

01 JUL 20 01:34:55

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of:

(Consolidated)

DUTCHMAN MARINE, LLC, d/b/a
LAKE WASHINGTON FERRY SERVICE
for Authority to Provide Commercial Ferry
Service;

DOCKET NO. TS-001774

SEATTLE FERRY SERVICE, LLC, for
Authority to Provide Commercial Ferry Service;
and

DOCKET NO. TS-002054

SEATTLE HARBOR TOURS Limited
Partnership, for Authority to Provide Commercial
Ferry Service.

DUTCHMAN MARINE'S
POST HEARING BRIEF

Introduction

The Utilities and Transportation Commission should grant Dutchman Marine's application for Authority to Provide Commercial Ferry Service on Lake Washington between Seattle and Kenmore, Kirkland, Bellevue and Renton, and should grant a waiver of the ten-mile restriction. At the hearing on June 12-15, 2001, Dutchman Marine established that public convenience and necessity requires its proposed ferry service, and that it has met all statutory fitness requirements. Conversely, applicant Seattle Harbor Tours failed to establish that public convenience or necessity requires its proposed service, nor has Seattle Harbor Tours met the fitness requirements. Thus, the Commission should deny the Seattle Harbor Tours application. The proceeding for Seattle Ferry Service, severed prior to the hearing and seeking authority for ferry service between Port Quendall in Renton and South Lake Union in Seattle, was unopposed and its proposed service does not overlap Dutchman Marine's service.

1 **Procedural Summary**

2 The hearing of the two consolidated applications by Dutchman Marine and Seattle Harbor
3 Tours occurred during the four days June 12-15, 2001.

4 In the hearing, Dutchman Marine called ten witnesses to testify in favor of its proposal. Four
5 witnesses, John Hamilton, Tony Underwood, Tom Waithe and Rex Allen, were shipper support
6 witnesses, all of whom testified in favor of the service to be provided by Dutchman Marine and that
7 such passenger ferry service on Lake Washington was necessary and convenient. In addition,
8 Dutchman Marine called its president, Daniel Dolson, to testify, as well as its Chief Financial Officer,
9 Gary Hibma, its marketing director, David Dolson, its engineering consultant, Jack Case, its ferry
10 service consultant, Barry Fuller, and John Layzer, a representative of the City of Seattle, the latter
11 which had protested both applications to ensure its concerns were addressed.

12 Seattle Harbor Tours only called one witness, its president, John Blackman. Seattle Harbor
13 Tours called no shipper support witnesses to testify.

14 The City of Bellevue, which had also protested the applications, called two witnesses to testify
15 regarding its concerns as to the proposed service to Bellevue.

16 During the time of the hearing, although severed from the Dutchman Marine and Seattle
17 Harbor Tours applications, Seattle Ferry Service called Larry Kezner to testify in favor of its
18 unopposed application and introduced its unopposed exhibits.

19 Bonnie Allen, the Commission staff Transportation Program Coordinator, also testified
20 regarding public notice as to the scope of the applications covered by the proceeding.

21 All Dutchman Marine and Seattle Harbor Tours exhibits were jointly agreed to be admissible
22 and were admitted in the hearing, as were four bench exhibits. Of the 49 Dutchman Marine exhibits,
23 three—139C, 140C and 141C—were admitted as confidential documents subject to a protective order
24 issued by the Commission.

1 **Law and Argument**

2 A.

3 THE COMMISSION SHOULD GRANT DUTCHMAN MARINE'S APPLICATION
4 BECAUSE IT ESTABLISHED THAT: (1) PUBLIC CONVENIENCE AND NECESSITY
5 REQUIRE PASSENGER FERRY SERVICE ON LAKE WASHINGTON BETWEEN SEATTLE AND
6 KENMORE, KIRKLAND, BELLEVUE AND RENTON; (2) THE PROPOSED TERRITORY IS NOT
7 ALREADY SERVED BY AN EXISTING CERTIFICATE HOLDER NOR WITHIN THE TIME
8 PERIOD ALLOWED TO INITIATE SERVICE; AND (3) ALL STATUTORY
9 FITNESS REQUIREMENTS HAVE BEEN MET.

