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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3 In the Matter of the) Docket No. TS-001774
4 Applications of))
5 Dutchman Marine LLC d/b/a Lake) Volume VI
6 Washington Ferry Service,) Pages 733 - 949
7 for Authority to Provide))
8 Commercial Ferry Service;))
9 Seattle Ferry Service, LLC,))
10 for Authority to Provide))
11 Commercial Ferry Service; and))
12)
13 Seattle Harbor Tours Limited))
14 Partnership, for Authority to))
15 Provide Commercial Ferry))
16 Service;))
17 _____))

12
13 A hearing in the above matter was held on
14 June 15, 2001, at 9:40 a.m., at 900 Fourth Avenue, Suite
15 2400, Seattle, Washington, before Administrative Law
16 Judges DENNIS J. MOSS and WILLIAM E. HENDRICKS.

17 The parties were present as follows:

18 DUTCHMAN MARINE LLC, by Matthew C. Crane,
19 Attorney at Law, Bauer Moynihan & Johnson, 2101 Fourth
20 Avenue, Suite 2400, Seattle, Washington 98121.

21 Seattle Harbor Tours, by Gregory J. Kopta,
22 Attorney at Law, Davis Wright Tremaine, LLP, 1501 Fourth
23 Avenue, Suite 2600, Seattle, Washington 98101.

24 The Commission, by Jonathan Thompson,
25 Assistant Attorney General, 1400 South Evergreen Park
Drive Southwest, Olympia, Washington 98504-0128.

24 Joan E. Kinn, CCR, RPR
25 Court Reporter

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1 CITY OF SEATTLE, by Gordon Davidson,
2 Assistant City Attorney, 600 Fourth Avenue, 10th Floor,
3 Seattle, Washington 98104.

4 CITY OF BELLEVUE, by Lori M. Riordan,
5 Attorney at Law, 11511 Main Street, Bellevue, Washington
6 98004.

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P R O C E E D I N G S

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JUDGE HENDRICKS: Today is Friday, June 15th,
3 and we're reconvened this morning in the matters of the
4 applications of Dutchman Marine LLC for Authority to
5 Provide Commercial Ferry Service in Docket Number
6 TS-001774, and Seattle Harbor Tours Limited Partnership
7 for Authority to Provide Commercial Ferry Service in
8 Docket Number TS-002055.

9

Mr. Crane, I believe you were going to call
10 your final witness in this matter this morning.

11

MR. CRANE: Yes, Your Honor, that's correct.
12 Before we do that, Mr. Kopta had made a request
13 yesterday for us to substitute a compete copy for an
14 exhibit, which we are, of course, agreeable to. It's
15 Exhibit 108, Your Honor, the John J. McMullen Associates
16 White Paper. In our exhibit, it was incomplete. There
17 were pages missing unknown to us until Mr. Kopta alerted
18 us to that problem. I do have copies now. What would
19 you like, would you like us to substitute?

20

JUDGE MOSS: Just distribute them, and we
21 will make it a substitute exhibit.

22

MR. CRANE: Shall we do that now, Your Honor?

23

JUDGE MOSS: Yes, let's do that. You also
24 have another exhibit to distribute, don't you?

25

MR. CRANE: That's correct.

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1 JUDGE MOSS: Let's do that too.

2 MR. CRANE: Dutchman Marine at this point
3 would like to call David Dolson to the witness stand,
4 please.

5
6 Whereupon,

7 DAVID T. DOLSON,
8 having been first duly sworn, was called as a witness
9 herein and was examined and testified as follows:

10 D I R E C T E X A M I N A T I O N

11 BY MR. CRANE:

12 Q. Good morning, Mr. Dolson.

13 A. Good morning.

14 Q. Could you provide your full name and your
15 name of your employer for the record, please.

16 A. David T. Dolson, and my employer is Dutchman
17 Marine.

18 Q. Okay. What is your position with Dutchman
19 Marine?

20 A. I'm the marketing director.

21 Q. And what is your role as a marketing
22 director?

23 A. To help define and analyze the market and
24 create marketing strategies for addressing the market.

25 Q. Could you provide me a summary of your

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1 educational background, please.

2 A. Yes, I have a Bachelor of Arts Degree in
3 Journalism from Wayne State University in Detroit, and,
4 you know, throughout my professional life, I have had
5 various management training and, you know, very job
6 specific training.

7 Q. Okay. From the time that you graduated with
8 your degree in journalism, could you tell me where you
9 have worked between that time and the present?

10 A. Yes, I was a reporter and editor at the
11 Detroit Free Press for 14 years, and I was an editor at
12 the Chicago Tribune for eight years. Thereafter I
13 formed a marketing and public relations firm with an
14 associate, which operated out of Minneapolis. And
15 subsequently I helped form a company called American
16 Dental Laser, and I served on its board and as its vice
17 president of marketing and communications. And I helped
18 form, subsequent to that, I think I spent eight years
19 with American Dental Laser, then I helped form a company
20 called Consolidated Medical Technologies, I'm sorry,
21 Integrated Medical Technologies, and that was to
22 distribute an advanced resuscitation system in Europe
23 and Africa and Asia. And I did various consulting -- I
24 played various consulting roles after that, and the last
25 position I held was as vice president of marketing for a

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1 software company here in Seattle.

2 Q. Could you just briefly summarize
3 approximately the years you had the employment that you
4 just testified about, starting with the Detroit Free
5 Press?

6 A. Detroit Free Press, I was at the Free Press
7 from 1962 until 1976. I took a year off to drive to
8 Buenos Aires.

9 Q. You probably needed a whole year for that,
10 huh?

11 A. Well, I spent a year in South America.

12 Q. Okay.

13 A. And then I worked at the Chicago Tribune from
14 '77 through '85. And then I helped form Wells and
15 Company, a public relations and marketing firm. And in
16 1987, I helped form American Dental Laser, and I was
17 with American Dental Laser through I believe about 1994.
18 I took a year off to go sailing. And then I helped form
19 Integrated Medical Technologies.

20 Q. Was that 1996 approximately?

21 A. Yes.

22 Q. Okay.

23 A. And in 19, yeah, in about 1997, I did
24 consulting for a French software firm and subsequently
25 and in the same year came out here to -- as the vice

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1 president for Connectsoft Communications.

2 Q. While you were an editor at the Detroit Free
3 Press and while you were working there, did you perform
4 any what I could consider marketing work as an editor?

5 A. Yes, as a senior editor at both the Free
6 Press and the Chicago Tribune, I was involved in helping
7 determine who our audience was, what news they were
8 interested in, and on an ongoing basis we did continual
9 surveys of the market as to what sections of our paper
10 were most read what areas, subject areas, readers might
11 be interested in that were not being covered, the
12 demographics, where our market was going, you know,
13 physically what, you know, expansion into the suburbs.

14 Q. How did you undertake that surveying and
15 marketing for the newspaper, the Detroit Free Press?

16 A. That we would -- we would hire firms that
17 specialized in that, and then we would sit down with
18 them, and they would present the data to us and offer
19 interpretations. And we would, you know, discuss it,
20 sometimes disagree, and then shape our product. Because
21 journalism, you know, it wears two hats. One of it is
22 -- one hat is as a business, and so we would try and
23 shape our product to be, you know, most acceptable to
24 the market.

25 Q. Did you perform similar work, or was that

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1 part of your job also at the Chicago Tribune?

2 A. Yes.

3 Q. With the marketing firm in Minneapolis, is it
4 Wells and Company?

5 A. Yes.

6 Q. Could you identify some of your major
7 customers or clients?

8 A. Yes, Federal Express, General Mills, United
9 Health Care, which is an HMO, one of the first HMOs,
10 Gray Advertising, which at the time was the fifth
11 largest advertising firm in the world. Those were our
12 major clients.

13 Q. Could you just briefly describe how you would
14 undertake marketing for a firm such as Federal Express
15 or General Mills?

16 A. Okay. Federal Express had a product based on
17 a facsimile when fax was new. It's called Zap Mail, and
18 they wanted to -- they had introduced it and spent
19 millions of dollars doing it and had not had the success
20 they wanted, so they asked us to come up with proposed
21 marketing strategies to help that. And we came up with
22 a strategy of identifying segments of the business
23 community that would use it, such as law firms, and go
24 up and do case studies of the law firms that were
25 already using it to show how it had helped them and then

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1 published a type of newsletter and sent that to every
2 law firm in the country that had, you know, more than
3 two or three employees, and so that was the one program
4 we did for them.

5 Q. Okay. As for the other companies, could you
6 just very briefly describe the sort of marketing
7 activities you undertook for Integrated Medical
8 Technologies and the software company you referred to?

9 A. Integrated Medical Technologies, we had the
10 rights to distribute a resuscitator ventilator to
11 breathe for someone, to start them breathing again. It
12 was invented by a Toronto fireman, and we obtained the
13 rights for Europe, Asia, and Africa. And we would go --
14 we went into those markets and identified the
15 infrastructure around emergency medicine and
16 resuscitation, contacted them, began presenting
17 information to them. In this case, we did it at
18 conferences. It's a medical scientific thing, so we
19 participated in conferences. We conducted -- had
20 studies conducted using the device and had doctors
21 present the information. So essentially having studied
22 the market there, you can't just go sell it. What we
23 did was we began to educate the decision makers in the
24 medical field in each market. And Europe at that time,
25 and probably still is, is really fragmented, so we went

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1 to each country and introduced ourselves, presented the
2 information, did papers, won the support over people who
3 would, you know, decide whether the technology was
4 acceptable or not.

5 Q. Okay. And the software company, how did you
6 undertake marketing for that company? Just general,
7 fairly brief is what I'm looking for.

8 A. Oh, okay, all right. Again, to identify the
9 market, and the product, and in that case we decided the
10 product the company was selling was not going anywhere,
11 so we were involved in defining a new product for the
12 telecommunications industry and then targeting the right
13 part of the industry and getting the information out to
14 them.

15 Q. Okay. And when did you first start working
16 for Dutchman Marine approximately?

17 A. September of last year.

18 Q. Last year, all right. And what were you --
19 what were you hired to do?

20 A. To help define the market, well, to help
21 understand, you know, whether there was a market and
22 what the service would be for that market and to under,
23 you know, undertake to explore the demographics of the
24 market, the competition, alternative products or
25 services that might meet the need, in essence understand

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1 the market and then create -- help shape the product or
2 service and then help create strategies to make it
3 successful in the market.

4 Q. Okay. And did you undertake to understand
5 the market and shape the proposed service?

6 A. Yes.

7 Q. How did you actually do that; how did you
8 undertake to understand the market and then subsequently
9 shape the proposed service?

10 A. Okay. Well, first read everything that was
11 available about the overall traffic situation in the
12 area to determine whether or not there was a need,
13 whether there was an unserved market or a service that
14 we could provide that would create a market. So read
15 all the transportation plans of the various governmental
16 agencies, the newspaper clippings, the various studies
17 that had been done, some of the history of ferries and
18 ferry use in this -- the whole region.

19 Studied the demographics and looked to see if
20 there was any competition and what the competing,
21 indirect competing competition would be.

22 And, you know, determined that essentially
23 that the lake splits an urban area that is really a
24 singular urban area and that it creates a tremendous
25 traffic problem and that there is no solution in sight

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1 to crossing the lake. That the cost of fixed structures
2 and the time involved in creating them is such that the
3 community still hasn't decided how to address the
4 problem. And in our research determined that -- and so
5 we established there is a need.

6 There is a need to help people get across the
7 lake or around the lake, and that the lake was not being
8 used to help solve the problem, that other people had
9 looked at it and had not figured out how to do it, and
10 so we undertook to try and figure out how to do it. And
11 we reached the conclusion that everyone had been
12 approaching it as a mass transit or trying to present a
13 mass transit solution and that the infrastructure was
14 not there for mass transit solution, nor was the money,
15 nor maybe perhaps just the will to do it.

16 And that the -- all the traffic planners, the
17 transportation planners in the area were approaching a
18 consensus that the solution would require various
19 components, various modes of transportation, that single
20 occupancy vehicles were the problem, you know, single
21 people -- people driving alone in their cars. That
22 building more roads was not a solution, that building
23 more roads had actually proven to create more demand for
24 single occupant vehicles. And that the solution would
25 be -- that a major solution would be to provide

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1 alternatives to driving alone in your car and actually
2 force people out of their cars into transit, into other
3 solutions.

4 And a major component, one of that made a lot
5 of sense to us, is the concept of creating urban
6 villages or urban centers through zoning and other
7 practices that creates higher density residential areas
8 supported by commercial areas such as stores and that
9 that you can walk to. That also supports more use of
10 mass transit, cycling, walking. And the urban centers
11 identified in the plans are in the University of
12 Washington such as Capitol Hill, Renton, Bellevue
13 central business district. Kirkland is not identified
14 as one, but I think that's an oversight.

15 So we concluded that there was a need for a
16 water born pedestrian system that would tie in to a land
17 based pedestrian system that would give people an
18 alternative to driving alone in their cars and an
19 alternative to roads and such. And we also determined
20 that we could not provide a mass transit system.

21 So in studying the market, we decided that we
22 could provide an alternative, and I think the
23 breakthrough concept for us was when we realized that
24 there are taxicabs running around downtown very
25 successfully, although you can hop on a bus and ride

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1 free. And we realized that there's a market there of
2 people for whom they're willing to pay a premium to be
3 transported when they need to and in a manner -- a
4 comfortable manner.

5 And that then allowed us to construct a model
6 for a profitable private service that didn't attempt to
7 move everybody in the city, but some people, to serve a
8 few thousand people who by virtue of working or living
9 near the lake or near concentrated centers we could
10 reach with shuttle buses, that we could serve this
11 market. And that also by serving this market and
12 creating not just a route or two, they very -- it's very
13 obvious that the most profitable, the greatest demand is
14 directly east and west from Seattle to Bellevue. But we
15 decided that if we created a network, it would be more
16 valuable and that it would actually start to create more
17 demand.

18 That as we talked to the developers along the
19 lake who are building pedestrian friendly sites right on
20 the lake that include both residences and offices, that
21 it would -- as we developed a network of ferry routes,
22 that people could choose to live near those routes, you
23 know.

24 So that -- I guess what I'm trying to say is
25 that by creating the ferry system, we would help support

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1 the concept of urban concentrations, that people might
2 indeed choose to live near our ferry terminals because
3 it would be a convenient way to get to work. Or they
4 may choose to work at a place such as Southport because
5 they could conveniently get there.

6 We also perceived that, in our studies, that
7 tourists come to Seattle, and they congregate along the
8 waterfront and at the Space Needle, a couple of places
9 like that, and that the east side doesn't get all its --
10 all the tourists it could use, and that is because for
11 tourists it's equally difficult to get across the lake.
12 Even if they arrive into the city by a car, they still
13 have to deal with that, and that they also then are
14 contributing to the parking and the congestion and that.

15 And that -- so it was our perception that we
16 could, through marketing and by providing an easy
17 shuttle ride to a dock and providing say a day pass at a
18 very reasonable fare, that we could help build tourist I
19 guess visitorship to various places, including downtown
20 Bellevue, which is, you know, the second major retail
21 and business center in this metropolitan -- split
22 metropolitan area.

23 Q. That was a very comprehensive answer, thank
24 you. Now so your conclusion was that there was a need
25 for the service and that you could provide it. Did you

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1 undertake to evaluate whether your conclusions were
2 likely correct?

3 A. Yes.

4 Q. And how did you do that?

5 A. Through an iterative process of, you know,
6 since you're dealing with the future, nobody -- nobody
7 has the exact, you know, information on the future. You
8 kind of look at existing things and use a variety of
9 tools. And so, for instance, one thing we had to figure
10 out was whether or not there would be the ridership, and
11 so we used kind of macro and micro processes. And the
12 macro process is determining that there are
13 approximately 340,000 individual passenger trips made
14 across the two bridges. And then --

15 Q. How often?

16 A. Per each weekday.

17 Q. Okay, per day?

18 A. Per day.

19 Q. Okay. And that is where to where?

20 A. On the 520 bridge and I-90 bridge from the
21 east side to the west side. I think in 1999, there
22 were, these are government figures, 270,000 vehicles,
23 vehicle trips. And then we went to the transit
24 authority and found out how many passengers they carried
25 and how many of those vehicles were there. So then you

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1 add that number on. We assume all the other trips that
2 are not buses are one passenger. They could actually be
3 two or three passengers, but. And then you put on the
4 -- add the growth factor that is established by the
5 government.

6 Q. Okay. So you checked with government data to
7 determine the potential ridership. And did you
8 undertake any studies, surveys, to confirm your prior
9 assumptions and conclusions?

10 A. Well, we used other tools, in other words,
11 just to complete my idea there, in a macro way you look
12 and say there are 340,000 individual trips across, what
13 if we got 1%, what if we got 1/2%, you know. And 1/2%
14 would be 1,750 people, so you -- we ran that into a
15 model, and that was more than sufficient to support
16 private service. So then --

17 Q. That number was 1/2 of 1%?

18 A. Yes.

19 Q. More than enough?

20 A. Yes. Then what you do, since you're dealing
21 with the future, you know, you can't predict it, you
22 can't -- you don't have certitude as to it, then you
23 start to use other methods to see if that figure makes
24 any sense. I call it triangulation, just as when you
25 navigate, you triangulate and find out where you are.

00753

1 So then we went to the Puget Sound Regional
2 Council, which has 601 traffic analysis zones. They
3 have the King County and part of the county to the north
4 divided into traffic analysis zones, and they track
5 where the people who live in those zones go each day and
6 whether it's a business trip or discretionary trip, and
7 they do it from zone to zone. So if you live in zone
8 500, through their methods they determine how many
9 people go to zone 100 on a given day and whether it's a
10 commute trip or a discretionary trip.

11 Q. Okay.

12 A. And we provided them with some of our target
13 market areas, specifically the Seattle central business
14 district, the University of Washington district, the
15 Kirkland central business district, Kenmore's, the
16 Bellevue central business district, and the Renton
17 central business district. And then they gave us data
18 that showed, for instance, for Seattle we could go to
19 any traffic analysis zone, 470 for instance, and the
20 data there would tell us how many people initiated a
21 trip from home to the Seattle central business district
22 each workday and whether it was a commute trip.

23 Q. And what did you do with that data?

24 A. Well, we used it to verify whether on the
25 routes we had set up we could possibly, if we got a

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1 small percentage of the people making that trip, whether
2 that supported our other figures.

3 Q. And your conclusion?

4 A. Yes, they fit together.

5 Q. Okay.

6 A. Then we looked at other sources. We looked
7 at the Lake Washington Ferry Feasibility Study, their
8 figures, we looked at the White Paper that's been in
9 evidence here, consulted clippings.

10 Q. Okay. How about surveys?

11 A. Okay.

12 Q. Did you undertake to do any surveys to check
13 your data or assumptions?

14 A. Yes, we then conducted a survey of the -- we
15 did a fare survey. I'm sorry. We did a survey at
16 Carillon Point.

17 Q. That's a ridership survey?

18 A. Right.

19 Q. Okay.

20 A. Which has 2000 employees, and with Carillon
21 Point we constructed a general transportation survey,
22 not just ferries. It covered how they would come to
23 work and what their preferences.

24 Q. And let me just stop you right there for a
25 moment. Mr. Dolson, Daniel Dolson, has already

00755

1 testified about the survey at Carillon Point.

2 A. Okay.

3 Q. All I wanted to ask you about in terms of
4 that was, could you summarize for me what your
5 involvement was in developing the survey or your
6 involvement in that survey?

7 A. I saw the survey before it was submitted, the
8 questions, and contributed my opinion that it looked
9 like a good survey.

10 Q. And that was from what, based on your
11 experience in marketing?

12 A. Yes.

13 Q. Okay. And you felt it was a what kind, did
14 you think it was a valid survey?

15 A. Yes.

16 Q. Did you think it was a skewed survey?

17 A. No. It was a valid survey.

18 Q. Why, why do you think it was valid?

19 A. Because the questions were neutral. It would
20 be very difficult to determine who was doing the survey
21 for what reason other than it involved Carillon Point
22 and, you know, the transportation of the employees.

23 Q. All right. And what else, what other
24 involvement did you have in the survey at Carillon Point
25 besides reviewing the form and approving it?

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1 A. Looking at the results.

2 Q. Okay. All right. And did the results
3 support your proposed service or your conclusions
4 regarding proposed service?

5 A. Yes.

6 Q. In what way?

7 A. They indicated that there was a considerable
8 demand for ferry service and specifically to Carillon
9 Point.

10 Q. From?

11 A. From the east side, from various points on
12 the east side, I'm sorry, the west side.

13 Q. The west side, so from Seattle to Kirkland?

14 A. Seattle to Kirkland, UW to Kirkland.

15 Q. Okay, all right. Now did you undertake --
16 you talked about a fare survey.

17 A. Yes.

18 Q. Could you describe what your involvement was
19 in the fare survey?

20 A. I drafted the survey and then went out on the
21 streets and conducted along with Amanda Twiner, who
22 works with us.

23 Q. Okay. And could you describe the process
24 that you went through in terms of evaluating a proposed
25 fare in that survey? Could you let me know how you did

00757

1 it or describe how you actually underwent --

2 A. To conduct the survey?

3 Q. Yeah.

4 A. We would approach people on the street and
5 say that our company was interested in providing
6 passenger ferry service on Lake Washington and that we
7 had a four question survey regarding fares and would
8 they please, you know, take 30 seconds or a minute to
9 look at it and fill it out.

10 Q. And what from your background in marketing
11 and your experience caused you to undertake that kind of
12 a survey; why did you choose that method?

13 A. Because, you know, a random survey with, you
14 know, properly phrased questions in it, you know, gives
15 you a reasonably accurate view of what people think and
16 what our potential customers would think.

17 Q. Is that based on assumption or based on your
18 experience?

19 A. A little of both. It's based on my
20 experience in the newspaper surveys that we did, which
21 were conducted in that manner. And then it's based on
22 my general observation of how -- of other companies
23 doing surveys and the continual polling process that the
24 American public is, you know, exposed to.

25 Q. And if someone was to ask you, could you

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1 explain the validity of those results? How can someone
2 be sure that the results are valid of your fare survey
3 or of your ridership survey?

4 A. I'm sorry?

5 Q. How could --

6 A. Oh, on either of them?

7 Q. Yeah.

8 A. Professional researchers have statistical
9 methods of analyzing surveys. I think that they are
10 good general indicators. You know, in other words, we
11 had very high favorable results on both surveys. And as
12 a professional, I would slightly discount those, you
13 know, just the way that in our financials we take a
14 conservative approach. I would suspect that there is a
15 -- in fact, from my having conducted the one survey, I
16 think that there is such frustration even approaching
17 anger among citizens about the traffic problem in the
18 area that I think some of them might have -- would
19 possibly have indicated that they would use the service
20 when, in fact, when the service starts, you know, they
21 may -- some of them may not. So what I'm saying is not
22 to discount our surveys. I'm just saying that the
23 conservative, reasonable approach would be to say, we
24 got such favorable results that I would just back them
25 down a little. But that would still substantiate a

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1 great demand for the service.

2 Q. Okay. Yesterday in the hearing, Mr. Dolson,
3 a question was raised by Judges Moss and Hendricks with
4 respect to the proposed service. We've got an exhibit,
5 I think it's 132, we've got an old exhibit, Mr. Dolson,
6 that, not an old exhibit, an earlier exhibit that did
7 not have all the proposed routes. Did you undertake to
8 prepare a new map showing the proposed routes?

9 A. Yes.

10 Q. Okay. And when did you do that?

11 A. Last night.

12 Q. All right. Let me give a copy to counsel and
13 the judges and ask you if you could identify that
14 document.

15 A. Yes, this is a map of Lake Washington and the
16 surrounding communities and some of the proposed docking
17 sites. And it identifies the routes that Dutchman
18 Marine proposes to run and then organizes them according
19 to the four phases that Dutchman Marine plans to
20 implement its service over, and it also includes as
21 dashed lines alternative routes that Dutchman Marine
22 contemplates it may have to or want to run based on the
23 availability of docks or the unavailability of docks.

24 MR. CRANE: Okay. And this is, Your Honor,
25 this is proposed Exhibit Number 148, and we're offering

00760

1 this into evidence.

2 JUDGE HENDRICKS: Are there any objections?

3 Hearing none, the exhibit, the Dutchman

4 Marine proposed route schedule or proposed routes is

5 admitted as identified as their Exhibit Number 148.

6 BY MR. CRANE:

7 Q. Mr. Dolson, at the bottom, there are --

8 there's a key that has some route identifiers and

9 colors. Could you explain what those refer to?

10 A. Yes, the first one says red equals Phase I

11 route, and on the chart or map above, there is a solid

12 red line running from Leschi Park to Marina Park in

13 Kirkland, Leschi Park in Seattle, and that is to

14 represent that that's the first route that we propose to

15 implement. I would, however, note that the location of

16 -- the exact location of the line on the lake does not

17 necessarily represent how the route would be run. I'm

18 not that good.

19 Q. And what is the alternative route; what does

20 that mean?

21 A. An alternative route is, for instance, if

22 Leschi Park can not be obtained as a docking site, that

23 our next best known alternative in Seattle would be a

24 dock at the University of Washington.

25 Q. Is --

00761

1 A. So there is a dotted line from Marina Park in
2 Kirkland, a black dotted line, leading to the University
3 of Washington indicating that in the alternative that
4 could be a route.

5 Q. Okay. So for Phase I route, there is the
6 preferred route and an alternative route; is that
7 accurate or fair?

8 A. Yes.

9 Q. Okay. Now what is Phase II, could you
10 explain it?

11 A. Phase II, down in the key it says yellow
12 equals Phase II route, and there is a solid yellow line
13 running from Southport in Renton to the Leschi Park dock
14 in Seattle indicating our intended second route to be
15 implemented in Phase II. Also up on the Phase I route
16 from Marina Park to Carillon Point and then out from
17 Carillon Point toward Leschi is another solid yellow
18 line indicating our intention in Phase II to add -- to
19 triangulate the Kirkland-Leschi route to pick up
20 Carillon Point.

21 Q. Does the yellow line that goes from Marina
22 Park to Carillon Point and then heading west, does that
23 -- where does that yellow line end up?

24 A. Well, it's meant to merge into the red line
25 so that the --

00762

1 Q. I see, so that it overlaps?

2 A. Yeah.

3 Q. Okay. And then is there an alternative for
4 that as well, or is that the same alternative you
5 proposed?

6 A. Well, there is -- yes, that would be the same
7 alternative from Kirkland. The alternative would be to
8 the University of Washington.

9 Q. Okay.

10 A. And as far as down on the Renton route, we
11 have also indicated an alternative route that runs from
12 Southport up to the University of Washington, which
13 would be the alternative if Leschi were not available.

14 Q. Okay. And what about Phase III?

15 A. Phase III, the key says blue equals Phase III
16 route, and that route is indicated by a blue line
17 running from Kenmore south to the University of
18 Washington. And there is an alternative dotted line
19 route running from Kenmore down to Leschi Park in the
20 event that the University of Washington dock were not
21 available.

