rules and CR 56, on the basis of a dispositive Answer/Motion attacking the sufficiency of a pleading by a party with the burden of proof.

DATED at Seattle, Washington this 13<sup>th</sup> day of July, 2011.

Respectfully submitted,

WILLIAMS, KASTNER & GIBBS PLLC

By   
David W. Wiley, WSBA #08614  
[dwiley@williamskastner.com](mailto:dwiley@williamskastner.com)  
Attorneys for Complainant

## CERTIFICATE OF SERVICE

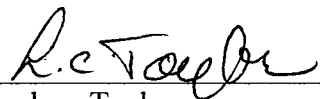
I hereby certify that on July 13th, 2011, I caused to be served the original and three (3) copies of the foregoing document to the following address via first class mail, postage prepaid to:

David Danner, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
Attn.: Records Center  
P.O. Box 47250  
1300 S. Evergreen Park Dr. SW  
Olympia, WA 98504-7250

I certify I have also provided to the Washington Utilities and Transportation Commission's Secretary an official electronic file containing the foregoing document via email to: [records@utc.wa.gov](mailto:records@utc.wa.gov);

and an electronic copy via email and first class mail, postage prepaid, to:

Brooks E. Harlow  
Lukas, Nace, Gutierrez & Sachs, LLP  
8300 Greensboro Drive, Suite 1200  
McLean, VA 22102  
Email: [bharlow@fcclaw.com](mailto:bharlow@fcclaw.com)

  
Lyndsay Taylor