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1 BEFORE THE WASHINGTON

2 UTILITIES AND TRANSPORTATION COMMISSION

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4 In re Application of )DOCKET NO. TS-180677

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5 BACKCOUNTRY TRAVELS LLC )

)

6 For a Certificate of Public )

Convenience and Necessity to )

7 Operate Vessels in Furnishing )

Passenger Ferry Service )

8 )

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PREHEARING CONFERENCE, VOLUME I

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Pages 1-10

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ADMINISTRATIVE LAW JUDGE ANDREW O'CONNELL

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13

November 19, 2018

14

1:44 P.M.

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16 Washington Utilities and Transportation Commission

1300 South Evergreen Park Drive Southwest

17 Olympia, Washington 98504

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1 OLYMPIA, WASHINGTON; NOVEMBER 19, 2018

2 1:44 P.M.

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4 P R O C E E D I N G S

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6 JUDGE O'CONNELL: Let's be on the record.

7 Good afternoon. We're here today for a prehearing

8 conference regarding an application for commercial ferry

9 certificate for Backcountry Travels LLC, Docket

10 TS-180677.

11 The time is approximately 1:44 p.m. on

12 Monday, November 19, 2018. My name is Andrew O'Connell.

13 I'm an administrative law judge with the Washington

14 Utilities and Transportation Commission. I'll be

15 presiding in this matter. After this hearing, I'll

16 prepare an order outlining the procedure going forward

17 in this case.

18 Now I intend to address the scope of this

19 proceeding and the procedural schedule, but first, I

20 will take appearances. I believe all parties are

21 represented by counsel in this proceeding. Correct me

22 if I am mistaken, but the Commission has received

23 written notices of appearances, so I believe that short

24 appearances are appropriate.

25 Let's begin with Commission Staff.

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1 MR. ROBERSON: Good afternoon, Your Honor.

2 Jeff Roberson, Assistant Attorney General, for Staff.

3 With me at counsel table is Harry Fukano, who is also an

4 assistant attorney general, appearing for Staff.

5 JUDGE O'CONNELL: Mr. Richards?

6 MR. RICHARDS: Andrew Richards of Garvey

7 Schubert Barer in Seattle for protestant, Lake Chelan

8 Recreation, Inc. On the phone with me is an associate

9 attorney at our office, Hathaway Burden.

10 JUDGE O'CONNELL: Thank you.

11 And for Backcountry Travels?

12 MR. HITCHCOCK: This is Matt Hitchcock

13 appearing on behalf of Backcountry Travels from Jeffers,

14 Danielson in Wenatchee. I am alone on the call. Jordan

15 Miller will also be counsel of record on this matter,

16 but he had a prior engagement.

17 JUDGE O'CONNELL: Okay. Thank you,

18 Mr. Hitchcock.

19 Before I get to the scope of the proceeding,

20 let me ask, are there any petitions for intervention?

21 Hearing nothing, let's proceed.

22 I wanted to address the scope of the

23 proceeding. I think the topic will flow straight into a

24 procedural schedule, so before I begin, let me ask, do

25 the parties have an agreed proposal for a procedural

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1 schedule?

2 MR. ROBERSON: Possibly. We have not heard

3 from the applicant as to whether or not the --

4 MR. HITCHCOCK: Yes, I confirmed -- I

5 confirmed with my clients moments ago that the proposed

6 schedule we discussed last Friday is acceptable to

7 Backcountry Travels.

8 JUDGE O'CONNELL: Okay. Is there a copy of

9 that available?

10 MR. ROBERSON: There is.

11 JUDGE O'CONNELL: Okay. Let me come back to

12 the parties' proposal for procedural schedule, and let

13 me start with the scope of the proceeding.

14 This proceeding started when Lake Chelan

15 Recreation, which owns a certificate to provide

16 commercial ferry service on Lake Chelan, protested in

17 the application for a commercial ferry certificate by

18 Backcountry Travels LLC.

19 The issue as presented in this case, for

20 which I will have to make a decision, regards whether

21 the public convenience and necessity require the

22 operation as proposed by Backcountry Travels, and

23 because there was a protest to the application, whether

24 Lake Chelan Recreation has failed or refused to furnish

25 reasonable and adequate service or has failed to provide

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1 the service described in its certificate or tariffs. I

2 will also have to determine whether Backcountry Travels

3 has the financial resources to conduct its proposed

4 service.

