

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SHUTTLE EXPRESS, INC.,
Petitioner and Complainant,

v.

SPEEDISHUTTLE WASHINGTON, LLC
Respondent.

DOCKET NOS.

TC-143691

TC-160516

TC-161257

INTRODUCTION

RESPONSIVE TESTIMONY OF PETITIONER/COMPLAINANT

SHUTTLE EXPRESS, INC.

BY

WESLEY A. MARKS

April 5, 2017

1 **Q: Please state your full name and business address.**

2 A: Wesley Marks. 800 SW 16th Street, Renton, Washington 98057.

3 **Q: Are you the same Wesley Marks who filed direct testimony on December 21, 2016 in**
4 **these dockets?**

5 A: Yes. Here I am also addressing a new docket, based on the complaint Speedishuttle filed
6 against us late last year regarding our commission payments and our use of independent
7 contractors on single stop trips.

8 **Q: What is the purpose of this testimony?**

9 A: To respond to the opening testimony of Staff and Speedishuttle in Docket No. TC-
10 161257 and to rebut the responsive testimony of Staff and Speedishuttle in Docket Nos.
11 TC-143691 and TC-160516.

12 **Q: Can you please summarize your views of the Staff and Speedishuttle testimony at a**
13 **high level?**

14 A: Yes. In the initial Speedishuttle testimony, several factual errors were made, as well as
15 allegations and statements that I wish to respond to. In regards to Staff's initial
16 testimony, I wish to provide response to several statements and provide additional
17 relevant background information as well.

18 **Q: At page 9 of his rebuttal testimony, Mr. Roemer states that if SpeediShuttle's**
19 **certificate is cancelled there will be no door to door service provider to serve all of**
20 **North Bend zip code 98045, because Shuttle Express's certificate does not cover the**
21 **whole area. Does Shuttle Express serve North Bend?**

1 A: Yes. Shuttle Express does offer service to all areas within its certificated authority, and
2 also has authority to provide service through our Charter Certificate issued by the
3 commission to areas where our auto transportation certificate is restricted, often at a very
4 comparable price to our customers.

5 **Q: At page 9, Mr. Roemer discusses an experience he had with Shuttle Express’s**
6 **scheduled service in February, alleging a supposed deviation from your route. First,**
7 **can you please explain the differences between your door to door service and your**
8 **scheduled service?**

9 A: Yes. Shuttle Express provides two “regulatory” types of service under its auto
10 transportation certificate. The first service type is our unscheduled door-to-door service,
11 where a customer selects a specific terminal to arrive or depart from, such as SeaTac
12 Airport, Pier 66, or Pier 91, and another provided individual address to go to or from.
13 This service allows us to book transportation to or from the airport from any business,
14 residence, or even hotel in our authorized service area and provide rates that are filed by
15 zip code in our tariff.

16 To contrast this, Shuttle Express also provides scheduled services to selected locations
17 that have been assessed to be higher volume locations, with potentially different needs
18 than a standard residence. As a result, we develop timing and routes that a vehicle may
19 travel to provide regular service to and from the terminal. These routes are not
20 specifically defined stops in a specific order, but rather a route that includes a number of
21 similar locations and a specified estimated travel time. Also, the rates to these scheduled

1 service locations are generally all at a per-passenger rate which is uniform for all fare
2 paying passengers.

3 **Q: Mr. Roemer testified that you do not keep your door-to-door and scheduled service**
4 **separate; is he correct in his testimony?**

5 A: At certain times, yes. During busier travel times, we hope to be able to justify sending a
6 single vehicle on a single route to pick up or drop off passengers on that route.

7 Unfortunately, given the decline over the last several years in overall passengers and the
8 load factor needs of the off-season periods, it would not be financially reasonable to only
9 serve passengers on some routes, so we do combine them with others in the general area.

10 **Q: Is it your understanding that that's allowed under Commission rules?**

11 A: Yes, it is. The scheduled service locations are all listed as "Flag Stop", which the rules
12 define as a point along an auto transportation company's normally travelled routes where
13 the company stops only if it receives notification that a passenger wishes to board the
14 vehicle at that point. There is also a provision in the rules—which is included in our
15 tariff—for "ALTERNATE MEANS OF TRANSPORT" where we state: "We also
16 reserve the right to combine Door-to-Door passengers on a scheduled service route so
17 long as the scheduled pickups should not be adversely affected." Like the rest of our
18 tariff, this provision was accepted and approved by the Commission.

1 **Q: Mr. Roemer testifies at page 9, Lines 14-16, that “I booked a scheduled service ride**
2 **on Shuttle Express to a downtown Seattle hotel...Shuttle Express did not, at the**
3 **time, allow booking door-to-door service on line...” Is that testimony accurate?**

4 A: No. Contrary to his testimony, Shuttle Express does in fact offer booking door-to-door
5 service for the downtown Seattle hotel that Mr. Roemer discussed, as with every other
6 location and address in that area. Mr. Roemer indicated that he booked a scheduled
7 service ride, which indicates to me that he selected a named location provided by us, on
8 our website. Those named locations are filed as scheduled service offerings, and are
9 operated as flag stop, meaning we only go there when there are passengers to be picked
10 up or dropped off. Had Mr. Roemer wished to book a pure share ride door-to-door
11 booking, he would have simply used the address of the hotel, starting with the zip code,
12 to book that trip. This option is available for all locations that we have authorization to
13 serve.

14 **Q: Could you just provide the two rates for all of those locations by default instead of**
15 **based on the customer’s service selection?**

16 A: We certainly could, but Shuttle Express opted to model its business system after the tariff
17 filing approved by the commission. For door-to-door service, a customer starts with the
18 zip code of their pickup or drop-off location since that is how the fares have been filed
19 with the commission. For the scheduled service locations, they would start with selecting
20 the specific location name from the list of hotels the service is offered to.

