

**Docket No. TS-180677 - Vol. I**

**In re Application of Backcountry Travels LLC**

**November 19, 2018**



**206.287.9066 | 800.846.6989**

1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101

[www.buellrealtime.com](http://www.buellrealtime.com)

email: [info@buellrealtime.com](mailto:info@buellrealtime.com)





BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

In re Application of )DOCKET NO. TS-180677

BACKCOUNTRY TRAVELS LLC )

)  
For a Certificate of Public )  
Convenience and Necessity to )  
Operate Vessels in Furnishing )  
Passenger Ferry Service )

PREHEARING CONFERENCE, VOLUME I

Pages 1-10

ADMINISTRATIVE LAW JUDGE ANDREW O'CONNELL

November 19, 2018

1:44 P.M.

Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive Southwest  
Olympia, Washington 98504

REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

Buell Realtime Reporting, LLC  
1325 Fourth Avenue, Suite 1840  
Seattle, Washington 98101  
(206) 287-9066 | Seattle  
(253) 235-0111 | Tacoma  
(800) 846-6989 | National  
www.buellrealtime.com

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

5  
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.

1 A P P E A R A N C E S

2 ADMINISTRATIVE LAW JUDGE:  
3 ANDREW O'CONNELL  
4 Washington Utilities and  
5 Transportation Commission  
6 1300 South Evergreen Park Drive SW  
7 Olympia, Washington 98504  
8 (360) 664-1160

9 FOR COMMISSION STAFF:  
10 JEFF ROBERSON  
11 HARRY FUKANO  
12 Assistant Attorneys General  
13 PO Box 40128  
14 Olympia, Washington 98504  
15 (360) 664-1188  
16 jroberso@utc.wa.gov  
17 harry.fukano@utc.wa.gov

18 FOR BACKCOUNTRY TRAVELS:  
19 MATT HITCHCOCK  
20 Jeffers, Danielson, Sonn &  
21 Aylward, P.S.  
22 2600 Chester Kimm Road  
23 Wenatchee, Washington 98801  
24 (509) 662-3685  
25 matthewh@jdsalaw.com

FOR LAKE CHELAN:

ANDREW RICHARDS  
HATHAWAY BURDEN  
Garvey Schubert Barer  
1191 - 2nd Avenue, Suite 1800  
Seattle, Washington 98101  
(206) 816-1320  
arichards@asblaw.com  
hburden@asblaw.com

