

LAW OFFICES  
**SESSIONS & MONAHAN**  
A PROFESSIONAL SERVICE CORPORATION

BRUCE A. WOLF  
PRINCIPAL

January 27, 1992

**Hand Delivered**

Mr. Paul Curl, Secretary  
Washington Utilities and  
Transportation Commission  
Chandler Plaza Building  
1300 S. Evergreen Park Drive S.W.  
Olympia, WA 98504

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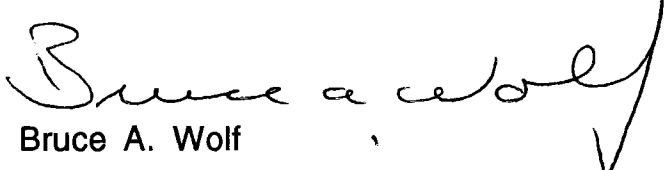
Re: Evergreen Trails Inc., d.b.a Grayline of Seattle, Complainant  
vs. San Juan Airlines, Inc., d.b.a. Shuttle Express, Respondent/Docket  
No. TC-900407

Dear Secretary Curl:

Enclosed for filing please find the original and three copies of the Answer of the Respondent Shuttle Express to the Petition for Rehearing filed by the Complainant Grayline. Please note that, in the alternative, if the petition is to be considered, then the respondent Shuttle Express has also requested that a prehearing conference be set, that certain discovery be allowed, and that the matter be set for a full and complete hearing.

Your consideration is appreciated.

Sincerely yours,

  
Bruce A. Wolf

BAW/jrh  
cc: Robert Cederbaum  
Clyde MacIver

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BEFORE THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION

EVERGREEN TRAILS, INC., a	)	
Washington corporation, d/b/a	)	
Grayline of Seattle,	)	DOCKET NO. TC-900407
	)	
Complainant,	)	
	)	ANSWER OF RESPONDENT
v.	)	SAN JUAN AIRLINES, INC.
	)	d/b/a SHUTTLE EXPRESS TO
SAN JUAN AIRLINES, INC., a	)	PETITION OF GRAYLINE FOR
Washington corporation, d/b/a	)	REHEARING AND, IN THE
Shuttle Express,	)	ALTERNATIVE, REQUEST FOR
	)	PREHEARING CONFERENCE,
Respondent.	)	DATA, DEPOSITIONS AND
	)	FULL HEARING

I. INTRODUCTION

COMES NOW the respondent above named, San Juan Airlines, Inc, d/b/a Shuttle Express (hereinafter "Shuttle Express") by and through its attorneys of record, Sessions & Monahan, P.S. and Bruce A. Wolf, pursuant to RCW 80.04.200, RCW 81.04.200, WAC 480-09-425, and WAC 480-09-820, files the following answer to the petition of Evergreen Trails, Inc., d/b/a/ Grayline of Seattle (hereinafter "Grayline") for rehearing, and, in the alternative, makes a request for a prehearing

1 conference, discovery in the form of data requests and depositions, and  
2 a full hearing.

3  
4 For the reasons expressed below, the petition of Grayline for  
5 rehearing should not be considered.

6 **II. DENIAL OF ALLEGATIONS**

7 In its petition, Grayline alleges that Shuttle Express has operated  
8 in violation of its permit authority by serving various hotels located in  
9 downtown Seattle served by Grayline. Grayline refers to the results of  
10 certain privately retained investigations and alleges that "sworn  
11 affidavits from the investigators are available."

12 In response to a telephone call to counsel for the petitioner  
13 requesting copies of the "sworn affidavits," counsel for the petitioner  
14 replied that, despite the allegation, no sworn affidavits had been  
15 prepared.

16 Contrary to the allegations of permit violations, Shuttle Express  
17 does not provide service in excess of its operating authority. All  
18 drivers, dispatchers, and other employees have been advised of the  
19 permit restrictions and instructed to adhere to the same.

20 Consequently, the respondent Shuttle Express hereby denies each  
21 and every substantive allegation of permit violations contained in the  
22 petition for rehearing.

23 **III. PROCEDURAL DEFICIENCIES**

24 In addition, Grayline, in its petition for rehearing, has failed to  
25 demonstrate that, procedurally, the petition should be considered.  
26 RCW 80.04.200, RCW 81.04.200, and WAC 480-09-820 set forth the  
procedural prerequisites that must be present before the Washington

1 Utilities Transportation Commission may consider a petition for  
2 rehearing. Those statutes and the regulation provide that a petitioner  
3 must show the following: 1) changed circumstances; 2) injurious to  
4 the petitioner; and 3) not considered and determined by the Commission.  
5

6 At the original hearing in the above-entitled matter and in its  
7 final order, the Washington Utilities and Transportation Commission  
8 fully considered the issue of whether Shuttle Express should be  
9 precluded from serving the downtown Seattle hotels served by Grayline.  
10 The Commission determined that Shuttle Express should be so  
11 precluded. A final order was issued amending the Shuttle Express  
12 operating authority and prohibiting any such service.