21 **Q: Why not simply provide one rate or the other?**

1 A: There are two reasons, with the first being that we do not want to restrict the service
2 offering to any location, but instead want options for our guests. As a result, we provide
3 our regulated services to the location both as the zip code shared-ride rate, as well as the
4 specified scheduled service rate. Second, by listing the scheduled service hotels
5 separately, we are able to customize the name to indicate that this location and pricing is
6 a scheduled service rate, for example “Sheraton Seattle Hotel (Downtown Airporter)”.
7 Allowing both services to be provided gives the public choice, as well as the opportunity
8 to select the service level and price that is most appropriate for their situation. Most
9 passengers select the less expensive option, which in the case of a party with a single
10 passenger—such as Mr. Roemer—would be the scheduled service. And scheduled
11 service is usually just as fast as the door-to-door service would be.

12 **Q: Mr. Roemer goes on to indicate that, “it took much longer to get to the hotel than it**
13 **should have.” What is your reaction to that statement?**

14 A: Mr. Roemer offers no benchmark for how long the trip “should” take. He seems to be
15 under the impression that the scheduled service operates similar to a train schedule or
16 line-run type service. As I stated previously, and as is in our filed tariff pages, these stops
17 are all flag stops and not listed as a point along a regular route. In fact, the route taken is
18 by definition irregular under the Commission definitions. I did look into the trip that Mr.
19 Roemer was on to attempt to understand the questions and concerns he had. Upon
20 review, our data shows that from the point that Mr. Roemer checked in at our desk, until
21 the time he was listed as dropped off at the hotel was 42 minutes. Our filed time

1 schedule indicates that from the airport we leave every 30 minutes, and arrive 56 minutes
2 later. Mr. Roemer's trip, even including the time he waited at the airport, was well
3 inclusive of the 56 minutes declared in our tariff. Indeed his whole trip only took him a
4 few minutes longer than a cab might take, which would have cost him much more.

5 **Q: In regard to Speedishuttle's service offering, at page 10 Mr. Roemer says that with**
6 **the Speedishuttle service, "there is no possibility a door-to-door passenger is forced**
7 **to wait while a van completes its scheduled route or a scheduled service passenger is**
8 **required to wait while the van completes unscheduled door-to-door service." By**
9 **comparison, does the door-to-door service provided by Shuttle Express have a**
10 **possibility passengers would be required to wait for routes?**

11 A: No, not at all. That is why we have filed our scheduled service locations as we have.
12 Previously, Shuttle Express' Downtown Airporter service operated as a fixed schedule
13 service, with departures on a specific time schedule from the airport, and pickups at
14 specific times at specific hotels regardless of the presence of bookings. While that
15 schedule was being operated, we would not combine other passengers into the same trip
16 as it would adversely affect the travel time of the scheduled trip. Once we switched to
17 flag stop, the obligation of performing the entire route is gone. That means that the
18 scheduled service stop is viewed by other passengers as just another door-to-door stop,
19 although with a more specific pickup time and difference in price. Again, these options
20 work well for both the public and the company and do not provide any possibility that a

1 passenger would be forced to wait differently than they would on a purely door-to-door
2 type trip.

3 **Q: In Mr. Roemer's deposition and at page 53 of his testimony, he said that**
4 **Speedishuttle provides service at a rate of \$22.00 per person to hotels in the city of**
5 **Bellevue. Is that similar to your scheduled service offering?**

6 A: In concept, potentially. Previously, Commission Staff determined that our scheduled
7 service filing was appropriate for the service provided, and I would imagine that
8 Speedishuttle's filing for a specific location type in a specified zip code would be
9 appropriate as well. Upon review however, it appears that Speedishuttle's fares being
10 charged aren't compatible with its tariff.

11 **Q: Can you elaborate on that?**

12 A: Yes. On April 1st, 2017, I went to the Speedishuttle website to book transportation for 3
13 adults to the Hilton hotel in Bellevue (300 112th Ave SE, Bellevue, WA 98004). The rate
14 charged for this booking was \$66.00, and I have included a copy of the confirmation for
15 this trip as Exh. ____, WAM-3. Speedishuttle's tariff however, indicates that hotels in the
16 Bellevue zip code of 98004 have a maximum fare of \$44.85 for the first passenger, and
17 \$2.80 for each additional passenger. Based on my calculations, the maximum that I
18 should have been charged would be \$50.45, not the \$66.00 that was actually charged to
19 my corporate credit card. This fare seems to be in violation of their filed tariff and
20 maximum fares allowed at this time.

1 **Service Distinction – Monitoring/business needs**

2 **Q: Several times in his testimony, Mr. Roemer says they do not track the operation or**
3 **usage of their features, such as Wi-Fi and TV. Does Shuttle Express see any**
4 **business reasons to track usage of features and amenities that it currently or has**
5 **previously offered to the public?**

6 A: Absolutely. In order to stay competitive with other forms of regulated and non-regulated
7 transportation, Shuttle Express continually monitors and evaluates both the additional
8 features it provides as well as its service level to the public. Each feature we add adds a
9 cost, which must eventually be passed on to the public somehow. If the feature gets us
10 more passengers, then the fares of the incremental passengers may cover the cost. If not,
11 then we will have to raise the per-passenger fares or remove the additional feature. So
12 features that are not valued or used are not good for the passengers or the company other
13 than adding unnecessary costs for little to no benefit to the public.

