

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In Re Application TC-111306 of ) DOCKET TC-111306  
)  
MILLER SCHMER, INC., d/b/a )  
SEATTLE EXPRESS ) SETTLEMENT AGREEMENT  
)  
For Extension of Authority Under )  
Certificate No. C-1052, For a Certificate )  
of Public Convenience and Necessity to )  
Operate Motor Vehicles in Furnishing )  
Passenger and Express Service as an Auto )  
Transportation Company )  

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1 This settlement agreement (Agreement) is entered into by all parties to this proceeding for the purpose of resolving all issues raised in the above docket.

**I. PARTIES**

2 The parties to this Agreement are Miller Schmer, Inc., d/b/a Seattle Express (Seattle Express), Shuttle Express, Inc. (Shuttle Express), and Staff of the Washington Utilities and Transportation Commission (Staff) (collectively, “the Parties”).

**II. RECITALS**

3 Seattle Express is an auto transportation company regulated by the Washington Utilities and Transportation Commission (Commission). Seattle Express currently holds authority under Certificate No. C-1052 to provide passenger service between hotels in the City of Renton and the Pike Place Market; between hotels in the City of Sea-Tac, South

Center Mall, Pike Place Market and Cruise Terminals 66 and 91; and between hotels in the City of Tukwila, South Center Mall, Pike Place Market, and Cruise Terminals 66 and 91.

4 On July 20, 2012, Seattle Express filed an application requesting an extension of authority to allow Seattle Express to transport passengers from Cruise Terminals 66 and 91 to Sea-Tac Airport. Shuttle Express holds authority to serve this route and protested Seattle Express' application.

5 The Commission held a prehearing conference on November 22, 2011. At Seattle Express' request, the Commission stayed the proceedings pending action in the upcoming state legislative session on proposed legislation to remove from Commission regulation certain aspects of auto transportation company operations, including market entry. The legislation did not progress, and the Parties entered into negotiations aimed at settling the dispute in this matter.

### III. AGREEMENT

6 The Parties have reached agreement on all of the issues raised in this docket and present their agreement for the Commission's consideration and approval. The Parties therefore adopt the following Agreement, which the Parties enter into voluntarily, to resolve the matters in dispute between them and to expedite the orderly disposition of this proceeding.

#### A. Amended Requested Authority

7 Seattle Express agrees to revise the description of its proposed service and thereby restrict the authority it requests, as follows:

From hotels in the cities of Tukwila or Sea-Tac to the Sea-Tac Airport with a required intermediate stop at Cruise Terminal 66 or 91 on a single-fare ticket.

With this extended authority, Seattle Express will transport passengers from hotels in the cities of Tukwila and Sea-Tac to Sea-Tac International Airport, by way of Cruise Terminal 66 or 91, with an optional stopover at the cruise terminals. Draft tariff pages reflecting the revised proposed authority are attached to this Agreement as Attachment A.

**B. Withdrawal of Protest**

8           Based on the modifications to Seattle Express' proposed service, set forth in the paragraph above, Shuttle Express agrees to withdraw its protest of Seattle Express' application for extension of authority.

**C. Public Convenience and Necessity**

9           The Parties agree that the proposed service, as modified by this Agreement, is necessary and will be a convenience to the public and that, under RCW 81.68.040, the Protestant does not object to the grant of this authority, as amended. In support of this contention, statements of need for the proposed service from a hotel and from a South King County visitor's bureau are attached to this Agreement as Attachment B.

**IV. GENERAL PROVISIONS**

10           The Parties further agree that this Agreement reflects the settlement of all contested issues between them in this proceeding. The Parties understand that this Agreement, including the admissions contained herein, is not binding unless and until accepted by the Commission. If the Commission does not accept this Agreement, including all of its terms and conditions without change, then the Parties shall be free to assert their pre-settlement positions and agree that neither this Agreement nor any statements or admissions contained herein shall be admissible or used for any purpose in this docket or any other proceeding for any purpose.

11           The Parties agree to cooperate in submitting this Agreement promptly to the Commission for acceptance. The Parties agree to support adoption of this Agreement in proceedings before the Commission. No party to this Agreement or its agents, employees, consultants, or attorneys will engage in advocacy contrary to the Commission's adoption of this Agreement.