22 Q. Okay. And Phase IV?

23 A. Phase IV, the key says orange equals Phase IV
24 route. There is an orange line running from Meydenbauer
25 Bay in Bellevue to the University of Washington

00763

1 indicating the route that Dutchman Marine proposes to
2 initiate in its fourth phase. There is an alternative
3 black dotted line route running from Bellevue to Leschi
4 Park in the event that the University of Washington dock
5 were not available. There is also a dotted line
6 indicating an alternative route from Newport Shores in
7 Bellevue to Leschi Park in the event that Meydenbauer
8 Bay is not available.

9 Q. Okay, all right. And you described earlier
10 in your testimony a network as part of the Dutchman
11 Marine proposed ferry service. Why is that important?

12 A. Well, we believe that a transportation system
13 is required on the lake and to help resolve the problem,
14 and also it's necessary in order for a private company
15 to be financially viable, because a network allows
16 people -- I guess I would simply refer to the subway
17 systems in Paris, London, New York where you have to
18 have many routes that connect to allow you flexibility
19 to get where you want to go to. So that someone in
20 Bellevue may want to go to Leschi Park and downtown
21 Seattle through that route. They may also want to go to
22 the University of Washington, Capitol Hill. They may
23 want to go to Renton and Kenmore, and in this model --
24 in this model, at least they could achieve that by
25 connecting. So the principle is the same as the bus

00764

1 system or any transit system uses, that if you can
2 transfer, that it extends your flexibility.

3 Q. And is there a mechanism, a fare mechanism or
4 payment mechanism that would allow riders to actually do
5 that through transfers?

6 A. Within Dutchman Marine?

7 Q. Yes.

8 A. We anticipate creating one.

9 Q. Okay.

10 A. At this point, we have not detailed that.

11 MR. CRANE: Okay, all right. I don't have
12 any further questions at this time. Thank you,
13 Mr. Dolson.

14 JUDGE HENDRICKS: Mr. Kopta, do you have any
15 questions?

16 MR. KOPTA: A few, thank you, Your Honor.

17

18 C R O S S - E X A M I N A T I O N

19 BY MR. KOPTA:

20 Q. Good morning, Mr. Dolson.

21 A. Hi.

22 Q. Greg Kopta representing Seattle Harbor Tours,
23 which you probably already know since you have been here
24 this whole time.

25 A. I do, and as you recall, I asked you to go

00765

1 easy on me.

2 Q. I will do my best to comply.

3 A. I had a half a year of law school.

4 Q. Forewarned is forearmed. I wanted to ask you
5 a couple of questions about your background. As you
6 were reciting in response to some questions from
7 Mr. Crane, am I correct that this is the first time that
8 you have been involved in ferry operations in terms of
9 marketing?

10 A. Yes.

11 Q. Any other transportation type businesses that
12 you have been involved in from a marketing perspective?

13 A. No.

14 Q. You also mentioned that you had taken a look
15 at various transportation plans and studies. Are all of
16 those contained in the exhibits that Dutchman Marine has
17 presented in this case, or are there additional studies
18 or plans that you have reviewed in the course of your
19 research?

20 A. Actually, I would have to review, I would
21 have to look through and see. The major plans I looked
22 at were the Regional Council, the ones involved -- the
23 Regional Council that's involved, the regional plans,
24 you know, starting with I think it's called 2010 and
25 then 2030. Also the City of Seattle's Transportation

00766

1 Strategic Plan I believe it's called. I think those are
2 the two major plans that I have looked at.

3 Q. And you also referenced the Trans-Lake
4 Washington Study and the John J. McMullen White Paper?

5 A. Yes.

6 Q. I wanted to ask you now specifically about
7 the fare study, and I believe that is attached as, well,
8 not attached, but it is Exhibit 115. Do you have a copy
9 of that in front of you? I see you don't, and perhaps
10 your counsel can provide you with a copy. And really
11 I'm only going to be looking at the survey form itself
12 just to aid you in the review, but you will have the
13 whole notebook there.

14 A. Okay, I have it.

15 Q. And as I understand your testimony, you were
16 the author of this particular fare survey; is that
17 correct?

18 A. Yes.

19 Q. What training do you have in the preparation
20 of public opinion surveys?

21 A. Training, none.

22 Q. Do you have training in statistical analysis?

23 A. No.

24 Q. What was the purpose of this study?

25 A. The purpose was to ascertain whether our

00767

1 fares would be acceptable to the public.

2 Q. And was it your purpose to present a neutral
3 study to the public?

4 A. Yes, within a context, you know, within a
5 context of, yeah, neutral within the context of
6 understanding what we were asking.

7 Q. So am I correct that you were trying to
8 minimize or eliminate any bias in the study toward one
9 outcome or another; would that be fair?

10 A. Yes.

11 Q. I wanted to walk through the study itself.

12 A. Okay.

13 Q. Or the form, I guess I should say.

14 A. Mm-hm.

15 Q. You have an introductory section before you
16 have the questions. And in the first paragraph in the
17 second sentence, it states that the company expects
18 commuting by ferry to be more relaxing, less expensive,
19 and usually faster at rush hour than commuting by
20 automobile.

21 A. Right.

22 Q. What is the purpose of including that
23 information in your survey?

24 A. So that they would be responding to the
25 question understanding the product that we expected to

00768

1 deliver as opposed to, for instance, other ferry
2 systems. In other words, we proposed to, you know, we
3 are not running car ferries, industrial sized car
4 ferries. So we wanted to present a -- find out if the
5 product as we envision it was reasonably priced
6 according to them, so that's what we're trying to find
7 out.

8 Q. And I recall your testifying, and this is
9 also some other witnesses for Dutchman Marine
10 testifying, that your anticipation was that this would
11 be a premium service. Is that really what's also
12 subsumed in this sentence?

13 A. Yes.

14 Q. All right. So if I may characterize, if
15 you're going to ask somebody whether they think the
16 price of a car is reasonable, it makes a difference
17 whether it's a Cadillac or a Ugo?

18 A. That's right.

19 Q. The next section of the survey identifies the
20 rates that you are proposing, and then there's a
21 comparison that you have below the rates that you
22 proposed to costs of \$14 to \$35 a day to commute by car
23 between Seattle and other communities around the lake.

24 A. Mm-hm.

25 Q. What was the purpose of including a

00769

1 comparison in this survey?

2 A. So that they could determine whether the
3 price was reasonable.

4 Q. Okay. What's included in the \$14 to \$35 in
5 terms of automobile costs?

6 A. The cost of parking, which we took from the
7 King County parking inventory. It's a document where
8 they track and establish what the average parking costs
9 in various parts of King County are. And then from the
10 AAA study that was a study that was commissioned by the
11 AAA and reported on in I believe September of 2000 the
12 cost of operating various -- the study indicates the
13 cost of operating a small car, mid sized, and large car.

14 Q. So those operation costs would be gasoline?

15 A. Mm-hm.

16 Q. Wear and tear on the vehicle?

17 A. (Nodding head.)

18 JUDGE MOSS: I'm going to need oral responses
19 from the witness.

20 A. Oh, I'm sorry, yes, yes.

21 Q. Maintenance cost of the vehicle?

22 A. Yes.

23 Q. Basically any kind of vehicle specific costs
24 that would be incurred with respect to operation,
25 correct?

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1 A. Yes.

2 Q. Now are these costs for a round trip from
3 home, or are they one way costs?

4 A. No, this would be for the cost of, you know,
5 commuting, let's see, oh, it's the cost per day, so that
6 would be round trip.

7 Q. Okay. And yet you're asking the survey
8 respondents to compare that cost with a one way trip of
9 \$5.

10 A. Yes.

11 Q. Wouldn't you agree with me that that is
12 potentially misleading to someone who is comparing a \$14
13 cost to a \$5 cost, for example?

14 A. I suppose it could be, yes.

15 Q. Also in the fare that you have, I understand
16 that that's going to include a transfer or one transfer
17 to Metro at the terminus of the ferry route; is that
18 correct?

19 A. Mm-hm.

20 Q. But it doesn't include any bus fare that
21 would get the passenger to the ferry terminal, does it?

22 A. I don't know that. I don't know that. There
23 have been discussions with the transit authority about a
24 fare that would be good for the bus for the whole day,
25 any bus all day.

00771

1 Q. And to the extent that it's not included,
2 then that would be an additional cost that someone
3 taking the ferry would incur above and beyond the \$5
4 rate?

5 A. If it were not included, but I don't know
6 that that is correct.

7 Q. You also as part of the description of the
8 service anticipate that it will be faster than a rush
9 hour commute by automobile. As part of the service, as
10 I understand it, at least the initial portion of the
11 service from Kirkland to Seattle, there will be a
12 shuttle or bus from the terminal to downtown Seattle.
13 Is it your contemplation that the entire trip from
14 wherever the customer lives to his or her ultimate
15 destination will be faster with the ferry as a link than
16 traveling end to end by automobile, or was it your
17 intention that just the ferry portion, getting from --

18 A. No, the entire trip.

19 Q. The entire trip?

20 A. At peak rush hour.

21 Q. Okay. And were you involved in any studies
22 that determined what that time would be for either
23 automobile or for the transportation route that you
24 proposed?

25 A. Was I involved in a study?

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1 Q. Yes.

2 A. Well, no, we did not conduct a formal direct
3 study of our own, no.

4 Q. I'm looking at now question number two, and
5 that question states:

6 If the commute time were at least equal,
7 would you pay \$5 to commute by ferry
8 rather than contend with rush hour
9 traffic on the Lake Washington bridges.

10 A. Mm-hm.

11 Q. Was it your intent in formulating that
12 question that the phrase contend with rush hour traffic
13 on the Lake Washington bridges was contend by
14 automobile?

15 A. No, it was, you know, whether -- even if
16 you're on a bus, it's the same.

17 Q. And yet there is nothing else in the survey
18 that talks about whether a bus would be an appropriate
19 alternative, is there?

20 A. No.

21 Q. So it's not clear from this question the way
22 that it's phrased what the respondent would be comparing
23 from the \$5 commute to the contending with rush hour
24 traffic, is it?

25 A. Well, it's -- I mean it's all we were -- all

00773

1 we were after is would they rather, you know, would they
2 be willing to pay that as opposed to being in rush hour
3 traffic on the bridge, whatever that implies.

4 Q. What about commuting at times when there
5 isn't rush hour traffic; that is not addressed in this
6 question, is it?

7 A. No.

8 Q. And it's not addressed anywhere else really
9 on this survey form, is it?

10 A. No, I think the assumption was that the
11 reason there is rush hour traffic is most people are
12 commuting at that time.

13 Q. And it's my understanding that commuters will
14 make up let's say approximately half of the total
15 ridership on the proposed service; is that correct?

16 A. Yes.

17 Q. And this survey doesn't go at all to whether
18 anybody would be willing to use the service at this fare
19 for discretionary trips as opposed to commuting, does
20 it?

21 A. No, it doesn't.

22 MR. KOPTA: Thank you, Mr. Dolson, those are
23 all my questions.

24 JUDGE HENDRICKS: Are there any other
25 questions?

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1 MS. RIORDAN: Yes, thank you.

2

3 C R O S S - E X A M I N A T I O N

4 BY MS. RIORDAN:

5 Q. Mr. Dolson, I'm Lori Riordan, and I represent
6 the City of Bellevue. You were here for the testimony
7 of Mr. Daniel Dolson I think for most of the time; is
8 that correct?

9 A. Yes.

10 Q. And were you here for the testimony of
11 Mr. Fuller?

12 A. Yes.

13 Q. My questions go to, of course, the proposed
14 Bellevue route or routes. I notice, first of all, on
15 the map that you created last night and brought this
16 morning that included in the alternative routes from
17 Bellevue you have not included an alternative from
18 Newport Shores to the University of Washington; is that
19 correct?

20 A. I was hoping you would overlook that. I
21 noticed that as I was testifying earlier.

22 Q. And was that merely an oversight?

23 A. It was an oversight, and I will draw it in if
24 you -- on everybody's copy.

25 Q. I think the record can reflect that you meant

00775

1 to put that route in.

2 JUDGE MOSS: I'm going to draw it in on mine.

3 Q. In conducting the sort of person on the
4 street surveys that you did, did you yourself do any of
5 the surveying in Bellevue?

6 A. No, no, I did not.

7 Q. Did someone else?

8 A. Amanda Twiner did, yes.

9 Q. Did you direct her work?

10 A. Yes.

11 Q. Did you direct her where to do the surveying
12 in Bellevue?

13 A. Not other than in the -- not outside the
14 central business district.

15 Q. Okay. So would it be fair to say that you
16 did not direct her to go down to the Meydenbauer Bay
17 area and doorbell to residences?

18 A. Yes.

19 Q. And in helping determine what the market was
20 for the ferries and specifically with respect to
21 Bellevue, you heard the testimony of Mr. Fuller that he
22 thought it would be the -- that the Bellevue route would
23 draw from all around Bellevue commuter traffic, and then
24 I believe you heard Mr. Dolson clarify that his intent
25 actually was that this would draw from the immediately

00776

1 surrounding residential neighborhoods. Is that a fair
2 characterization of their testimony?

3 A. Mm-hm.

4 MR. CRANE: Mr. Dolson.

5 A. I'm sorry, yes.

6 Q. Do you agree with Mr. Dolson?

7 JUDGE MOSS: Perhaps we better for a clear
8 record identify sir name and forename.

9 Q. Mr. Daniel Dolson.

10 A. I believe that Mr. Daniel Dolson was
11 testifying as to how we constructed the ridership
12 figures for presentation here. We do expect to draw as
13 we are able to work with the developing transit
14 infrastructure from areas deeper into Bellevue, and I
15 think that my -- I don't think their two statements are
16 necessarily in conflict. I think they are looking into
17 a house through two different windows.

18 Q. Okay. Have you had involvement in dealing
19 with Metro or Sound Transit to make that transportation
20 infrastructure happen?

21 A. Not to this point.

22 Q. It would also be fair to say then, I guess,
23 that if you had Ms. Twiner surveying in the downtown
24 retail core of Bellevue that you did not have her go to
25 the Newport Shores area; is that correct?

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1 A. I did not.

2 Q. In looking at the demographics and trying to
3 figure out what your market would be, was there any
4 consideration given to folks living in and around
5 Newport Shores?

6 A. Not specifically. We have looked at areas of
7 concentration, and there -- there's a concept in
8 transportation planning of attraction, and so we, for
9 instance, would look at an area like the downtown -- the
10 central business district of Bellevue as an attraction,
11 and so we did not look specifically at the, for
12 instance, Newport Shores as an attraction.

13 Q. Have you been down to survey that facility?

14 A. I have not.

15 Q. Okay. One of the statements that you made
16 when you were testifying on direct was that it was clear
17 that the greatest demand was Seattle to Bellevue. Do
18 you recall that testimony?

19 A. East to west essentially, yes.

20 Q. Okay.

21 A. Between the two major metropolitan centers.

22 Q. And can you kind of expound on that statement
23 a little bit; what did you mean by the greatest demand?

24 A. Well, the largest concentration of office
25 buildings and retail space, hotels and restaurants, are

00778

1 in those two areas, and the bridges are crowded, which
2 indicate that people are crossing between those areas.
3 And other data such as supplied to us by Boeing or
4 looking at the traffic analysis zone data from the Puget
5 Sound Regional Council indicates a lot of people live on
6 opposite sides of the lake from where they work.

7 Q. Is that data specific enough to show that
8 people going from Seattle are actually headed to the
9 downtown core of Bellevue, or is it more general in
10 terms of crossing because they work on one side or the
11 other?

12 A. It can be very specific. They have an
13 enormous data base, and depending on, you know, how much
14 time and money you want to spend in that, they can
15 indicate, they believe, very specific patterns.

16 Q. Did you undertake to get that specific of
17 information, or were you simply looking to draw
18 basically I think you said 1/2% of just a cross of the
19 traffic in general?

20 A. When I looked at the data, I took a very
21 conservative approach of seeing what the draw from
22 proposed ferry docks where people could walk to the dock
23 or cycle, and I did not look at all, for instance, I did
24 not take the Bellevue central business district and look
25 at the other 590 traffic analysis zones to calculate all

00779

1 of that. It was just --

2 Q. So you didn't get so specific as to see how
3 many people were headed through the Bellevue business
4 district from the west side of the lake?

5 A. No.

6 Q. And would the converse be true also; did you
7 look at the demographics of the folks who live in and
8 around Meydenbauer Bay and downtown Bellevue to see how
9 many of them are actually commuting to Seattle to work,
10 to the downtown business core?

11 A. Yes.

12 MS. RIORDAN: Those are all the questions I
13 have, thank you.

14

15 C R O S S - E X A M I N A T I O N

16 BY MR. DAVIDSON:

17 Q. Mr. Dolson, you will recall my name is Gordon
18 Davidson. I'm the Assistant City Attorney with the City
19 of Seattle.

20 A. Yeah.

21 Q. Are you aware of any policy or business plan
22 of Dutchman Marine to use only if I might characterize
23 it as inside advisors about marketing as compared to
24 outside consultants in the development of its business
25 plan?

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1 A. No.

2 Q. Has there been any discussion by Dutchman
3 Marine officials about engaging traffic consultants or
4 transportation planners or any other experts in
5 transportation marketing to provide further information
6 and advice with respect to development of this business
7 plan before implementation of service?

8 A. No, there's not been any specific discussion,
9 but nor has there been anything to indicate that we
10 would not do that.

11 MR. DAVIDSON: I have no further questions.

12 MR. THOMPSON: I have a couple of questions
13 for you, Mr. Dolson.

14

15 C R O S S - E X A M I N A T I O N

16 BY MR. THOMPSON:

17 Q. It sounds like you did -- your research was
18 focused on whether there is adequate demand for a cross
19 Lake Washington ferry service, but I'm -- what I want to
20 know is did you specifically look at whether that demand
21 would be adequate to support a route that ran from
22 University of Washington to Renton as well as a route
23 that ran from Leschi Park to Renton, competing routes?

24 A. Yes, we identified that University of
25 Washington as an attraction area to the Puget Sound

00781

1 Regional Council, and they then provided us data that
2 shows the, you know, how the University of Washington
3 serves as an attraction for the various other traffic
4 analysis zones. And yes, we did look at the, you know,
5 draw from Renton.

6 Q. And what was your conclusion about that?

7 A. That it would -- that it would be sufficient
8 to meet our break even point.

9 Q. Okay. Well, I guess what I'm getting at is
10 there's the first question of whether the demand or the
11 market would be market sufficient to support your
12 proposed service.

13 A. Mm-hm.

14 Q. But I guess what I'm wondering, there has
15 been discussion earlier about, you know, let's say the
16 Commission were to grant the certificate to both Seattle
17 Harbor Tours say from University of Washington to Renton
18 and to Dutchman from Leschi Park to Renton, whether
19 those could co-exist, whether there would be enough
20 demand for both of those to be supportable services, and
21 I wonder if you have any opinion on that?

22 A. I'm not -- my opinion would be that -- that
23 not based so much on demand but on the efficiency of
24 operating a network, that no, that it would not be -- it
25 would not be financially viable to us if we had to

00782

1 compete for the Renton market on that basis.

2 Q. Okay. Would those two hypothetical routes be
3 stealing customers from one another on the Seattle side
4 of the lake?

5 A. Probably not if, you know, if -- not if
6 they're going from Renton out to those sites, but if
7 they were, for instance, coming from the central
8 business district of Seattle, and you could -- I would
9 say I view the central business district of Seattle as
10 the target and UW and Leschi as portals, you know. If
11 we could go right into the central business district, we
12 would do it. So to the extent that people will want to
13 go to Renton, and Renton is developing very rapidly,
14 yes, they could then choose to go through the UW route
15 or through the Leschi route.

16 Q. Well, with -- and using -- they -- if they
17 went the Leschi route, they would use the, what is it,
18 the 97 bus as the connecting means?

19 A. They would use a shuttle and presumably an
20 express shuttle.

21 Q. Okay. But, well, wouldn't -- if your
22 objective in leaving -- in taking a ferry from Renton to
23 Seattle is to get to the downtown business district,
24 wouldn't Leschi present the more direct and probably
25 better way of doing that than going to the University of

00783

1 Washington if there were a competing route?

2 A. Yeah, logically. However, you know, the -- a
3 study of the market indicates that the best product and
4 the best service doesn't necessarily always prevail.
5 There are other factors. So that someone -- there could
6 be a percentage of people who for because of advertising
7 or other reasons were led to use, you know, believe that
8 going to the UW was perhaps the only way to go or the
9 best way.

10 I don't know that the competition on routes
11 is, for us, is as big an issue as the availability of
12 ports in Seattle or docks. In other words, if we were
13 granted one route and then that dock was never made
14 available, we would not have a route. And the reason,
15 you know, if we look at the lake, there is no service,
16 and there is no service because no one has either
17 figured out how to do it or had the courage to do it.
18 And we think we have both.

19 And so we don't have all the answers. If we
20 knew, if we -- the City of Seattle said today, you can
21 run to Leschi, at least we would know that, but so we're
22 -- this process to me is awkward, because a lot of
23 people don't want to deal with you unless you have your
24 permits. And to get your permits, you're, you know,
25 expected to have a lot of things pinned down. So we

00784

1 have done our best to make as, you know, do the
2 groundwork as much as we can to build as big a
3 foundation as we can, but we don't have the answer to
4 which Seattle dock we can go to.

5 And in the best of all worlds, of course the
6 shortest, fastest route is from Kirkland to the UW. The
7 shortest route from Bellevue is to Leschi. However,
8 those are the shortest routes, but then there's also the
9 other factor that there are people in Bellevue and
10 Renton who want to go to the UW. And, you know, whether
11 for a ball game on the weekend, and, for instance,
12 Renton has ample park and rides so that anybody coming
13 from that area could, you know, want to go up to UW for
14 the weekend, but on another day they may want to go to
15 downtown through Leschi Park.

16 So it's difficult for me to answer route
17 specific questions when I have been looking at the whole
18 thing as a system, and a system that builds ridership
19 and where one route helps build demand for another
20 route.

21 Q. Let me ask you about that, the system or
22 network concept you have been talking about. Looking at
23 the map that you provided today, I guess would it be
24 fair to say that the colored routes, you know, would be
25 the -- your best -- your first preference I guess, in

00785

1 other words to have the Kenmore and Renton routes served
2 out of Leschi and the, let's see, Kirkland and Renton
3 served out of Leschi and Bellevue and Kenmore served out
4 of UW?

5 A. Kenmore served out of the University of
6 Washington.

7 Q. Well, I guess just what I'm looking for is
8 the routes that are in color as opposed to dashed.

9 A. Right.

10 Q. That's your first preference?

11 A. Those are our first preferences based on our
12 perception of which docks will be available sooner,
13 because we believe that the service is better off to
14 start now than in three or four or ten years.

15 Q. Is there -- why would you not have say all
16 services terminating at one of these spots on the
17 Seattle side? Is it a matter of docking space, or is it
18 the fact that it's just better to have two different
19 locations?

20 A. In some cases, the north-south routes are --
21 they would be quite long, you know, coming from Kenmore
22 down to Leschi and like that. So to provide passengers
23 the shortest possible route, you know, the south routes
24 would go to a south dock, the north routes to a north
25 dock.

00786

1 Q. Okay. On this network idea, is the idea --
2 you mentioned -- you gave the analogy of a subway
3 system, and I gathered by that you mean that somebody
4 could, for example, get on in Renton, go to Leschi, go
5 to the other side of the dock or however you do that,
6 and then board the boat to Kirkland if they wanted to
7 get there; is that an example of using the network?

8 A. Yes.

9 Q. Okay. But I gather, well, that might be the
10 full extent of it, right? I mean you -- it almost seems
11 to me like there's two networks if you have two docks on
12 the Seattle side.

13 A. I would submit that this is the beginning of
14 a network, that the advantage of water born transit is
15 you're not laying tracks, you're not laying roads, and
16 so it could be adjusted to the growth of the market and
17 the demand. And it's conceivable to us -- when we met
18 with the gentleman from Boeing, the first thing he did
19 was look at Kenmore and say, could you run a shift
20 specific, you know, route, you know, run that as a shift
21 specific route where, you know, you hit our, you know,
22 the factory at a time when the shift lets out and
23 everybody going up to the Kenmore area can, you know,
24 get aboard, and we fill the boat, and you go. That, you
25 know, this is -- this is not the network, but it's the

00787

1 beginning, it could be the beginning of a network.

2 Q. So is it that ability to transfer between
3 routes that is the value of a network?

4 A. Well, you know, I guess, you know, if you're
5 looking at, you know, nothing exists now, so you start
6 -- you go step by step so you create a route, you create
7 another route, maybe a connecting route. For instance,
8 you notice the connection from Carillon Point to
9 Kirkland, that would be one of the connections. When we
10 talked to the Carillon Point people and the Kirkland
11 people, they're saying, you know, it would be very nice
12 to have this short hop for people. So you build a route
13 at a time, and over time you connect them. And if there
14 is sufficient demand on a route where it can only be run
15 now through two connections, there's sufficient demand,
16 perhaps you come back and request permission to run a
17 direct route. I was asked when I was out doing the
18 survey and about three or four people asked whether
19 there would be an east shore route paralleling 405.
20 They expressed interest, you know. We do not have that
21 here. I could envision that.

22 MR. THOMPSON: Okay, thank you, I think
23 that's all the questions I have for you.

24 JUDGE HENDRICKS: All right, let's take a
25 pretty short break if we could, about seven minutes, and

00788

1 be right back at 11:05.

2 (Recess taken.)

3 JUDGE HENDRICKS: Mr. Crane, do you have any
4 redirect?

5 MR. CRANE: I have one follow-up question,
6 Your Honor, thank you.

7

8 R E D I R E C T E X A M I N A T I O N

9 BY MR. CRANE:

10 Q. Mr. Dolson, in response to an earlier
11 question with respect to the fare survey, which was
12 Exhibit 15, the survey form, the question was put to you
13 whether the \$5 fare was a one way fare, right?

14 A. Yes.

15 Q. And the survey form asked or elicited a
16 comparison of \$14 to \$35 a day to commute. That was a
17 round trip fare, round trip cost, excuse me?

18 A. \$5, no.

19 Q. No, no, no, \$14 to \$35 --

20 A. Yes.

21 Q. -- was a round trip cost?

22 A. Yes.

23 Q. A day cost?

24 A. Yes.

25 Q. And the question was put to you, well, would

00789

1 \$5 potentially be misleading to a surveyor response, you
2 said, possibly; do you remember that?

3 A. Yes.

4 Q. If someone was to look at your form and would
5 -- in your opinion, would they understand that \$5 was
6 one way and \$10 was round trip do you think?

7 A. Yes, it states that. It states that \$5 is
8 one way.

9 Q. And do you think that from your experience in
10 carrying out the survey that a round trip of \$10
11 provides the recipients of this survey a fair comparison
12 for purposes of answering the survey questions?