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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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<p>1 schedule?</p> <p>2 MR. ROBERSON: Possibly. We have not heard</p> <p>3 from the applicant as to whether or not the --</p> <p>4 MR. HITCHCOCK: Yes, I confirmed -- I</p> <p>5 confirmed with my clients moments ago that the proposed</p> <p>6 schedule we discussed last Friday is acceptable to</p> <p>7 Backcountry Travels.</p> <p>8 JUDGE O'CONNELL: Okay. Is there a copy of</p> <p>9 that available?</p> <p>10 MR. ROBERSON: There is.</p> <p>11 JUDGE O'CONNELL: Okay. Let me come back to</p> <p>12 the parties' proposal for procedural schedule, and let</p> <p>13 me start with the scope of the proceeding.</p> <p>14 This proceeding started when Lake Chelan</p> <p>15 Recreation, which owns a certificate to provide</p> <p>16 commercial ferry service on Lake Chelan, protested in</p> <p>17 the application for a commercial ferry certificate by</p> <p>18 Backcountry Travels LLC.</p> <p>19 The issue as presented in this case, for</p> <p>20 which I will have to make a decision, regards whether</p> <p>21 the public convenience and necessity require the</p> <p>22 operation as proposed by Backcountry Travels, and</p> <p>23 because there was a protest to the application, whether</p> <p>24 Lake Chelan Recreation has failed or refused to furnish</p> <p>25 reasonable and adequate service or has failed to provide</p>	<p>1 want to point out two things, for electronic filing and</p> <p>2 electronic service. Filing will be in accordance with</p> <p>3 the Commission rules. The Commission requires</p> <p>4 electronic filings of documents for formal filings.</p> <p>5 Also, the Commission's rules provide for electronic</p> <p>6 service of documents. The Commission will serve the</p> <p>7 parties electronically and the parties will serve each</p> <p>8 other electronically.</p> <p>9 If any party has not yet designated a lead</p> <p>10 representative for service, please do so via an email to</p> <p>11 me as soon as possible. My email is</p> <p>12 andrew.j.oconnell@utc.wa.gov. Also, if anyone would</p> <p>13 like to add names and email addresses of other</p> <p>14 representatives or support staff who should receive</p> <p>15 electronic courtesy copies, please email that to me as</p> <p>16 well.</p> <p>17 I'd like to move on to addressing the</p> <p>18 procedural schedule that's been proposed by the parties.</p> <p>19 Mr. Roberson, can you please address the</p> <p>20 schedule?</p> <p>21 MR. ROBERSON: Gladly, Your Honor. A month</p> <p>22 out from today's prehearing conference is</p> <p>23 December 17th, 2018, that is when the applicant's</p> <p>24 prefiled testimony would be due; response testimony from</p> <p>25 the protestant and Staff would be due</p>
Page 6	Page 8
<p>1 the service described in its certificate or tariffs. I</p> <p>2 will also have to determine whether Backcountry Travels</p> <p>3 has the financial resources to conduct its proposed</p> <p>4 service.</p> <p>5 The burden is on Backcountry Travels as to</p> <p>6 all these determinations. I'm aware that Backcountry</p> <p>7 Travels has already submitted its application as well as</p> <p>8 a number of supporting materials.</p> <p>9 I'd like to address a few more brief matters</p> <p>10 before we get to the procedural schedule. During the</p> <p>11 proceedings at the Commission, I'm aware that parties</p> <p>12 often request that any data requests and responses are</p> <p>13 shared with every party. I would make this easier on</p> <p>14 the parties by including such a requirement in the</p> <p>15 prehearing conference order. Is there any objection to</p> <p>16 my including that requirement?</p> <p>17 MR. ROBERSON: None from Staff.</p> <p>18 JUDGE O'CONNELL: Mr. Richards?</p> <p>19 MR. RICHARDS: None from Lake Chelan.</p> <p>20 JUDGE O'CONNELL: And, Mr. Hitchcock?</p> <p>21 MR. HITCHCOCK: None from Backcountry</p> <p>22 Travels.</p> <p>23 JUDGE O'CONNELL: Thank you.</p> <p>24 Discovery will otherwise be conducted</p> <p>25 according to the Commission's procedural rules. And I</p>	<p>1 January 14th, 2019; rebuttal and cross-answering</p> <p>2 testimony would be due February 11th, 2019. That same</p> <p>3 day, we've built into the procedural schedule a cut-off</p> <p>4 date for a motion for summary determination, which at</p> <p>5 least one of the parties is intending on or at least</p> <p>6 pondering filing.</p> <p>7 Witness lists, cross-examination estimates,</p> <p>8 and cross-examination exhibits would be due</p> <p>9 April 5th, 2019. The parties are not sure about the</p> <p>10 length of the hearing. Conservatively, we've scheduled</p> <p>11 it for two days, over April 22nd and 23rd, 2019, and</p> <p>12 simultaneous post-hearing briefs would be due</p> <p>13 May 27th, 2019.</p> <p>14 JUDGE O'CONNELL: Mr. Richards,</p> <p>15 Mr. Hitchcock, is there anything that you would like to</p> <p>16 add?</p> <p>17 MR. RICHARDS: Nothing from Lake Chelan</p> <p>18 Recreation.</p> <p>19 MR. HITCHCOCK: Nothing to add for</p> <p>20 Backcountry Travels.</p> <p>21 JUDGE O'CONNELL: Okay. Is there anything</p> <p>22 else that the parties know that we need to discuss</p> <p>23 today?</p> <p>24 MR. ROBERSON: Not from Staff's perspective.</p> <p>25 JUDGE O'CONNELL: Mr. Richards?</p>

2 (Pages 5 to 8)

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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1 CERTIFICATE

2  
3 STATE OF WASHINGTON  
4 COUNTY OF THURSTON  
5

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.  
10

11  
12 Tayler Garlinghouse  
13 Tayler Garlinghouse, CCR 3358  
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