10 1. Public Convenience and Necessity

11 Applicants for commercial ferry authority must demonstrate that the public convenience and
12 necessity require such operation. R.C.W. 81.84.010. Public convenience and necessity is generally
13 demonstrated by the testimony of witnesses who would use the service if it were available. Order
14 S.B.C. No. 524, In re Pacific Cruises Northwest, Inc., App. No. B-78450 (May 1996).

15 Dutchman Marine presented testimony of John Hamilton, the president of Presidio Partners
16 representing LakePointe Development, a planned development project in Kenmore consisting of a
17 large number of commercial offices and residential units on the shore of Lake Washington. Mr.
18 Hamilton supported the proposed passenger ferry service between Seattle and Kenmore, as it would
19 provide added convenience to the residents and tenants of the development and an alternative mode of
20 transportation for crowded roads and parking limitations.

21 Dutchman Marine also presented the testimony of Tony Underwood, the Manager of Parking
22 and Commute Programs for the Boeing Company, who is responsible for commuter and parking
23 management for all Boeing facilities in Washington state. Mr. Underwood testified that as Boeing, a
24 major employer in Puget Sound, is required by the commuter trip reduction law to reduce the use of
25 single-occupancy vehicles, having passenger ferry service between Seattle and Renton (where Boeing
26 has approximately 13,000 employees) would promote compliance with the commuter trip reduction
law. Mr. Underwood testified that in commuter trip reduction strategies, "one size does not fit all," and
offering different modes of transportation, such as passenger ferries, is more successful. According to
Mr. Underwood, having passenger ferry service to Renton would benefit Boeing's employees and

1 Boeing itself in complying with the commuter trip reduction law, thus both necessary and convenient.

2 Dutchman Marine also called Rex Allen to testify, the Development Manager for SECO
3 Development, which is developing the Southport project, a commercial and residential project on the
4 shore of Lake Washington in Renton. Mr. Allen testified in favor of passenger ferry service between
5 Seattle and Renton. According to Mr. Allen, such service would help alleviate the transportation
6 impacts of this project, and provide a desirable transportation alternative for the 3,000 to 4,000 people
7 anticipated to live and work there. According to Mr. Allen, such a transportation alternative would be
8 a benefit to residents, tenants and guests and would also benefit the development as a whole. Mr.
9 Allen also testified that the City of Renton is interested in linking as many transportation modes as
10 possible for the Southport development. Furthermore, Mr. Allen testified he is impressed with the
11 manner in which Dutchman Marine is approaching passenger ferry service.

12 Tom Waithe, the general manager of the Woodmark Hotel in Carillon Point, Kirkland, testified
13 in favor of Dutchman Marine's proposed passenger ferry service. Mr. Waithe testified that passenger
14 ferry service to Kirkland would help his hotel guests travel to and from Seattle, particularly as an
15 alternative to town car or taxi service, which can run as high as \$44 one way. In addition, passenger
16 ferry service would provide a transportation alternative for tourists, residents and tenants of the
17 Carillon Point development.

18 John Layzer, of the City of Seattle Strategic Planning Office, testified at Dutchman Marine's
19 request. Mr. Layzer acknowledged that transportation is a critical issue and a growing problem for
20 Seattle, and since congestion is unlikely to be eliminated, the city needs to develop alternatives to
21 automobile travel. Mr. Layzer testified that while passenger ferry service on Lake Washington won't
22 eliminate congestion, it will promote the city's goal of providing alternatives and thereby improve the
23 transportation corridors. Upon examination by the assistant city attorney, Mr. Layzer testified that he
24 had not been contacted by any other proposed ferry service provider, reflecting in his view a lack of
25 effort. Mr. Layzer also testified, however, that Daniel Dolson, president of Dutchman Marine, had
26 previously met with the city parks department, the city attorney's office, city council members, city

1 staff and the deputy mayor regarding his proposed service, and that the Dutchman Marine proposal is
2 similar to the city's Flex Pass program, providing seamless transportation and reducing barriers to the
3 use of public transportation services. Thus, Mr. Layzer's testimony is that passenger ferry service is
4 both necessary and convenient for the city's transportation needs and promotes its strategic plan.