13 A. Yes.

14 Q. Did you undertake a survey, a similar survey,
15 for the north-south runs for a \$7 each way fare?

16 A. Yes.

17 Q. And did you receive similar responses to your
18 survey as you did for the \$5 fare survey?

19 A. Yes.

20 Q. Okay. I believe those are contained in
21 survey results in -- could you take a look at the first
22 page of Exhibit 15, please. It's under results; do you
23 see that? Do you see the results page? There should be
24 a tab that says results and then below the tab for
25 results.

00790

1 JUDGE MOSS: One more page forward in your
2 notebook, Mr. Dolson.

3 A. Thank you.

4 Q. It's a little confusing there. Okay, is that
5 where it shows the results of the survey for the \$7 each
6 way fare?

7 A. Yes.

8 MR. CRANE: All right, that's all the
9 questions I have. Thank you.

10 JUDGE HENDRICKS: Mr. Kopta, do you have any
11 questions?

12 MR. KOPTA: Just one brief follow up on that.

13

14 R E C R O S S - E X A M I N A T I O N

15 BY MR. KOPTA:

16 Q. Mr. Dolson, you don't know what's in the mind
17 of someone who is completing a particular survey form,
18 do you, as a third person?

19 A. Not unless they express it.

20 Q. And when you were distributing these surveys,
21 did you provide any additional information to what was
22 contained in the form itself in terms of assisting the
23 respondents to complete the form?

24 A. No.

25 MR. KOPTA: Thanks, that's all I have.

00791

1 JUDGE HENDRICKS: Any other questions?
2 Hearing nothing, I just have a question or
3 two for you, Mr. Dolson.

4

5 E X A M I N A T I O N

6 BY JUDGE HENDRICKS:

7 Q. You testified that, what was it, 1/2% of the
8 commute average or the numbers of commuters, you need to
9 have about 1/2% of those folks who are crossing the
10 bridges use your service for the service to succeed; is
11 that correct?

12 A. Yes.

13 Q. Okay. I'm just wondering if you arrived at
14 that number by some specific methodology or if you
15 relied on some other industry standard of some kind or
16 whether that was simply -- that was the number, you
17 simply looked at your own business, at Dutchman's
18 business, at the numbers, the financial numbers, and
19 determined that .5% was how many riders you would need?

20 A. I -- what I was trying to convey is that as
21 we approached the market, that we looked at it in a
22 broad way and in a narrow way, and one of the broad
23 ways, one of the places we started was simply to take
24 that figure and say what if we got 1/2%, and that seemed
25 not unreasonable, and that's a place we started.

00792

1 Q. Okay, that answers my question, thank you.

2 You also talked about a transfer system and a
3 possible plan for that. You haven't engaged in a plan,
4 but that's something you had considered. Would it be
5 more difficult to market a transfer system such as that
6 to another ferry service provider, I shouldn't say
7 market it to a ferry service provider, but if you had a
8 transfer system that you had set up between Dutchman
9 Marine and another ferry service provider, would it be
10 more difficult to market that system?

11 A. I believe so, yes.

12 Q. Okay.

13 MR. CRANE: Your Honor, could I ask a
14 clarification?

15 JUDGE HENDRICKS: Yes.

16 MR. CRANE: I wasn't quite clear on your
17 question.

18 JUDGE HENDRICKS: Okay.

19 MR. CRANE: I didn't quite understand it. Is
20 it possible for me to ask for you to clarify your
21 question to the witness?

22 JUDGE HENDRICKS: Sure, absolutely.

23 JUDGE MOSS: Or maybe you should just
24 redirect after Judge Hendricks.

25 MR. CRANE: That's fine.

00793

1 JUDGE HENDRICKS: I think I got the answer.
2 I will give you an opportunity to ask a follow-up
3 question if you would like. Would it be -- that's fine,
4 I'm not going to ask any more questions in that line.
5 Thanks, go ahead.
6 MR. CRANE: I'm satisfied with the answer. I
7 think I understood it. Thank you.
8 JUDGE HENDRICKS: That's all I have,
9 Mr. Dolson, you're excused, thank you.
10 THE WITNESS: Thank you.
11 MR. CRANE: Can we go off the record for just
12 a moment to discuss witnesses?
13 JUDGE HENDRICKS: Yes.
14 (Discussion off the record.)
15 MR. CRANE: Thank you, Your Honor, Dutchman
16 Marine would like to introduce as the next exhibit,
17 which is 149, I believe.
18 JUDGE MOSS: That's correct.
19 MR. CRANE: A corrected financial statement
20 that corrects Exhibit 119. These exhibits are not
21 marked with numbers.
22 JUDGE MOSS: All right, we will mark them.
23 This will be marked for identification as 149. Is there
24 any objection?
25 Hearing no objection, it will be admitted as

00794

1 marked.

2 And then did you have another exhibit for us,
3 or is that it?

4 MR. CRANE: No, Your Honor, I just had the
5 copy for the Bench of the redacted loan commitment
6 contracts that were previously entered.

7 JUDGE MOSS: If you will just hand those up.

8 MR. CRANE: Okay, I want to make sure I have
9 them here.

10 JUDGE HENDRICKS: And these were already
11 admitted I believe as Exhibits 143, 144, and 145.

12 MR. CRANE: Sorry, Your Honor, I didn't mean
13 to interrupt. Does the Bench would like three copies?

14 JUDGE MOSS: Please.

15 MR. CRANE: All right, I'm just going to
16 separate them to make sure. These are collated three
17 sets, each of which is one of the three.

18 JUDGE HENDRICKS: Mr. Crane, one more matter
19 before we move on to Bellevue's witnesses. I have some
20 concern about some discrepancies in what I have heard
21 about the times for the routes, for the specific routes
22 that Dutchman Marine proposes, and so I'm going to issue
23 a Bench request I believe for a list of both the times
24 for the routes under Phases I through IV and the
25 alternative routes.

00795

1 MR. CRANE: Oh, including alternative routes?

2 JUDGE HENDRICKS: Yes.

3 MR. CRANE: Okay.

4 JUDGE HENDRICKS: And we will mark that as
5 Bench Exhibit 4.

6 MR. CRANE: Okay, and could I provide that
7 later today?

8 JUDGE MOSS: We have left the record open
9 already for the receipt of exhibits until a week from
10 Friday, a week from today. So any time next week will
11 be just fine.

12 And Mr. Kopta and other counsel, all we're
13 asking for here is a list of the times, travel times.
14 So if that does raise any questions, then certainly we
15 can handle that probably on written interrogatories or
16 something.

17 MR. KOPTA: And the only question that I have
18 is is it just simply it takes 24 minutes to get from
19 point A to point B as opposed to a time schedule?

20 JUDGE MOSS: Exactly.

21 JUDGE HENDRICKS: Yes.

22 MR. CRANE: Did you say a week from today or
23 a week from next Friday?

24 JUDGE MOSS: I thought it was a week from
25 today that we had set for the receipt of the Seattle

00796

1 Ferry Service ridership exhibit.

2 MR. CRANE: June 22nd just so I'm clear in my
3 notes.

4 JUDGE MOSS: That ought to give you plenty of
5 time.

6 MR. CRANE: Okay.

7 MR. THOMPSON: Judge Hendricks, if you don't
8 have anything else on that, I have another sort of
9 housekeeping matter.

10 JUDGE HENDRICKS: Go ahead.

11 MR. THOMPSON: There is the settlement
12 agreement which indicates that the two parties still
13 remaining would restrict their applications against
14 service between south Lake Union and Port Quendall in
15 Renton. And I don't know if we just need to have some
16 acknowledgement of that or, you know, maybe for the
17 parties to acknowledge that their applications are
18 amended in that way, you know, between say Seattle and
19 the named cities with the exception of a route between
20 south Lake Union and Port Quendall or something like
21 that.

22 JUDGE MOSS: Let me propose that it might be
23 handled in this fashion and see if that satisfies your
24 concern. Were the Commission to approve some or all of
25 the applications or routes requested by these two

00797

1 applicants, would it be adequate to acknowledge, and
2 also approve the settlement agreement, would it be
3 adequate then to acknowledge as a condition of granting
4 certificates to applicants present here that they be
5 restricted from that specific route I guess? Would that
6 be adequate to address your concern?

7 MR. THOMPSON: Sure, I think that would work.

8 JUDGE MOSS: All right, then I think that's
9 the way we would handle it, with all the underlying
10 assumptions both stated and perhaps unstated just now.

11 All right, any other housekeeping matters?

12 JUDGE HENDRICKS: Ms. Riordan, why don't you
13 go ahead and call your first witness.

14 MS. RIORDAN: Thank you, Judge. The City
15 calls Michael Paine to the stand.

16

17 Whereupon,

18

19 MICHAEL PAINE,
20 having been first duly sworn, was called as a witness
21 herein and was examined and testified as follows:

21

22 MR. CRANE: Your Honor, I'm sorry to
23 interrupt, one housekeeping matter, can we go off the
24 record just momentarily?

25

JUDGE HENDRICKS: Let's go off the record.

00798

1 (Discussion off the record.)

2

3 D I R E C T E X A M I N A T I O N

4 BY MS. RIORDAN:

5 Q. For the record, could you spell your last
6 name, and give your business address.

7 A. P-A-I-N-E, and I work with the City of
8 Bellevue.

9 Q. How long have you worked with the City of
10 Bellevue?

11 A. About nine and a half years.

12 Q. What is your current position with the City?

13 A. I'm a planning manager.

14 Q. Can you describe generally for the Bench what
15 are your duties?

16 A. I manage a team that reviews environmental
17 permits, contribute to policy analysis, do work on other
18 issues within the department, administrative and
19 management issues.

20 Q. What is your familiarity with the City's land
21 use code?

22 A. I would say I'm fairly familiar with it.

23 Q. Does your job require daily application of
24 the code?

25 A. That's correct.

00799

1 Q. And how about the City's comprehensive plan?

2 A. I am also familiar with that.

3 Q. Mr. Paine, the purpose of these proceedings
4 is to present testimony relating to applications for
5 commercial ferry service to and from various locations
6 across Lake Washington. And two of the potential
7 termini are in Bellevue. One is the Meydenbauer Bay
8 Marina, and the other is the Newport Shores Public Boat
9 Launch. Can you tell us first of all whether a
10 commercial ferry service is a permitted use in Bellevue?

11 A. It is not.

12 Q. Why is that?

13 A. Well, there's no provision for it in the
14 comprehensive plan or in the land use designations.

15 Q. Okay. Is it fair to say then that changes
16 would have to be made to the City's codes in order to
17 allow for such a use?

18 A. Very much so.

19 Q. Which codes specifically would have to be
20 changed?

21 A. Well, the comprehensive plan would have to be
22 amended, and the land use code would have to have some
23 sort of new land use designation. There would be all
24 kinds of amendments to the shoreline master program.
25 There would need to -- need to add additional

00800

1 regulations in all three of those.

2 Q. Can you describe for us the steps that the
3 City would have to take to make these amendments,
4 starting with the comprehensive plan.

5 A. Well, the comprehensive plan, if there's a
6 privately initiated amendment, we have to create a
7 docket of those amendments and go to council and ask
8 them if, in fact, it was appropriate to proceed. And
9 then we would do a lot of staff analysis, including
10 environmental review. We would have to go then to the
11 planning commission to hold hearings. And then assuming
12 the planning commission makes a positive recommendation,
13 we would go on to the council.

14 Q. For privately initiated comprehensive plan
15 amendments, can those be applied for at any time?

16 A. Typically they can only be applied for in a
17 very specific time between December and January 31st, I
18 believe. And I do believe though, however, that the
19 council can choose to add something to the docket.

20 Q. So the council is not constrained by the
21 December-January time frame?

22 A. That's correct.

23 Q. And, of course, for 2001, the first time
24 someone would be able to initiate or suggest an
25 initiation would be in December of this year?

00801

1 A. That's correct.

2 Q. How long does the process take once something
3 is docketed to amend the comprehensive plan?

4 A. Well, I looked at some data. Typically it's
5 8 to 12 months, and that's assuming not a very expansive
6 environmental review process.

7 Q. Can the amendments to the comprehensive plan,
8 do they include simultaneously the amendment to the sub
9 area plan, the shoreline element and so on, would that
10 be done simultaneously?

11 A. Well, we may be able to work concurrently on
12 adding a new land use designation. Of course, there's a
13 propriety in that you've got to approve the
14 comprehensive plan amendment first before the decision
15 can be made on the land use. But I think that the
16 shoreline pieces may follow that initial decision.

17 Q. I want you to assume that Mr. Daniel Dolson
18 of Dutchman Marine, one of the applicants, has indicated
19 he's been told it's about a two year process all told to
20 get all the various code changes accomplished. Is that
21 consistent with your understanding of Bellevue's
22 process?

23 A. I think that's consistent of providing -- and
24 I'm assuming that you don't mean in this case the actual
25 permitting.

00802

1 Q. Correct.

2 A. I think that's consistent, although I think
3 the one concern I would have in that time line would be
4 the extent of the environmental review that might take
5 place prior to the adoption of a comprehensive plan
6 change.

7 Q. Can you tell us what is the current zoning
8 for the Meydenbauer Bay area of Bellevue?

9 A. It's zoned residential.

10 Q. And how about Newport Shores?

11 A. It's also zoned residential.

12 Q. Is there any actual commercial zoning on the
13 shoreline of Bellevue?

14 A. There is not.

15 Q. What is involved in the process of changing
16 the zoning? Could that also be done contemporaneously
17 with the comprehensive plan amendment?

18 A. We would actually have to proceed with the
19 comprehensive plan amendment first.

20 Q. If the City were to get to the point of
21 having amended the code or of actually entertaining an
22 amendment to the zoning code, would you expect the
23 outcome of the change to the zoning code to be to allow
24 a commercial use as an outright permitted use on the
25 shoreline?

00803

1 A. Well, we haven't talked about that. I
2 suppose it's possible, but the more likely outcome would
3 be a conditional use process.

4 Q. Why is that?

5 A. Well, it's for a variety of reasons, I
6 suppose. One, you wouldn't want to condition a
7 particular land use decision to, say it's a land use
8 rezone decision, and so specifically condition one
9 parcel for a use that might be appropriate elsewhere, so
10 that it may be that the legislative body would decide
11 it's appropriate that this use occur somewhere in
12 Bellevue, but we want to control the impact, since a
13 conditional use process would be more appropriate.

14 Q. In this situation where the changes would be
15 dependent, the land use code changes would be dependent
16 on the comprehensive plan, is it your testimony that
17 basically although you could undertake them sort of
18 simultaneously with the process of review that you would
19 first have to have the adoption of the comprehensive
20 plan amendment?

21 A. That's correct, that has to happen first.

22 Q. And can the City amend, actually amend the
23 comprehensive plan at any given time, or does that have
24 to occur during specified times?

25 A. Well, the amendment process, things are

00804

1 docketed at a specific time, and I think the actual
2 decision has to be made within a year's time.

3 Q. Let's assume that the City works its way
4 through this legislative process and makes all the
5 necessary amendments to the comprehensive plan and the
6 land use code to have a conditional use of commercial
7 ferry service on the Lake Washington shoreline. What
8 would be the next step for an applicant who wanted to
9 have such a service?

10 A. And this would include the amendments to the
11 Shoreline Master Program?

12 Q. Correct.

13 A. Well, the next step would then be applying
14 for permits.

15 Q. Let's go back to the Master Shoreline. Is
16 the City the only regulatory body that has to take a
17 look at that?

18 A. No, they are not. The Department of Ecology
19 does.

20 Q. So in order for those regulations to become
21 effective in the City, we would have to await the
22 outcome of a review by Ecology?

23 A. That's correct.

24 Q. Would that impact the two year time frame, or
25 do you think that could be built into the two years?

00805

1 A. It would be close.

2 Q. I want you to assume for the purposes of this
3 next question that some dock construction would have to
4 take place, either reconfiguring existing docks or
5 actually building new facilities. Can you describe for
6 us what permits an applicant would have to obtain in
7 order to provide a commercial ferry service?

8 A. Well, a new dock would require a certain
9 number of City of Bellevue permits, and then there would
10 be a long list of federal permits. So in the City of
11 Bellevue, we would have to do a shoreline substantial
12 development permit. There may also be a shoreline
13 conditional use permit. There would have to be building
14 permits associated with the construction of the dock.
15 There would be a 404, a 401, probably a Section 10
16 review under the Corps of Engineers, and there would
17 also have to be consultation as a result of those
18 permits with the National Fisheries Service. A
19 biological assessment would have to be done as part of
20 that.

21 Q. Would your answer be different in terms of
22 all of the permits that would have to be secured and the
23 review that would have to occur if it were merely
24 reconfiguration as opposed to new construction?

25 A. We would still have to issue the City of

00806

1 Bellevue permits. The question of federal permits
2 really will depend on the extent of the work. There
3 will also obviously be state departmental policy
4 applicable.

5 Q. What about Endangered Species Act, does that
6 come into play at all?

7 A. Yes, the consultation between Corps of
8 Engineers and the National Marine Fishery Service would
9 be conducted under Section 7 of the Endangered Species
10 Act.

11 Q. Is there any way to predict with accuracy how
12 long that process would take if the federal review were
13 involved?

14 A. I don't have a good way of doing that. I can
15 give you very rough estimates of the delays I'm aware of
16 now.

17 Q. What would those be?

18 A. Well, typically for a recreational or
19 residential dock takes more than a year for permitting
20 at the federal level right now.

21 Q. And do you know if the City were to issue
22 these various permits such as the shoreline conditional
23 use permit and a shoreline substantial development
24 permit, who would be the reviewing body if anyone were
25 to appeal these decisions?

00807

1 A. Well, these appeals would go to the State
2 Shoreline Hearings Board.

3 Q. And do you have any experience that can tell
4 us approximately how long such a review would take if
5 any of those permits were challenged?

6 A. Well, I believe that the State has a
7 statutory limit of 180 days to review those appeals.

8 Q. Can you describe for us in general terms what
9 other criteria that Bellevue applies in deciding whether
10 or not to issue a substantial shoreline development
11 permit?

12 A. Well, typically the applicant has to show a
13 burden of proof or has the burden of proof to show that,
14 in fact, that the application supports the evidence.
15 There's a set of -- you have to show that you meet the
16 applicable decision criteria, and you have to be
17 consistent with all the policies of the Shoreline
18 Management Act.

19 Q. And a shoreline conditional use permit?

20 A. I don't know all of those. I would have to
21 actually read those, if you permit me.

22 JUDGE MOSS: Do we need to have that in the
23 record?

24 Q. Can you just tell us generally?

25 A. Well, typically there's a consistency

00808

1 criteria, so you have to be consistent with all the
2 policies and procedures of both the Shoreline Management
3 Act as well as the regulations within the City. You
4 typically have to show compatibility in various ways
5 with the existing uses and intended uses. You have to
6 show no detrimental effect. You've got to show that
7 there's a harmonious blending of this particular project
8 with the character of the area, so again, another
9 compatibility criteria. You've got to show that there's
10 adequate public facilities, including utilities and
11 transportation. You have to show that there's no
12 material detrimental harm. You've got to show that
13 everything complies with the applicable criterion
14 standards of the code. There's all of those kinds of
15 things. There's a comprehensive plan consistency. So
16 things like that.

17 MS. RIORDAN: Those are all the questions I
18 have, Mr. Paine.

19 THE WITNESS: Okay.

20 JUDGE HENDRICKS: Are there other questions?

21 Mr. Crane.

22 MR. CRANE: Thank you, Your Honor.

23

24

25

00809

1 C R O S S - E X A M I N A T I O N

2 BY MR. CRANE:

3 Q. Mr. Paine, you testified that you're familiar
4 with the comprehensive plan, and I have a copy of the
5 comprehensive plan. I don't know if it's the same one
6 you have or not. It's Exhibit 135.

7 A. I just have the land use code.

8 Q. Okay, well, let me hand you --

9 MR. CRANE: Your Honor, I should have asked
10 your permission to approach the witness.

11 JUDGE MOSS: Oh, we're pretty liberal around
12 here, Mr. Crane.

13 MR. CRANE: I have broken all the rules
14 before, right. And so I believe, nope, we didn't
15 include it in this one. Excuse me for just a moment.
16 No, I don't have it.

17 JUDGE MOSS: The transportation element, is
18 that what you need?

19 MR. CRANE: Yes, Your Honor.

20 JUDGE MOSS: Why don't you just use mine.

21 MR. CRANE: Oh, thank you very much.

22 BY MR. CRANE:

23 Q. Mr. Paine, if I could have you look at that
24 exhibit; do you recognize that?

25 A. Absolutely.

00810

1 Q. And that's a portion of your Bellevue
2 comprehensive plan?

3 A. That's correct, that's the transportation
4 element.

5 Q. Okay. The Dutchman Marine passenger ferry
6 service that's proposed is a passenger ferry service
7 that allows walk-on passengers and bicyclists also to
8 use the passenger ferry service. With that in mind,
9 would that service promote the policies and goals of the
10 transportation element of the Bellevue Comprehensive
11 Plan?

12 A. It certainly would some, which stresses
13 multimodal transportation and a strong emphasis on
14 pedestrian and bicycle transportation, yeah.

15 Q. Okay. On page one of the transportation
16 element, the goal on page one there, it says:

17 To maintain and enhance mobility for
18 residence and businesses through the
19 creation and maintenance of a balanced
20 system of transportation alternatives.

21 Are some of the transportation alternatives
22 reducing single occupancy vehicle use?

23 A. Yes.

24 Q. And enhancing transportation alternatives
25 through walking and bicycling?

00811

1 A. That's correct.

2 Q. On page three of the transportation element
3 under the section called transportation on land use, the
4 goal states there is to support the land use vision of
5 the comprehensive plan, and then it goes on, while
6 reducing the use of single occupancy vehicle, making
7 trips shorter and reducing need to travel. Do you see
8 that goal there?

9 A. Yes, I do.

10 Q. Two paragraphs below, the paragraph starts
11 with the word further and says:

12 Further, the plan promotes land
13 developed patterns that are less auto
14 dependent and that better support travel
15 options.

16 Would the City of Bellevue then undertake
17 steps to promote land development patterns around a
18 ferry terminal that's proposed by Dutchman Marine to the
19 extent that it promotes less auto dependent and other
20 travel options?

21 A. That would be a difficult question for me to
22 answer. I think we certainly have in the downtown
23 focused on that focus. In other words, we have
24 encouraged high density development, some of the highest
25 density development on the east side. And as a

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1 consequence, the anticipation is that will, in fact,
2 result in a greater emphasis on different modes of
3 transit and encourage pedestrian use. That's a strong
4 element. Now Meydenbauer is a little bit detached from
5 that area of focus, and consequently I can't speak
6 whether we really made that kind of planning emphasis.
7 Currently we have not. It's very quiet, peaceful,
8 sleepy residential area.

9 Q. Okay. But should the City of Bellevue elect
10 to allow a terminal at Meydenbauer Bay, for example,
11 would then the City because of its goals in its
12 comprehensive plan promote the use of a passenger ferry
13 service there in its land use decisions?

14 A. I can't really say.

15 Q. Isn't that what the goal says though?

16 MS. RIORDAN: I'm going to object at this
17 point. I think Mr. Crane is asking Mr. Paine policy
18 maker decisions that have been made by the City Council,
19 not by City Staff.

20 JUDGE MOSS: I think Mr. Paine has adequately
21 answered your question to the best of his ability
22 sitting here today.

23 MR. CRANE: Very well.

24 BY MR. CRANE:

25 Q. And, Mr. Paine, in the comprehensive plan in

00813

1 the transportation element, I'm looking at page ten,
2 there is a reference on the preceding page, page nine,
3 to transit. Would you consider a private passenger
4 ferry service to be within the scope of the term
5 transit?

6 A. I would personally, yes.

7 Q. Okay. On page ten, policy TR 47 states that:
8 One of the policies is to work with the
9 transit providers to implement
10 Bellevue's transit vision.

11 A. Mm-hm.

12 Q. So that would include working with a proposed
13 passenger ferry service provider to implement transit
14 vision and policies of the City of Bellevue?

15 A. It potentially could mean that.

16 Q. And again, the goals of that transit plan is
17 to reduce the dependency on single occupancy vehicles,
18 right?

19 A. Well, I don't think that's the singular goal,
20 but it's one of the goals.

21 Q. All right, maybe I misspoke. One of the
22 goals is to promote reduced use or dependence on single
23 occupancy vehicles?

24 A. I think that's correct.

25 Q. And promote walking and bicycling?

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1 A. Mm-hm.
2 MR. CRANE: Thank you, that's all the
3 questions I have.
4 JUDGE MOSS: Mr. Kopta, any questions?
5 MR. KOPTA: No, Your Honor, thank you.
6 JUDGE MOSS: Mr. Davidson?
7 MR. DAVIDSON: No, Your Honor.
8 JUDGE MOSS: Mr. Thompson?
9 MR. THOMPSON: No.
10 JUDGE MOSS: The Bench has no questions for
11 you. Thank you very much for being here today, and I
12 appreciate the return of my exhibit.
13 You can call your next witness, Ms. Riordan.
14 MS. RIORDAN: Thank you, Your Honor. The
15 City calls Lorrie Peterson.
16
17 Whereupon,
18 LORRIE PETERSON,
19 having been first duly sworn, was called as a witness
20 herein and was examined and testified as follows:
21 D I R E C T E X A M I N A T I O N
22 BY MS. RIORDAN:
23 Q. For the record, could you spell your last
24 name or first and last name, I think, and give us your
25 business address?

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1 A. Lorrie Peterson, L-O-R-R-I-E,
2 P-E-T-E-R-S-O-N, City of Bellevue.

3 Q. And how long have you been with the City?

4 A. 15 years.

5 Q. What is your current position with the City?

6 A. Program manager.

7 Q. And can you describe in general terms what
8 that involves?

9 A. I am responsible for the acquisition of
10 property for the Parks Department. I also oversee
11 properties that are in the City of Bellevue Park
12 ownership prior to the Park use, and that includes the
13 marinas.

14 Q. So you have responsibility as program manager
15 for the Meydenbauer Bay Marina?

16 A. That's correct.

17 Q. And can you provide for the Bench a general
18 description of that particular facility?

19 A. The City of Bellevue Parks Department owns
20 two facilities. One is the Bellevue Yacht Basin, which
21 is located at 100th Avenue Northeast. Adjacent to that
22 is the Meydenbauer Bay Marina, which is located on 99th
23 Avenue Northeast, Southeast, and they're connected. The
24 site consists of about 99 slips. Originally there was
25 about 106, but with the lake level, we have had to

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1 reduce a few slips. There's about 99 slips there.
2 There's about an acre of upland that's adjacent to the
3 pier. There's one unisex restroom and one sanican and
4 the pier is -- the piers are locked for security
5 purposes and accessible by the tenant.

6 Q. Are they accessible at all to the general
7 public?

8 A. No, they are not.

9 Q. Does the marina have facilities for docking
10 non-tenant vessels?

11 A. No, they do not.

12 Q. Does the marina currently have the capacity
13 to accommodate a commercial ferry which would carry
14 about 150 passengers?

