

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET TS-090424
)	
SAN JUAN EXPRESS, INC.,)	ORDER 01
)	
Petitioner,)	ORDER GRANTING TEMPORARY
)	DISCONTINUANCE OF
Relating to Discontinuance of)	SERVICE; SETTING MATTER FOR
Commercial Ferry Service Authorized)	HEARING
by Certificate of Convenience and)	
Necessity No. BC-117)	
.....)	

BACKGROUND

- 1 On March 23, 2009, San Juan Express, Inc., (San Juan or Company), which is authorized to provide service under certificate of public convenience and necessity BC-117, filed with the Washington Utilities and Transportation Commission (Commission) a petition in this docket requesting the Commission grant a temporary discontinuance of service.

- 2 San Juan operates a seasonal passenger service from May through September providing commercial ferry service between Friday Harbor and Seattle, Washington.

- 3 San Juan states in its petition that it contracted its vessel to the U.S. Navy to transport Navy personnel from the Navy facility near Everett to the Puget Sound Naval Shipyard in Bremerton. As a result, the Company does not have a vessel available to operate its scheduled ferry service.

- 4 San Juan requested that it be allowed to temporarily discontinue service for a period of twelve months, beginning May 22, 2009, returning to service on May 21, 2010. San Juan will begin service on or before May 21, 2010, because the contract with the Navy will expire and the Company's vessel will be available.

DISCUSSION

- 5 A certificate of public convenience and necessity for commercial ferry service under RCW 81.84 endows the holder with certain legal rights to the route which may deter other potential providers from seeking a certificate for the same route. Where the certificate holder is unable to provide service for a prolonged period of time, the public interest requires a careful examination of the merits of granting the discontinuance of service.
- 6 Under WAC 480-51-130, a commercial ferry company must request approval from the Commission to discontinue some or all of its operations. The Company must provide 15 days' notice to the Commission and the public before the effective date of the discontinuance. The Commission shall not grant a discontinuance of service for a period longer than twelve months.
- 7 Commission Staff reviewed the petition and recommended that San Juan's petition be granted and that the Company be required to file a progress report, no later than March 31, 2010, describing in detail the progress that has been made toward resuming service on or before May 21, 2010.
- 8 Following discussion at the May 14, 2009, open meeting, the Commissioners raised concerns about whether San Juan's request should be granted on a shortened, temporary basis, or alternatively, whether the Company should relinquish its certificate to allow another carrier to provide service. The Commissioners determined that the issues presented in this docket are more appropriately addressed in an adjudicative hearing, and granted San Juan a temporary discontinuance of service from May 22, 2009, for a 30-day period ending June 22, 2009, unless the Commission extends the discontinuance period.

FINDINGS AND CONCLUSIONS

- 9 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including commercial ferry companies. *RCW 80.01.040, RCW 81.01, RCW 81.04, RCW 81.08, RCW 81.12, RCW 81.16, and RCW 81.84.*

- 10 (2) San Juan is engaged in the business of providing commercial ferry service within the state of Washington as a public service company, and is subject to Commission jurisdiction.
- 11 (3) Under WAC 480-51-130, a commercial ferry company must request approval from the Commission to discontinue some or all of its operations. The Company must provide 15 days' notice to the Commission and the public before the effective date of the discontinuance. The Commission shall not grant a discontinuance of service for a period longer than twelve months.
- 12 (4) This matter came before the Commission at its regularly scheduled open meeting on May 14, 2009.
- 13 (5) The Commission finds that San Juan has not presented good cause to discontinue passenger-only ferry service from Seattle to Friday Harbor from May 22, 2009, until May 21, 2010.
- 14 (6) The Commission finds that the petition San Juan filed should be granted in part, authorizing San Juan to temporarily discontinue service from May 22, 2009, until June 22, 2009, unless the Commission extends the discontinuance period.
- 15 (7) The Commission finds and concludes that there is sufficient cause to order a hearing in this matter, at a time and place to be set by separate notice, with notice to all parties.
- 16 (8) San Juan may be required to pay the expenses reasonably attributable and allocable to such an investigation consistent with the provisions of RCW 81.20.

ORDER

THE COMMISSION ORDERS:

- 17 (1) The petition San Juan Express, Inc., filed requesting permission to temporarily discontinue service authorized by certificate of public convenience and necessity BC-117 is granted in part, such that the temporary discontinuance is

effective from May 22, 2009, until June 22, 2009, unless the Commission extends the discontinuance period.

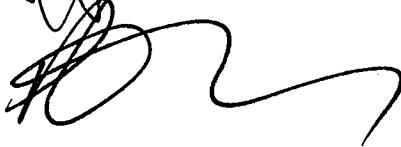
- 18 (2) The Commission will hold hearings at such times and places to be set in a separate order.
- 19 (3) San Juan Express, Inc., shall pay the expenses reasonably attributable and allocable to the Commission's investigation consistent with RCW 81.20.

DATED at Olympia, Washington, and effective May 15, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



JEFFREY D. GOLTZ, Chairman



PATRICK J. OSHIE, Commissioner