5 2. No Service Currently Provided

6 Under R.C.W. 81.84.020, the Commission does not have the authority to grant a certificate to
7 operate in any territory already served by an existing certificate holder, unless an existing certificate
8 holder has failed or refused to furnish reasonable and adequate service, or unless the existing certificate
9 holder has failed to provide the service described in the certificate after the time allowed to initiate
10 service has lapsed. Argosy holds an existing certificate to operate passenger ferry service between
11 Kirkland and Seattle, one of the routes sought by Dutchman Marine. WUTC Permit No. BC-000101.

12 It is undisputed, however, that ferry service between Kirkland and Seattle has never been
13 initiated by Seattle Harbor Tours or Argosy. In addition, since its certificate was issued in November
14 1995, more than five years have elapsed without Seattle Harbor Tours or Argosy initiating service and
15 without it making any request for an extension of time. Under these circumstances, Argosy as the
16 existing certificate holder "has failed to furnish reasonable or adequate service in failing to provide
17 scheduled ferry service for which a need is demonstrated." Order S.B.C. No. 524, In re Pacific Cruises
18 Northwest, Inc., App. No. B-78450 (May 1996).

19 The Commission is authorized to issue a Certificate for the operation of passenger ferry service
20 between Seattle and Kirkland (as well as Seattle to Kenmore, Bellevue and Renton) to Dutchman
21 Marine, as neither Seattle Harbor Tours nor Argosy is serving that route, nor has either initiated service
22 within the five-year statutory time frame, the maximum time allowed. See R.C.W. 81.84.010(2). Both
23 Seattle Harbor Tours and Argosy have failed to furnish reasonable or adequate service by failing to
24 provide or even initiate a scheduled ferry service for which a need has been demonstrated.

25 3. Statutory Fitness Requirements

26 R.C.W. 81.84.020(2) requires the Commission, prior to issuing a certificate, determine that the

1 applicant has the requisite fitness to operate the proposed service. This includes financial resources to
2 operate the service for at least twelve months, based on ridership and revenue forecasts, the cost of
3 service of the proposed operation, an estimate of the cost of assets to be used in providing the service,
4 a statement of the total assets on hand that will be expended on the proposed operation, and a statement
5 of prior experience, if any, in such field. See also Order S.B.C. No. 524, In re Pacific Cruises
6 Northwest, Inc., App. No. B-78450 (May 1996)(fitness for proposed operations established by
7 ridership, revenue and cost projections, statement of assets and available credit, and experience).

8 Daniel Dolson, Dutchman Marine president, testified concerning all of the preparatory work he
9 performed in studying passenger ferry systems and operations, taking ridership surveys and interviews,
10 estimating revenues from fares, concessions and charters, entering into a vessel charter contract and the
11 company's intent to build new passenger ferry vessels, and hiring qualified experts and personnel.

12 Mr. Dolson testified that service would be initiated gradually over four phases, as follows:

<u>Phase</u>	<u>Route</u>	<u>Year starting service (est.)</u>
1	Seattle-Kirkland	2002
2	Seattle-Renton	2003
3	Seattle-Kenmore	2004
4	Seattle-Bellevue	2005-06

17 Dutchman Marine's ferry service consultant, Barry Fuller, reviewed the accuracy of fare revenue and
18 ridership forecasts and critiqued the Dutchman Marine proposed operations. Its director of
19 engineering, Jack Case, has initiated ten ferry systems, including the highly regarded Sea Bus ferry
20 service in Vancouver, B.C., and advises on the Dutchman Marine system proposal. Its chief financial
21 officer, Gary Hibma, was hired to formulate a viable financial plan from raw data, ridership, revenue
22 and cost projections. Its marketing director, Daniel's father David Dolson, has more than thirty years
23 of experience in marketing and was hired to research and determine the passenger ferry market and to
24 help shape the proposed ferry service. David Dolson conducted passenger surveys and discounted the
25 results to provide a conservative estimate.