15 A. Not to my knowledge, no, it does not.

16 Q. Is the facility currently fully leased, or
17 are there available slips?

18 A. The marina is fully leased and has a waiting
19 list.

20 Q. I want you to assume for the purposes of this
21 next series of questions that the City Council is going
22 to act to amend our comprehensive plan and zoning code
23 and land use code to provide for commercial ferry
24 service as a conditional use on Meydenbauer Bay. If the
25 Parks Department received a request from an operator of

00817

1 a commercial ferry service to use that marina, would
2 that mean that the Department would be free at that
3 point to enter into a lease agreement for the use of the
4 marina?

5 A. No, it would not.

6 Q. Why not?

7 A. The City of Bellevue Parks Department would
8 have to go through a master plan process to convert the
9 marina from private use to a public facility.

10 Q. And I think you have testified that the
11 facilities are not currently configured to accommodate
12 public access or a vessel the size of a commercial
13 ferry. Would that also have to be addressed?

14 A. That is correct. The largest slip we have
15 down there is 127 feet long. Primarily the marina
16 accommodates pleasure boats that are about 30 to 50 feet
17 long. The marina is secure. There's no public access
18 to the pier. There's limited parking.

19 Q. Okay. Now you mentioned a master plan
20 process that would have to take place. Can you describe
21 that process?

22 A. Yes, I can. When the City of Bellevue Parks
23 Department purchases property, we go through a master
24 plan process when we go to change that use from the
25 interim use, and that requires public involvement, very

00818

1 extensive public involvement, where we invite the
2 adjoining property owners, property owners in this case
3 across Meydenbauer Bay, the community as a whole,
4 interested parties such as the pleasure, the wooden
5 boats, other interested groups. The Argosy Cruise Line
6 has also expressed an interest some day in the future.
7 We go through, we invite the public to provide comments
8 as to what they would like to see on our Park land.
9 We then take those comments, we hire --
10 typically hire a consultant that we work with to develop
11 three alternative plans after listening to public
12 requests. They also -- that also goes hand in hand with
13 the permit center to try to figure out what would be
14 required as far as setbacks, working with adjoining
15 uses, some of those things that Michael Paine has
16 testified to today. We would then develop three plans.
17 We would conduct a public hearing through our
18 Parks and Services Commission. The Parks Board would
19 hear those, hear the comments from the public. They
20 would look at the three alternatives. They have the
21 opportunity to make suggestions. Quite often the Park
22 staff will take those three schematics back to the
23 drawing board and make some revisions. We take it back
24 to the Park Board. The Park Board would then make their
25 recommendation on which plan that they prefer.

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1 It would then either go, if it -- it may
2 require a conditional use permit, and that would be
3 required. Michael Paine has testified to that. That
4 may be required for Park use as well. If that's
5 required, we would have to go to the hearing examiner,
6 which would then they would make a recommendation to the
7 Bellevue City Council. If that's not required, the
8 Parks Board would make a recommendation to the City
9 Council for which alternative they prefer. The City
10 Council would have the option to accept, reject, tell us
11 to go back to the drawing board and start over, and we
12 would go from there.

13 Q. Is there a master plan in place for
14 Meydenbauer Marina?

15 A. No, there is not.

16 Q. Is there any schedule for beginning one on
17 Meydenbauer Marina?

18 A. No, there is not. We are currently in the
19 process of assembling privately owned land for future
20 Park use. We have been working on the acquisition of
21 properties in the Meydenbauer Bay area for many years.
22 I personally am involved with acquisitions for property
23 adjacent to the marina that we hope to some day acquire
24 if the Council approves. We recently purchased two
25 other properties adjacent to Meydenbauer Beach Park

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1 nearby the marina. So our long-term I guess my guess
2 would be 20 year vision would be to assemble numerous
3 privately owned properties for future Park land
4 locations.

5 Q. But you're not going to wait 20 years to
6 actually do the master plan?

7 A. Unlikely, maybe a few years. It depends. We
8 have waited 20 years in the past, such as Newcastle
9 Beach Park, but we hope to do it sooner. There's been a
10 lot of community support to provide public pedestrian
11 access down along the water down there.

12 Q. And how long does that master plan process
13 take once you actually get it underway?

14 A. A small minipark can take anywhere from six
15 months to a year. We have minipark designations,
16 neighborhood park designations, this would be a
17 community park. We anticipate -- we're currently
18 involved in a master plan process for the Lewis Creek
19 Community Park, and if it's anything like that process,
20 it could be four years for the process to be complete.

21 Q. Okay. Well, let's assume for a moment that
22 the master plan process is completed and results in a
23 plan that provides for a commercial ferry service. At
24 that point, could you just enter into a lease with a
25 provider?

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1 A. No, we could not.

2 Q. Why is that?

3 A. There's several things. We have tenants that
4 are at the marina that are currently leasing the
5 facilities. There's -- the facility is not large enough
6 to accommodate ferry service at this time, in my
7 opinion. It would have to be reconfigured, which means
8 you would have to go through the permitting process to
9 reconfigure the marina. In addition to that, there's
10 only three piers at the marina, so if you were to just
11 allow the ferry service, if it could be accommodated
12 within the existing facility, we would still have a
13 balance of the tenants that would have to feel
14 comfortable continuing leasing the moorage at that
15 facility. It would have to be secure. Right now it's
16 completely fenced off.

17 It's our understanding we're one of the most
18 expensive marina facilities in this region. We issued
19 limited tax general obligation bonds for the acquisition
20 of this property, so we owe 4. -- we originally owed
21 \$4.2 Million towards the acquisition of this property
22 with the idea that the revenues derived from the leasing
23 of the facility would help repay the bonds. And I think
24 that's it.

25 Q. You would require the commercial ferry

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1 provider to pay you for the use to offset some loss from
2 the loss of some tenants; is that correct?

3 A. That is correct.

4 Q. Now Dutchman Marine's president has, and
5 Dutchman Marine is one of the applicants, has testified
6 that there is a possibility of an alternative terminal
7 in Bellevue, and that would be the Newport Shores Boat
8 Launch. Can you describe for the Bench what facilities
9 Bellevue has down in that area?

10 A. The City of Bellevue Parks Department has
11 what's called the Southeast 40th Boat Launch at the end
12 of Southeast 40th Street. It's essentially a street end
13 that we have a dock for vehicles to bring to trailer
14 their boats down and provide access to Lake Washington.
15 Besides sway lock and boat launch, which is really for a
16 canoe, that is our only access to the water for small
17 water craft.

18 Q. There is a dock there?

19 A. Yes, there is.

20 Q. Is it large enough to accommodate a
21 commercial ferry vehicle carrying 150 passengers?

22 A. Not to my knowledge, no.

23 Q. There are other docks in that neighborhood;
24 is that not correct?

25 A. That is correct.

00823

1 Q. But they are not in the ownership of the
2 City?

3 A. That's correct.

4 Q. Is there a master plan in place for Newport
5 Shores for the boat launch?

6 A. For the Southeast 40th Boat Launch?

7 Q. Yes.

8 A. We looked in the records to try to see if
9 there was. The Southeast 40th Boat Launch has been
10 around since the early 1960's prior to the City having
11 in place a master plan process, so we could not locate a
12 master plan, but it has been used for a boat launch for
13 many, many years.

14 Q. Would a master plan process have to be
15 undertaken in order to allow for the City to entertain
16 building a large enough facility to dock a commercial
17 vehicle and to actually permit for that use?

18 A. Yes, it would.

19 Q. And I take it from your prior answer that we
20 don't have any plans currently to start the master
21 planning process for the boat launch?

22 A. No, we do not.

23 Q. Why is that?

24 A. The facility at Southeast 40th currently
25 accommodates its intended use. Actually, right now it's

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1 not being used because of the earthquake. It has to
2 undergo some fresh painting, but it provides its
3 intended use.

4 Q. Would there be nothing stopping you from
5 undertaking the master planning process if you were to
6 get an application, an expression of interest from a
7 ferry service?

8 A. I guess we could go through a master plan
9 process.

10 Q. Would you anticipate it taking longer or
11 about the same time as for Meydenbauer Bay?

12 A. Yes, it would. And can I say another comment
13 for the other master plan process?

14 JUDGE MOSS: Actually, you need to answer
15 that, rephrase that question, because you answered yes
16 to two alternatives.

17 So would you like to rephrase the question,
18 counsel.

19 Q. Would you anticipate the master planning
20 process for the boat launch to take about the same time
21 as you testified it would for Meydenbauer Bay?

22 A. Yes, it would.

23 Q. Okay. Assuming that you did a master plan
24 process which resulted in a plan that allowed for
25 commercial ferry service there, could you then enter

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1 into a lease with a provider?

2 A. We would have to take the master plan process
3 to the City Council and see if they would approve that.

4 Q. And if the facility is not -- assume that the
5 City Council approves the master plan process. I think
6 you have testified that the facility is not currently
7 ready for such a service?

8 A. That is correct.

9 MS. RIORDAN: Okay, those are all the
10 questions I have, thanks.

11 JUDGE MOSS: Ms. Peterson, before we move on,
12 I think my attempt to clarify the record there perhaps
13 diverted your attention from some clarifying testimony
14 you wished to offer with respect to your earlier comment
15 regarding the master plan.

16 A. Thank you. Once the master plan process is
17 approved, we have to seek funding to actually develop
18 that park for future Park use. And just because we have
19 an approved master plan doesn't mean we will move
20 forward with the major elements of that park. And
21 before we would entertain any other uses, the majority
22 of the funding needs to be available for us to move
23 forward with the park development.

24 BY MS. RIORDAN:

25 Q. So if at Meydenbauer Marina the master plan

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1 process then permitted for the commercial ferry use and
2 someone wanted to provide that service, are you
3 testifying that either the City would have to come up
4 with the money to reconfigure the dock, or as an
5 alternative, could the provider pay for such
6 improvements?

7 A. Anyone can pay for those improvements as long
8 as it also included the improvements for the park
9 development, the park amenities, in addition to any
10 other use.

11 MS. RIORDAN: Thank you.

12 JUDGE MOSS: Mr. Crane?

13 MR. CRANE: No questions, Your Honor.

14 MR. KOPTA: Nothing for me.

15 JUDGE HENDRICKS: No.

16 THE WITNESS: No?

17 JUDGE MOSS: Ms. Peterson, that's all right,
18 I don't have any questions. I just wanted to thank you
19 for appearing today and testifying.

20 THE WITNESS: Thank you.

21 JUDGE MOSS: Does that complete your
22 presentation?

23 MS. RIORDAN: It does, Your Honor.

24 JUDGE MOSS: I suppose this brings us to
25 Mr. Blackman for this afternoon, doesn't it?

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1 MR. KOPTA: I believe so, Your Honor.

2 JUDGE MOSS: Do we have any other matters we
3 might use to fill up the next half an hour since we have
4 scheduled Mr. Blackman for 1:30 and typically are taking
5 a one hour lunch break, or will we have a leisurely
6 lunch today?

7 MR. KOPTA: My vote is for a leisurely lunch.

8 JUDGE MOSS: It being Friday.

9 MR. DOLSON: Mr. Blackman said he was going
10 to buy the lunch.

11 JUDGE MOSS: The record will have to reflect
12 that that would except the judges.

13 MR. KOPTA: The record should reflect with an
14 E, except.

15 JUDGE MOSS: Let's be off the record.

16 (Luncheon recess taken at 12:05 p.m.)

17

18 A F T E R N O O N S E S S I O N

19 (1:30 p.m.)

20 JUDGE MOSS: Good afternoon, I trust everyone
21 had a pleasant lunch recess.

22 Mr. Thompson, let me confirm that you do not
23 have any intention to put on a witness with respect to
24 the Dutchman Marine application.

25 MR. THOMPSON: That's correct.

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1 JUDGE MOSS: All right. That being the case,
2 I will turn to one housekeeping matter. I discussed
3 during the luncheon recess with counsel, and included
4 the reporter in the discussion, the issue of
5 confidentiality with respect to certain exhibits that
6 have been introduced as confidential, those being
7 certain loan commitments introduced by the Applicant.
8 The essence of the matter is that the Applicant's
9 interest is in maintaining the confidentiality of the
10 lenders.

11 Based on the discussions we had, it appears
12 that the easiest accommodation will simply be to mark as
13 confidential and treat in the usual fashion those pages
14 of the transcript that do, in fact, disclose the
15 identity of the lenders. Those identities are redacted
16 from the public versions of the three exhibits. The
17 court reporter has indicated to me that she can handle
18 that without any difficulty, so that is what will be
19 done. We will also change the description of those
20 exhibits in the exhibit list so that they will be
21 identified by the loan amounts. They are discreet
22 amounts in the case of each, so that would be adequate
23 for identification purposes, and they may be referred to
24 in any briefs in that fashion so as to preserve the
25 confidentiality and the privacy issues that I have

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1 mentioned.

2 Are there any other housekeeping or matters
3 of that nature that we need to take up before we invite
4 Mr. Kopta's witness to the stand?

5 MR. KOPTA: Just a follow up to that last
6 discussion, Your Honor. Do we want to go ahead now and
7 identify which exhibit numbers go with which agreements
8 so that we can make sure that the record is clear as to
9 the identity of those documents.

10 JUDGE MOSS: Let me see if I can just do that
11 quickly. All right, what's previously been marked as
12 139-C and 143 will be identified in the exhibit list as
13 the \$400,000 loan commitment. What has previously been
14 identified in the record and admitted as Exhibit 140 and
15 Exhibit 144, and I should say that's 140-C, will be
16 referred to as the \$500,000 loan commitment. And what
17 previously has been marked as 141-C and 145 will be
18 referred to as the \$300,000 loan commitment. I
19 anticipate that we will finalize our exhibit list, well,
20 actually I guess it won't be final until a week from
21 today given that we're leaving the record open to
22 receive certain late exhibits, but we will provide all
23 counsel with an unupdated exhibit list Monday or Tuesday
24 of next week and then a final exhibit list when we have
25 the final exhibits from Seattle Ferry Service.

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1 Okay, anything else?
2 Then, Mr. Kopta, you may call your witness.
3 MR. KOPTA: Thank you, Your Honor Seattle
4 Harbor Tours calls John Blackman.

5
6 Whereupon,
7 JOHN C. BLACKMAN,
8 having been first duly sworn, was called as a witness
9 herein and was examined and testified as follows:

10 D I R E C T E X A M I N A T I O N

11 BY MR. KOPTA:

12 Q. Good afternoon, Mr. Blackman.

13 A. Good afternoon, Mr. Kopta.

14 Q. Could you state your full name and business
15 address for the record, please, and spell your last name
16 for the court reporter.

17 A. Sure, John C. Blackman, B-L-A-C-K-M-A-N,
18 business address is Pier 55, Suite 201, Seattle 98101.

19 Q. By whom are you employed?

20 A. Argosy.

21 Q. And if I could get you to summarize your
22 background for me beginning with your education.

23 A. I have a BS in Finance from Illinois. I have
24 an MA in business from Stanford University, and I have a
25 degree I guess you would call it from Syracuse

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1 University in marketing.

2 Q. What has been your employment experience?

3 A. I started with United Airlines in 1956. This
4 is going to give away my age, you recognize.

5 Q. I'm trying to avoid that, Mr. Blackman.

6 A. I know. But with United Airlines in 1956 in
7 the finance department. I moved into what was called
8 the Special Development Training Program. Came out of
9 the Special Development Program and was a manager for
10 United in Miami managing both operations and sales,
11 reservations, and everything that United had in the
12 Miami market at the time. In 1969, I'm going to skip
13 over some of this unless you want all the gory details,
14 because I went then to Chicago as Manager. And in 1969,
15 I was elected an officer of the company and Vice
16 President of Public Affairs, and I was an officer for
17 approximately 20 years in various capacities, Vice
18 President of the West Region, Vice President of the
19 Southeast Region, Vice President of Public Affairs, and
20 Senior Vice President of Sales and Marketing.

21 Q. And this was all for United Airlines?

22 A. All for United Airlines. My last job with
23 United Airlines was in 1988 as Senior Vice President of
24 Sales and Marketing, and I left the company in 1988.

25 Q. And what did you do after you left United

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1 Airlines?

2 A. I joined Holland American Cruise Line based
3 here in Seattle as Senior Vice President of Sales and
4 Marketing.

5 Q. And what were your responsibilities with
6 Holland America Lines?

7 A. I was in charge of all sales and marketing
8 activities.

9 Q. Simple as that?

10 A. Simple as that.

11 Q. And how long did you remain with Holland
12 America Lines?

13 A. A very short period of time, just a little
14 over a year. Met a dear friend, became a dear friend,
15 with Holland America Line, and he and I decided that it
16 would be nice to find out if we could run our own
17 business some day, and we found a business that was --
18 who had been in business in Seattle since 1949. This is
19 1990 now. We bought that business in 1990. It was so
20 named Seattle Harbor Tours at the time, and so we formed
21 Seattle Harbor Tours Limited Partnership at that time.

22 Q. And have you remained with the company since
23 1990?

24 A. I have. I was a limited partner of the
25 company in 1990. In 1993 I was elected, not elected, I

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1 bought out most of the interest of my partner, Tom
2 Tucas, and Tom moved to Seward, Alaska, where he bought
3 a very similar business to Seattle Harbor Tours here in
4 Seattle. That was in 1993.

5 In 1994, we changed the name of the
6 corporation from Seattle Harbor Tours Limited
7 Partnership to Argosy, and we had really outgrown the
8 name Seattle Harbor Tours. As somebody said to me one
9 day, the name of your company is just one of your
10 products. Because we operate harbor tours, but we were
11 operating trips to Blake Island and Tillicum Village and
12 trips through the government locks and all kinds of
13 different trips. And so the name was restrictive, if
14 you will, as far as -- so we tried to find a name that
15 could describe everything that we did, and the naming
16 experts gave up after about three months and decided
17 that we would try to pick a name that was more generic.
18 So we picked Argosy, and that was in 1994.

19 Scared me to death, changing the name of the
20 company, because I was very concerned, and for the first
21 six months, I remained scared, because nobody knew what
22 Argosy was. I am pleased to say that today our name
23 recognition based on surveys that we have done is very,
24 very high. I wouldn't say we're up there with Coca Cola
25 yet, but about 80% of the population of the region knows

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1 what Argosy is.

2 Q. Would you describe to me what Argosy's
3 current operations are?

4 A. Sure. We're in several business segments.
5 One business segment is the I will call it the tour
6 business. We operate regular scheduled tours. We
7 operate up to as many as 30 regularly scheduled tours a
8 day in the summertime, and they're cruises of Lake
9 Washington that originate at south Lake Union. They
10 also originate in Kirkland. We operate a harbor tour,
11 we operate a trip through the government locks, and we
12 operate tours to Blake Island as well. So we have an
13 extensive tour operation.

14 The next category or business segment would
15 be private charters. I will call them private charters.
16 Somebody comes along and charters, rents, our boat for a
17 special occasion, and that's a very large segment of our
18 business. We have a lot -- we have 12 vessels, and
19 they're all available for charter in addition to doing
20 tours during the day, and so we do a lot of private
21 charter business as well.

22 The third segment of business is what I'm
23 going to call the dinner boat business, and we recently
24 purchased a vessel which we named the Royal Argosy. We
25 didn't purchase it, correct that, we built a vessel, and

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1 it was designed in the Northwest by a naval architect.
2 It was built in the Northwest by Nichols Brothers up on
3 Whidbey Island. It's operated by a Northwest company,
4 Argosy, and its restaurant is operated by a Northwest
5 company, Consolidated Restaurants, which operates the
6 Metropolitan Grill and the Union Square Grill, and it's
7 a great local, family restaurant company, and they do a
8 super job.

9 Q. You have mentioned that you changed the name
10 of the company to Argosy, and yet the applicant here is
11 Seattle Harbor Tours Limited Partnership.

12 A. Correct.

13 Q. Would you explain what the relationship is
14 between Argosy and Seattle Harbor Tours Limited
15 Partnership?

16 A. Sure. We kept Seattle Harbor Tours Limited
17 Partnership principally because we established it as a
18 leasing company, and when you, I guess I do this at some
19 risk, but my attorneys tell me it's absolutely legal,
20 when you purchase a boat, for example the Royal Argosy
21 was built here, and let's assume that that was a \$10
22 Million boat, and that's a pretty good assumption, if we
23 were -- if we -- if Argosy purchased that vessel and
24 began operating it, we would have to pay state sales tax
25 on the vessel, and, you know, that can come at \$900,000,

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1 \$1,000,000, it's a lot of money. By putting the vessel
2 into a leasing partnership, the leasing partnership then
3 leases the vessel to Argosy, and Argosy pays sales tax
4 on the lease payments. You don't avoid paying sales
5 tax, you just spread it out over a longer period of
6 time. So we have right now I think we've got four
7 vessels, three vessels that are part of Seattle Harbor
8 Tours Leasing Partnership.

9 When it came to operating and dealing with
10 the Washington State Utilities and Transportation
11 Commission, we elected to use the leasing company as our
12 applicant as opposed to using Argosy as the applicant.
13 The reason for that, I will be very open about it, is
14 confidentiality of -- we're a private company, we're
15 privately owned, and we would just as soon not share
16 with our competition all of our financial information.

17 Q. So is my understanding correct that Argosy is
18 the general partner of Seattle Harbor?

19 A. That's correct, it's Seattle Harbor Tours
20 Limited Partnership is 90% owned by Argosy and 10% owned
21 by Argosy's partners.

22 Q. And the operations of Seattle Harbor Tours
23 Limited Partnership are directed by Argosy; is that
24 correct?

25 A. Correct.

00837

1 Q. Going back to Argosy for a moment, you
2 mentioned that you had 12 vessels. Is that the total
3 number of vessels that you have for all of your
4 operations?

5 A. Yes.

6 Q. Are any of those leased from Seattle Harbor
7 Tours Limited Partnership?

8 A. Yes, three of them.

9 Q. And how many passengers does Argosy serve say
10 on an annual basis; do you have those figures that you
11 could share?

12 A. Roughly 500,000.

13 Q. And how many employees does Argosy have?

14 A. Full time year round, and our business is
15 very seasonal, 75. We go up to 350 to 400 in the
16 summertime.

17 Q. And what are the nature of the duties of the
18 people that you employ?

19 A. Well, we have engineers. We have five
20 engineers on staff that maintain the vessels. We have,
21 I'm going to guess at this a little bit, approximately
22 30 captains, master's. Other employees are deck hands,
23 mates. We employ people in ticket offices. We employ
24 people in reservations that take reservations when the
25 public calls in, and we employ people in sales, and we

00838

1 employ people in marketing. So you've got really I
2 think most -- most of the major business segments. We
3 obviously have a, maybe not so obviously, we have a CFO
4 that keeps us all honest.

5 Q. So Argosy operates, maintains, repairs its
6 own vessels in the course of its operations; is that
7 correct?

8 A. That's almost correct, Mr. Kopta. There are
9 -- there are periodic heavy overhauls that are required
10 where we use, well, we have to use a yard. We have to
11 -- these are -- some of them are pretty big boats, and
12 you have to take them out of the water for a Coast Guard
13 inspection, and keeping paint, keeping them maintained,
14 the hull maintained properly, and that sort of thing.

15 Q. So you have arrangements with one or more
16 local shipyards to take care of that kind of major
17 maintenance and repair?

18 A. I wouldn't say an arrangement, but we work
19 with virtually almost all of the shipyards in Seattle.
20 A lot has to do with availability in terms of when
21 you've got a vessel that needs to come out of the water,
22 you have to find a yard that can take it.

23 Q. And is Argosy active in the greater Seattle
24 and other communities that border along Lake Washington?

25 A. Yes, I would say we're very active. We're on

00839

1 the boards, we're represented on the board, and this is
2 either by myself or somebody else in the company, East
3 King County Convention and Visitors Bureau, Kirkland
4 Downtown on the Lake, Kirkland Chamber of Commerce, the
5 East Side Business Round Table, the Bellevue Chamber of
6 Commerce, the Greater Seattle Chamber of Commerce. I'm
7 on the Executive Committee of the Greater Seattle
8 Chamber of Commerce. AAA Washington Board of Directors,
9 that's a personal directorship that I'm -- it's the only
10 paid directorship on here. We're members of rotary.
11 We're very active in the Seattle Aquarium Society, and
12 we probably end up donating in excess of \$100,000
13 annually to charities in the region.

14 Q. And have you received any recognition for
15 your involvement in the community, either yours
16 personally or Argosy's?

17 A. Well, we have something called an eagle wall
18 that has all kinds of flags and thank yous on it that we
19 have. Most recently we were given the Tourism Award of
20 the Year for the East Side, and I attended a luncheon at
21 the Hyatt that was put on by the Bellevue Chamber of
22 Commerce. There was a lot of competition from various
23 companies trying to, you know, see if they could get the
24 award, and we were very pleased to be given the top
25 award for tourism, generating tourism on the east side.

00840

1 Q. And is that what the award is for?

2 A. Yes.

3 Q. I would like to turn now, Mr. Blackman, to
4 some of the exhibits that Seattle Harbor Tours has
5 introduced into the record, and the first exhibit that I
6 would like you to take a look at is Exhibit 201.

7 A. All right.

8 Q. Which is the original commercial ferry
9 application that Seattle Harbor Tours Limited
10 Partnership provided.

11 A. Mm-hm.

12 Q. Are you familiar with this document?

13 A. Yes.

14 Q. And is this the document that was filed with
15 the Commission, to the best of your knowledge?

16 A. Yes.

17 Q. I would like to discuss some of the
18 information that is in this document. First I would
19 like to talk about the proposed ferry routes, and the
20 first that I would like to ask you about is the proposed
21 route between Renton and the University of Washington.

22 A. Mm-hm.

23 Q. Would you describe for me that proposed
24 route?

25 A. I'm not sure I understand what you're --

00841

1 describe for you?

2 Q. Yes, well, obviously that is a description in
3 and of itself. Let me be more precise. Have you
4 identified particular docks to which Seattle Harbor
5 Tours would intend to dock in both Renton and within the
6 University of Washington area?

7 A. Our preference at this time is, well, it's
8 obviously the University of Washington, and we're
9 considering both Port Quendall and Southport.

10 Q. So at this point, you haven't identified a
11 specific dock in the Renton area?

12 A. Right.

13 Q. Do you have any estimate on when Seattle
14 Harbor Tours anticipates it would be able to provide
15 ferry service between Renton and the University of
16 Washington?

17 A. I would say at the very earliest 2004 based
18 on the developments that are taking place down there.

19 Q. And what developments are you referring to;
20 would they include the Southport development that was
21 discussed earlier?

22 A. Southport and Port Quendall, which is still
23 not totally permitted, but I don't have any doubt that
24 it's going to be.

25 Q. Is it your view that there is an overlap

00842

1 between the proposed route that Seattle Harbor Tours has
2 proposed in its application from Renton to the
3 University of Washington with the route that Dutchman
4 Marine has proposed from Renton to Leschi?

5 A. There's some overlap, but in my opinion, it's
6 minimal.

7 Q. So is it your view that the route that
8 Seattle Harbor Tours has proposed could co-exist with
9 the route that Dutchman Marine has proposed?