5 The burden is on Backcountry Travels as to

6 all these determinations. I'm aware that Backcountry

7 Travels has already submitted its application as well as

8 a number of supporting materials.

9 I'd like to address a few more brief matters

10 before we get to the procedural schedule. During the

11 proceedings at the Commission, I'm aware that parties

12 often request that any data requests and responses are

13 shared with every party. I would make this easier on

14 the parties by including such a requirement in the

15 prehearing conference order. Is there any objection to

16 my including that requirement?

17 MR. ROBERSON: None from Staff.

18 JUDGE O'CONNELL: Mr. Richards?

19 MR. RICHARDS: None from Lake Chelan.

20 JUDGE O'CONNELL: And, Mr. Hitchcock?

21 MR. HITCHCOCK: None from Backcountry

22 Travels.

23 JUDGE O'CONNELL: Thank you.

24 Discovery will otherwise be conducted

25 according to the Commission's procedural rules. And I

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1 want to point out two things, for electronic filing and

2 electronic service. Filing will be in accordance with

3 the Commission rules. The Commission requires

4 electronic filings of documents for formal filings.

5 Also, the Commission's rules provide for electronic

6 service of documents. The Commission will serve the

7 parties electronically and the parties will serve each

8 other electronically.

9 If any party has not yet designated a lead

10 representative for service, please do so via an email to

11 me as soon as possible. My email is

12 andrew.j.oconnell@utc.wa.gov. Also, if anyone would

13 like to add names and email addresses of other

14 representatives or support staff who should receive

15 electronic courtesy copies, please email that to me as

16 well.

17 I'd like to move on to addressing the

18 procedural schedule that's been proposed by the parties.

19 Mr. Roberson, can you please address the

20 schedule?

21 MR. ROBERSON: Gladly, Your Honor. A month

22 out from today's prehearing conference is

23 December 17th, 2018, that is when the applicant's

24 prefiled testimony would be due; response testimony from

25 the protestant and Staff would be due

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1 January 14th, 2019; rebuttal and cross-answering

2 testimony would be due February 11th, 2019. That same

3 day, we've built into the procedural schedule a cut-off

4 date for a motion for summary determination, which at

5 least one of the parties is intending on or at least

6 pondering filing.

7 Witness lists, cross-examination estimates,

8 and cross-examination exhibits would be due

9 April 5th, 2019. The parties are not sure about the

10 length of the hearing. Conservatively, we've scheduled

11 it for two days, over April 22nd and 23rd, 2019, and

12 simultaneous post-hearing briefs would be due

13 May 27th, 2019.

14 JUDGE O'CONNELL: Mr. Richards,

15 Mr. Hitchcock, is there anything that you would like to

16 add?

17 MR. RICHARDS: Nothing from Lake Chelan

18 Recreation.

19 MR. HITCHCOCK: Nothing to add for

20 Backcountry Travels.

21 JUDGE O'CONNELL: Okay. Is there anything

22 else that the parties know that we need to discuss

23 today?

24 MR. ROBERSON: Not from Staff's perspective.

25 JUDGE O'CONNELL: Mr. Richards?

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1 MR. RICHARDS: Nothing from me.

2 JUDGE O'CONNELL: Mr. Hitchcock?

3 MR. HITCHCOCK: Nothing from me.

4 JUDGE O'CONNELL: Okay. I will issue an

5 order shortly containing the procedural schedule and

6 other guidelines for the disposition of this case, and

7 with nothing else, we are adjourned. Thank you.

8 (Adjourned at 1:51 p.m.)

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3 STATE OF WASHINGTON

4 COUNTY OF THURSTON

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6 I, Tayler Garlinghouse, a Certified Shorthand

7 Reporter in and for the State of Washington, do hereby

8 certify that the foregoing transcript is true and

9 accurate to the best of my knowledge, skill and ability.

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13 Tayler Garlinghouse, CCR 3358

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