26 Daniel Dolson testified concerning his vessel operating experience as a mate, his experience in

1 starting his first business when he was 18 years old, and his maritime operations accounting experience
2 with Crowley Maritime. He testified that he had loan commitments in the amount of \$1.2 million that
3 were available and could be drawn on to provide cash for operations at his request, and he testified
4 concerning the numerous discussions he has had with King County Metro Transit regarding potential
5 shuttle and connecting service the ferry operation to provide passenger ferry service.

6 Dutchman Marine's Chief Financial Officer, Gary Hibma, testified on the revenue forecasts for
7 the first 18 months of operations, the cost of service for the operations, and the total assets on hand that
8 will be expended on the proposed operation. His testimony was that while Dutchman Marine expected
9 to lose money in the first year, the operations would be generating more money than a break-even
10 position before the end of the first year, and the company had more than adequate resources from funds
11 committed by lenders to successfully operate the proposed service for at least twelve months. This
12 testimony was in part based upon the ridership forecasts provided to him by Daniel Dolson, company
13 president, as well as projected vessel charter and concession revenue. Mr. Hibma's family has
14 experience in motor transportation, and he has 21 years of experience as a financial officer, including
15 as a director of world-wide cost control, cash flow and business development for Max Factor and as a
16 corporate controller for other companies.

17 Barry Fuller is a ferry system consultant hired by Dutchman Marine to advise how to best set up
18 and commence ferry operations for Lake Washington. Mr. Fuller has impressive credentials in setting
19 up and operating successful ferry systems for over twenty years. He also has extensive experience in
20 successfully advising start-up ferry operations. Mr. Fuller testified that passenger ferry service on Lake
21 Washington is quite feasible and likely to be successful, based on demographics, infrastructure,
22 geography, and the research and analysis done by Daniel Dolson. In Mr. Fuller's opinion, Dutchman
23 Marine's projected ridership and proposed fares are reasonable, and its service is likely to be successful.

24 Jack Case, Dutchman Marine's engineering consultant, is a licensed engineer and naval architect
25 who has designed ten ferry systems in the last thirty-six years, including the Sea Bus ferry service. Mr.
26 Case testified that Lake Washington is a natural location for a successful ferry service because of its

1 severe choke points, and that a 149-passenger vessel such as the St. Nicholas that is available for
2 leasing is an appropriate, proven vessel for this service. Mr. Case will be involved in selecting
3 Dutchman Marine's acquisition of additional vessels when the service expands after its first year, to
4 ensure a proper vessel design is chosen for ferry service on Lake Washington.

5 Daniel Dolson also testified that the proposed Seattle Ferry Service route between Port
6 Quendall in Renton and South Lake Union in Seattle does not overlap with the Dutchman Marine
7 proposed service between Southport in Renton and either Leschi or University of Washington in
8 Seattle, that the two routes would serve different markets; the Seattle Ferry Service market is
9 principally for executives working for Paul Allen-owned or controlled businesses and traveling
10 between Port Quendall and South Lake Union. Dutchman Marine is targeting residents and employees
11 who live or work at the Southport development and Boeing employees who work in Renton, among
12 others. He further testified, however, that the proposed Seattle Harbor Tours route between Renton
13 and University of Washington would overlap the Dutchman Marine service, and that competing routes
14 would diminish ferry service because of an insufficient market for both at this time.

15 Dutchman Marine has the experience and expertise necessary to establish its fitness for
16 providing passenger ferry service.

17 B.

18 THE COMMISSION SHOULD WAIVE THE TEN-MILE RESTRICTION AND
19 SHOULD REJECT THE SEATTLE HARBOR TOURS APPLICATION.

20 1. Waiver of 10-Mile Restriction.