10 A. Yes.

11 Q. I would like to ask you similar questions
12 about the route between Kenmore and the University of
13 Washington. Have you identified any proposed or
14 possible docks in the Kenmore area?

15 A. No, we haven't.

16 Q. And do you have any estimate on when Seattle
17 Harbor Tours anticipates that it would be able to
18 provide ferry service between Kenmore and the University
19 of Washington?

20 A. Again, it's strictly speculative, but I would
21 say at the earliest 2005.

22 Q. And that is also because of the developments
23 that are going on in Kenmore?

24 A. Correct.

25 Q. Finally, with respect to the route between

00843

1 Bellevue and the University of Washington, have you
2 identified any proposed or possible docks in the
3 Bellevue area?

4 A. By having met with the City of Bellevue about
5 Meydenbauer Bay, I would say that the -- that the
6 chances of serving Meydenbauer Bay are pretty slim, and
7 I may be serving Newport Shores as well, but that would
8 be our preference, Newport Shores.

9 Q. And do you have any estimate on the timing of
10 when Seattle Harbor Tours could expect to begin
11 initiating service between Bellevue and the University
12 of Washington?

13 A. Again, that's a very difficult time frame. I
14 had estimated maybe 2006 at the very earliest, but I
15 understand the testimony that was given this morning
16 would suggest that that's extremely optimistic.

17 Q. So at this point, really what keeps you from
18 being able to estimate the timing is developments in
19 Kenmore, Bellevue, and Renton in terms of --

20 A. Correct.

21 Q. -- being able to provide docking facilities
22 and associated facilities?

23 A. Correct.

24 Q. In the application, Seattle Harbor Tours also
25 provided some information about a Kirkland to the

00844

1 University of Washington route.

2 A. Mm-hm.

3 Q. Why did Seattle Harbor Tours provide that
4 information as part of this application?

5 A. Basically we believe that we've got the
6 authority, that we do have the authority from the WUTC
7 to serve Kirkland to Seattle, and I think we wanted to
8 be more specific in terms of where our interest was, and
9 that was Kirkland to the University of Washington.

10 Q. And if for some reason the Commission should
11 decide that Argosy doesn't have the authority any
12 longer, would it be your intention to seek authority in
13 this proceeding, if possible, to serve that route?

14 A. Yes, but I don't think this proceeding is
15 covering that issue. I don't know, maybe it is.

16 Q. Do you believe that there is an overlap
17 between the route that Seattle Harbor Tours has
18 specified between Kirkland and the University of
19 Washington and the route that Dutchman Marine has
20 proposed from Kirkland to Leschi?

21 A. There's some overlap, and it's -- this is a
22 matter of personal opinion, be asked what's your basis
23 for it, and I will tell you it's my own personal opinion
24 with a few years of experience in business. But I would
25 guess that less than 20% of the traffic would be --

00845

1 would be overlapping. The principal -- the principal
2 destination from Kirkland to the University of
3 Washington is the University itself, made up of
4 students, made up of faculty, and made up of companies
5 that are -- that do research and have frequent -- reason
6 to have frequent trips back and forth from the corporate
7 community on the east side to the University.

8 Q. Seattle Harbor Tours also holds a certificate
9 of authority from the Commission to operate a ferry on
10 Lake Union between south Lake Union and the University
11 of Washington.

12 A. Correct.

13 Q. And what is your understanding of the
14 potential ridership of that route as it may relate to
15 the other routes that Seattle Harbor Tours is proposing
16 to terminate at the University of Washington?

17 A. I would have to -- I would have to understand
18 I guess where you're going on that question, because it
19 -- because it -- are you talking about Kirkland
20 passengers that would go to south Lake Union after a
21 stop at the University of Washington?

22 Q. Well, perhaps I asked the question too
23 broadly. Let me rephrase it.

24 When Seattle Harbor Tours obtained the
25 authority to provide ferry service between the

00846

1 University of Washington and south Lake Union, was the
2 purpose of that to serve the two communities?

3 A. Yes.

4 Q. On either end?

5 A. Yes.

6 Q. So is it your anticipation that the authority
7 that's requested in this docket may, as you say, overlap
8 by 20% by those that may want to transfer, but by and
9 large, the Lake Union route and the Lake Washington
10 routes are separate and distinct?

11 A. Two separate markets, right. 20% is the
12 maximum overlap.

13 Q. You have been present during the proceedings,
14 the evidentiary hearing in this docket, have you not?

15 A. I have.

16 Q. And you have heard testimony with respect to
17 the benefits and need and public convenience and
18 necessity of routes across Lake Washington?

19 A. Yes.

20 Q. Do you agree with that testimony in terms of
21 just the public convenience and necessity of a route
22 without being specific as to who is providing it across
23 Lake Washington?

24 A. Yes.

25 Q. And would you anticipate that the same

00847

1 benefits of reduced traffic and pollution and
2 alternative forms of transportation would be equally
3 applicable to the routes that Seattle Harbor Tours has
4 proposed?

5 A. Yes.

6 Q. And with respect to waiver of the 10-mile
7 rule, Seattle Harbor Tours has also asked for waiver of
8 that rule. And would you also testify that with respect
9 to the lack of any objection by Washington State Ferries
10 as well as the reduction in pollution and traffic that
11 that information that's been provided previously in this
12 hearing would be equally applicable to the routes that
13 Seattle Harbor Tours has proposed?

14 A. Yes.

15 Q. I would like you to, I think, now turn to
16 Exhibit 202, and this is some supplemental information
17 that Seattle Harbor Tours provided to the Commission.

18 A. Could we go back to 201 for just a second?

19 Q. Sure.

20 A. Mr. Kopta, I indicated that there were three
21 vessels in Seattle Harbor Tours Limited Partnership.

22 Q. Mm-hm.

23 A. The application shows four. At the time the
24 application was filed, we had four. We have since sold
25 the Rocket, a 60 foot vessel, so that's no longer in

00848

1 there.

2 Q. Okay, thank you for that correction.

3 A. 202?

4 Q. Yes, now moving on to Exhibit 202. As part
5 of the additional information that Seattle Harbor Tours
6 provided to the Commission, there are some time
7 schedules, so that's Attachment B.

8 A. Yes, okay.

9 Q. Are those the time schedules, at least as we
10 sit here today, that you would anticipate using when
11 providing the proposed ferry service?

12 A. They're an estimate, and what I -- what I
13 have always believed and continue to believe is that a
14 demonstration project is the way to introduce any one of
15 these routes, and so these are really demonstration
16 project numbers.

17 Q. Okay. Let me ask you to turn to attachment
18 C, which is an annual pro forma.

19 A. Yes.

20 Q. And I wanted to go through with you each of
21 the categories of information that's provided on this
22 exhibit. Let's start with the average ticket price.
23 Would you tell me how you developed that price?

24 A. This price was the highest price that we
25 believed the market could possibly support.

00849

1 Q. Okay. And that is based on your experience?

2 A. That's correct.

3 Q. In the industry?

4 A. It's based on my experience and also based on
5 competitive forms of transportation.

6 Q. Such as what?

7 A. Buses and so forth.

8 Q. Do you know how this fare compares to the
9 passenger fare on the Seattle, I mean on the Washington
10 State Ferries?

11 A. On what route?

12 Q. Let's say the Bainbridge --

13 A. The answer is probably no, because I don't
14 ride them very often, but.

15 Q. Well, that's a fair answer since they do
16 vary.

17 Let's talk about ridership. You have some
18 ridership estimates for each of the three routes.

19 A. Yes.

20 Q. For the University of Washington. Would you
21 explain how you developed those ridership numbers?

22 A. We looked at a lot of different information
23 and just had made some gross assumptions. I happen to
24 agree with the testimony that was given by one of the
25 Dutchman Marine witnesses yesterday that you can make

00850

1 all the projections in the world that you want to, but
2 you're not really going to know what that ridership is
3 until you put a boat in the water and start doing it.
4 You can use a lot of sophisticated techniques to find
5 the best information possible, but this was -- this was
6 using some information and some just intuitive.

7 Q. Okay. And do you expect to have, for
8 example, 1,200 passengers a day to Kenmore or Bellevue
9 in the first day that you are operating?

10 A. No, no, this is more of an annual average.

11 Q. Okay. And you had mentioned earlier a
12 discussion about demonstration projects.

13 A. Right.

14 Q. And that your anticipation was that each of
15 these routes would follow a demonstration run; is that
16 correct?

17 A. Correct.

18 Q. So is it the information provided in the pro
19 forma would assume operations following a demonstration
20 project?

21 A. That's correct.

22 Q. You also have included, let me see, I'm
23 assuming that the gross revenue figure is calculated by
24 multiplying the ridership by the average ticket price;
25 is that right?

00851

1 A. Hopefully.

2 Q. Well, as I explained earlier about lawyers
3 and math, that's why I let somebody else do it.

4 Moving on to the costs, how did you develop
5 the three different cost category estimates for the
6 proposed routes?

7 A. Just as we would with any of our operations.
8 One is the operating time of the vessel, what are the
9 costs to operate it, what are the administrative and
10 operating costs that we would charge to the particular
11 route.

12 Q. So then these would be based on your
13 experience with owning and operating 12 vessels?

14 A. That's correct.

15 Q. One of the requirements or probably the
16 primary requirement that the statutes require the
17 Commission to review on any proposed ferry route is the
18 financial fitness to provide the proposed service. If
19 you would turn to Exhibit 201. If you would look to the
20 response to question 12.

21 A. Mm-hm.

22 Q. Is that information accurate as you perhaps
23 have revised it by removing one of the vessels that you
24 said formerly was listed in sub B to that response?

25 A. Right.

00852

1 Q. If you subtract the value of that asset,
2 would the information under financial statement in
3 response to question 12 be accurate?

4 A. No, it's -- I don't know where we got the
5 \$1,946,912 number, but the real number would be taking
6 the asset value for three vessels on the next page under
7 B and adding them together, which comes to more like \$2
8 1/2 Million.

9 Q. Okay, that's why I asked.

10 A. I know. The other comment I would make on
11 this is that Argosy does pay a monthly lease fee to
12 Seattle Harbor Tours Limited Partnership, and the
13 payments on an annual basis are in excess of \$100,000.
14 The cash on hand here at this particular point -- I
15 guess the point is the cash on hand is a very volatile
16 number that will fluctuate depending on what time of
17 year it is and all that stuff.

18 Q. Are these financial resources sufficient to
19 fund the proposed ferry operations?

20 A. No.

21 Q. And then how would you propose to fund the
22 proposed ferry operations?

23 A. Argosy.

24 Q. And how would Argosy fund the operations?

25 A. By making contributions to Seattle Harbor

00853

1 Tours Limited Partnership.

2 Q. So Argosy would provide financial ability as
3 well as operational management?

4 A. That's correct.

5 Q. We have already discussed the certificate
6 that Seattle Harbor Tours has with the Commission to
7 operate a commercial ferry on Lake Union. Seattle
8 Harbor Tours also has obtained temporary certificates
9 from the Commission to operate the Elliott Bay Water
10 Taxi, hasn't it?

11 A. That's correct.

12 Q. Would you describe that ferry operation for
13 me?

14 A. Its a seven day a week operation from
15 Seacrest Park in West Seattle to our moorage at Pier 54,
16 and it's roughly operating a trip every half hour
17 throughout the day and on into the evening on weekends.

18 Q. How long have you been providing this
19 service?

20 A. This is the fourth year it's been -- it's
21 been provided just in the summertime in '96, '97, excuse
22 me, 1997, 1998, 1999, we skipped 2000, and this -- and
23 2001 we're operating. This year we are going to operate
24 -- the County's desire is to operate for one year. It
25 will operate from June 1st from, it was May 27th or

00854

1 something like that, through the same period to 2002.
2 They're funded through the end of the year. They're not
3 funded for the next six months. So I know in talking to
4 the County that they want to run it for -- the
5 demonstration for a year. And if the numbers are
6 sufficient, we will be -- we will be -- if we're the
7 successful applicant, we will be -- we will be -- we
8 will be filing for a permanent permit.

9 Q. And you mentioned the County, is this a
10 public/private partnership?

11 A. Yes, it is.

12 Q. And how did this come about?

13 A. The County was looking for ways, I guess I
14 would have to say Greg Nickels more specifically, who
15 lives on West Seattle and represents that area, for ways
16 to reduce congestion as far as the West Seattle bridge
17 is concerned, and so the County, the City of Seattle,
18 and the Port of Seattle funded the first year, and then
19 subsequent years have just been funded by the County.

20 Q. Did the government involvement in the project
21 assist in getting docking rights, for example?

22 A. Absolutely, absolutely.

23 Q. And I believe that the West Seattle terminus
24 is a Seattle Parks Department dock; is that correct?

25 A. That's correct. And I'm, you know, I might

00855

1 add here that in my opinion, any public transportation
2 that's going to be provided is going to require a
3 partnership with the government. And I believe the best
4 -- I believe government does certain things very well,
5 much better than the private sector, and one is to
6 provide capital at very, very low rates that the private
7 sector can only dream about. I think the private sector
8 does some things that government doesn't do as well, and
9 that's operate things. And so in my opinion, most
10 successful ferry operations are or should be
11 public/private partnerships. That's exactly what this
12 one is. The County funded it, and the County put out an
13 RFP for a private operator to operate it.

14 Q. And who in addition to Seattle Harbor Tours
15 responded to that RFP, if you know?

16 A. It was responded to by I believe Mosquito
17 Fleet in Everett and Waterways in south Lake Union.

18 Q. And of the three responses, the County chose
19 Seattle Harbor Tours?

20 A. That's correct.

21 Q. Is it your anticipation that the routes that
22 you propose to obtain authority from the Commission to
23 serve would also be initiated similarly as a
24 public/private partnership?

25 A. Yes, yes, it is. And I'm -- I might, if you

00856

1 don't want me to, that's -- I might anyway, I might say
2 that if you're going to provide reliable public
3 transportation, that means that you operate very
4 frequent schedules, as frequent as possible, so that the
5 public doesn't even have to refer to a timetable. They
6 know every half hour on the half hour there's a ferry
7 going between point A and B. To do that on a sustained
8 basis throughout the day and on into the evening, there
9 may be a few private operators that can do that, but for
10 the most part, it's a public/private partnership or just
11 government themselves like Washington State Ferries.

12 Q. We talked earlier about the existing
13 certificate of authority between Kirkland and Seattle
14 held by Argosy. I would like to go to the next exhibit,
15 which is Exhibit 203, and I would like to discuss with
16 you the efforts that Argosy has undertaken to exercise
17 the authority in that certificate.

18 A. Do you have the rest of the afternoon and
19 then on into tomorrow?

20 Q. Well, no, and that's why I want to focus
21 primarily within the last couple of years.

22 A. Okay.

23 Q. This letter from the Assistant City Manager
24 of the City of Kirkland, are you familiar with this
25 letter?

00857

1 A. Yes, I am.

2 Q. And in general, is it accurate to the best of
3 your knowledge?

4 A. I want to find the darn thing first.

5 MR. CRANE: Mr. Kopta, is this Exhibit Number
6 203?

7 MR. KOPTA: It's Exhibit Number 203, yes.

8 MR. CRANE: Thank you.

9 A. Yes.

10 BY MR. KOPTA:

11 Q. Okay, let's turn to the next document, if you
12 would, Exhibit 204.

13 A. Okay.

14 Q. Would you describe for me what this document
15 is?

16 A. We formed not a legal entity but a company,
17 not even a company, something that we called COMFORT,
18 which is Committee For Optimum Regional Transportation.
19 The purpose of it was to, an acronym, to go out and talk
20 to the leadership in the region as it related to water
21 transportation, and that was done by myself, my son, and
22 a consultant by the name of Bob Gillespie.

23 Q. And who was on this committee?

24 A. Myself, my son, and Bob Gillespie.

25 Q. All right.

00858

1 A. We didn't want to say, frankly, that this was
2 Argosy inquiring. We thought that even though the
3 presence of myself and my son was pretty obvious, we
4 wanted to say it was an independent inquiry into what
5 they really thought about this. It's been mystifying to
6 me and it continues to be mystifying. I don't
7 understand why that we have -- we're blessed with having
8 these wonderful waters surrounding our region, and
9 they're extremely underutilized as far as providing
10 public transportation, and I have yet to find the
11 reason. Well, there are a lot of reasons, but if the
12 will is there, I guess I have yet to not understand why
13 the will is -- why people aren't more we're going to
14 make this happen.

15 Q. And on the second page of this document,
16 there is a table that has a list of various persons,
17 interview dates, and comments. Did you and the other
18 two members of the committee talk with these people and
19 generate these comments on these days?

20 A. Yes.

21 Q. And am I correct that the first page of this
22 document summarizes those contacts?

23 A. That's correct.

24 Q. And the last two pages are an opinion letter
25 for newspapers. Can you explain to me what the purpose

00859

1 of this document is, this part of the document I should
2 say?

3 A. I think it's an excerpt -- it's excerpts from
4 various editorials and opinions in newspapers. I
5 believe that's the -- that's what it is. I'm not
6 positive. Or it's a -- it -- I guess it's --

7 Q. Well, it looks to be a proposal for
8 publication.

9 A. Yes.

10 Q. Discussing these issues.

11 A. Yes.

12 Q. Is that a fair characterization?

13 A. Yes, yes, it is.

14 Q. Was this prepared by someone on the
15 committee?

16 A. Yes, it was, Mr. Gillespie.

17 Q. Do you know whether it was ever published by
18 any of the newspapers?

19 A. I know it was not.

20 Q. It was not?

21 A. Not published.

22 MR. CRANE: Your Honors, I couldn't hear the
23 last answer.

24 JUDGE MOSS: Mr. Blackman, I will ask you to
25 speak up. The HVAC has kicked in.

00860

1 A. Okay. No, it was not.

2 BY MR. KOPTA:

3 Q. Would you turn to Exhibit 205, which appears
4 to be a letter from the committee to King County Council
5 member Greg Nickels.

6 A. Yes.

7 Q. With your signature. Would you explain what
8 the purpose of this letter was?

9 A. We had promised each individual that we
10 talked to with a summary of what the discussions, what
11 we learned from those discussions, and that's what this
12 was. This went out to each person that we talked to
13 about this.

14 Q. Were you just doing this for informational
15 purposes, or why was this committee organized, and why
16 were you taking these steps in talking to these people
17 with respect to these issues?

18 A. We wanted to try to determine whether there
19 was genuine support for water taxi service across Lake
20 Washington, and that was the -- that basically was the
21 -- was the purpose of doing the review, and this was
22 just merely some feedback to the individuals as to what
23 the consensus was.

24 Q. So was this part of a process of trying to
25 organize a public/private partnership?

00861

1 A. Sure.

2 Q. Would you turn to Exhibit 206.

3 A. Yes.

4 Q. Are you familiar with this letter?

5 A. Yes.

6 Q. The reference here, and this is a letter from
7 the Greater Kirkland Chamber of Commerce, is to a plan
8 to initiate ferry service from Marina Park in Kirkland
9 to points in Seattle in the University District. What
10 plan was that?

11 A. Six or seven years ago, I had a meeting with
12 the business community and the government leadership in
13 Kirkland regarding this subject, and I invited Jane
14 Hague, because she had expressed some interest in water
15 taxi service across the lake. That particular effort
16 was shot down by the mayor of Kirkland, but Jane kept in
17 touch with me and let me know that she continued to have
18 a great interest. So once we got the COMFORT results,
19 we asked Jane to support a demonstration project across
20 the lake, and she did.

21 Q. If you would turn to Exhibit 207.

22 A. Yes.

23 Q. Are you familiar with this letter?

24 A. Yes, I am.

25 Q. Now this letter is from Kirkland Downtown on

00862

1 the Lake.

2 A. Yes.

3 Q. And it refers to a two year Kirkland to

4 Seattle water taxi demonstration pilot project.

5 A. Right.

6 Q. Is that the same plan as --

7 A. Yes, it is.

8 Q. And was this a project that Argosy was

9 intending to participate in with government partners?

10 A. Absolutely.

11 Q. And is it your understanding that the issues

12 identified here are some at least of the issues that

13 needed to be resolved before any such project could

14 start?

15 A. Yes.

16 Q. Now if you would turn to Exhibit 208, please.

17 A. Mm-hm.

18 Q. This is a Trans-Lake Washington Ferry Project

19 Advisory Committee Report.

20 A. Yes.

21 Q. Is this, it talks about pilot project

22 recommendation to Sound Transit, is this the same pilot

23 project that you were just talking about?

24 A. Yes.

25 Q. And what is this report?

00863

1 A. Jane Hague was able to, in support of the
2 pilot project, was able to get \$50,000 in Sound Transit
3 funds to do a study. And she called together an
4 advisory committee, which was kind of a broad based
5 group of people, some government, some private. And
6 that -- that we had -- that we had promoted and the --
7 this is -- and there were a number of meetings, probably
8 10 or 12 advisory committee meetings, held in the
9 evening among the advisory committee members and Jane
10 Hague. She personally chaired the committee. And this
11 is the pilot project recommendation back to Sound
12 Transit, who had originally funded the study.

13 Q. Would you turn to Exhibit 209, and this
14 appears to be a letter from you to the board members on
15 the Sound Transit Executive Board. Is that an accurate
16 characterization of the letter?

17 A. Well, when I find it here. 208 I've got.

18 Q. 208 is a long document.

19 A. Okay.

20 Q. It's probably three or four pages from the
21 end.

22 A. That ought to be easy enough. Yes, sorry.

23 Q. Would you explain what the purpose of this
24 letter was?

25 A. Sound Transit, the study -- the study that

00864

1 Sound Transit commissioned was done by a certified Sound
2 Transit consultant by the name of Barometrix. They're a
3 very good company. They don't have a lot of experience
4 with marine operations, but they're a very good company.
5 The cost data that was in that report that they did for
6 Sound Transit was so far off the mark that I thought,
7 you just can't let a document like that stand as public
8 record without challenge. So I asked the Passenger
9 Vessel Association to do a White Paper on the costs in
10 particular in the Sound Transit Report. They did so,
11 and I was sharing the results of that with the Sound
12 Transit Board. I also testified to the Sound Transit
13 Board.

14 Q. And if you would turn to the last exhibit in
15 your packet there, Exhibit 210.

16 A. Yes.

17 Q. The first two pages, is that the White Paper
18 that you were just discussing?

19 A. Yes.

20 Q. And, in fact, the entire report is Exhibit
21 108, is it not?

22 A. Exhibit 108?

23 Q. Yes.

24 A. If you say so.

25 MR. CRANE: We will stipulate that it is

00865

1 Exhibit 108.

2 JUDGE MOSS: All right, we will just have the
3 stipulation on that. You don't need to look for it.

4 MR. KOPTA: All right.

5 BY MR. KOPTA:

6 Q. What was your participation in the
7 preparation of this White Paper?

8 A. We worked with a consultant that prepared the
9 report named Jeff Kelton. JJMA is a highly respected
10 marine consultant with offices throughout the United
11 States, and so we provided some cost data for them for
12 their review. They did their own independent analysis
13 and came up with this information.

14 Q. Is Argosy a member of the Passenger Vessel
15 Association?

16 A. Yes, we are.

17 Q. What happened as a result of this White
18 Paper?

19 A. The White Paper caused the Sound Transit
20 Board to re-fund another review of Lake Washington Water
21 Taxi Service. They approved \$50,000 additional to
22 examine it.

23 Q. And what's the current status?

24 A. I can't be too specific on that, because I'm
25 not sure I know. But it's my last conversations with

00866

1 Jane Hague, who has really been kind of the champion on
2 this project, she's on the Sound Transit Board, she's
3 also on the -- she's also obviously very interested in
4 water taxi services, is she wants to get together and
5 talk about a strategy that we can go forward from here
6 and how to best spend those dollars.

7 Q. And is it Argosy's intention to continue to
8 participate in that process?

9 A. Absolutely.

10 Q. Do you have any estimate on the amount of or
11 the date by which any such pilot project could begin?

12 A. I don't.

13 Q. So at this time, you don't know when Argosy
14 would be able to initiate any kind of ferry service
15 between Kirkland and Seattle, specifically the
16 University of Washington?

17 A. The earliest in my judgment would be 2002,
18 excuse me, 2003.

19 Q. And that is because of the government
20 involvement in terms of --

21 A. That's correct, it's the government
22 involvement, it's providing answers to all the questions
23 that the community has asked. It's trying to work out
24 arrangements as it relates to the Kirkland dock. It is
25 true that Kirkland has a commercial tour dock. It is

00867

1 also true the commercial tour dock in Kirkland is about
2 125 feet at the end of the pier that was added basically
3 by the Port of Seattle, and Argosy moors a boat on --
4 has one of those 125 foot slips. The other slip is
5 available for any other commercial vessels and including
6 Argosy's. So the City has great concerns about whether
7 or not -- whether or not they want to allocate that
8 remaining commercial tour moorage to any one carrier.
9 It's a big issue.

10 Q. And you have had discussions with the City on
11 that issue?

12 A. I have had. I have tried to lease the space
13 myself. I have had discussions with the City for the
14 last really ten years.

15 Q. Well, that segues rather well into the last
16 area that I wanted to ask you about, which is some of
17 the assumptions that Dutchman Marine has identified as a
18 part of its proposal to provide ferry service on Lake
19 Washington.

20 A. Yes.

21 Q. Have you had an opportunity to review the
22 application that Dutchman Marine has filed and at least
23 some of the exhibits that have been introduced in this
24 proceeding?

25 A. Yes.

00868

1 Q. Are you familiar with an assumption in their
2 pro forma financial statement of ridership and revenue
3 increases during the first year of operation?

4 A. Yes.

5 Q. Do you have an opinion on whether that is a
6 reasonable projection of ridership and revenue increases
7 in the first year?

8 A. Extremely optimistic.

9 Q. Do you have any opinion on the willingness of
10 the public to pay a premium price for ferry service
11 across Lake Washington?

12 A. I think their prices -- I testified that our
13 price is on the absolute high end, and I think their
14 prices are just totally unrealistic.

15 Q. What about the assumption of \$1.65 per
16 passenger in concession sales?

17 A. I know a little bit about that, because it's
18 an extremely important part of our business, and \$1.65
19 is unheard of on a 30 minute route, that's just
20 impossible. It's off by a factor of at least \$1. And
21 if you subtract that from their -- basically from their
22 pro forma financial statement, it's the value of it is
23 in excess of \$200,000.

24 Q. Are you aware that a lot of their assumptions
25 are based on studies of East Coast ferry operations?

00869

1 A. Yes.

2 Q. Do you have any opinion on whether experience
3 with the ferry systems in the Northeast are transferable
4 to the Pacific Northwest, specifically Lake Washington?

5 A. I think the operational side is very
6 transferable. I'm not sure the marketing side is.

7 Q. And why would the marketing side not be?

8 A. This is a different demographic. It's a
9 different market. People think differently in the
10 Northwest than they do on the East Coast, and their
11 habits are different, and it's just a totally different
12 demographic.

13 Q. Do you mean transportation habits?

14 A. Transportation habits, driving habits as far
15 as cars are concerned, willingness to utilize public
16 transportation, certainly on the East Coast people are
17 much more apt to use in my opinion public transportation
18 than they are on the West Coast.

