

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. D-079145 of

SEATAC SHUTTLE, LLC, d/b/a
SEATAC SHUTTLE

for a Certificate of Public Convenience
and Necessity to Operate Motor
Vehicles in Furnishing Passenger and
Express Service as an Auto
Transportation Company.

DOCKET NO. TC-030489

COMMISSION STAFF'S
ANSWER TO WICKKISER'S
MOTION TO FILE REPLY AND
MOTION TO STRIKE

1 Pursuant to the Washington Utilities and Transportation Commission's
(Commission) Notice dated October 21, 2003, the Commission Staff (Staff) answers
Wickkiser International Companies, Inc., d/b/a Airporter Shuttle's (Airporter Shuttle)
motion to file a reply to SeaTac Shuttle, LLC, d/b/a SeaTac Shuttle's (SeaTac Shuttle)
answer to Wickkiser's petition for administrative review and motion to strike portions
of SeaTac Shuttle's answer. Specifically, Airporter Shuttle moves to strike and to reply
to SeaTac Shuttle's references to Airporter Shuttle's September 3, 2003 tariff change.

2 Even if the Commission grants Airporter Shuttle's motion to strike, Airporter
Shuttle contends that the Commission should allow it an opportunity to reply to
SeaTac Shuttle's references. *See In re Application of SeaTac Shuttle, LLC, d/b/a SeaTac
Shuttle, LLC For a Certificate of Public Convenience and Necessity in Furnishing Passenger
and Express Service, Docket No. TC-030489, Wickkiser International Companies, Inc.'s*

Motion to Strike Applicant's Citations of Events Outside the Record, at 2. For the reasons stated below, the Commission should deny Airporter Shuttle's motions.

A. Airporter Shuttle's Motion to Strike Is Moot

3 The Commission should deny Airporter Shuttle's motion to strike as moot because SeaTac Shuttle has stipulated that the references to extra-record evidence should be stricken. *In re Application of SeaTac Shuttle, LLC, d/b/a SeaTac Shuttle, LLC For a Certificate of Public Convenience and Necessity in Furnishing Passenger and Express Service*, Docket No. TC-030489, Applicant's Response to Wickkiser International Companies, Inc.'s Motion to Strike Applicant's Citations of Events Outside the Record, at 3-4 (Oct. 27, 2003).

B. The Commission Should Deny Airporter Shuttle's Motion to Reply

4 In its motion to reply to SeaTac Shuttle's extra-record references, Airporter Shuttle argues that the Commission must allow its reply even if the references are stricken in order to mitigate "irreversible damage to this proceeding." *In re Application of SeaTac Shuttle, LLC, d/b/a SeaTac Shuttle, LLC For a Certificate of Public Convenience and Necessity in Furnishing Passenger and Express Service*, Docket No. TC-030489, Motion of Wickkiser International Companies, Inc. to File a Reply Responding to Events Outside the Record Improperly Discussed in the Applicant's Answer, at 3. Contrary to Airporter Shuttle's argument, there is no damage to this proceeding. Decision-makers often are privy to information outside the record, such as evidence that is stricken

from the record during a hearing. Under Airporter Shuttle's argument, each time a decision-maker grants a motion to strike, the opposing party must be given an opportunity to reply to the stricken information. The Commission should not follow this logic.

5 Airporter Shuttle states that the Initial Order "forced Airporter Shuttle into making this change by granting the Applicant's application." *See In re Application of SeaTac Shuttle, LLC, d/b/a SeaTac Shuttle, LLC For a Certificate of Public Convenience and Necessity in Furnishing Passenger and Express Service, Docket No. TC-030489, [Proposed] Reply of Wickkiser International Companies, Inc. to Events Outside the Record Improperly Discussed in the Applicant's Answer, at 1.* In essence, Airporter Shuttle's arguments in reply are nothing more than restatements of Airporter Shuttle's arguments that only one airporter can survive in the market. *See id.* at 3-4. Airporter Shuttle had ample opportunity to make its arguments during the proceeding. It does not need a further opportunity.

Dated: October 28, 2003.

Respectfully submitted,

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