12           The Parties agree (1) to provide each other the right to review in advance of publication any and all announcements or news releases that the other party intends to make about the Agreement (with the right of review to include a reasonable opportunity to request changes to the text of such announcements), and (2) to include in any news release or announcement a statement that the Staff's recommendation to approve the Agreement is not binding on the Commission itself.

13           The Parties have entered into this Agreement to avoid further expense, inconvenience, uncertainty, and delay. The Parties recognize that this Agreement represents a compromise of the Parties' positions. As such, conduct, statements, and documents disclosed during negotiations of this Agreement shall not be admissible as evidence in this or any other proceeding, except in any proceeding to enforce the terms of this Agreement or any Commission order fully adopting those terms. This Agreement shall not be construed against either party because it was a drafter of this Agreement.

14           By executing this Agreement, no Party shall be deemed to have approved, admitted, or consented to the facts, principles, methods, or theories employed in arriving at the terms of this Agreement, nor shall any Party be deemed to have agreed that any provision of this Agreement is appropriate for resolving issues in any other proceeding, except to the extent expressly set forth in the Agreement.

15           The Parties have negotiated this Agreement as an integrated document to be effective upon execution. This Agreement supersedes all prior oral and written agreements on issues addressed herein. Accordingly, the Parties recommend that the Commission adopt this Agreement in its entirety.

16           The Parties may execute this Agreement in counterparts and as executed shall constitute one agreement. A signed signature page sent by facsimile or email is as effective as an original document.

17           The Parties shall take all actions necessary as appropriate to carry out this Agreement.

18           In the event that the Commission rejects all or any portion of this Agreement, or accepts the settlement upon conditions not proposed in this Agreement, each party reserves the right to withdraw from this Agreement by written notice to the other party and the Commission. Written notice must be served within 10 business days of the Order rejecting part or all of this Agreement or imposing conditions not proposed in this Agreement. In such event, neither party will be bound or prejudiced by the terms of this Agreement, and the Parties agree to request the prompt reconvening of a prehearing conference and to cooperate in developing a procedural schedule.

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**MILLER SCHMER d/b/a SEATTLE EXPRESS**

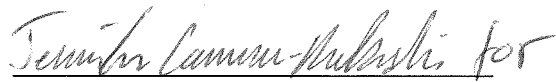
  
\_\_\_\_\_  
DAVE W. WILEY

Williams Kastner  
601 Union Street, Suite 4100  
Seattle, WA 98101

Counsel for Miller Schmer

Dated: March 28, 2012.

**SHUTTLE EXPRESS, INC.**

  
\_\_\_\_\_  
BROOKS E. HARLOW *per email authorization*

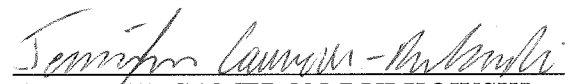
Lukas, Nace, Gutierrez & Sachs, LLP  
8300 Greensboro Drive, Suite 1200  
McLean, VA 22102

Counsel for Shuttle Express

Dated: March 28<sup>th</sup>, 2012.

**WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION STAFF**

ROBERT M. MCKENNA  
Attorney General

  
\_\_\_\_\_  
JENNIFER CAMERON-RULKOWSKI  
Assistant Attorney General  
Counsel for Washington Utilities and  
Transportation Commission Staff

Dated: March 28<sup>th</sup>, 2012.

# **Attachment A**

**Miller Schmer Inc.**  
**C001052, d/b/a Seattle Express**  
**Tariff No. 4**

**Original Title Page**

Tariff Schedule No. 4  
Cancels  
Tariff Schedule No. 3  
Of

Company Name: Miller Schmer Inc.  
Certificate Number: C001052  
Address: 8020 180<sup>th</sup> Street SE  
City/State/Zip: Snohomish, WA 98296

**TERRITORY:**

Between: Hotels in the City of Renton and the Pike Place Market in  
downtown Seattle.

Between: Hotels in the City of Sea-Tac, South Center Mall, Pike Place  
Market and Cruise Terminals 66 and 91.

Between: Hotels in the City of Tukwila, South Center Mall, Pike Place  
Market and Cruise Terminals 66 and 91.

From hotels in the Cities of Tukwila or Sea-Tac to the Sea-Tac Airport with a  
required intermediate stop at Cruise Terminal 66 or 91 on a single fare ticket.