14 **Q: Let's first discuss additional features, what monitoring do you do and what features**
15 **have you looked into?**

16 A: We have introduced many different amenities throughout the years, and continue to
17 investigate what guests may appreciate and utilize. The first example that comes to mind
18 is the Wi-Fi in the vehicles which I testified at the original hearing we were looking into
19 and had already begun installing. That program consisted of two different offerings. The
20 first offering was to utilize dedicated commercial Wi-Fi units installed in the vehicles.
21 These units have the capability to maintain many simultaneous connections and utilize a

1 dedicated cellular network to transfer data. The second offering was utilizing the existing
2 hotspot that comes on the Apple iPads that we use for driver communications. These
3 hotspots provide much slower data transfer speeds, as well as limited connections to the
4 service. The data provided by our vendor, Verizon Wireless, helped us to identify the
5 usage patterns with the service before activation as well as after activation of the pilot
6 program. What we noticed was that the slower Wi-Fi through the tablets was used very
7 rarely, with occasional detriment to our communications system which uses the same
8 connection. The dedicated units that were installed and wired directly to the vehicle
9 however were used on a much more regular basis, although the majority of use was when
10 the vehicle was performing charter operations and not shared ride services.

11 **Q: What change did this result in as a result of your findings?**

12 A: Shuttle Express activated the Wi-Fi hotspot on the iPads for all vehicles which did not
13 have a dedicated separate system installed. Despite the issues identified, the additional
14 cost and expense was miniscule as the equipment was already purchased for other uses,
15 and our data plan had ample excess capacity for the limited use by our customers.
16 Furthermore, we have increased the offering of the higher speed and higher connection
17 service to more vehicles that operate primarily as charter vehicles and have a larger
18 passenger capacity to accommodate the use of business travelers, group transport, and
19 other event groups that we move under our charter certificate.

20 **Q: What is your opinion of the business need in regards to the service amenities**
21 **provided and a carrier's information about its use?**

1 A: My opinion is that it is critical to have information relating to the offering that any
2 company provides. If I offer and publicize that Shuttle Express has high speed Wi-Fi in
3 all of its vehicles, there is an expectation from the public that we ensure that it is
4 continually offered and meets the expectations provided. The only way to know that this
5 is the case is to verify and monitor the information to be able to make an informed
6 business decision in regards to the expense, the utilization, and the public's expectation
7 of that offering. It makes no business sense to deploy costly features without knowing if
8 they are even being used, as Mr. Roemer has testified.

9 **Q: Let's move to an aspect of the service level you spoke of earlier. Mr. Roemer's**
10 **testimony at page 7 stated they provide, "what we believe is superior customer**
11 **service, shorter wait times..." and then at page 28-29 discusses their "20 minute**
12 **departure guarantee." Does Speedishuttle have any empirical basis for asserting**
13 **they have "shorter wait times" or that they have met 20 minutes "in the vast**
14 **majority of our departures"?**

15 A: Almost none whatsoever. First and foremost, as we learned in Mr. Roemer's deposition
16 (p. 156), they don't track departure times at all for their "pre-arranged" passengers, which
17 they say is the majority. They only claim to track wait times for walk-up, or as Mr.
18 Roemer described it, on-demand passengers. Even there, they asserted in data requests
19 and Mr. Roemer's deposition that those numbers are not accurate. What is most
20 interesting to me is that Mr. Morton testified both that Speedishuttle would offer a 20
21 minute departure guarantee, but would not offer "walk up" service. Yet the only

1 departure time they actually track against the 20 minute “target” is for the service that
2 they swore they would not have.

3 **Q. Does Shuttle Express track departure wait times?**

4 A. Yes. We feel that information as well as other data regarding passenger travel times,
5 schedule variances, driver down time, and all other aspects of a customer’s experience
6 goes to the core of the public interest, as well as the feasibility of a company to compete
7 with other operators.

8 **Q: Can you elaborate on the needs?**

9 A: Certainly. Shuttle Express seeks to maintain a 20 minute or less wait time for the
10 majority of passengers arriving at our service area at SeaTac Airport. The wait time for a
11 trip, as well as an individual guest is tracked and monitored throughout the day, as well as
12 the following day in our management reviews. While we strive to meet the 20 minute
13 timing, our service level escalations process begins at the 30 minute mark, which we’ve
14 observed is generally the time at which a normal member of the public who is taking
15 shared ride services becomes uncomfortable and unhappy with the service. Our key
16 metric for our dispatch and overall operations is the percentage of guests who arrive at
17 SeaTac airport who depart within 30 minutes of checking in at our desk.

18 **Q: How has Shuttle Express been meeting that expectation?**

19 A: In February 2017, which is one of the slowest months of the year and the hardest to
20 manage due to decreased passenger density, Shuttle Express served 90% of its

1 reservations within the 30 minute service expectation. When that bar is moved to 20
2 minutes, we still served 65% within that timeframe which we continually strive to
3 improve through service adjustments, scheduling changes, and other efficiency measures.

4 **Q: What passengers are included in these numbers: Pre-arranged, Walk-up, or both?**

5 A: All shared ride and scheduled passengers carried under our Commission auto
6 transportation certificate are included in these numbers. Of note, is that for scheduled
7 service, we indicate that a vehicle leaves every 30 minutes, which allows us more
8 opportunity to group and plan the dedicated scheduled service route if passenger density
9 exists. Our data explicitly includes pre-arranged and walk-up passengers, as the service
10 offered by Shuttle Express does not materially differ for the two classes of passengers.

11 **Q: Is your data inaccurate as Mr. Roemer has testified on several occasions?**

12 A: Generally, no. While there are instances where specific reservations may have obvious
13 data issues, for example a customer included in the wait times described above shows as
14 waiting for two days due to an agent error in checking the wrong guest in, it is generally
15 consistent. We have found that, with certain exceptions, the data is trustworthy on the
16 time side enough to get a good view of operations, efficiency, and utilization. We do at
17 times ignore outliers or otherwise research the data to locate the need for correction, but
18 that is certainly the exception not the rule. We think it makes no sense to dismiss out of
19 hand all data because a small amount of it may not be accurate. Doing that simply makes
20 it impossible to ensure and improve the quality of your customer service.

