

JUL 20 1994

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition)	DOCKET NO. TS-940956
of)	
)	COMMISSION ORDER RESOLVING
SAN JUAN EXPRESS, INC.)	PROCEDURAL ISSUES; NOTICE OF
)	BRIEF ADJUDICATION; NOTICE OF
for a Cease and Desist Order)	PREHEARING CONFERENCE
)	
.)	

PROCEDURAL ISSUES: On July 15, 1994, San Juan Express, Inc., petitioned the Commission for entry of a cease and desist order pursuant to RCW 81.04.510 against the operations of Mosquito Fleet Enterprises, Inc., ("Mosquito") and Yachtship Cruiseline, Inc., ("Yachtship"). It moved to consolidate the proceeding with petitions for declaratory orders in Docket Nos. TS-940878, Mosquito, and T-940936, Yachtship, that assertedly address the identical issue.

The Commission believes that it may not have the authority under RCW 81.04.510 to hear a private complaint for a cease and desist order. It does have the authority under RCW 81.04.110 to hear complaints by public service companies against each other and, under statutory amendments enacted in the 1994 legislative session, to hear private complaints against persons without authority who are acting as public service companies. In light of the petitioner's desire to expedite matters, and in light of all parties' apparent desire to have the Commission address the issues, pursuant to WAC 480-09-425 the petition will be treated as a complaint under RCW 81.04.110, and served on respondents Mosquito and Yachtship.

The Commission notes the similarity of the issues in the petitions for declaratory order and the petition/complaint. It believes, however, that the better policy is to defer the petitions for declaratory order until conclusion of the complaint proceeding, inasmuch as the complaint presents a true factual setting and a real matter in controversy in which the issues may be decided in context. The Commission therefore denies the request for consolidation.

NOTICE OF BRIEF ADJUDICATION: Pursuant to WAC 480-09-500, the Commission determines that a brief adjudicative proceeding is appropriate for resolving the issues raised in the complaint. It designates Review Judge C. Robert Wallis as presiding officer and sets the time and place for oral presentations on the issues as Tuesday, August 2, 1994, beginning at the hour of 10:00 a.m. in room 140 in the Commission's headquarters offices at 1300 South Evergreen Park Drive S.W., Olympia, Washington 98504, unless changed by the Secretary or the presiding officer.

NOTICE OF PREHEARING CONFERENCE: In order to expedite the proceeding, the Commission requests that the parties consult among themselves with a view to developing a stipulated factual record for decision. The Commission establishes a telephonic prehearing conference to be held at 1:30 p.m., Thursday, July 28, 1994, unless changed by the Secretary or the presiding officer. Each party shall designate its attorney or other representative for the prehearing conference, and the representative's telephone number, by the time set for answering the complaint.

The Commission directs under WAC 480-09-425(3)(c) that answers to the petition/complaint, if any, be filed with the Commission, and served on the parties not later than Wednesday, July 27, 1994. The Commission waives its rule prohibiting filings by telefacsimile device for these pleadings only.

DATED at Olympia, Washington and effective this 20th day of July 1994.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Sharon L. Nelson

SHARON L. NELSON, Chairman

Richard Hemstad

RICHARD HEMSTAD, Commissioner