21 Under R.C.W. 47.60.120, an application to provide ferry service otherwise forbidden by the
22 statute is required to request a waiver of that restriction. Under W.A.C. 480-51-050, the Commission
23 considers the impact of a waiver on mitigation of transportation congestion, improvement of air quality,
24 and the Washington State Ferries. At the hearing, Dutchman Marine introduced evidence through its
25 shipper support witnesses that providing passenger ferry service would reduce the number of
26 automobiles on the roads, thereby mitigating congestion. Jack Case testified that operating a passenger

1 ferry is similar to a bus in terms of pollution, is much better to operate than automobiles on a
2 passenger-mile basis, and therefore would lead to an improvement in air quality. Washington State
3 Ferries has no objection to the passenger ferry service requested by Dutchman Marine (Exhibit 127).
4 The ten-mile restriction should be waived under the circumstances.

5 2. Seattle Harbor Tours Application.

6 Under the Administrative Procedure Act, the proponent of the order has the burden of proof.
7 This means the "burden of going forward" with the evidence or the "burden of production." 2 Koch,
8 Administrative Law and Practice, §5.51, p. 167 (West, 2d ed. 1997). In meeting its burden, an
9 applicant for a certificate of convenience and necessity may not rely on shipper support testimony
10 introduced by another applicant in a consolidated proceeding. Canton Storage and Transfer Co., Inc. v.
11 Public Utilities Commission of Ohio, 72 Ohio St.3d 1, 647 N.E.2d 136 (Ohio 1995).

12 In Canton Storage, the Supreme Court of Ohio was faced with a challenge to the Public Utilities
13 Commission's use of shipper support testimony from some applicants as a whole to support all
14 applications in the consolidated proceeding. The Commission's grant of certificates of convenience and
15 necessity to carry goods to all applicants in the consolidated proceeding was reversed by the Ohio
16 Supreme Court based on the Commission's abuse of discretion. Id. The Commission abused its
17 discretion by allowing shipper support testimony from some applicants in the consolidated proceeding
18 to be used as a whole to support other applicants who did not present shipper support testimony. This
19 use of others' shipper support testimony "effectively eliminated" the applicants' burden of proof or a
20 portion thereof, an abuse of discretion. Id., 647 N.E.2d at 143-44.

21 Similarly, Seattle Harbor Tours is not permitted to use or rely on Dutchman Marine's shipper
22 support testimony or exhibits to prove necessity and convenience in this consolidated proceeding.
23 Under Canton Storage, this Commission may not consider Dutchman Marine's shipper support
24 testimony as establishing convenience or necessity for Seattle Harbor Tours, as such consideration
25 would amount to an abuse of discretion by eliminating Seattle Harbor Tours' burden of proof, to the
26 prejudice of Dutchman Marine. Dutchman Marine has invested enormous resources, including time,

1 effort and money, to establish convenience and necessity, and it would be severely prejudiced if Seattle
2 Harbor Tours could simply use Dutchman Marine's testimony merely because the applications were
3 consolidated; had the applications not been consolidated, Seattle Harbor Tours would have failed in its
4 burden of proof for the lack of evidence of convenience and necessity.

5 It is Dutchman Marine's understanding that the rule followed by the Commission is that an
6 applicant's own testimony is not given any appreciable weight in deciding whether convenience and
7 necessity are shown. This rule was discussed at the outset of the hearing; however, Dutchman Marine
8 does not have a citation to any such rule. Nevertheless, under Order S.B.C. No. 524, In re Pacific
9 Cruises Northwest, Inc., App. No. B-78450 (May 1996), as public convenience and necessity is
10 generally demonstrated by the testimony of witnesses who would use the service if it were available,
11 the sole testimony of the Seattle Harbor Tours president is insufficient.