Name: Matt Schmer Vice - President  
Address: 8020 180<sup>th</sup> Street SE  
City/State/Zip: Snohomish, WA 98296

Telephone No: 206-793-0770 Telefacsimile No. 360-668-1037 mattseattleexpress@yahoo.com

Issue Date: March 28, 2012      Effective Date: \_\_\_\_\_

Issued By: Matt Schmer Vice - President \_\_\_\_\_

Effective \_\_\_\_\_ TC- \_\_\_\_\_ LSN \_\_\_\_\_

Order/Other \_\_\_\_\_ By: \_\_\_\_\_



**PASSENGER RULES**

Children 3 and under are free.

There is no extra charge for baggage and no limit to the number of bags.

Transportation of animals such as dogs traveling with sight or hearing impaired passengers, will be transported free of charge if they lie at the feet of their master and do not occupy passenger seats.

Unused tickets will be redeemed at the purchase price and unused portions of round-trip or commutation tickets will be redeemed by charging the regular fare or fares for the portion or portions used, and refunding the balance of the purchase price.

"Single Fare Ticket" is one ticket, charged as a single fare, for the transportation of a passenger from Sea-Tac and Tukwila hotels to cruise terminal 66 or 91 and then from the cruise terminal 66 or 91 to Sea-Tac International Airport.

Long haul/short haul provisions. No customer will be required to pay more for transportation to an intermediate point along a route than is charged for a longer trip over that same route.

There are no administrative fees if reservations are changed or cancelled at any time.

A customer who has made a reservation but fails to cancel, reschedule, or appear at the designated pick-up point by the scheduled departure time is not eligible for a refund unless the failure was caused by airline delay or cancellation.

There are no areas or zones to which rates apply.

Commuter fares are not offered.

No alternative means of transport will be provided.

Holidays: No service provided on New Years Day, Thanksgiving and Christmas Day.

Issue Date: March 28, 2012      Effective Date: \_\_\_\_\_

Issued By:   Matt Schmer – Vice President  

Effective \_\_\_\_\_ TC- \_\_\_\_\_ LSN \_\_\_\_\_

Order/Other \_\_\_\_\_ By: \_\_\_\_\_

**RATE SCHEDULES**

**ADULT FARES IN DOLLARS PER PERSON**

**BETWEEN**

<b>AND</b>	ALL HOTELS	ALL HOTELS	ALL HOTELS	ALL HOTELS
	City of Renton	City of Renton	Cities of Tukwila and SeaTac	Cities of Tukwila and SeaTac
	ONE WAY	ROUNDTRIP	ONE WAY	ROUNDTRIP
Pike Place Market	\$9	\$14	\$9	\$14
Terminal 66 or 91	NA	NA	\$12	\$24
South Center Mall	NA	NA	\$9	\$14

**ADULT FARES IN DOLLARS PER PERSON**

From	Stop At	To
Hotels in Cities of SeaTac and Tukwila	Cruise Terminal 66 or 91	SeaTac International Airport
"Single Fare Ticket" (See Note Below)		\$24

Note: "Single Fare Ticket" is one ticket, charged as a single fare, for the transportation of a passenger from Sea-Tac and Tukwila hotels to cruise terminal 66 or 91 and then from the cruise terminal 66 or 91 to Sea-Tac International Airport.

Issued date: March 28, 2012

Effective date:

Issued by: Matt Schmer, Vice President

(For Official Use Only)

# **Attachment B**

March 26, 2012

26541.0100

VIA EMAIL TO WUTC RECORDS CENTER/  
ORIGINAL VIA FIRST CLASS MAIL

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

Re: Docket No. 111306, In re: Application of Miller Schmer, Inc. d/b/a Seattle Express for Permanent Auto Transportation Authority Extension Under C-1052 – Statement of Support for Proposed Service

Dear Mr. Danner:

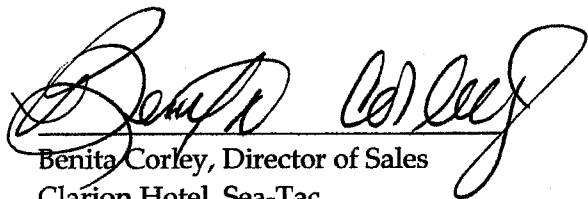
This letter is to offer support by the Clarion Hotel of Sea-Tac for extension of Seattle Express' certificate to authorize *"passenger service from hotels in the Cities of Tukwila or Sea-Tac to the Sea-Tac Airport with a required intermediate stop at Cruise Terminal 66 or 91 on a single-fare ticket."* Our hotel has been very satisfied with the services previously provided by Miller Schmer, Inc. d/b/a Seattle Express and we now want to offer our customers the benefit and convenience of selling them effectively round-trip tickets from our hotel to the cruise terminals with a final leg on their return from the cruise terminals to Sea-Tac Airport.