1 **Q: In the Commission’s Order 04, they indicated that Speedishuttle’s business model**
2 **presented offered a differentiation to Shuttle Express’ current offerings at that time.**
3 **Comparing Mr. Roemer’s pre-filed testimony at pages 20-28 to his deposition**
4 **testimony, is the multi-lingual service essential to their original granting of a**
5 **certificate?**

6 A: Based on what we know now, no. It was my understanding that the Commission
7 believed there was a significant service differentiation based on service to then unserved
8 non-English speakers. However, Mr. Roemer’s pre-filed testimony (pg. 23 Ln 16)
9 indicated that Speedishuttle never intended to represent to the commission that it would
10 do anything beyond provide the sites that were created and try to hire multilingual
11 receptive teams. If that had been sufficient to attract unserved customers who speak only
12 Chinese, Japanese, Korean, or some other language, then perhaps the Commission’s
13 expectations would have been met. But instead, extensive discovery, testimony, and
14 deposition comments have established that Speedishuttle has no idea how many non-
15 English speaking passengers it is carrying today (Roemer Dep., p. 88, 168). The one fact
16 where we have specific empirical evidence is their bookings in King County on their
17 Chinese, Japanese, Korean websites. After almost two years, that number is exactly **zero**
18 **(Roemer Dep. Pg. 142)**. To me, the multilingual offering seemed to be an essential part
19 of the commission’s decision. As a business person in a regulated industry, I would
20 expect a key fact that gave us the right to operate to be followed through with by the
21 Commission. So I would work hard to track it and when my data was showing zero

1 service to the targeted demographic, I would work even harder to make that promise a
2 reality.

3 **Q: In his testimony, at page 25, lines 2-4, Mr. Morton indicated that “We try our best**
4 **to serve as many foreign language customers as we can.” What information have**
5 **you been able to locate regarding Speedishuttle’s attempt to hire individuals to**
6 **“serve as many foreign language customers” as they can?**

7 A: Despite our data requests, and the information provided, it appears that not much has
8 been done to hire individuals who would be able to assist them in serving as many
9 foreign language customers as they can. The job application forms on Speedishuttle’s
10 website have no indication on them to even track if an employee speaks another
11 language. The forms are attached as Exh. ____, WAM-4. In response to Data Request
12 No. 3, Speedishuttle said their “careers” page on their website “demonstrate[s] how its
13 hiring practices support the business model approved by the Commission.” But of the
14 four pages cited in the response, not one of them says anything about language abilities.
15 The greeter page is attached as an illustrative example in Exh. ____, WAM-5. And other
16 responses provided to Shuttle Express showed that of all their employees at the time, very
17 few spoke foreign languages, and of those that did, only a few select languages were
18 served. Further, Mr. Roemer indicated that they do not currently track any needs of
19 foreign language customers. Mr. Roemer does not even know what countries his
20 passengers come from (Dep. at 148: 6-13), so their ability to properly staff their receptive
21 teams and/or drivers to assist these customers would be nonexistent.

1 **Q: At pages 25-26 of his testimony, Mr. Roemer takes exception to your statements**
2 **regarding Speedishuttle’s intent to serve multilingual customers. Do you agree with**
3 **him?**

4 A: Absolutely not. Mr. Roemer tries to turn what I believe were the statements of the
5 Commission in Order 04 and Order 08 into a personal attack on me. In his testimony,
6 Mr. Roemer states “As I discussed earlier, Speedishuttle proposed to provide an upscale
7 shared ride service which would provide additional service features not available from
8 the other providers in the territory for which we applied.” Those service features, which
9 Speedishuttle used as a basis to differentiate them, also appear to be non-required items
10 which Speedishuttle does not need to actually provide. Mr. Roemer goes on to change
11 the comments from the intended focus on a specific unserved demographic which the
12 Commission initially agreed with, to a conversation about racial profiling and “tests” for
13 passengers which would be absurd. The Commission seems to have understood that
14 there would be some slight overlap in the service provided, and did not expect
15 Speedishuttle to perform tests to validate passengers, simply to market and provide the
16 additional services, such as multilingual greeters to assist passengers arriving
17 (presumably in the language they speak) to their pickup location. The recent testimony
18 by Speedishuttle seems to indicate that since at least 2014 they fully intended to compete
19 with the SAME demographic that Shuttle Express serves currently, but with different
20 vehicles, different pickup terms, but the same regulated auto transportation service in the
21 end. And that is exactly what they are doing today.

1 **Q: Again, Mr. Roemer states that it would be “virtually impossible.” for Speedishuttle**
2 **to provide service in foreign languages to all of its passengers as there is only one**
3 **driver in the vehicle. Does Mr. Roemer have a point there?**

4 A: Of course he does. But he leaves out of that testimony that despite our data requests,
5 information searches on their website, and deposition information, Speedishuttle appears
6 to make **NO ATTEMPT** to provide any foreign language service to its guests outside of
7 their website. There is testimony and deposition statements that there is no tracking of
8 foreign language needs by passenger; the schedules of the greeters, specifically those that
9 speak foreign languages, and schedules of the drivers were not made available, and quite
10 frankly it seems there was never a desire or attempt to provide this essential
11 differentiation factor to the public at all. The most common language of Speedishuttle
12 drivers and greeters by far is Somali. Exh. ____, WAM-6. None speak Japanese or
13 Korean and only two speak Chinese.