19 Q. Dutchman Marine has also proposed to charter
20 a vessel as part of its initial operations. Have you
21 reviewed that charter?

22 A. Yes.

23 Q. Do you have any opinions on the use of that
24 charter or reliance on that charter to initiate ferry
25 service?

00870

1 A. I don't think you can initiate ferry service
2 with a four and a half month agreement. That's my
3 opinion.

4 Q. What about the loan commitment agreements,
5 you have seen the redacted version of --

6 A. Yes.

7 Q. -- those loan commitment agreements. Do you
8 have any opinion on the reliance on those as a source of
9 funding for ferry operations?

10 A. My only reaction to the loan agreements was
11 if people have the financial wherewithal to generate
12 that kind of -- those kind of dollars, then why wouldn't
13 -- why would Dutchman not use their credit with a bank
14 as initial capital as opposed to paying 15% interest. I
15 mean even the banks aren't anywhere near that number.
16 So I guess underwriting a bank loan would be in my
17 opinion the more normal way to go about doing something
18 like this and certainly less expensive.

19 Q. Do you have any opinion on whether \$1.2
20 Million will be enough to fund the first year of
21 operations to the point where there's a profitability of
22 the company?

23 MR. CRANE: I will object, lack of
24 foundation.

25 JUDGE MOSS: Overruled, go ahead and answer

00871

1 it if you can.

2 A. Say it again.

3 Q. Sure. Do you have any opinion on whether
4 \$1.2 Million on the terms that -- to which the loan
5 applies, the loans apply would provide sufficient
6 capital to fund operations to profitability within the
7 first year?

8 A. My only opinion is based on all the dialogue
9 and analysis that everybody has participated in as far
10 as their pro forma is concerned, and my own analysis, I
11 don't think \$1.2 Million will last them through the
12 year. Never mind building. The other part is building
13 two vessels in the following year. I don't know where
14 those funds are coming from.

15 Q. And are you aware that they also assumed a
16 certain level of revenue for charters?

17 A. Yes.

18 Q. Do you have any opinion on whether that
19 revenue assumption is realistic in the first year?

20 A. No, it's -- I wish I could get \$7,000 a
21 weekend for a boat. A catamaran with fixed seating and
22 fixed tables is not a very charterable vessel. It's
23 very difficult to charter. The Victoria Clipper
24 operates catamarans of that kind, and they don't even
25 try to charter them, because they're not desirable from

00872

1 a customer standpoint to charter. But if you divide --
2 if you take that number that they have talked about as
3 far as their charter revenue, as nearly as I could
4 figure out, it was \$380,000 divided by 52 weeks is
5 \$7,300 a week, weekend, that's a Saturday and Sunday
6 average in January and February and March and November.
7 I don't think so.

8 Q. Do you have any opinion on what a more
9 realistic figure would be?

10 A. They're not going to operate very many
11 charters is what I'm really saying, because the vessels
12 are not designed for that. When people charter a boat,
13 they want to go out and have a nice leisurely ride.
14 They don't need a four engine high powered catamaran to
15 do it that has fixed tables and fixed seats where you
16 can't walk around, you don't have access to, you know,
17 to dancing and all the rest of the things people do when
18 they go out and have a special event on the water.

19 Q. Finally, Mr. Blackman, I'm going to ask you a
20 loaded question.

21 A. What else is new.

22 Q. Being familiar with Seattle Harbor Tours and
23 its proposal, operations, and having reviewed Dutchman
24 Marine's application and supporting exhibits, do you
25 have an opinion on which company is best suited to

00873

1 provide the proposed ferry services?

2 MR. CRANE: Lack of foundation, objection.

3 JUDGE MOSS: I think that objection is one
4 that we might consider in terms of weight, but I will
5 overrule it in terms of I think that's an adequate
6 foundation for him to express an opinion on that.

7 You may answer.

8 A. I may answer? I guess in going over this
9 thick brief, the exhibits or whatever it's called and
10 the subsequent filings, there's not a lot in that brief
11 that pertains to accurate schedules, accurate fares,
12 accurate phases in terms of starting service, accurate
13 origin and destinations. Well over half of the bulk of
14 the reports that Dutchman didn't participate in
15 personally. About a quarter of the bulk is the survey
16 information that they did.

17 And the Bare Boat charter agreement I have
18 already commented on. Four and a half months doesn't
19 give a lot of comfort. And I would just like the
20 Commission to understand that the availability in the
21 summer months of a fast catamaran of the type that
22 Dutchman is talking about, they're very, very scarce in
23 the summertime. You just don't, well, if Dutchman takes
24 this boat, they will go find another one. The company
25 that's operating the vessel that they're talking about,

00874

1 it's their only vessel, and they have just announced
2 service between Everett and Friday Harbor, and are they
3 going to do that for a few months and then stop it? I
4 can see them stopping it between December and April,
5 which is coincidentally when they have agreed to charter
6 the boat for. But they have an opportunity to get out
7 of that charter on April 15th.

8 I have commented on the financial fitness
9 issues and the \$1.65 as far as an average passenger on
10 board revenue expenditure is concerned. The on board
11 revenue depending on the number of passengers that you
12 can find and get to with this application, and that's
13 not easy, would reduce the income by \$200,000 to
14 \$400,000 if you use 65 cents, which is much more
15 realistic, as opposed to \$1.65.

16 How the company can possibly buy two boats
17 after the first year with that financial statement and
18 those resources is kind of beyond me. A ten fold
19 increase in revenue for the first year, I think I heard
20 several times this was a very conservative projection
21 yesterday, and that isn't real conservative in my
22 opinion. Positive cash flow after six to eight months,
23 I don't think it's positive for the entire year when you
24 factor in the concession revenue issues and some of the
25 rest of it. Charter revenue of \$380,000 is just not a

00875

1 realistic number.

2 So that's a long way of saying my opinion is
3 that Argosy and Seattle Harbor Tours are far better
4 equipped to start this service than Dutchman Marine.

5 MR. KOPTA: Thank you, Mr. Blackman. Those
6 are all my questions.

7 JUDGE MOSS: It's pushing 3:00, shall we go
8 ahead and take our mid afternoon recess.

9 MR. CRANE: I was going to ask you if that
10 would be all right.

11 JUDGE MOSS: Why don't we break until five
12 after the hour and make up for our short morning break.

13 (Recess taken.)

14 JUDGE MOSS: Mr. Blackman, of course you
15 remain under oath.

16 Mr. Crane, cross-examination.

17 MR. CRANE: Thank you, Your Honor.

18

19 C R O S S - E X A M I N A T I O N

20 BY MR. CRANE:

21 Q. Good afternoon, Mr. Blackman. I'm Matthew
22 Crane representing Dutchman Marine.

23 A. Good afternoon.

24 Q. And in your testimony earlier, the question
25 was asked whether the service from, for example, Renton

00876

1 to Seattle would overlap with Dutchman Marine's proposed
2 service from Renton to Seattle, and you said you didn't
3 think so; is that right?

4 A. That's correct.

5 Q. Okay. And if Dutchman Marine's service
6 between Renton and Seattle turned out to require docking
7 at University of Washington, would your opinion be the
8 same? Would you like me to rephrase that?

9 A. Please.

10 Q. Sure. If Dutchman Marine's service from
11 Renton to Seattle required docking at the University of
12 Washington, would your opinion be the same?

13 A. No.

14 Q. Is it your understanding that the City of
15 Seattle has committed itself to allowing passenger ferry
16 services to dock at University of Washington or Leschi
17 at this time?

18 A. No, they have not.

19 Q. In your testimony, the question was asked
20 with respect to your estimates of ridership, and I
21 believe you said they were based on I think you said the
22 word intuition; does that sound right?

23 A. Somewhat.

24 Q. Okay.

25 A. And experience, can I add that now?

00877

1 Q. Oh, of course, yes. Did you undertake any
2 independent ridership studies?

3 A. We did independent ridership surveys through,
4 forgive me for referring to my notes here, Public
5 Opinion Strategies is the name of the company. They're
6 a highly respected survey company on the east side.

7 Q. Okay.

8 A. We -- yes.

9 Q. And when was that study done or survey
10 approximately?

11 A. It was done in -- it was done in early 2000.
12 That's the best I can do.

13 Q. And could you explain what the survey
14 encompassed; what was it a survey of?

15 A. The survey was commissioned by King County
16 Council member Ron Sims, and I had some discussions with
17 his administrative assistant before the study went out
18 and was able to include -- it was a very broad survey of
19 transportation and transportation alternatives and how
20 people felt about transportation. There were -- there
21 were several questions in the study that referenced
22 water taxi service across Lake Washington. It was a --
23 it was a survey that was done with a sample of 400
24 people.

25 Q. Was this a telephone survey?

00878

1 A. Telephone survey, that's correct.

2 Q. Did you say it was commissioned by King
3 County?

4 A. That's correct. Now I would, to clarify,
5 Mr. Crane, I happen to have participated in the cost of
6 that study along with I'm sure many others, and my check
7 was sent to Gogerty and Stark, which is a well known
8 government oriented I don't know if they're a law firm
9 or a lobbyist or what. I'm sure you're aware.

10 Q. Public relations perhaps?

11 A. Public relations, thank you. But the
12 initiative for the study was done by the County, King
13 County. Sims, his name is on the study. I don't know
14 that the County paid for it, that's the point I'm trying
15 to make.

16 Q. Okay. Was a report of that survey ever
17 prepared that you're aware of?

18 A. Yes.

19 Q. Do you know where that report is?

20 A. I have a copy of it.

21 Q. Okay. You don't have a copy here, I assume,
22 in this room?

23 A. I do not.

24 Q. Can you tell me what the conclusions of the
25 survey, if there were any conclusions?

00879

1 A. Well, the conclusion that I relied on was
2 that 57% of those surveyed indicated a preference for
3 water taxi service across Lake Washington.

4 Q. Preference to that, was that in comparison to
5 a different type of service?

6 A. It just asked if they would be interested in
7 using water taxi service across Lake Washington.

8 Q. And, Mr. Blackman, was the survey specific as
9 to locations?

10 A. Yes.

11 Q. Okay. And do you recall what those locations
12 were?

13 A. It was -- it was a -- it was a broad cross
14 section of east side communities. It included Kirkland,
15 Bellevue, Renton, and Kenmore.

16 Q. Okay. And that presumably was to Seattle on
17 the opposite side of the lake?

18 A. That's correct.

19 Q. Okay.

20 A. That was not from, yes, that was not Seattle
21 to the other side. These were people that lived on the
22 east side.

23 Q. Okay. Do you recall any other conclusions
24 from the survey?

25 A. There were a couple of others, but I -- with

00880

1 respect to water transportation, but we -- we tried to
2 use the 57% in trying to determine ridership numbers.

3 Q. How did you do that, how did you do a
4 ridership numbers based on the survey results?

5 A. I didn't do it myself, so I can't -- it was
6 -- it was -- it was comparing populations of areas and
7 using that as some factor of -- it wasn't certainly
8 taking 57% of the population of Renton and --

9 Q. Okay.

10 A. But I can't -- I can't honestly answer how
11 that was done.

12 Q. Okay. Did the ridership survey that you have
13 just been talking about, did that form a basis for the
14 ridership estimates in your annual pro forma in your
15 application?

16 A. In part, yes.

17 Q. Okay. When you testified earlier that the
18 numbers were based on your experience and intuition, was
19 that also including survey results from this survey?

20 A. Yes.

21 Q. Okay. Do you know who prepared the estimate
22 of number of riders or ridership based on this survey
23 results?

24 A. It was a fellow by the name of Tom Thompson.

25 Q. Okay. Is that individual, is he employed by

00881

1 Argosy or Seattle Harbor Tours?

2 A. Yes, he is.

3 Q. All right. And do you know if Mr. Thompson's
4 results are existing in any report or written
5 documentation?

6 A. I don't. Mr. Thompson left the company, left
7 Argosy, and has since rejoined, if you will.

8 Q. Okay.

9 A. I don't know if he -- if we threw out all of
10 his files right after he left.

11 Q. You hope not, right.

12 Was the ridership survey that you have been
13 testifying about from King County, did it include a fare
14 survey as well?

15 A. No, it did not, and I don't think it ought to
16 be characterized as a ridership survey.

17 Q. Okay.

18 A. It was -- it was asking lots of questions
19 about transportation and people's feelings about
20 transportation and what modes they preferred, and so it
21 certainly was not confined by any stretch of the
22 imagination. In fact, you would have to extrapolate, as
23 we did, to get ridership.

24 Q. Okay. Have you undertaken any independent
25 fare studies as opposed to a ridership study, but a fare

00882

1 study?

2 A. Only as a member of the board of directors of
3 the Kirkland Chamber of Commerce, having many meetings
4 with the City, having meetings with the civic leadership
5 in Kirkland. I have talked to people about the fares
6 and fare levels, and it's -- and the basis for, as I
7 testified, I believe the numbers that we provided are
8 very optimistic in my opinion based on the discussions
9 that I have had with people.

10 Q. And when you say the numbers, you're talking
11 about the fare, the cost of the transportation?

12 A. Yes.

13 Q. And were the fares in relation to Seattle to
14 Kirkland only or other proposed routes as well?

15 A. Seattle-Kirkland.

16 Q. Have you done any studies or investigation as
17 to fares for other locations on Lake Washington?

18 A. Not specifically.

19 Q. And you testified that you would expect or
20 anticipate service to start to the cities of Renton,
21 Bellevue, and Kenmore between the years 2004 and 2006?

22 A. I think I testified that that's the best
23 guesstimate I can come up with. The start of service is
24 contingent upon working out arrangements with various
25 government bodies and civic leadership, et cetera.

00883

1 Q. Okay. And I was going to ask you how you
2 determined that those years would be about right; is
3 that from your discussions with people?

4 A. I tried to take the most optimistic viewpoint
5 I could based on my knowledge of what's going on in
6 those various locations.

7 Q. Do I understand your testimony correctly that
8 before you would initiate passenger ferry service on
9 Lake Washington, you would require a demonstration
10 project?

11 A. I would want -- I would want to have a
12 demonstration project. I wouldn't require it. I would
13 strongly recommend it and hope that people would see the
14 wisdom of doing that.

15 Q. And would that demonstration project be from
16 each of the cities on the east side of Lake Washington
17 to Seattle?

18 A. From the city -- we would start with Kirkland
19 and evolve. I would recommend it to be done in each one
20 of the cities, yes.

21 Q. Okay. And why is it that you would want a
22 demonstration project first before you would initiate
23 service?

24 A. I think it can tell you a lot about things
25 that right now we're speculating on, price, ridership.

00884

1 It can dictate -- the results can dictate the kind of
2 schedule you would operate. The West Seattle Water Taxi
3 is in its fourth year, and it's still a demonstration
4 project. They're gauging that ridership, and they're
5 looking at the fare box recovery versus other modes of
6 transportation. And as I think I testified earlier, I
7 also, Mr. Crane, would -- the government is going to be
8 a partner in a water taxi operation whether -- whether
9 they're a financial partner or not, and chances are
10 they're going to be in some form a financial partner.
11 So I think it would be very helpful of the government
12 and their involvement to have a demonstration project
13 first.

14 Q. Would a demonstration project, when you say a
15 water taxi, are we talking about any service between
16 east side of Lake Washington and Seattle; is that what
17 you're calling the water taxi?

18 A. Yes.

19 Q. Okay. So a passenger ferry service?

20 A. Yes.

21 Q. You're calling a water taxi?

22 A. Yes.

23 Q. Okay. Is it your belief that a demonstration
24 project water taxi in Lake Washington would require
25 government funding?

00885

1 A. Yes, it is. If it's going to be done,
2 qualify that, if it's going to be public transportation
3 and it's going to operate with the kind of frequency
4 that people demand public transportation operate with.

5 Q. If the government or one government agency or
6 another was unwilling to fund a demonstration project,
7 would it occur, in your opinion?

8 A. I am -- I am of the opinion that -- that a --
9 that a successful water taxi operation in Lake
10 Washington would require -- a successful water taxi
11 operation that was going to provide public
12 transportation and the frequency so demanded would
13 require government participation financially.

14 Q. Okay. And at this point, is there any
15 certainty that that public funding will be provided?

16 A. Absolutely not.

17 Q. And if the public funding was not available
18 to provide a water taxi service, would Argosy or Seattle
19 Harbor Tours commence water taxi service in Lake
20 Washington?

21 A. We might, we may.

22 Q. What would that --

23 A. But it would -- it would not -- it would not
24 be in the form of frequent reliable, reliable, scratch
25 that, it wouldn't be in the form of frequent schedules.

00886

1 Q. Okay.

2 A. It -- if we did it, it would be -- it would
3 be aimed at the commuter market, and I -- I don't
4 personally share Dutchman's optimism for the -- for the
5 discretionary, the volumes of people that are going to
6 -- are going to carry on the -- in that discretionary
7 market. I think they characterize it as being larger
8 than the commuter market.

9 Q. You testified earlier that Seattle Harbor
10 Tours Limited Partnership has money in the bank that
11 fluctuates on a regular basis?

12 A. Yes.

13 Q. Understandable. And the question was put to
14 you, if Argosy doesn't have the cash to fund, excuse me,
15 if Seattle Harbor Tours doesn't have the cash to fund
16 continued operations of a water taxi service in Lake
17 Washington, where would the money come from, and you
18 said from Argosy?

19 A. That's correct.

20 Q. Okay. Has Argosy, and when I say Argosy,
21 we're talking about Argosy LP?

22 A. Mm-hm.

23 Q. Has Argosy LP entered into any contractual
24 arrangements with Seattle Harbor Tours to fund water
25 taxi operations on Lake Washington?

00887

1 A. No.

2 Q. Would it be funding that would be at the
3 discretion of Argosy?

4 A. It's basically all the same company, so I
5 guess you could say that.

6 Q. Okay. And Argosy LP is a limited
7 partnership?

8 A. That's correct.

9 Q. And I don't know very much about limited
10 partnerships, but I understand there's a general
11 partner?

12 A. Yes.

13 Q. And is the general partner, is that also one
14 of your companies, or are you involved in --

15 A. Argosy is the general partner.

16 Q. Argosy, which Argosy?

17 A. Oh, you're talking about Argosy or Seattle
18 Harbor Tours?

19 Q. Sorry, Argosy LP, who is the general partner
20 of Argosy LP?

21 A. I am.

22 Q. You are, okay. So if you decided as the
23 general partner to have Argosy LP money fund Seattle
24 Harbor Tour ferry service operations, that would be your
25 decision?

00888

1 A. That's correct.

2 Q. Would anyone else be involved in that
3 decision in order to fund?

4 A. Chances are that the amount of funds required
5 that our partnership agreement would require the limited
6 partners to be -- to vote on that as well.

7 Q. Okay. When you testified earlier about the
8 expected concession sales on a per passenger basis by
9 Dutchman Marine.

10 A. Yes.

11 Q. You said that the average of \$1.65 per
12 passenger was unheard of, right?

13 A. I probably said that. I will take your word
14 for it.

15 Q. Well, that's what I wrote down, so do you
16 remember what you testified?

17 A. If I -- if I said that, I would be
18 contradicting our own company. I hope I said that \$1.65
19 would be unheard of on a 30 minute route.

20 Q. Okay. And you probably did say that. I
21 didn't mean to commit you to all your operations.

22 A. We average over \$1.65 on some of our routes
23 ourselves.

24 Q. Okay.

25 A. But they're longer routes.

00889

1 Q. And then in terms of the charter revenue that
2 Dutchman Marine is anticipating earning, do you have an
3 understanding of how many charters and which days the
4 charter operations are expected to occur over?

5 A. My understanding was that they would occur
6 during the -- during the off peak times on weekends.

7 Q. Would that include Friday night in your
8 understanding?

9 A. All I heard in the testimony, Mr. Crane, was
10 off peak on weekends.

11 Q. Okay. If the charter revenue was, excuse me,
12 if charter operations by Dutchman Marine were expected
13 to begin Friday in the evening after commute hours,
14 would that make a differences in terms of the, in your
15 expectation, how much revenue, charter revenue, could be
16 earned on the weekends?

17 A. No, it would not.

18 Q. Do you have an understanding of whether the
19 charter revenue from Dutchman Marine that's expected to
20 be earned would include anything other than charter
21 hire?

22 A. I believe it includes concession revenue as
23 well.

24 Q. It includes concessions, all right. And in
25 Exhibit 201, I believe, Mr. Blackman, do you have

00890

1 Exhibit 201?

2 A. Yes.

3 Q. Okay. That's your application for commercial
4 ferry service, right?

5 A. Yes.

6 Q. Okay. And that's dated December 15th, 2000?

7 A. I don't see a date, but.

8 Q. Well, I'm looking at the last page of the
9 application.

10 A. Okay.

11 Q. It's got numbers 1 through it looks like 18,
12 and then below that is a signature line.

13 A. Yes.

14 Q. Do you see that there?

15 A. Yes.

16 Q. Is that your signature?

17 A. Yes, it is.

18 Q. And you testified earlier that your son, is
19 it Scott, was involved?

20 A. Yes.

21 Q. Is he still involved in your company?

22 A. No, he's not.

23 Q. Okay. And so did you prepare this
24 application then, or you just signed it?

25 A. I just -- I just signed it.

00891

1 Q. Okay. And then in there, it says above your
2 signature on the top paragraph, the signature section
3 says, the applicant certifies he/she is familiar with
4 the provisions of Chapter 81.84 RCW. Do you see that
5 there?

6 A. Yes.

7 Q. And Chapter 480-51 WAC.

8 A. Yes.

9 Q. Okay. And I assume by signing that, you
10 agree with that statement, that you're familiar with the
11 RCWs and the WACs?

12 A. I don't know what those WACs are.

13 Q. Okay. Well, if I represent to you that they
14 represent the regulations of the Utilities and
15 Transportation Commission pertaining to passenger ferry
16 service, are you familiar with those regulations?

17 A. Not intimately.

18 Q. Okay, all right. Now it's correct to say,
19 isn't it, that passenger ferry service between Kirkland
20 and Seattle has not been initiated by Seattle Harbor
21 Tours or Argosy?

22 A. That's correct.

23 Q. Okay. And Argosy, I believe it's Argosy LP
24 that has a certificate to operate between Kirkland and
25 Seattle?

00892

1 A. Yes. Well, when we -- I'm not sure,
2 Mr. Crane, when we -- we -- I went through the history
3 of the companies, and when we purchased Seattle Harbor
4 Tours, Seattle Harbor Tours had the certificate, and I
5 may stand corrected on that.

6 Q. Well, I'm not trying to trick you on who got
7 it or how.

8 A. Okay.

9 Q. I'm just wondering when it was obtained and
10 what company; do you recall that? And I have a copy in
11 front of me.

12 A. We purchased Seattle Harbor Tours Limited
13 Partnership in March of 1990. In May of 1990, we
14 purchased Grayline Water Sight Seeing, and Grayline
15 Water Sight Seeing had a certificate to operate through
16 the government locks. They may have also had a
17 certificate -- I can't remember whether it was Grayline
18 Water Sight Seeing or Seattle Harbor Tours that had the
19 Kirkland to Seattle certificate. It was one of the two.

20 Q. Okay. Well, and I didn't mean to ask you
21 about all the history there. I was -- my question was
22 more the certificate of, well, it's not called
23 certificate, it's a document that says, For the
24 Operation of Motor Propelled Vehicles Pursuant to
25 Chapter RCW 81. It's Permit Number DC-000101. I have a

00893

1 copy here, and I don't know if you have a copy or not,
2 Mr. Blackman. Would you like me to show it to you?

3 JUDGE MOSS: If you're going to have some
4 more questions about it, let's do, because this is
5 taking a lot of time, and I think we should cut to the
6 chase.

7 MR. CRANE: That's what I'm trying to do. I
8 don't think this is an exhibit.

9 MR. KOPTA: No.

10 MR. CRANE: It's not, okay.

11 BY MR. CRANE:

12 Q. I have a copy of a document that I have been
13 referring to, and I want to ask you if you recognize
14 that document.

15 A. Not specifically.

16 Q. Okay. But it says Argosy LP has a
17 certificate?

18 A. Yes.

19 Q. Okay. And that certificate was dated in
20 November 28, 1995, for the service date of December 6th,
21 I believe.

22 A. Yes, yes, I see that date.

23 Q. Okay. And part of that certificate is
24 providing passenger service between Kirkland and
25 Seattle, correct?

00894

1 A. Yes.

2 Q. Okay. And my question is, as to this
3 certificate from the Utilities and Transportation
4 Commission, has Argosy LP initiated passenger service
5 between Kirkland and Seattle?

6 A. We have tried, but we have not.

7 Q. You have not, you have not initiated service?

8 A. That's correct.

9 Q. Okay. All right. And are you aware of a
10 requirement to submit progress reports to the Utilities
11 and Transportation Commission?

12 A. Not specifically.

13 Q. Okay. Do you know if a progress report has
14 been submitted by Argosy LP to the Washington Utilities
15 and Transportation Commission with respect to the
16 certificate of authority to operate between Kirkland and
17 Seattle?

18 A. No, I don't.

19 Q. Do you know if one has not been done, or
20 you're not sure whether it has been done?

21 A. I don't know whether it's been done.

22 Q. Okay. So if I was to ask you if you know
23 they're required every six months, your answer would be
24 no?

25 A. That's correct.

00895

1 Q. Okay. In the same Exhibit Number 201 in the
2 supplemental answers to application questions,
3 Mr. Blackman, which is about, oh, ten or so pages from
4 the front of your application.

5 A. Yes.

6 Q. On page two of the supplemental answers, it
7 says, it's Number 10:
8 Seattle Harbor Tours has not determined
9 at this time whether it will use
10 existing vessels or lease or buy one or
11 more vessels to provide the whole
12 service.

13 A. Yes.

14 Q. Has a decision been made now as we sit here
15 today?

16 A. No, it has not.

17 Q. I beg your pardon?

18 A. I said, no, it has not.

19 Q. And is the reason because, as it says in this
20 supplemental answer, the decision will depend in part on
21 the outcome and negotiation with municipal governments
22 and, excuse me, effected municipal governments and
23 transportation authorities?

24 A. That's correct.

25 Q. Is that because you're looking to find

00896

1 financial assistance?

2 A. No, it's not.

3 Q. Okay. Mr. Blackman, in Attachment C of that
4 same application is your annual pro forma, which you
5 have already testified about a little bit today. What
6 is an annual pro forma?

7 A. It's an estimated annual results.

8 Q. And do you know what years the annual pro
9 formas refer to? It's Attachment C, Mr. Blackman. It's
10 actually probably towards the bottom of Exhibit 201.

11 MR. KOPTA: Just for clarification, it is
12 Exhibit 202.

13 MR. CRANE: Oh, I'm sorry.

14 THE WITNESS: Oh, thank you.

15 MR. CRANE: You're correct, I'm sorry,
16 Mr. Kopta, I made a mistake there.

17 BY MR. CRANE:

18 Q. So it's Attachment C, no wonder you couldn't
19 find it. I was putting you on a wild goose chase on
20 another exhibit.