13 Clearly, the remedy for any violations of that original final order  
14 is the issuance of citations by the Commission staff for exceeding  
15 permit authority rather than a petition for rehearing of an issue fully  
16 considered by the Commission in its original order.

17 Now, in its petition, Grayline asks that the Commission revisit  
18 the very same issue and issue an order further restricting the Shuttle  
19 Express operating permit.

20 As a result of the original order, Grayline is already the  
21 benefactor of a final order precluding service to the full extent of  
22 Grayline's operating permit authority. Grayline, therefore, has no  
23 standing to request any additional limitations.

24 In short, Grayline has failed to establish that, procedurally, a  
25 rehearing would be appropriate. The appropriate remedy, if any, for  
26 exceeding permit authority and violating the terms of a final  
Commission order, if any such violations have occurred, would be the

1 issuance of citations by the Commission staff, not a rehearing of a  
2 matter fully considered by the Commission in the original hearing and  
3 the resulting final order.  
4

5 **IV. ALTERNATIVE REQUEST FOR HEARING, PREHEARING CONFERENCE,**  
6 **DATA REQUEST, AND DEPOSITIONS**

7 If the Washington Utilities and Transportation Commission  
8 decides to consider the instant petition for rehearing, then the  
9 respondent Shuttle Express respectfully requests, pursuant to  
10 WAC 480-09-460, that the Commission first set a prehearing  
11 conference for the purposes stated in that regulation. It is clear that,  
12 if the instant petition is to be considered, the respondent Shuttle  
13 Express, to prepare properly for any hearing, must have the opportunity  
14 to depose the alleged private investigators. Additionally, data requests  
15 to determine whether any of the activities of Shuttle Express have been  
16 injurious to Grayline will be required. Also, if the petition is to be  
17 considered, substantial factual disputes and issues of permit language  
18 interpretation would be raised that could only be resolved after a full  
19 and complete hearing. Consequently, if the petition is to be considered,  
20 a hearing must be had.  
21

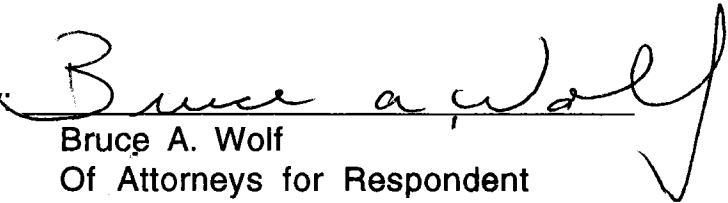
22 **V CONCLUSION**

23 For all of the reasons expressed above, the instant petition for  
24 rehearing should not be considered. In the alternative, if the petition is  
25 to be considered, then a prehearing conference should be scheduled, data  
26 requests and depositions should be allowed, and a full hearing must be

1 set for a full consideration of any and all factual and legal issues  
2 raised.

3 RESPECTFULLY SUBMITTED this 27th day of January, 1992.  
4

5 SESSIONS & MONAHAN, P.S.  
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7  
8 By:   
9 Bruce A. Wolf  
10 Of Attorneys for Respondent  
11 Shuttle Express  
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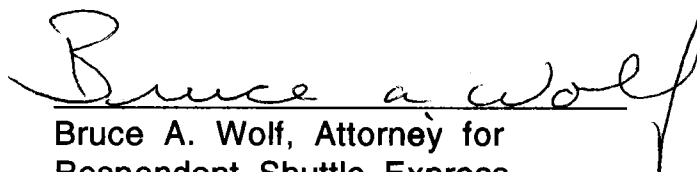
CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record, by mailing, properly addressed with postage prepaid, to the following:

Mr. Robert Cedarbaum  
Assistant Attorney General  
Heritage Plaza Building  
1400 South Evergreen Park Drive S.W.  
Olympia, WA 98504

Mr. Clyde MacIver  
Attorney at Law  
Miller, Nash, Weiner, Hager & Carlsen  
4400 Two Union Square  
601 Union Street  
Seattle, WA 98101-2352

Dated at Seattle, Washington this 27th day of January, 1992.

  
Bruce A. Wolf, Attorney for  
Respondent Shuttle Express