14 **Q: Mr. Roemer did state that “It should also be noted that for a multitude of reasons,**
15 **we cannot guarantee a multilingual greeter is always available in the language of a**
16 **particular non-English speaking passenger.” (HJR-1T P26 Ln 23-25) That would**
17 **seem to indicate that they DO make an attempt to pair up greeters or receptive**
18 **teams with passengers speaking foreign languages, correct?**

19 A: It would indicate that, but again, testimony and deposition statements clarified that there
20 are two problems with his statement. First, Mr. Roemer’s deposition stated that there
21 were Zero (0) bookings through the foreign language booking portals at the time of our

1 data request since their inception. Second, Mr. Roemer stated that there is no way to
2 track who has a need for a foreign language speaking greeter. Both of these statements
3 seem to indicate that the lack of a “guarantee” as Mr. Roemer put it is in fact a lack of an
4 unserved market which uses the booking engines, and a lack of ability or desire to track
5 when those individuals may actually need to be served. I am not quite sure how
6 Speedishuttle ever intended to help those customers, short of their translated website,
7 when they both do not book through the language services sites they provide and even
8 after that point have no way of knowing who requires such services.

9 **Q: Speedishuttle does have some foreign language speakers among its drivers and**
10 **greeters, so would they not be able to assist guests with language needs?**

11 A: Of course they would, but again it would be merely coincidence that the passenger and
12 driver or greeter spoke the same foreign language. Given the admitted lack of tracking or
13 any effort whatsoever to match passengers with a greeter or driver based on language,
14 any multilingual service that is provided is purely random chance, not a good faith effort.
15 And it is likely extremely rare, too. Shuttle Express also has drivers and other staff that
16 speak foreign languages, which means we likely do just as well and always have.

17 **Q. Well, is Speedishuttle at least making an effort to hire multilingual drivers and**
18 **greeters as Mr. Roemer testified?**

19 A. Not in a meaningful way. As discussed above, we looked at the pages of their website
20 that is geared to attracting new hires. The pages that are for drivers and greeters say
21 nothing about languages. And their employment applications have nothing about

1 languages. Mr. Roemer claimed that their Craigslist ads mention languages, but we could
2 not validate that, except for the most current ad. And despite Mr. Morton's testimony on
3 the application that, "when we hire, we hire with specific guidelines" (Morton testimony
4 Pg. 25 Ln 1-4), in our extensive discovery on this issue we were not able to get any such
5 "specific guidelines" from Speedishuttle. As best as we've been able to discover based
6 on the released data, they have no specific guideline for being multi-lingual, or even
7 giving preference to that point.

8 **Q: Has the non-English demographic now been served?**

9 A: Based on the testimony presented here and statistical data, there has been no change to
10 the existing marketplace other than the existence of a translated website for a single
11 operator that did not exist prior to Speedishuttle's entry into the market. And those
12 translations are irrelevant. Speedishuttle has confirmed this with the testimony and data
13 request response that **no** bookings had been processed through the foreign language
14 booking engines embedded in the translated sites. Those websites are a distinction
15 without a difference. Likewise, Mr. Roemer's testimony about search engine results in
16 Asian languages (Roemer Dep., p. 142-143) is meaningless in the real world. No
17 passengers are using the foreign language booking engines, so they are not serving the
18 public interest in this country, nor in China, Japan or Korea.

19 **Q: What is your response to Mr. Roemer's testimony beginning on page 29, line 7 that:**
20 **"if the commission wanted to ensure Speedishuttle actually published a 20 minute**
21 **service guarantee as Mr. Marks suggests, I would have no way of knowing that.**

1 **There simply is no mention of departure times in the holdings in Final Order 04**
2 **granting Speedishuttle’s application.”**

3 A: In fact, the Commission did include that as one of the factors that differentiated their
4 service in Order 02 from the ALJ, which I understand was basically affirmed in Order 04.
5 Paragraph 15 of the order describes it as follows: “Finally, Speedishuttle guarantees a 20
6 minute airport departure time, while Shuttle Express offers a 30 minute guarantee. Each
7 of these factors distinguishes Speedishuttle’s proposed service from the service Shuttle
8 Express currently provides.” Even if the individual certificate doesn’t have the
9 differentiation, it clearly was a big part of Speedishuttle’s attempt to differentiate its
10 service from ours. And the Commission expressed it as part of the basis for finding that a
11 different service was being proposed and presumably would be provided as was
12 represented. Again, if those service differentiations aren’t being provided, then in my
13 opinion Speedishuttle is not a different service with significant differentiation, but merely
14 another operator, in the same service area as Shuttle Express, with the same service type,
15 and a few inconsequential amenities that may or may not draw customers who are not
16 already served.

17 **Q: What other differentiation factors, based on the testimony provided by Mr. Roemer,**
18 **have not been demonstrated or met by Speedishuttle?**

19 A: A big question remaining now would seem to be if one of the final differentiation factors,
20 which are if the increased passenger travel through regulated airport shuttles at SeaTac
21 that was described to occur, is in fact happening. Order 02 indicated that Speedishuttle

1 demonstrated that there was an unserved market based on the increase of residents in
2 King County, as well as the increase in passengers at SeaTac airport (Order 02, Para 18).
3 Now that this new service provider is in the market, if that had been true and the new
4 provider were actually serving the previously unserved, the Commission should expect to
5 see an overall increase in the number of regulated auto transportation passengers being
6 served in the market.

7 **Q: Did Mr. Roemer's testimony address this?**

8 A: Somewhat, but only from a full market perspective, not within the limitation of the
9 regulated airport shuttles that the Commission had spoken about in its order. Mr. Roemer
10 tries to defend the decrease of overall regulated airport shuttle providers in the King
11 County market by looking at outside factors, such as for-hire taxi's, TNC's, and other
12 unnamed sources. These changes in mode of travel for passengers, which should be
13 noted also includes passengers who choose to drive themselves, is outside the
14 Commission's jurisdiction and influence. As such they are really a distraction to what
15 this case is about and what the Commission can deal with. When looking purely at the
16 number of passengers using the regulated providers, we've demonstrated, and Mr.
17 Kajanoff will again demonstrate through his responsive testimony, that an overall
18 decrease continues to happen for this service offering as regulated and monitored by the
19 Commission. Thus, despite Mr. Roemer's deflections, the projection that Speedishuttle
20 would grow the regulated market by serving the unserved clearly did not happen. Either
21 the unserved demographic did not exist or Speedishuttle is not serving it.