21 A. Yes.

22 Q. On the annual pro forma, these are for annual
23 numbers for each of the three runs, right?

24 A. Yes.

25 Q. And those are for years to occur in the

00897

1 future?

2 A. Yes.

3 Q. And that's what we talked about earlier, the
4 years between 2004, 2006 approximately, depending on
5 negotiations with the cities?

6 A. Approximately, yes.

7 Q. Okay. All right. And your ridership figures
8 that are for those periods of time are the ridership
9 numbers that we have talked about earlier today?

10 A. Yes.

11 Q. Okay. And you think that the ridership would
12 be the same in 2004 as it is today?

13 A. Trying to distinguish in my opinion between
14 today and 2004 isn't really the -- isn't really the
15 issue. The issue here is that trying to come up with a
16 ridership number that is credible is extremely
17 difficult. It's impossible until you -- until you put a
18 boat in the water and really try it.

19 Q. Okay.

20 A. You can -- you can do your best estimate, and
21 that's what we have done here.

22 Q. And doing your best estimate then I would
23 assume applies to the figures for gross revenue,
24 operating costs, administrative costs; is that correct?

25 A. Gross revenue is merely an extrapolation of

00898

1 price and ridership.

2 Q. Okay, so that's just --

3 A. Operating cost is based on our experience on
4 what it costs to operate vessels.

5 Q. Okay. Did you say the gross revenue was just
6 the multiplication, the product of \$3.50 times 1,200
7 riders per day over the year?

8 A. Yes.

9 Q. Okay. Administrative costs, is there a
10 calculation that went into that that you're aware of?
11 I'm sorry, is there a calculation that went into coming
12 up with a figure for administrative costs?

13 A. That's our business. We operate a business
14 with gross revenues in excess of \$10 Million and assets
15 approaching \$20 Million, and we know a little bit about
16 operating costs and operating expenses. We better.

17 Q. And I'm sure you do know that. I'm just
18 wondering where this number came from, if you know how
19 that was calculated.

20 A. That was based on -- that was based on the --
21 on the routes that we submitted in our application.

22 Q. Okay. And what are ownership costs?

23 A. That's the -- that's debt service.

24 Q. On what?

25 A. On vessels.

00899

1 Q. Oh, you mean if they're purchased?

2 A. Yes, or leased.

3 Q. Or leased, okay. And how many vessels does
4 that include; do you know?

5 A. In this particular case, it's one in each one
6 of those locations.

7 Q. Okay. So each of the runs you're expecting
8 to have a single vessel serving the route?

9 A. Correct.

10 Q. Okay. And on column one for Kenmore, it says
11 operating income of \$17,250, and then there is a
12 footnote that says exclude moorage expenses. What is
13 that?

14 A. It's the bottom line excluding moorage
15 expenses.

16 Q. Is that a common way of expressing operating
17 income is to exclude moorage expenses in your business?

18 A. No, it's not. You would include that.

19 Q. Oh, okay.

20 A. That's so much of a guess that we didn't
21 choose to put those numbers in.

22 Q. Okay.

23 A. And again, it depends on the partnership with
24 government. Government could very well make that number
25 zero.

00900

1 Q. Okay. And you're expecting to have a loss on
2 the route from Renton to Seattle I assume by this annual
3 pro forma?

4 A. Yes.

5 Q. Okay. And you still want to run, do that
6 run?

7 A. Yes.

8 Q. And why is that?

9 A. Well, this is the first year of operation,
10 and I suspect it's going to improve. The demonstration
11 project, however, if we're successful in getting that
12 might determine that, gee, it doesn't look like there's
13 as much of a market there as we thought there was.

14 Q. Okay. Mr. Blackman, in Exhibit 107, I can
15 read it to you. I guess I don't really need to show it
16 to you, Mr. Blackman.

17 A. Okay.

18 Q. In Exhibit 107, there is a statement made,
19 and this is a protest and motion to consolidate, there's
20 a statement on page two that says:

21 Seattle Harbor Tours and its operations
22 would be fundamentally and adversely
23 impacted if the Commission were to grant
24 the Dutchman Marine application for
25 certificate to provide commercial ferry

00901

1 service on Lake Washington.
2 Do you agree with that statement? And you're
3 welcome to take the exhibit with you and sit at the
4 table. We don't need you to stand there.
5 THE WITNESS: May I take this?
6 MR. KOPTA: Please.
7 BY MR. CRANE:
8 Q. And I'm looking at Exhibit 107 on page two.
9 A. Yes, I agree with that statement.
10 Q. Okay. In what way is that a true statement?
11 A. In what way is it a true statement?
12 Q. Yeah, why is it true in your opinion?
13 A. I agree with it because a certificate has
14 value, and if Dutchman is allowed to operate on a route
15 that Argosy has a certificate, that would -- that would
16 render the certificate worthless.
17 Q. Are you talking about the Kirkland to Seattle
18 certificate?
19 A. Yes.
20 Q. Okay. You're not talking about Renton to
21 Seattle or Bellevue to Seattle or Kenmore to Seattle?
22 A. No, I'm not.
23 Q. Okay. Mr. Blackman, in the testimony earlier
24 with respect to the vessels, were you -- is my
25 understanding correct that the vessels that you list in

00902

1 your application are market values of the vessels, or
2 what are those numbers based on?

3 A. What numbers are you referring to?

4 Q. The vessels that are listed in your
5 application that support your application. It's Exhibit
6 201 under other assets.

7 A. Survey value.

8 Q. Survey value, okay. Do those vessels have --

9 A. And that is surveyed market value, yes.

10 Q. Okay. Do those vessels have any
11 encumbrances, mortgages, or liens?

12 A. They are -- yes, they do.

13 Q. Do you know how much as we sit here today?

14 A. Well, they're part of a collection of vessels
15 against a bank loan with U.S. Bank.

16 Q. And do you know approximately how much equity
17 is represented in these market values?

18 A. I can give you an estimate, and that is that
19 -- that would be we have vessels pledged to U.S. Bank at
20 -- now, well, I don't think I want to give you that
21 information come to think of it.

22 Q. That's fine, you don't need to give me the
23 dollar amounts. I'm just wondering approximately.

24 A. I would say approximately 50%.

25 Q. Okay.

00903

1 MR. CRANE: Your Honor, may I have a moment,
2 please.

3 JUDGE MOSS: Sure.

4 MR. CRANE: Thank you, Your Honor.

5 I don't have any further questions at this
6 time. I would like to reserve the right to ask a few
7 questions pending others.

8 JUDGE MOSS: All right, we'll see if there's
9 any redirect.

10 MR. CRANE: Okay.

11 JUDGE MOSS: Ms. Riordan.

12 MS. RIORDAN: I do have a few questions,
13 thank you, Your Honor.

14 JUDGE MOSS: Go ahead.

15

16 C R O S S - E X A M I N A T I O N

17 BY MS. RIORDAN:

18 Q. Mr. Blackman, I'm Lori Riordan for the City
19 of Bellevue, and I first would like to ask you a little
20 bit about Exhibit 204, the COMFORT survey.

21 A. Yes.

22 Q. I have to confess to some extreme nosiness
23 about under negative findings.

24 A. I missed that, I'm sorry.

25 Q. It's the first page.

00904

1 A. Yes.
2 Q. The section entitled negative findings.
3 A. Negative findings, yes.
4 Q. No on Meydenbauer Bay. Can you tell me what
5 that was referring to?
6 A. It was pretty obvious that the people we
7 talked to, which included the City of Bellevue, were not
8 -- were not excited about ferry service in Meydenbauer
9 Bay.
10 Q. When was this survey conducted?
11 A. I gave that before, and I don't have the
12 precise. I think it's the -- it was the first part of
13 2000.
14 Q. Okay.
15 A. As nearly as I can remember.
16 Q. I noticed a letter in here dated 8-27-99
17 that's part of the COMFORT, I guess it's Exhibit 205.
18 A. That helps, thank you.
19 Q. Would it be fair to say that this survey was
20 conducted probably sometime in '99?
21 A. Yes, it would have been before this letter.
22 Thank you very much.
23 Q. Okay.
24 A. See what happens to your recollection when
25 you get to be my age.

00905

1 Q. When you're referring to no on Meydenbauer
2 Bay, are you referring to discussions that you had with
3 folks at the City when Bellevue purchased the marina and
4 you requested -- you inquired at that time --

5 A. Yes.

6 Q. -- whether or not the City was interested in
7 letting you dock there?

8 A. No, actually, I'm not referring to that.

9 Q. Okay.

10 A. At that time, we had discussions with
11 Mr. Spring.

12 Q. Springate?

13 A. Springate. I don't think he's still -- he's
14 no longer with the City.

15 Q. That's correct, he has retired.

16 A. Right. He had some enthusiasm actually for
17 Meydenbauer Bay and for the City. The City was just in
18 the process of purchasing that property from Loggett.

19 Q. Mm-hm.

20 A. And he got kind of excited about it actually.
21 In subsequent discussions, however, found that he was --
22 he was pretty much alone in that excitement.

23 Q. Okay. And the next line on this negative
24 line is Kemper doesn't like public.

25 A. Public transportation, Kemper Freeman likes

00906

1 concrete, and that was -- that was our take on a
2 discussion with him. So anything, whether it was
3 passenger ferries, water taxis, buses, all of the, you
4 know, light rail, I got thrown out of the office talking
5 about that. But he wasn't -- he had no enthusiasm for
6 this project.

7 Q. So in terms of it being a public/private
8 partnership?

9 A. No, in terms of -- in terms of him being a
10 priority for, well, I guess you could say for government
11 spending money, he would much prefer that it go into
12 concrete.

13 Q. Okay.

14 A. As opposed to mass transit.

15 Q. And he doesn't even own a cement factory.

16 A. I hope I'm not doing a disservice when I say
17 that, but I think that's a fair statement.

18 Q. I think that's fairly well known.

19 Now when you talk about this being a sort of
20 a joint public/private partnership.

21 A. Yes.

22 Q. The impression I'm getting from your
23 testimony is that you're kind of looking at it with two
24 possibilities, one being in terms of docking, in terms
25 of having a facility if it's a public, publicly owned

00907

1 facility, you're thinking possibly the local government
2 would allow you to dock there free of charge?

3 A. Right.

4 Q. That would be one way that it would be a
5 partnership?

6 A. Right.

7 Q. But in terms of putting money towards the
8 service itself, are you looking more towards Metro or
9 Sound Transit to pick up the tab there as opposed to
10 local government?

11 A. That would be my expectation, yes. It would
12 be more of a County, Sound Transit kind of a support
13 thing. Ferries are operated all over the world. In
14 some cases, the government buys the boat and then -- and
15 then provides the moorage, provides shuttle service to
16 and from the boat, and then they let a private operator
17 operate the boat. And in some cases, they provide that
18 operator with subsidy, dollar subsidy. Some cases they
19 don't. Some cases they say, you keep whatever you get
20 at the fare box to cover your operating costs. So, you
21 know, there's all kinds of combinations.

22 Q. So you don't have anything specific in mind
23 right now in terms of how a public/private partnership
24 would come about?

25 A. No, the only thing I know specifically is I

00908

1 have been trying for over five years to get it going in
2 Kirkland. It's been very, very difficult.

3 Q. Your application contains a map that shows
4 the Bellevue route as originating in Meydenbauer Bay.

5 A. Yes.

6 Q. But you have testified today that at this
7 point your third location for a landing site at Bellevue
8 is Newport Shores; is that correct?

9 A. Our application said Bellevue on it. I don't
10 think it said -- I don't think our application said
11 Meydenbauer Bay. That was Dutchman Marine.

12 Q. Well, the map is what shows --

13 A. Oh, the map?

14 Q. Yeah, the map that's in Exhibit 201.

15 A. Right.

16 Q. These don't have page numbers on them,
17 unfortunately.

18 A. The answer to your question is yes.

19 Q. Okay. But as you sit here today, at least in
20 part because of the your understanding of the testimony
21 about the permitting issues with Meydenbauer Bay, your
22 preference would be Newport Shores; is that correct or
23 the boat launch at Newport in Bellevue?

24 A. Yes.

25 Q. Okay.

00909

1 A. And not just from the testimony, but from
2 many conversations we have also had with people in
3 Bellevue.

4 Q. Have you undertaken any affirmative steps at
5 this point in terms of seeking code changes in Bellevue
6 in order to see that kind of service come about in
7 Bellevue?

8 A. No, we have not. Our game plan has always
9 been we wanted to start in Kirkland first.

10 Q. Is it fair to say then that Dutchman Marine
11 has basically forced your hand in terms of the
12 progression of how you intended to do this?

13 A. I think that's a very fair characterization.
14 We have been working on Kirkland very hard, and an
15 application comes in to acquire certificates all over
16 the lake. And I think it was prudent on our part to
17 file a competing application for those points.

18 MS. RIORDAN: Those are all the questions I
19 have, thank you.

20 JUDGE MOSS: Mr. Davidson.

21 MR. DAVIDSON: Thank you.

22

23 C R O S S - E X A M I N A T I O N

24 BY MR. DAVIDSON:

25 Q. Mr. Blackman, my name is Gordon Davidson, I'm

00910

1 an Assistant City Attorney representing the City of
2 Seattle.

3 A. Yes, sir.

4 Q. You have described the fact of the West
5 Seattle service, West Seattle Water Taxi Service, but
6 I'm not sure that you have given us the kind of
7 information that I think would be helpful to us in
8 describing the nature of that service. And sort of
9 anticipating, I want to give you a heads up for the next
10 question as well. I'm looking for an answer ultimately
11 of how you would describe the sort of the quality, the
12 kind of service that your firm would ultimately propose
13 between Kirkland and Seattle. But if you can first
14 start with the West Seattle servicing, give us an
15 explanation of what the customer experiences when he or
16 she is riding that boat.

17 A. Well, the customer experience is a great one.
18 There was a show on the radio the other day that
19 actually had a customer on describing the service, and
20 they whizzed by the bridge, and they looked up at all
21 the congested gridlock traffic, and it's a seven minute
22 ride across, they have a beautiful skyline of the city
23 of Seattle, and it's a quick ride, and we moor the
24 vessel at Pier 54 where we have permanent moorage, and
25 which is a great place to walk to most office locations

00911

1 in downtown Seattle.

2 Q. Pier 54 is the pier that the regular harbor
3 tours leaves from; is that correct?

4 A. No, that leaves between pier 55 and 56, and
5 pier 54 is where Ivars is. It's the pier just north of
6 the fire station. You have the Coleman Ferry Dock, the
7 fire station, and then the first pier is 54.

8 Q. A seven minute run does not allow for a lot
9 of concession sales. Are there even any offered on
10 board?

11 A. There are not.

12 Q. Okay. And is the seating that's available on
13 that particular boat essentially sort of bench seating
14 or individual seating; is there any seating?

15 A. Yes, oh, absolutely. Yes, as a matter of
16 fact, it's very high quality, Mr. Davidson. It's
17 cushion seating, and it's very nice. The vessel has a
18 nice wood interior, and it's pleasant. It's too bad
19 people can't spend more time on it.

20 Q. And am I able to get on that boat and go to
21 West Seattle just by flashing or by running my Metro bus
22 pass through some kind of a card reader or otherwise get
23 on using my Metro pass?

24 A. I know you're not able to flash it through a
25 reader. I believe on the West Seattle side that, I'm

00912

1 not positive of this, but I believe that the -- that
2 King County Metro has established special buses to carry
3 people from up above down to. And then if you have the
4 bus pass, it -- it's you don't need to pay the fare.

5 Q. And does that work the same way going back so
6 that there's effectively no fare paid if one is --

7 A. There's no -- there's no, unfortunately,
8 there's no bus service on the waterfront. Metro doesn't
9 provide any bus service on the waterfront. I never
10 quite understood that with Coleman dock carrying 24
11 million passengers a year on ferries why there are no
12 bus connections, but there aren't.

13 Q. Would you anticipate for the Kirkland to
14 Seattle run and vice versa an arrangement in which a bus
15 passenger would be able to ride without paying an extra
16 charge?

17 A. Yes.

18 Q. Can you give us any indication of what your
19 expectation would be about the amenities of that
20 particular service?

21 A. There would be a concession stand. The
22 vessel would be a nicely appointed vessel, not
23 dissimilar from what Dutchman described. And we would
24 offer newspapers and coffee and soft drinks and a bar
25 kind of service on board. The amount of time allows

00913

1 some concession sales. The shortest trip that I have to
2 compare concession sales is a one hour harbor tour, and
3 I know every day how much those concession sales are per
4 passenger, and I wish they were \$1.65 on average.

5 Q. Would you characterize your anticipated
6 service between Kirkland and Seattle, or for that matter
7 any of the other points and the locations in Seattle, as
8 premium service? And I think maybe in contrast to bare
9 bones service or something.

10 A. I don't understand the -- I heard premium in
11 the prior testimony. I just don't -- any time that you
12 bring up a vessel that is in the \$1.5 Million, \$2
13 Million range and it's a fast catamaran, I would
14 characterize that as being a premium vessel, and we
15 would envision that type of vessel ourselves.

16 Q. Okay. Could I call your attention,
17 Mr. Blackman, to Exhibit 202, the last page. This is
18 the annual pro forma statement in the supplementary
19 material. Mr. Hibma went through some excruciating
20 detail yesterday, and I would not like you to have to
21 suffer through a similar experience, but I am intrigued
22 about the multiplication that results in gross revenues.
23 Is your expectation that you would be operating these
24 vessels on a 365 day a year service basis?

25 A. No.

00914

1 Q. Is it weekday service only?

2 A. No, it's a -- it's a -- I would have to dig
3 into the detail from this, Mr. Davidson, and I -- I said
4 no pretty fast, but I may mean yes.

5 Q. Are you coincidentally looking at Exhibit
6 108, the marine industry White Paper?

7 A. Yes.

8 Q. The JJMA study?

9 A. Yes.

10 Q. I noticed in that, there is, for instance, a
11 chart on page ten that talks about annual operating
12 costs and revenue forecasts and a chart that shows --

13 A. That's 365 days, so I guess I correct my
14 answer and say yes, that's 365 days.

15 Q. You indicated earlier that the ticket price
16 listed there of \$3.50 for at least the Kenmore and
17 Bellevue runs is the maximum that you thought you could
18 charge for the service. And can you explain the letters
19 AV in front of the word ticket price?

20 A. Average.

21 Q. Does this then anticipate that for certain
22 classes of passengers the charge might be less or more
23 or perhaps less only?

24 A. No, it would anticipate that there would be
25 students aboard that would have a youth pass, and most

00915

1 of the traffic we expect will be University driven, and
2 so the students would have a lesser price.

3 Q. And is that then the explanation why if I
4 multiply \$3.50 times 365 times 1,200 I don't get
5 \$1,050,000?

6 A. Yes.

7 Q. The footnote on the last page of Exhibit 202
8 that says excludes moorage expenses, does this address
9 the element of operation that we heard Dutchman Marine
10 talk about in terms of a layover berth?

11 A. No, it does not. I would anticipate that the
12 vessels would be -- would be moored at Kirkland.

13 Q. So this particular expense is only the cost
14 of gaining access to either a privately owned or a
15 publicly owned docking facility?

16 A. Right.

17 Q. You described your -- the commencement of
18 your service on the West Seattle Water Taxi
19 demonstration as being a product of an RFP. What wasn't
20 clear to me is whether that RFP was issued in '96 or '97
21 for the initial service or whether you were referring to
22 the recommencement of service in 2001.

23 A. That's a great question. I can't -- it was
24 the recommencement of service this year.

25 Q. Oh, okay.

00916

1 A. In 2001. I can't remember whether there was
2 an RFP in that first year or not.

3 Q. If I heard you, I thought I heard you make a
4 remark at one point during your testimony that, in a
5 colloquy relating to Argosy and Seattle Harbor Tours, I
6 thought I heard you say it was basically all the same
7 company.

8 A. Well, it's technically not the same company,
9 but the control of Seattle Harbor Tours is -- it's 90%
10 controlled by Argosy.

11 Q. And that has -- how long ago was Argosy
12 itself established?

13 A. Argosy was established in 1994. Seattle
14 Harbor Tours Limited Partnership was established in
15 1990. Seattle Harbor Tours was established in 1949.

16 Q. And the 1990 firm that you're talking about
17 is Seattle Harbor Tours Limited Partnership; is that
18 correct? What I'm trying to distinguish is what's the
19 difference between the 1949 and the 1990?

20 A. What happened in 1990 is that we didn't buy
21 the company, we bought the assets, and so it was a new
22 partnership that was formed, and we called it Seattle
23 Harbor Tours Limited Partnership.

24 Q. Can you explain to me what the purpose was of
25 a transfer of the certificate of authority that was

00917

1 issued in 1995 transferring the authority under the
2 Certificate Number 101 from TMT Corporation and John C.
3 Blackman d/b/a Seattle Harbor Tours Limited Partnership
4 to Argosy Limited Partnership. That was a transfer that
5 appears to relate to --

6 A. Right, that was a -- that was a -- do you
7 want me to answer that?

8 Q. Yes.

9 A. As best I understand your question?

10 Q. Yes.

11 A. In 1993, I bought out most of the interest of
12 TMT Corporation, and therefore the ownership changed in
13 Seattle Harbor Tours Limited Partnership. I think we
14 neglected to report that to the WUTC, but we did when we
15 changed the name from Seattle Harbor Tours Limited
16 Partnership to Argosy, we changed the certificate to
17 Argosy, which was a mistake, because we -- because we --
18 and may still be a mistake for all I know. But our
19 intention is we kept Seattle Harbor Tours Limited
20 Partnership as a viable partnership and with Argosy as
21 90% owner, and the limited -- and the partners of Argosy
22 owning the balance of the 10%. And we have -- we have
23 used that partnership both for business with the UTC as
24 well as leasing vessels.

25 Q. Is there --

00918

1 A. I probably didn't even answer your question.

2 Q. No, I think you gave me a sufficient
3 understanding.

4 Is there any reason that you think that the
5 certificate that Argosy has with respect to that
6 Kirkland run should not be thought of as relating back,
7 in fact, and starting at the point that it initially was
8 issued?

9 A. No.

10 Q. There's no reason that that should not relate
11 back; it should be treated as having been in existence
12 since it was initially granted?

13 A. Yes.

14 Q. Which would be granted to Grayline back in
15 19 --

16 A. Well, I think if I remember correctly --

17 Q. -- 89?

18 A. I'm on thin ice here, but I think I recall
19 that the certificates used to be issued in perpetuity by
20 the WUTC, and I might be wrong on that. But in 1995,
21 they then had a time frame associated with a
22 certificate, so I guess I don't quite understand where
23 you're going.

24 Q. I will leave the question.

25 A. Okay.

00919

1 MR. DAVIDSON: I think that's all.

2 JUDGE MOSS: Thank you.

3 Mr. Thompson.

4

5 C R O S S - E X A M I N A T I O N

6 BY MR. THOMPSON:

7 Q. Mr. Blackman, I'm Jonathan Thompson, the
8 attorney for the Commission Staff.

9 A. Mr. Thompson.

10 Q. Do I understand correctly that the reason you
11 applied for this authority in the name of or through
12 Seattle Harbor Tours is because you don't wish to make
13 public information about the finances of Argosy; is that
14 a fair summary?

15 A. I think that's exactly what I testified to,
16 and I probably would go a little bit farther and say
17 that holding an active certificate with a route that has
18 a lot of competitive implications in terms of ridership
19 and numbers of people carried and gross revenue
20 generated and all of those kinds of things, if it's
21 under the Argosy name, I basically have to share it,
22 share all of that information. And we do share it with
23 the WUTC, but we do it through Seattle Harbor Tours. If
24 we did it through Argosy, we would have to, I think,
25 share a lot of other information that we just choose not

00920

1 to want to do.

2 Q. Are you aware whether Argosy files annual
3 reports with the Commission about its revenues?

4 A. We do file annual reports with the Commission
5 about our locks cruise.

6 Q. Okay. So you're --

7 A. We pay a tax on that, I think.

8 Q. Yeah, the regulated part of your company?

9 A. Yes.

10 Q. Okay. But that doesn't result in having to
11 disclose information about the finances in the rest of
12 the company, does it?

13 A. Yes, it does. If I want to increase the fare
14 on that route, I have to get into return on investment,
15 which some day we will have a private conversation about
16 that subject. 7% is a maximum reasonable return, I
17 think, according to the WUTC, and I might take exception
18 to that, but.

19 Q. Well, I might just correct your understanding
20 of that.

21 Well, let me just understand this then. I
22 think I also heard you say that basically Argosy would
23 provide the funding, the operational support, and
24 administrative support for the proposed routes; is that
25 correct?

00921

1 A. I don't think I said that.

2 Q. Okay.

3 A. But that would be -- that's absolutely true,
4 yes.

5 Q. Okay. Could you explain maybe in a little
6 bit more detail what that would mean? I mean in other
7 words, would Argosy provide the personnel for operating
8 the boats?

9 A. Yes.

10 Q. And they -- and those would be employees of
11 Argosy?

12 A. Yes.

13 Q. Okay. Well, okay, let me ask you, can you
14 give an estimate, I don't think you have provided a
15 figure yet as far as how much Argosy, you know, at this
16 point would be willing or able to commit to the
17 development of say these three routes you applied for
18 plus the Kirkland route. Can you give me any kind of a
19 sense of how much money Argosy would commit?

20 A. I could give you an answer if I knew the
21 answer to what the government participation would be on
22 the market number.

23 Q. Fair enough. I think you answered a question
24 earlier about whether you thought a Leschi to Renton, or
25 excuse me, a University of Washington to Renton route

00922

1 would be overlapping?

2 A. Yes.

3 Q. And you said they would not be except to
4 something like 20% about?

5 A. Yes.

6 Q. I just want to be clear, what's your opinion
7 as to a University of Washington to Kirkland route
8 versus a Leschi to Kirkland route; would those two --
9 would those be overlapping or not?

10 A. I don't think they would, no. The bulk of
11 the people in both directions would be -- would be
12 University of Washington related, in my opinion.

13 Q. Would that same 20% market overlap apply
14 there as well?

15 A. Yes.

16 Q. Okay.

17 A. Up to 20%.

18 Q. Up to 20%, okay.

19 MR. THOMPSON: I think that's all the
20 questions I have for you. Thanks, Mr. Blackman.

21 JUDGE MOSS: I'm not sure I have any specific
22 questions prior to the opportunity for redirect, but I
23 do have a general question, and it may result in some
24 development by the witness on redirect or questions from
25 me. And it is this.

00923

1 It has been unclear to me from the beginning
2 whether it is part of Seattle Harbor Tours' application
3 here whether that application in part is a request for
4 an extension of the existing certificate, which without
5 close scrutiny of the facts, I have nevertheless come to
6 think has probably gone beyond its five year term
7 without service having been initiated. And so I need to
8 be clear on whether that is going to be an issue in this
9 case, because I keep getting hints that it is, but
10 nobody has told me squarely.