12 In addition, Seattle Harbor Tours failed to establish statutory fitness to operate its proposed
13 passenger ferry service. John Blackman, company president, testified that its proposed service would
14 require a public subsidy to provide a frequent schedule on a sustained basis. No evidence of a public
15 subsidy being granted by any government agency, however, was introduced at the hearing. In fact, Mr.
16 Layzer testified that for the Seattle-Kirkland route the proposed subsidized service demonstration
17 project was rejected by Sound Transit because the benefits did not justify the cost. In addition, Mr.
18 Blackman testified that the financial status of Seattle Harbor Tours is insufficient for the proposed
19 operations, and that Argosy, L.P. would have to make financial contributions. Those contributions
20 could only be made with a decision of the partners of Argosy, L.P., a decision or commitment which
21 does not yet exist. Seattle Harbor Tours failed to establish it has the financial resources to operate the
22 proposed service for at least twelve months.

23 In addition, according to Mr. Blackman Seattle Harbor Tours' ridership estimates were derived
24 not by a scientific ridership survey, but only based on "intuition" and "experience." Seattle Harbor
25 Tours' revenue projections suffer from the same infirmity, as they are derived directly from the flawed
26 ridership figures.

1 Furthermore, while Seattle Harbor Tours stated in its application that it was familiar with the
2 Commission laws and rules, Argosy, the general partner of Seattle Harbor Tours, admitted it had not
3 prepared reports to the Commission at least for the last three to four years with respect to the certificate
4 Argosy held to provide service between Seattle and Kirkland. Progress reports by certificate holders
5 are required by law every six months if service has not been initiated. W.A.C. 480-51-120(1)(a). The
6 reports are required to include a statement of progress toward overcoming impediments to initiating
7 service, including financial considerations. W.A.C. 480-51-120(1)(c). There is a penalty of \$100 for
8 every violation of the statute or regulation; in the case of a continuing violation, each day's continuance
9 is a separate and distinct violation subject to penalty. R.C.W. 81.84.050.

10 Argosy never advised the Commission that it (Argosy) would not start service between Seattle
11 and Kirkland unless it received an operating subsidy, nor did Argosy ever advise that the requested
12 subsidies had been rejected by Sound Transit. Such violations of Commission regulations by Argosy's
13 failure over a period of several years to report its progress (or lack thereof) reflect negatively on Seattle
14 Harbor Tours' fitness. See Order S.B.C. No. 524, In re Pacific Cruises Northwest, Inc., App. No. B-
15 78450 (May 1996)(fitness established in part by the Commission's finding that the applicant not only is
16 familiar with Commission laws and rules, but has also never been cited for violation of any
17 Commission law or rule governing the operation of commercial ferries).

18 Seattle Harbor Tours has not demonstrated fitness to provide the proposed service based on the
19 violations of Commission laws and rules by its general partner, Argosy, L.P.

20 3. Both Applicants' Routes Overlap.

21 The applications by Dutchman Marine and Seattle Harbor Tours overlap as to the three routes:
22 Seattle-Kenmore, Seattle-Bellevue, and Seattle-Renton. Seattle Harbor Tours did not apply for the
23 Seattle-Kirkland route; that certificate lapsed in November 2000 and a new application was not filed by
24 Seattle Harbor Tours for that route. This conclusion is consistent with the testimony of Bonnie Allen,
25 who testified as to Commission procedure and notice. See also W.A.C. 480-51-040 (notice sent with a
26 description of the terms of the particular application).

1 Even if Seattle Harbor Tours' application could be deemed to be sufficient to establish
2 convenience, necessity, and statutory fitness—which Dutchman Marine contends Seattle Harbor Tours
3 did not and cannot establish—its routes overlap with those of Dutchman Marine because the markets
4 are essentially the same. According to Daniel Dolson, the difference between ferry users boarding at
5 Leschi park or the University of Washington is not significant enough to constitute separate markets in
6 Seattle, and the anticipated docks at Kenmore and Renton are currently the same for both applicants.