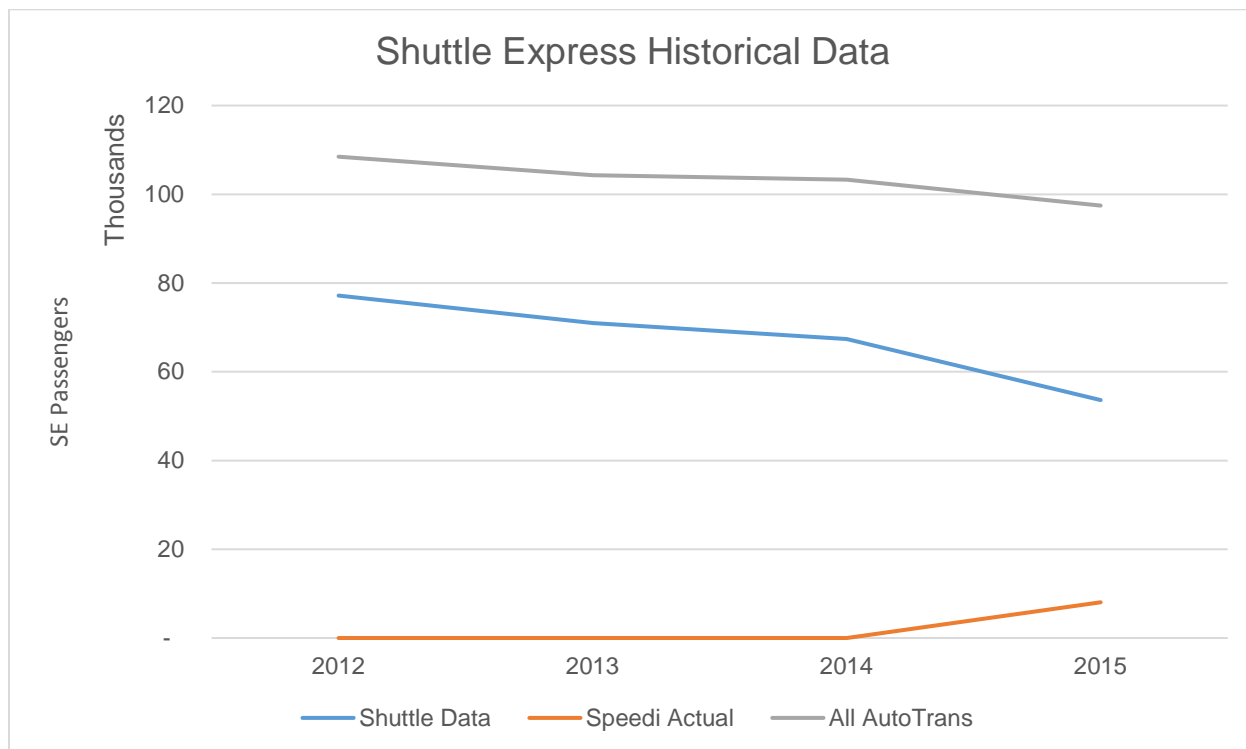
1 **Q: Do you have any comments on Mr. Roemer's chart at showing Shuttle Express**
2 **Passengers decreasing over time while SeaTac Arrival Trips are increasing over**
3 **time?**

4 A: I do. The chart that Mr. Roemer presented appears to be misleading on its face. We
5 submitted a data request to see the information that was used for this chart, and upon
6 examination it appeared that Mr. Roemer used total passenger data from the annual
7 reports we have submitted, and compared that to information provided by the Port of
8 Seattle regarding all trips for all types of ground transportation operators **departing**
9 SeaTac Airport.

10 **Q: Is there a problem with making those comparisons?**

11 A: There is a very large problem. First, Mr. Roemer is comparing apples to oranges by
12 comparing passengers to trips. Second, the data provided in the Shuttle Express annual
13 reports is related to **ALL** regulated activities, not simply our airport **arrival** passengers.
14 The trip data was readily available to Mr. Roemer as part of the SeaTac trips used as the
15 provided dataset is segregated by service operators for Shuttle Express and Speedishuttle.
16 Third, Mr. Roemer's SeaTac data seems to be predicated that all transportation, including
17 charter bus and cruise tour trips, airline crew vans, hotel courtesy shuttles, and even off-
18 site parking shuttles should count when looking at the passengers using regulated service.
19 To contrast, I've compiled a chart as well, using the data Mr. Roemer provided to us in
20 the data request response (SS1039), which restricts the comparison to WUTC regulated
21 operators overall (including scheduled airporters such as Bremerton-Kitsap, Capital, and

1 Whidbey SeaTac Shuttles) with Shuttle Express' trip numbers (including door-to-door
2 and scheduled services), and with Speedishuttle's reported trips.



3
4 To me, this chart more accurately demonstrates the current status of the regulated auto
5 transportation market, as it fully encompasses all providers operating out of SeaTac
6 airport that the WUTC regulates as Auto Transportation. Looking at the chart you can
7 see that overall auto transportation has declined year over year, while Shuttle Express
8 declined at a greater rate in 2015 when Speedishuttle entered the market. Even in that
9 year, the total passengers carried by ALL auto transportation companies declined,
10 showing less demand for the regulated market in the current ground transportation
11 environment at SeaTac.