11 So I put the question first to you,
12 Mr. Kopta, is that part of the intent of the
13 application, that there would be an extension of that
14 authority consistent with RCW 81-84-010(2)?

15 MR. KOPTA: That is a fair question, and I
16 think part of the dilemma that we have is a legal one in
17 that there is a five year term in the statute, which we
18 are five years beyond December of 1995 as of December of
19 last year. There is also a Commission rule, I believe,
20 that requires the Commission to actively terminate a
21 certificate. So there is some disconnect between, or at
22 least I wouldn't say disconnect, but there seems to be
23 some confusion as to what happens with a certificate.

24 And I'm not sure what the legislature had in
25 mind by putting in a five year period, and I'm not sure

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1 what the Commission had in mind when it required an
2 affirmative act to terminate a certificate. In 20/20
3 hind sight, perhaps we would have been better served to
4 have requested either an extension of Argosy's
5 certificate or a new certificate for Seattle Harbor
6 Tours from Kirkland to the University of Washington.

7 I think it is our intent that to the extent
8 the Commission believes that the certificate has expired
9 and that no further authority has been granted to Argosy
10 for the route between Kirkland and Seattle, that we
11 would as part of this proceeding, as part of this
12 application, be requesting authority from Kirkland to
13 the University of Washington, and we will be narrowing
14 it from Kirkland to Seattle to Kirkland to the
15 University of Washington.

16 JUDGE MOSS: As a new authority?

17 MR. KOPTA: As a new authority, I think,
18 because, as Mr. Blackman testified, it's more convenient
19 to have all of the authority held in Seattle Harbor
20 Tours. Then we kind of kill two birds with one stone in
21 that now Seattle Harbor Tours Limited Partnership would
22 have the certificate rather than Argosy. And it would
23 eliminate any concern with respect to the five year
24 period in which the certificate must be exercised
25 according to the statute.

00925

1 JUDGE MOSS: So from the legal standpoint, we
2 have a two step analysis we have to undertake. First we
3 have to answer the question of whether the existing
4 certificate which has gone beyond its five year term
5 without service being initiated has therefore expired
6 consistent with the statute and the WAC and whatever
7 they provide.

8 The second step is assuming the one case,
9 that it has expired, whether the application is
10 sufficient to encompass the Kirkland to Seattle or
11 University of Washington route. And I guess as I
12 contemplate that piece of it, the existing certificate
13 is held by Argosy, as I understand it.

14 MR. KOPTA: That's correct.

15 JUDGE MOSS: And the preference would be to
16 have it held by Seattle Harbor Tours, and I believe
17 there is some further rule at least, if not statute,
18 governing the transfer of certificates that would
19 probably have to be followed in connection with that.
20 So it does strike me that we have some legal hurdles,
21 perhaps low hurdles, not high hurdles, but hurdles
22 nevertheless.

23 I would like to turn to Mr. Thompson on this
24 point and ask if this is an issue that Staff has
25 concerned itself with and whether it would be beneficial

00926

1 to put Ms. Allen on the stand to address this issue in
2 terms of giving us the Commission's perspective on the
3 status of the existing certificate, or is that so purely
4 a legal question?

5 MR. THOMPSON: I think it's partly a legal
6 question, but I think there's also some factual issues
7 as well that it might be a good idea to get on the
8 record.

9 JUDGE MOSS: All right, well, rather than
10 prolong this discussion now, and without cutting other
11 counsel off from the opportunity of participating on
12 this issue, I think we should probably do that with
13 Ms. Allen on the stand rather than Mr. Blackman, because
14 I have the Seattle Harbor Tours view without examining
15 Mr. Blackman.

16 MR. THOMPSON: I'm only actually thinking of
17 a single fact. It might be possible to get Seattle
18 Harbor Tours to just stipulate to it.

19 JUDGE MOSS: Well, let's hear what it is and
20 find out.

21 MR. THOMPSON: Well, there was a question
22 about whether Argosy had filed progress reports on that
23 certificate, and I think we could put Ms. Allen on the
24 stand to address that, and it would be her testimony
25 that, no, they hadn't. And we could go through that

00927

1 process, but if the company could just stipulate to
2 that.

3 JUDGE MOSS: Do you need to consult with your
4 client?

5 MR. KOPTA: If you would be so kind, Your
6 Honor.

7 JUDGE MOSS: I would be so kind. Let's be
8 off the record for just three minutes.

9 (Brief recess.)

10 JUDGE MOSS: Mr. Kopta, you have had an
11 opportunity to consult with your client with regard to
12 the proposed stipulation.

13 MR. KOPTA: I have, Your Honor, and we would
14 be willing to stipulate that while we're unsure about
15 whether any reports were initially filed around the time
16 that the certificate was issued in 1995, that we would
17 be willing to stipulate that there have not been reports
18 filed at least within the last three or four years.

19 JUDGE MOSS: Is that adequate for your needs,
20 Mr. Thompson?

21 MR. THOMPSON: Well, actually, there is a
22 second issue.

23 JUDGE MOSS: Go ahead.

24 MR. THOMPSON: Do you want to raise that?

25 MR. KOPTA: Why don't you just go ahead and

00928

1 raise it.

2 MR. THOMPSON: Basically the other issue is
3 whether the company had applied for a petition for an
4 extension of the five year time period, and I understand
5 that it has not.

6 MR. KOPTA: And that is correct.

7 JUDGE MOSS: Okay.

8 MR. KOPTA: And I might add that we initiated
9 this or Dutchman Marine initiated this proceeding in mid
10 November of last year. I believe we filed our
11 application in mid December, which was right around the
12 same time that the certificate hit its five year mark.
13 So again, it was our intent to try and put in
14 information about the proposed Kirkland to University of
15 Washington route in this application to try and at least
16 provide sufficient information so that the Commission
17 could do what it needed to do to assure that either
18 Argosy or Seattle Harbor Tours would have authority for
19 the route from Kirkland to the University of Washington.

20 JUDGE MOSS: Mr. Thompson, as a legal matter,
21 does Staff have a view with regard to the question of
22 whether in the application by Seattle Harbor Tours as
23 filed with the Commission in item five, which requests
24 the applicant to list the territory in which you wish to
25 operate, and I'm looking at that, and it says:

00929

1 Presently holds certificate for Kirkland
2 to Seattle. This would be a new
3 certificate for service from Kenmore,
4 Bellevue, and Renton to University of
5 Washington.

6 I would like to know whether Staff has a
7 legal view as to whether that provides adequate
8 information to the Commission for it to understand that
9 the intent of the applicant is for four routes as
10 opposed to three?

11 MR. THOMPSON: Well --

12 JUDGE MOSS: And if we need to put Ms. Allen
13 on the stand to get Staff's view of that, I would be
14 happy to do that.

15 MR. THOMPSON: Sure, we could do that. But
16 initially I would just say that it's not just whether
17 it's enough for Staff to have that understanding, but
18 there's also an issue of notice to other potential
19 carriers and interested parties.

20 JUDGE MOSS: I hadn't gotten there yet, but
21 that was my next question.

22 MR. THOMPSON: Yeah.

23 JUDGE MOSS: And do you have a view on that?

24 MR. THOMPSON: Well --

25 JUDGE MOSS: Perhaps you would like to

00930

1 reserve until a later time. I don't mean to put you on
2 the spot.

3 I will be clear why I'm pressing this issue.
4 I believe sitting here today that it is the case that
5 the Commission can not grant more authority than has
6 been applied for, and so we have to understand the
7 implications of the way the application was fashioned so
8 that we do not run afoul of the law. Naturally it would
9 be in our interest whatever decision is entered that it
10 be legally sustainable. And so that is why I'm pressing
11 this issue a little bit and want to be confident of that
12 when we do issue or enter our initial decision, and, of
13 course, subsequently the Commission will want that
14 reassurance when it enters its final order.

15 MR. THOMPSON: I think it would be a good
16 idea to put Ms. Allen on, because I'm embarrassed to say
17 she knows more about the law on this than I do.

18 MR. KOPTA: I dare say that all of us do.

19 JUDGE MOSS: All right, well, we will do that
20 momentarily then, and I -- well, I will ask if anybody
21 has anything they want to say about this point to me
22 right now. This is ultimately going to be a question
23 for briefs, and I don't mean to promote further
24 discussion of it right now.

25 MR. KOPTA: I would just say that we have

00931

1 pretty well, I hope, expressed our position. It
2 certainly was our intent to have four routes and not
3 just three.

4 JUDGE MOSS: And I think I have alerted all
5 counsel to the issue that concerns me, the legal issue
6 that concerns me, so it will ultimately be a matter for
7 briefs.

8 All right, well, with that then, I believe we
9 are to the point where I will ask you if there is any
10 redirect examination.

11 MR. KOPTA: I have a couple of questions,
12 although I don't know if Mr. Crane has any additional
13 questions that were prompted by other counsel.

14 MR. CRANE: No further questions.

15 JUDGE MOSS: Let's see if there's any
16 redirect then.

17

18 R E D I R E C T E X A M I N A T I O N

19 BY MR. KOPTA:

20 Q. I just have a couple of areas that I wanted
21 to ask you about, Mr. Blackman. Apropos of this
22 discussion in terms of the intent of Seattle Harbor
23 Tours or Argosy in seeking authority to provide ferry
24 service on the lake, there was -- it also ties into the
25 issue of a request for authority by Dutchman Marine, and

00932

1 they have asked for broad authority from, for example,
2 Kirkland to Seattle as opposed to Kirkland to Leschi,
3 whereas we have been specific in identifying the
4 University of Washington rather than Seattle. Do you
5 have an opinion or want to give the intention of Seattle
6 Harbor Tours in asking for narrower authority than all
7 of Seattle?

8 A. I do, and my opinion and five cents will
9 probably get you somewhere. But I think giving any
10 carrier an authority that is as broad as Seattle is, in
11 today's world, is it would be -- it would be a mistake.
12 If you take the high population areas of places like
13 Tacoma and Everett and Edmonds, it's conceivable that
14 from those areas some day I hope we will see passenger
15 ferry service operate to multiple locations in Seattle,
16 not just a single destination in Seattle, or the ability
17 to freeze what is a huge geographical area. And I just
18 -- I just -- I could -- I could envision service, ferry
19 services going into the north end of the Seattle
20 waterfront, the south end of the Seattle waterfront,
21 from the same areas but for specific different
22 destinations and for different reasons.

23 So I think -- I think being able to lock up
24 an entire city that has the -- that the extent of
25 shoreline that the city of Seattle has is -- may have

00933

1 been appropriate whenever this was originally done, but
2 I don't think it's appropriate any more.

3 Q. Do I take it by your last response that in
4 regard to the first issue of the existence of a
5 continuing certificate for Argosy, that were the
6 Commission to find that Argosy retains authority under
7 that certificate, that it would be willing to limit that
8 authority to Kirkland to the University of Washington?

9 A. That's correct.

10 Q. Mr. Thompson asked you how much Argosy would
11 be willing to commit to Seattle Harbor Tours for the
12 proposed route, and I believe your response was it
13 depends on the amount of government participation; is
14 that accurate?

15 A. Yes.

16 Q. Is it nevertheless your testimony that Argosy
17 would be willing to commit sufficient funds to Seattle
18 Harbor Tours to enable it to initiate ferry service as
19 proposed?

20 A. Yes.

21 MR. KOPTA: Thank you, those are all my
22 questions.

23 JUDGE MOSS: I do have one question for you,
24 Mr. Blackman.

25

E X A M I N A T I O N

1

2 BY JUDGE MOSS:

3

Q. And that is with respect to the testimony you just gave about I believe your words were locking up an area the size of Seattle or the shoreline as extensive as Seattle, would that same testimony apply to say Bellevue, which is itself a fairly large urban area encompassing on this map here two potential landing sites at least?

10

A. I don't think Bellevue has anywhere near the shoreline opportunity, Your Honor, that Seattle does. It could, I don't know how you make that distinction. But I would personally look at Bellevue differently than Seattle, which is the size and magnitude.

15

Q. I guess the concern that occurred to me was consistent with your own testimony. Were the Commission to grant the certificate that said University of Washington to Bellevue, for example, that would presumably then be an existing conflict with a subsequent proposal for University of Washington to Newport Shores and would therefore require the higher degree of showing for such an application. And I was curious as to whether you shared that type of concern on the eastern side of the lake given its increasingly urban nature.

25

00935

1 A. I would look at Seattle differently.

2 JUDGE MOSS: All right, thank you.

3 MR. CRANE: I do have a follow-up question,
4 but I can wait for the others to see if anyone else has
5 any further questions.

6 JUDGE MOSS: I don't think anybody else does.
7 Go ahead.

8 MR. CRANE: Okay.

9

10 R E C R O S S - E X A M I N A T I O N

11 BY MR. CRANE:

12 Q. Mr. Blackman, in terms of your testimony
13 that, as you put it, giving any carrier as broad
14 authority as Seattle would be a mistake, let me pose you
15 a hypothetical. I want to see what you think of this.
16 If you were -- if your company was granted a certificate
17 of authority to operate a passenger ferry between, for
18 example, Seattle, excuse me, Kirkland and University of
19 Washington, and you were unable to come to terms with
20 the University of Washington in using the docking
21 facilities, and that period of time after all extensions
22 available lapsed, therefore you're stuck, do you think
23 that it would be appropriate for the operating authority
24 to be limited to a certain landing facility that you
25 didn't have any control over obtaining?

00936

1 A. I still think it would. I think you take
2 your best shot and try to make that happen. But to have
3 the flexibility of going to Seward Park or to Leschi or
4 to Madison Park or to University of Washington or south
5 Lake Union or up and down the Seattle water line, I
6 think it is -- I just think that's too broad an
7 authority. That's my personal opinion.

8 Q. And the broadness of authority relates to the
9 possibility of having two carriers serving the same
10 city, right?

11 A. No. Two carriers serving the same city on
12 the Seattle side?

13 Q. Yes.

14 A. I don't understand your question.

15 Q. Well, I mean if someone got authority, for
16 example, say Dutchman Marine was granted authority to
17 operate a passenger ferry service to Seattle, would it
18 be your concern that it's too broad because you think
19 there's a sufficient demand to serve, for example,
20 University of Washington?

21 A. Well, my concern would be I wouldn't be able
22 to serve the University of Washington.

23 Q. Would you want to serve the University of
24 Washington if you thought there was sufficient ridership
25 to support that? In other words, I'm just saying in my

00937

1 questions, let's assume there was existing service to
2 Seattle, and let's just assume Dutchman Marine was
3 serving Seattle through Leschi.

4 A. Mm-hm.

5 Q. And later you wanted to provide service to
6 University of Washington, which is also Seattle. Would
7 you do so based on your projection that there's
8 sufficient ridership to do that?

9 A. Yes.

10 MR. CRANE: All right, thank you.

11 MR. KOPTA: Nothing further.

12 JUDGE MOSS: All right, Mr. Blackman, we
13 appreciate you being here to testify and bearing with us
14 until the end.

15 Let's have Ms. Allen briefly.

16

17 Whereupon,

18

BONNIE L. ALLEN,

19 having been first duly sworn, was called as a witness
20 herein and was examined and testified as follows:

21

D I R E C T E X A M I N A T I O N

22

BY MR. THOMPSON:

23

Q. Ms. Allen, could you please state your full
24 name, and spell your last name for the record.

25

A. My name is Bonnie, middle initial L, my last

00938

1 name is Allen, A-L-L-E-N.

2 Q. And you're employed by the WUTC?

3 A. Yes, I am.

4 Q. And what's your job at the WUTC?

5 A. I'm a transportation program coordinator.

6 Q. What does that entail?

7 A. I'm senior staff, I have lead
8 responsibilities over major transportation related
9 projects and including transportation applications and
10 operating authorities and staff on rule making and other
11 types of related issues.

12 Q. Okay. How long have you worked for the
13 Commission?

14 A. Since August 25th of 1976.

15 MR. THOMPSON: Okay, I guess I would offer
16 her up for your questions, Your Honor, since I have
17 none.

18 JUDGE MOSS: Mr. Thompson, this is your big
19 chance, I wouldn't want to steal your thunder, but I
20 will be happy to examine the witness with respect to my
21 concerns.

22

23 E X A M I N A T I O N

24 BY JUDGE MOSS:

25 Q. Ms. Allen, let me just ask you directly, what

00939

1 authority do you understand Seattle Harbor Tours to have
2 applied for by its application that is under
3 consideration in this docket?

4 A. It's my understanding and what we noticed on
5 the docket to the public was passenger service between
6 Kenmore, Bellevue, Renton and the University of
7 Washington, and a waiver of the 10-mile restriction.

8 Q. All right. And would you regard this form of
9 application to encompass a request for an extension of
10 an existing certificate of authority?

11 A. No, we're talking about -- in this instance,
12 we have two separate certificates, and we have two
13 separate entities involved, and we don't generally
14 consolidate those into a single filing. There would be
15 two separate filings necessary.

16 JUDGE MOSS: Okay, those are all my
17 questions. There may be other examination by counsel.

18 MR. KOPTA: I would just like to ask a
19 question or two.

20

21 C R O S S - E X A M I N A T I O N

22 BY MR. KOPTA:

23 Q. Is it your understanding based on the notice
24 requirements of the the Commission that whatever is
25 noticed out to the public is how the Commission

00940

1 interprets the scope of the application?

2 A. What's noticed out in the application docket
3 is what's before us in the proceeding that we -- we
4 don't -- we can't act on anything more than what we have
5 told the public we're going to act on in this
6 proceeding. And in this case, what we noticed out was
7 that service. We didn't notice out any service
8 involving Argosy or involving the Seattle to Kirkland
9 run.

10 Q. And because this was in response and
11 accompanied by a motion to consolidate with an
12 application with Dutchman Marine for service from
13 Kirkland to Seattle, would it be your or would it be
14 Staff's view or your own view depending on what you're
15 comfortable testifying that the public received notice
16 that at least one carrier was seeking authority to
17 provide passenger ferry service between the cities of
18 Kirkland and Seattle?

19 A. Yes.

20 Q. And in your view, does it make a difference
21 from notice standpoint that the notice specified only
22 Dutchman Marine but not also Seattle Harbor Tours?

23 A. Yeah, I think it does make a difference. I
24 think in what was noticed out was that Seattle Harbor
25 Tours had requested a specific authority, and Dutchman

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1 has requested a different authority, and the fact that
2 those two cases were consolidated, I don't believe that
3 would bring the Seattle to Kirkland route into the
4 Seattle Harbor Tours filing, if that answered.

5 Q. I'm really looking at it more from the point
6 of view of the understanding of the public, and I
7 understand that notice requirements are notice
8 requirements. But I'm looking at it more in terms of
9 the practical effect of notice requirements. And do you
10 have any opinion on whether the public looking at the
11 notice that the Commission distributes would believe
12 that there was any distinction between, at least based
13 on publicly available information, distinction between
14 an application from Dutchman Marine to provide ferry
15 service from Kirkland to Seattle and an existing
16 certificate or the position of one party that an
17 existing certificate between Kirkland and Seattle was
18 also going to be at issue either because of a competing
19 certificate being applied for or because there was a
20 reference to it in another application?

21 JUDGE MOSS: Let me interrupt before you
22 answer, because I was just looking at my case
23 administration file here, there are actually a series of
24 notices in this proceeding, so we need to be clear as to
25 which one we're referring. So let me ask you to amend

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1 your question to the witness and indicate which notice
2 you're referring to.

3 Q. Actually, I'm referring to notices, all of
4 the notices that were distributed with respect to this
5 particular case. I'm not asking with respect to a
6 particular notice. I mean a concern that I have is that
7 there is a document on file that is an existing
8 certificate, and I'm not sure that the Commission would
9 provide an additional notice of that certificate, but
10 it's certainly available in the Commission files as a
11 public document, that there is an existing certificate
12 between Kirkland and Seattle. So that's why I'm
13 exploring this line in terms of the new notice and then
14 the presumed notice that the public has of a document
15 that is on file with the Commission.

16 A. Can I go ahead?

17 JUDGE MOSS: I was listening to that.

18 A. I guess traditionally the docket is the
19 notice of the applications before us, and that's the
20 opportunity for other companies or cities or staff or
21 for anyone else to say, here's what's before us in these
22 individual cases and the opportunity to say, oh, we have
23 an issue with this.

24 In this notice, it doesn't address Argosy,
25 and it doesn't address the Seattle to Kirkland route

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1 that Argosy holds under the certificate. The fact that
2 Argosy would protest this notice of Dutchman is their
3 opportunity based on Dutchman's notice to say, here's
4 what's before us in this case, it involves a route that
5 Argosy has, and that's what Argosy would base its
6 protest on. You have the protest that identifies the
7 other company and what their interest in the case is.
8 But this is its own request for authority and its own
9 filing.

10 And I guess I would see the protest as sort
11 of an intervention by an existing carrier on behalf of
12 its own -- a protest on behalf of another company's
13 certificate of authority. I don't know that that would
14 broaden this. I don't believe that would broaden the
15 scope of the Seattle Ferry application beyond what was
16 noticed.

17 Q. And I guess part of my inquiry is not so much
18 with respect to what was actually noticed but whether
19 there is a practical distinction between a notice that
20 says Dutchman Marine has requested authority between
21 Kirkland and Seattle and another notice that says
22 Seattle Harbor Tours has asked for authority between
23 Kirkland and Seattle.

24 A. If those were the two notices, there probably
25 wouldn't be. However, if the notice were that Argosy

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1 was proposing to transfer its existing authority between
2 Seattle and Kirkland to Seattle Harbor Tours, I would
3 suggest that might bring in a different perspective, and
4 there may be different reasons for people to intervene
5 or desire to participate.

6 JUDGE MOSS: And recognizing, Mr. Kopta, that
7 you don't have the notices in front of you necessarily,
8 I do, and they are rather precise.

9 MR. KOPTA: Okay. And I understand that that
10 is the case and often is the case in this type of
11 proceeding, which is why I focused more on the practical
12 impact as opposed to the precision. And I realize that
13 this is not the most precise way to have done this, and
14 what I would like to do is obviously discuss in the
15 brief the extent to which as a practical matter what the
16 Commission should do as opposed to perhaps whether the
17 letter of the notice requirements is in the best
18 interests of the public.

19 JUDGE MOSS: It's an arcane issue that may
20 prove to be one of the more interesting legal issues
21 that we have to deal with, and difficult.

22 MR. KOPTA: Unfortunately, yes, and that's
23 why -- and I certainly don't mean to criticize Staff at
24 all, and that's not my intention in asking you the
25 questions that I have. It's just obviously this is an

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1 important issue for us, and we had thought that we had
2 acted sufficiently to preserve our ability to maintain
3 this authority, and that's our concern is all.

4

5 E X A M I N A T I O N

6 BY JUDGE MOSS:

7 Q. Ms. Allen, did you have something you wished
8 to say? I'm not expecting you to, you just looked at me
9 expectantly. I wanted to offer you the opportunity.

10 A. Well, in a recent ferry application that
11 involved two companies, there was a problem with a piece
12 of the authority that had been noticed in the docket,
13 and there was very significant discussion about that and
14 whether or not it needed to be renoticed to actually
15 even address any of those additional locations. And I
16 guess that -- I mean there's quite a history of what's
17 noticed out and how far that allows us in this
18 proceeding to go.

19 Q. Did the Commission enter an order in
20 connection with that?

21 A. I believe what we ended up doing was agreeing
22 that the revision of the territory was not a broadening
23 of the scope of what was noticed. It was merely a
24 redefining of it, and it didn't, in fact, expand
25 anything. It just restated what was already in the

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1 notice.

2 Q. And was that agreement reached with or
3 without the necessity for a Commission order?

4 A. It was agreed in a settlement agreement, and
5 that was accepted by the Commission and incorporated
6 into the order.

7 Q. All right, and for the ease of reference of
8 the parties, do you recall what the style of that case
9 was?

10 A. I believe it was the Seattle Harbor Tours and
11 Seattle Ferry applications of last year or the year
12 before.

13 JUDGE MOSS: All right, and in any event,
14 parties can contact the Commission and ascertain the
15 order at issue, because it may be an important reference
16 to that case. I think we probably have what testimony
17 we need from Ms. Allen. There being nods of agreement
18 from counsel, Ms. Allen, thank you very much for coming
19 forward.

20 Well, we are at that delightful point of the
21 evidentiary proceedings when we have had our witnesses
22 on the stand and concluded their examination. We do
23 have some additional exhibits to come in, as was
24 previously discussed, and we're leaving the record open
25 for the purposes of receiving those exhibits.

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1 Are there any other matters that parties wish
2 to propose be made of record and on which the presiding
3 Administrative Law Judges will deliberate in reaching an
4 initial decision in this case?

5 MR. CRANE: Not from Dutchman Marine,
6 however, Your Honor asked us to consider a briefing
7 schedule.

8 JUDGE MOSS: Oh, yes, we will do that
9 momentarily, but one step at a time.

10 MR. CRANE: All right.

11 JUDGE MOSS: Any further evidence?

12 All right, apparently the parties are
13 satisfied with their cases and prepared to rest, so
14 let's take up the question of briefing, and we will go
15 off the record.

16 (Discussion off the record.)

17 JUDGE MOSS: The parties have discussed with
18 the Bench the date for the briefing, and it has been
19 agreed that a good date will be July 20th for the
20 receipt of simultaneous briefs.

21 MR. CRANE: And, Your Honor, is there an
22 expected form of the brief or content?

23 JUDGE MOSS: I have --

24 MR. CRANE: Would you like me to withdraw the
25 question in light of --

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1 JUDGE MOSS: No, Judge Hendricks and I did
2 discuss the matter. Let's take up that issue this way,
3 that question this way. I have expressed and I believe
4 Judge Hendricks may have expressed at one time or
5 another a couple of legal issues that we see in this
6 case, and if counsel feel comfortable that they have
7 those in mind, I don't think we need to be any more
8 formal in terms of establishing a list of issues for a
9 case of this magnitude. The case certainly has its
10 points of interest, but it's not one I would regard as
11 of the degree of complexity that would require us to
12 take that additional step, which I would not be prepared
13 to do at 5:00 in the afternoon on a Friday.

14 In any event, so do the parties feel
15 comfortable with proceeding on their own initiative to
16 outline their briefs in accordance with standard
17 briefing practices?

18 MR. CRANE: Yes, Your Honor.

19 MR. KOPTA: Yes, Your Honor.

20 JUDGE MOSS: And keeping them, I think the
21 Commission's rules actually allow for 60 pages. I would
22 not anticipate briefs of anything like that order of
23 magnitude.

24 MR. KOPTA: My client would shoot me if I did
25 a 60 page brief.

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1 JUDGE MOSS: I will trust to the prudence of
2 counsel and not impose a page limit, so my message no
3 doubt is clear.

4 Any questions?

5 Any further business that we need to conduct
6 on the record this afternoon?

7 Apparently there is none. I would like to
8 thank you all for your very professional presentation.
9 You presented excellent cases, and I look forward to
10 receiving your briefs and deliberating, as I'm sure
11 Judge Hendricks does as well.

12 With that, we will be off the record.

13 (Hearing adjourned at 5:05 p.m.)

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