

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of

MEI NORTHWEST LLC

For a Certificate of Public Convenience
and Necessity to Operate Vessels in
Furnishing Passenger Ferry Service

DOCKET TS-160479

ORDER 01

PREHEARING CONFERENCE
ORDER; NOTICE OF HEARING
**(Set for January 5-6, 2017,
at 9:30 a.m.)**

- 1 On May 6, 2016, MEI Northwest LLC (MEI) filed with the Washington Utilities and Transportation Commission (Commission) an Application for Commercial Ferry Certificate (Application) in accordance with RCW 81.84. On June 29, 2016, the Commission issued a Notice of Application, which allowed thirty days to protest the Application. On July 22, 2016, Arrow Launch Service, Inc. (Arrow) filed a protest.
- 2 **CONFERENCE.** The Commission convened a prehearing conference in this docket at Olympia, Washington on September 1, 2016, before Administrative Law Judge Marguerite E. Friedlander.
- 3 **APPEARANCES.** Daniel R. Bentson, Bullivant Houser Bailey PC, Seattle, Washington represents MEI. Julian Beattie, Assistant Attorney General, Olympia, Washington represents the Commission's regulatory staff (Commission Staff or Staff).¹ David Wiley, Williams Kastner & Gibbs PLLC, Seattle, Washington, represents Arrow. Drew M. Schmidt, President, Bellingham, Washington, on behalf of Pacific Cruises Northwest, Inc. (PCNW). Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

¹ In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See*, RCW 34.05.455.

4 **PETITIONS FOR INTERVENTION.** PCNW petitioned in writing to intervene in the docket. No party objected to the petition for intervention, which was granted.

5 **DISCOVERY.** Discovery will be conducted pursuant to the Commission's discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution.

6 **PROCEDURAL SCHEDULE.** The parties agreed on a procedural schedule during the conference. The Commission adopts this procedural schedule, which is attached to this Order as Appendix B.

7 **DOCUMENT FILING REQUIREMENTS.** Parties must file all pleadings, motions, briefs, and other prefiled materials in compliance with all of the following requirements:

- (a) Parties must submit electronic copies in native Microsoft format (Word, Excel, etc.) and searchable Adobe Acrobat (.pdf) of all documents by 5:00 p.m. on the filing deadline established in the procedural schedule (or other deadline as applicable) unless the Commission orders otherwise. If any of the documents contain information that is designated as confidential or highly confidential, the party must also file an electronic copy (in Adobe Acrobat (.pdf) of the redacted version of each such document. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files. Parties may submit documents electronically through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by email to records@utc.wa.gov.
- (b) Parties must file the one paper copy (with original signatures, if applicable) of the documents with the Commission by 5:00 p.m. on the first business day following the filing deadline as provided in WAC 480-07-145(6). The documents must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. All hard copy filings must be mailed or delivered to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250.
- (c) Parties must electronically serve the other parties and provide courtesy electronic copies of filings to **Judge Friedlander** (mfriedla@utc.wa.gov) by 5:00 p.m. on the filing deadline unless the Commission orders otherwise. If

parties are unable to email copies, they may furnish electronic copies by delivering them on a flash drive.

- 8 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and serve all proposed cross-examination exhibits by **3:00 p.m. on December 30, 2016.** The Commission requires electronic copies in native format, if available, and searchable Adobe Acrobat (.pdf) and one paper copy of the exhibits. If any of the exhibits contain information that is designated as confidential or highly confidential, the party must also file one electronic copy (in Adobe Acrobat (.pdf)) and one paper copy of the redacted version of each such exhibit. The exhibits must be grouped according to the witness the party attends to cross examine with the exhibits. The paper copies of the exhibits also must be organized into sets that are tabbed and labeled.
- 9 **EXHIBIT LISTS.** Each party must file a list of all exhibits the party intends to introduce into the evidentiary record, including all prefiled testimony and exhibits, as well as cross-examination exhibits. The parties must file and serve their exhibit lists by **3:00 p.m. on December 30, 2016.**
- 10 **CROSS-EXAMINATION TIME ESTIMATES.** Each party must provide a list of witnesses the party intends to cross-examine at the evidentiary hearing and an estimate of the time that party anticipates the cross-examination of that witness will take. Parties should not file witness lists or cross-examination time estimates but must provide them to **Judge Friedlander (mfriedla@utc.wa.gov)** and the other parties by **3:00 p.m. on December 30, 2016.**
- 11 **NOTICE OF HEARING.** The Commission will hold an evidentiary hearing in this matter on **January 5 and 6, 2017, at 9:30 a.m.,** in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.
- 12 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission has limited ability to provide dispute resolution services. If you wish to explore those services, please contact Gregory J. Kopta, Director, Administrative Law Division (gkopta@utc.wa.gov or 360-664-1355).
- 13 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order,**

pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.

Dated at Olympia, Washington, and effective September 2, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

APPENDIX A

PARTIES' REPRESENTATIVES
DOCKET TS-160479

PARTY	REPRESENTATIVE	PHONE	E-MAIL
MEI Northwest, LLC	MEI Northwest, LLC P.O. Box 4008 Walnut Creek, CA 94596	510-523-8900	rsesch@marineexpress.us
	Daniel R. Bentson Bullivant Houser Bailey PC 1700 Seventh Avenue, Suite 1810 Seattle, WA 98101-1397	206-292-8930	dan.bentson@bullivant.com
Arrow Launch Service, Inc.	Arrow Launch Service, Inc. P.O. Box 2376 Port Angeles, WA 98362	360-457-1544	jharmon@olyphen.com
	David W. Wiley Williams Kastner & Gibbs PLLC 601 Union Street, Suite 4100 Seattle, WA 98101	206-628-6600	dwiley@wkg.com
Staff	Mike Young Regulatory Analyst Washington Utilities and Transportation Commission 1300 S. Evergreen Park Drive SW P.O. Box 47250 Olympia, WA 98504-7250	360-664-1155	myoung@utc.wa.gov
	Julian Beattie Office of the Attorney General Utilities and Transportation Division 1400 S. Evergreen Park Drive SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1225	jbeattie@utc.wa.gov
Pacific Cruises Northwest, LLC	Captain Drew M. Schmidt President Pacific Cruises Northwest, Inc. 355 Harris Avenue, Suite 104 Bellingham, WA 98225	360-738-8099	drew@whales.com

APPENDIX B

**PROCEDURAL SCHEDULE
DOCKET TS-160479**

EVENT	DATE
MEI Direct Testimony and Exhibits	October 4, 2016
Staff and Intervenor Response Testimony and Exhibits	November 1, 2016
MEI Rebuttal Testimony and Exhibits; Cross-Answering Testimony and Exhibits	December 5, 2016
Cross-Examination Exhibits, Witness Lists, and Time Estimates	December 30, 2016
Evidentiary Hearing	January 5 and 6, 2017
Simultaneous Post-Hearing Briefs	February 17, 2017