1 **Q: How does the shrinking trip levels over time affect the ability to operate Shuttle**
2 **Express' services?**

3 A: Shared Ride service requires some minimum level of passenger volume and density to
4 remain sustainable, otherwise it would simply be a taxi service that occasionally operates
5 with multiple unrelated passengers. Changes in the marketplace, including the entry of
6 Speedishuttle into the King County arena have tended to harm the ability to efficiently
7 group passengers from related areas and provide cost-effective service. By splitting an
8 already decreasing market, each operator must bear additional costs to support the service
9 they provide.

10 **Q: Can you provide an example of the additional costs?**

11 A: Certainly. When one operator serves a market, using downtown Bellevue for this
12 example, they have some very significant startup costs as well as ongoing operational
13 costs. The pricing level presented to the public must justify their desire to use the
14 service, while providing enough revenue to cover costs such as vehicle purchase and
15 depreciation, building rents, fuel expenses, labor costs, etc. By bringing another operator
16 into the same marketplace, you now effectively divide up some of the existing revenue
17 that has been decreasing over time, and force the two operators to manage their costs the
18 same as before. Two vehicles from different companies going from the airport to
19 Bellevue have twice as much costs on the vehicle side, twice as many buildings to pay
20 for, two drivers to pay, twice as much fuel being used, and so on. Splitting the revenue
21 stream this way, along with other outside influences such as TNC's which are taking

1 significant market share as well, seriously harms the ability of any operator, Shuttle
2 Express or Speedishuttle, to properly serve the market for very long with reasonable rates
3 while still covering their expenses.

4 **Q: Are there times where this is a bigger or smaller issue in the marketplace?**

5 A: Partially, yes. King County, and the entire tri-county area in general, has a very seasonal
6 airport transportation market. Cruise season, which is generally April through October,
7 sees an influx in passengers and tourists come to the area, with many seeking trips to or
8 from the airport and cruise terminals, in addition to other services such as hotels and
9 tours. In contrast, the period from November through March is a generally slower time
10 period where many fewer passengers travel and the cruise terminals are generally not in
11 operation. In the summer, a slight decline in passenger density results in a very minor
12 effect as the vehicles travelling to the dense areas are still maintained at a capacity high
13 enough to cover all expenses and turn a profit, usually reversing losses incurred through
14 the winter. The slow periods however, are the most important to control, as the reduction
15 in density affects profit margins, expenses, and unfortunately service levels in an attempt
16 to maintain control on costs while still providing the expected service to the public
17 interest. If an operator truly were not required to serve to the interest of the public, they
18 would simply stop serving any areas that weren't profitable overall, and may even limit
19 hours of service, or service at all outside of the peak season.

20 **Q: Could you simply reduce the number of drivers and vehicles to cover the lower**
21 **passenger volumes?**

1 A: You can, but only to a point. When you're serving the entire market, under the
2 commission's current structure, you need to serve it wholly within the authority of your
3 certificate and your filed tariff. Reducing vehicles sounds easy enough, but if you
4 normally have trips that carry three or four reservations in the summer, and can only
5 serve one or the occasional two together in the winter, your cost per vehicle, mile, hour,
6 passenger, and trip skyrockets in comparison to the revenues coming in. You also cannot
7 generally reduce the fixed costs in the operation such as property tax, building rents, and
8 utilities as even with one passenger travelling a day, all of that is still required and is not
9 scalable on a whim.

10 **Q: Next, regarding Speedishuttle's complaint about paying "illegal commissions" or**
11 **otherwise stated as "unlawful rebates", which Mr. Roemer details at pages 56-57 of**
12 **this testimony, do you believe that Shuttle Express is in violation of the**
13 **Commission's rules?**

14 A: Of course not. Commissions are addressed in such a way as to not be deceptive to
15 customers, and offered to an entire class of individuals equally. When I speak about
16 commissions, I'm speaking directly to the hotel concierge commissions that Shuttle
17 Express provided during the requested time period. Also, even if the commissions were
18 somehow considered to be a departure from our quoted fares, the fares charged less the
19 commission amounts still fall within the range of our flexible fares as filed in our tariffs
20 and approved by the Commission.

1 **Q: Did the Commission Staff investigate your commission payments that Mr. Roemer**
2 **and Speedishuttle complain about?**

3 A: Yes. The Staff requested information, which was provided to the investigators, regarding
4 the commissions paid to hotel concierge staff. Subsequently, they requested some
5 additional data requests which Shuttle Express provided.

6 **Q: What is your understanding of the Staff's conclusion?**

7 A: The data returned to us by the Staff investigators indicated that the staff confirmed that
8 commissions were indeed paid directly to hotel concierge staff during the requested
9 period. They also found however, that the commissions were proper under the
10 commission rules and therefore did not recommend any penalty as they determined that
11 no violation had occurred. In fact, Staff's response to Shuttle Express Data Request
12 No. 4 was very succinctly put as "Review of RCW 81.28.080 does not support the
13 allegation by Speedishuttle."

14 **Q: Do you believe your commission payments are unfair to Speedishuttle in any way?**

15 A. No. Mr. Roemer admitted they pay similar commission but to hotels. (Roemer Dep., p.
16 182-83). The only real difference is that they file their commission agreements for some
17 reason. So they are doing largely the same thing and they are free to do exactly the same
18 thing as we do if they want.

19 **Q: Mr. Pratt's testimony indicates that Staff believes Shuttle Express violated**
20 **commission rules by using independent contractors to provide service to passengers**

1 **who had originally booked regulated services. Do you believe that Shuttle Express**
2 **indeed violated these rules?**

3 A: We did not and do not. In fact Shuttle Express tailored its use of independent contractors
4 during and following the commission investigation in TC-120323. While I was not in my
5 current position at the time of that case, it has been reviewed as a basis for some of our
6 operations today.