By utilizing Seattle Express for "round-trip transportation," we are able to book both northbound and southbound reservations at the same time which saves time and staff expense in providing our guests with continuity and consistency of ground service. This also assists the travelling public in minimizing confusion in providers and can allow more reliable return service from the terminals to the airport with prior reservation and accommodation. Additionally, when our guests are dropped at the cruise terminal as part of the service, the Seattle Express driver can review the return trip process with them so that they know what to expect when they disembark from their cruise ship and have the peace of mind that they have already arranged for their ground transportation to the airport on their return in order to accommodate flight schedules. This is a particularly helpful and beneficial service to offer our guests for first time visitors to the area who require reliable return service accommodation on often tight flight schedules.

Our guests have used the services of Seattle Express in the past between our hotels and the airport and we therefore strongly support its efforts to provide a more complete service to our hotels and our cruise passenger guests during the hectic cruise season.

David Danner, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
Attention: Records Center  
March 26, 2012  
Page 2

The foregoing statement is made under penalty of perjury under the laws of the State of Washington and is true and correct to the best of the declarant's knowledge and belief.

A handwritten signature in black ink, appearing to read "Benita Corley", written over a horizontal line.

Benita Corley, Director of Sales  
Clarion Hotel, Sea-Tac  
Tel.: (206) 676-3742

Dated this 26 day of March, 2012.

March 26, 2012

26541.0100

VIA EMAIL TO WUTC RECORDS CENTER/  
ORIGINAL VIA FIRST CLASS MAIL

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

Re: Docket No. 111306, In re: Application of Miller Schmer, Inc. d/b/a Seattle Express for Permanent Auto Transportation Authority Extension Under C-1052 – Statement of Support for Proposed Service

Dear Mr. Danner:

This letter is in support of the application for extension of Seattle Express' certificate C-1052 to authorize *"passenger service from hotels in the Cities of Tukwila or Sea-Tac to the Sea-Tac Airport with a required intermediate stop at Cruise Terminal 66 or 91 on a single-fare ticket."* As a tourism information center for the Cities of Sea-Tac and Tukwila, it is very important for us to be able to offer a reliable and cost effective way to allow guests in area hotels to be transported to the cruise terminals from hotels in these cities. In that regard, it is also invaluable to be able to offer them "round trip" transportation service from the hotels in our cities to the cruise terminals and back to the airport. This allows them the benefit and convenience of one transportation provider.

Based on past experience, we are aware that many hotel guests choose their accommodations on the basis of simplicity and consolidation of services and being able to offer that complete service through Seattle Express provides that incremental facilitation for trip planning. This obviously assists the hotels in Tukwila and Sea-Tac by affording them the linkage between the cruise terminals and the return trip drop to Sea-Tac airport and allows them the ability to market themselves to overnight guests as a convenient nexus for inbound and return cruise passengers. We are also not aware of any other WUTC regulated provider who offers this "V" shaped service configuration from the Tukwila and Sea-Tac hotels to the cruise terminals and return to Sea-Tac Airport.

David Danner, Executive Director and Secretary  
Washington Utilities and Transportation Commission

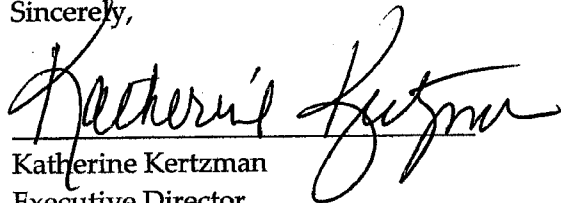
Attention: Records Center

March 26 2012

Page 2

The foregoing statement is made under penalty of perjury under the laws of the State of Washington and is true and correct to the best of the declarant's knowledge and belief.

Sincerely,

A handwritten signature in cursive script, appearing to read "Katherine Kertzman", written over a horizontal line.

Katherine Kertzman

Executive Director

Seattle Southside

Tel.: (206) 575-0547

Dated this 26 day of March, 2012.