7 Daniel Dolson further testified that it was essential for his company to be awarded a certificate
8 to operate all four routes now, even if the routes were to be phased in over approximately four years,
9 because of the possibility that other applicants could apply for those other routes in the interim period,
10 and which would destroy the economies of scale and marketing advantage necessary to make the initial
11 routes successful. It is essential to the Dutchman Marine proposed ferry service that it be awarded now
12 a certificate to operate all four routes.

13 Conclusion

14 Dutchman Marine's application should be granted to operate all four passenger ferry service
15 routes requested, as it alone established necessity, convenience and statutory fitness to operate the
16 service. The Commission should also waive the 10-mile restriction because of Washington State
17 Ferries' non-opposition and the benefits of reduced pollution and congestion. Finally, as the two
18 applications overlap and Dutchman Marine requires all four routes to ensure its success, Seattle Harbor
19 Tours' application should be denied.

20 Dated this 20th day of July, 2001.

21 BAUER MOYNIHAN & JOHNSON LLP

22
23 

24 Matthew C. Crane, WSBA 18003
25 John M. Hugg, WSBA 26661
26 Attorneys for Dutchman Marine, LLC

1
2
3
4
5 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

6 (Consolidated)

7 In the Matter of the Application of

8 DUTCHMAN MARINE, LLC, d/b/a
9 LAKE WASHINGTON FERRY SERVICE
for Authority to Provide Commercial Ferry
Service;

DOCKET NO. TS-001774

10 SEATTLE FERRY SERVICE, LLC, for
11 Authority to Provide Commercial Ferry Service;
and

DOCKET NO. TS-002054

12 SEATTLE HARBOR TOURS Limited
13 Partnership,
14 for Authority to Provide Commercial Ferry
Service

DOCKET NO. TS-002055

DECLARATION OF SERVICE

15 I declare under penalty of perjury of the laws of the state of Washington that on July
16 20, 2001, I caused to be served in the manner indicated below the original and 3 true and
17 accurate copies of the **Dutchman Marine, LLC's Post-Hearing Brief** upon the following:

18 Ms. Carole J. Washburn, Secretary
19 WA Utilities and Transportation
Commission
20 1300 S. Evergreen Park Drive SW
Olympia, Washington 98504-7250

By Mail
 By Hand Delivery
 By Facsimile
 By Air Courier

21 I further declare under penalty of perjury and the laws of the state of Washington that
22 on July 20, 2001 I caused to be served in the manner indicated below a true and accurate copy
23 of the **Dutchman Marine, LLC's Post-Hearing Brief** upon the following:

24 Gregory J. Kopta
25 Davis Wright Tremaine LLP
1501 Fourth Avenue, Suite 2600
Seattle, WA 98101-1688

By Mail
 By Hand Delivery
 By Facsimile
 By Air Courier

26
DECLARATION OF SERVICE - 1

ATTORNEYS AT LAW
BAUER MOYNIHAN & JOHNSON LLP
2101 FOURTH AVENUE - SUITE 2400
SEATTLE, WASHINGTON 98121-2320
(206) 443-3400

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

David W. Wiley
Williams Kastner & Gibbs
Post Office Box 21926
Seattle, Washington 98111

By Mail
 By Hand Delivery
 By Facsimile
 By Air Courier

City of Seattle
Gordon B. Davidson, Asst. City Attorney
600 Fourth Avenue, 10th Floor
Seattle, WA 98104

By Mail
 By Hand Delivery
 By Facsimile
 By Air Courier

City of Bellevue
Siona Windsor-Asst. City Attorney
P.O. Box 90012
Bellevue, WA 98009

By Mail
 By Hand Delivery
 By Facsimile
 By Air Courier

Sally Johnston
Assistant Attorney General
Washington Utilities and Transportation
Commission
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128


By Mail
 By Hand Delivery
 By Facsimile
 By Air Courier

Jeffrey Stier
Assistant Attorney General
Transportation & Public Construction
Division
P.O. Box 40113
Olympia, WA 98504

By Mail
 By Hand Delivery
 By Facsimile
 By Air Courier

DATED this 20th day of July, 2001.

BAUER MOYNIHAN & JOHNSON LLP



Suya Edwards