

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of	DOCKET TS-180677
BACKCOUNTRY TRAVELS LLC	ORDER 01
For a Certificate of Public Convenience and Necessity to Operate Vessels in Furnishing Passenger Ferry Service	PREHEARING CONFERENCE ORDER; NOTICE OF HEARING (Set for April 22-23, 2019, at 9:30 a.m.)

- 1 On August 10, 2018, Backcountry Travels LLC (Backcountry or Applicant) filed with the Washington Utilities and Transportation Commission (Commission) an Application for Commercial Ferry Certificate (Application) in accordance with RCW 81.84.
- 2 On September 14, 2018, the Commission issued a Notice of Application, which provided 30 days for interested persons to protest the Application. On October 8, 2018, Lake Chelan Recreation, Inc. d/b/a Lake Chelan Boat Company/Lady of the Lake (Lake Chelan Recreation or Protestant) filed a protest.
- 3 **CONFERENCE.** The Commission convened a prehearing conference in this docket at Olympia, Washington on Monday, November 19, 2018, before Administrative Law Judge Andrew J. O’Connell.
- 4 **APPEARANCES.** Matthew S. Hitchcock and Jordan L. Miller, Jeffers Danielson Sonn & Aylward P.S., Wenatchee, Washington, represent Backcountry. Andrew Richards and Hathaway Burden, Garvey Schubert Barer, P.C., Seattle, Washington, represent Lake Chelan Recreation. Jeff Roberson and Harry Fukano, Assistant Attorneys General, Olympia, Washington represent the Commission’s regulatory staff (Commission Staff or Staff).¹ Contact information provided in notices of appearance or 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. To assure fairness, the presiding administrative law judge does 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.

- 5 **PETITIONS FOR INTERVENTION.** The Commission received no petitions to
intervene in this docket.
- 6 **DISCOVERY.** Discovery will be conducted pursuant to the Commission’s discovery
rules, WAC 480-07-400 – 425, and the following instructions. The Commission believes
it will aid discovery in this case if every data request and each response thereto is shared
with all parties. No party objects to the Commission making the exchange of data
requests and responses with all parties a requirement for discovery in this case.
Accordingly, we require the parties to share every data request and response with all
parties. The Commission urges the parties to work cooperatively together to avoid having
to bring discovery matters forward for formal resolution.
- 7 **PROCEDURAL SCHEDULE.** The parties presented an agreed procedural schedule at
the conference. The Commission adopts this procedural schedule, which is attached to
this Order as Appendix B.
- 8 **DOCUMENT FILING REQUIREMENTS.** Parties must file and serve all pleadings,
motions, briefs, and other prefiled materials in compliance with all of the following
requirements:
- (a) The Commission accepts only electronic versions of documents for formal
filing. The Commission requires electronic copies to be in searchable .pdf
format (adobe acrobat or comparable software), or to otherwise comply with
WAC 480-07-140(6)(a). Parties must submit documents electronically
through the Commission’s web portal (www.utc.wa.gov/e-filing). If a party is
unable to use the web portal to submit documents for filing, the Commission
will accept a submission via email to records@utc.wa.gov provided the email:
(1) explains the reason the documents are not being submitted via the web
portal, and (2) complies with the requirements in WAC 480-07-140(5)(b).
 - (b) Pursuant to WAC 480-07-365, parties must submit electronic copies of all
documents by 5 p.m. on the filing deadline established in the procedural
schedule (or other deadline as applicable) unless the Commission orders
otherwise.
 - (c) Documents filed with the Commission must conform to the format,
organization, and identification requirements in WAC 480-07-140(6),
WAC 480-07-395, and WAC 480-07-460, and must comply with the
requirements in WAC 480-07-160.

- 9 **SERVICE.** Consistent with WAC 480-07-360, the Commission will electronically serve all documents in this proceeding. Parties must electronically serve the other parties and provide courtesy electronic copies of filings to Judge O’Connell (andrew.j.oconnell@utc.wa.gov) by 5:00 p.m. on the filing deadline unless the Commission orders otherwise. Contact information provided in notices of appearance or at the conference for the parties’ representatives is attached as Appendix A to this Order. If parties are unable to email copies, they may furnish electronic copies by delivering them on a flash drive.
- 10 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and serve all proposed cross-examination exhibits by **5 p.m. on April 5, 2019**. The exhibits must be grouped according to the witness the party intends to cross-examine with the exhibits.
- 11 **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 **5 p.m. on April 5, 2019**.
- 12 **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 to the docket, but must provide them to Judge O’Connell (andrew.j.oconnell@utc.wa.gov) and the other parties by **5 p.m. on April 5, 2019**.
- 13 **NOTICE OF HEARING.** The Commission will hold an evidentiary hearing in this matter on **April 22 - 23, 2019**, 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.
- 14 **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 Rayne Pearson, Director, Administrative Law Division (rayne.pearson@utc.wa.gov) or (360) 664-1136.
- 15 **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 November 21, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANDREW J. O'CONNELL
Administrative Law Judge

APPENDIX A
PARTIES' REPRESENTATIVES
DOCKET TS-180677

PARTY	REPRESENTATIVE	PHONE	E-MAIL
Backcountry Travels LLC	Matthew S. Hitchcock Jeffers, Danielson, Sonn & Aylward, P.S. 2600 Chester Kimm Road P.O. Box 1688 Wenatchee, WA 98807-1688	(509) 622-3685	matthewh@jdsalaw.com
	Jordan L. Miller		jordanm@jdsalaw.com
Lake Chelan Recreation, Inc. d/b/a Lake Chelan Boat Company/Lady of the Lake	Andrew Richards Garvey Schubert Barer, P.C. 1191 Second Avenue, Suite 1800 Seattle, WA 98101-2939	(206) 816-1320	arichards@gsblaw.com
	Hathaway Burden		hburden@gsblaw.com
	Kelly Mueller		kmueller@gsblaw.com
Commission Staff	Jeff Roberson Office of the Attorney General Utilities and Transportation Division 1400 S. Evergreen Park Drive SW P.O. Box 40128 Olympia, WA 98504-0128	(360) 664-1188	jeff.roberson@utc.wa.gov
	Harry Fukano		(360) 664-1225

**APPENDIX B
PROCEDURAL SCHEDULE
DOCKET TS-180677**

EVENT	DATE
Prehearing Conference	November 19, 2018
Prehearing Conference Order (Order 01) ²	November 21, 2018
Applicant's Direct Testimony and Exhibits	December 17, 2018
Protestant's and Staff's Response Testimony and Exhibits	January 14, 2019
Applicant's Rebuttal Testimony and Exhibits; Protestant and Staff's Cross-Answering Testimony and Exhibits	February 11, 2019
Deadline for Filing Any Summary Determination Motions	February 11, 2019
Cross-Examination Exhibits, Witness Lists, and Time Estimates	April 5, 2019
Evidentiary Hearing	April 22 - 23, 2019
Simultaneous Post-Hearing Briefs	May 27, 2019

² Response time to data requests will be as provided in WAC 480-07-405.