7 **Q: Please elaborate on that statement.**

8 A: Of course. During the course of the investigation, Shuttle Express reported many trips of
9 which independent contractors, utilizing their licensed vehicles which were not owned or
10 leased by Shuttle Express, carried passengers who had originally booked regulated
11 transportation. During the course of that investigation, Staff declined to indicate that
12 those trips which were single reservations carried by another carrier were in fact
13 violations. To further that point, Staff noted only the 5,715 violations (of over 12,000
14 trips reported to staff) which coincided with the instances where a contractor carried
15 multiple unrelated passengers in the same vehicle, but none of those violations were for
16 single reservation trips.

17 **Q: Was there any indication as to why those trips were not included in the violations?**

18 A: There was, from what I have reviewed. One specific instance was where Ms. Young
19 testified that “In the current investigation, Shuttle Express violated that previous
20 Commission order by hiring independent contractor drivers that were not employees of

1 the company to conduct multi-stop service on Shuttle Express's regulated routes.” (TC-
2 120323 Transcript Vol 2 Pg. 27 Ln 1-5). Ms. Young did not state that the other trips that
3 were provided to the Staff were violations, and in fact used the specific “multi-stop”
4 designation when identifying the violations.

5 **Q: Do you have any other information that the Staff may have used to determine that**
6 **the single stops provided at that time were not violations?**

7 A: Actually, I believe I do. In the Commission rules, WAC 480-30-036 defines the
8 provision of “Alternate arrangements for passengers.” That rule goes on to state that
9 “The alternate arrangements may require travel by another carrier or mode of
10 transportation at no additional cost to the passenger beyond what the passenger would
11 have paid for the original transportation arrangement.” I am not an attorney, but certainly
12 from a layman’s perspective that WAC seems to me to address exactly what we do when
13 we refer single parties to a licensed limo operator.

14 **Q: Why would that rule allow Shuttle Express to utilize independent contractors to**
15 **perform single stops?**

16 A: The rule I just mentioned certainly seems to take into account that an operator may not
17 reasonably be able to provide service 100% of the time, either due to financial,
18 mechanical, or other reasons even with sufficient reserve equipment. When
19 circumstances dictate that a change in the mode of transportation, such as moving a
20 regulated customer to a non-regulated mode of transportation, is necessary, it should be
21 allowed to do so without penalty while still providing service to the satisfaction of the

1 Commission. For example, when we have a single passenger going to Woodinville, with
2 no other passengers travelling along the same general route, we could either ask them to
3 wait hours for another passenger going to that same area or transport them at a sizeable
4 loss in a van operated by an employee. The limo option enables us to carry that
5 passenger quickly and at a small loss, while providing them an upgraded travel
6 experience. Of course, the passenger is happy, because they get an upgraded limo ride,
7 quickly, and at the same price as share ride. By utilizing these contractors, who are all
8 licensed transportation companies or contractors thereof, Shuttle Express effectively
9 changes the mode of the transport from auto transportation to the contractor's licensed
10 mode of transport, to the benefit of the company and the public.

11 **Q: And what about the no additional cost provision?**

12 A: Shuttle Express has always honored the regulated rate quoted and originally intended to
13 be provided to our guests. Unless a specific service change is requested by the customer
14 directly, no additional fees or costs are passed on to the customer by Shuttle Express and
15 other than gratuity for the driver, no additional charges other than the original quoted
16 price are incurred by our guest.

17 **Q: Was it surprising to you that Mr. Pratt recommended such a high penalty for the**
18 **violations he alleges despite the record showing that Shuttle Express had reason to**
19 **believe it was operating within the rules?**

20 A: That would be an understatement. It was very surprising. After reading the past orders,
21 parts of the transcripts, and other documents in the Commission rules and regulations, it

1 was quite a shock to me that the Staff has now done an about face on its position of just
2 four years ago, without any rational explanation that I can see. Moreover, in their
3 investigation they never really looked at why we need to use limos in order to be able to
4 continue to offer our services nearly county-wide. The spread between the cost of our
5 service and the public's willingness to pay has always been small. Forcing us to use a
6 higher cost mode of transportation to carry solo passengers out to remote suburbs or rural
7 areas will merely make it impossible for us to continue serving those areas with any form
8 of the regulated shared ride service.

9 **Q: Does your statement then mean that Shuttle Express cannot afford to service**
10 **customers in more remote areas?**

11 A: That doesn't mean that at all. During previous rate filings, Shuttle Express desired to
12 increase fares to these areas based on costs and likelihood of carrying multiple
13 passengers. Upon review of our fare increase request, Commission Staff indicated that
14 the increase for some outlying areas needed to be reduced due to the cost being partially
15 subsidized by the profit in the high density areas. As a result, the higher passenger counts
16 in areas like the downtown Seattle or Bellevue hotel districts was effectively helping to
17 pay for the ride costs when going to North Bend and Duvall. Due to the decrease in
18 ridership in these high density areas, in part as a result of SpeediShuttle's entry into the
19 market, that subsidy is effectively decreased now, and fare increases to these outlying
20 areas are more likely to be necessitated as a result of the high cost and lower subsidization
21 from the downtown cores.

1 **Q: Regarding the Alternate means definition you quoted earlier, has Shuttle Express**
2 **ever made it publicly known or advised the Commission Staff that it intended to**
3 **utilize that WAC provision?**

4 A: It has, yes. At least since the existence of Shuttle Express Tariff No. 10, originally filed
5 to become effective in August, 2013, Shuttle Express has included in its rules a
6 consideration for the Alternate means provision as described in the definitions, as well as
7 in WAC 480-30-356(3)(h) which requires us to indicate if we intend to provide alternate
8 means of transport when we are unable to provide transportation at the time and place
9 specified in the reservation.

10 **Q: Did Mr. Pratt state that Shuttle Express either did not declare its intent to use**
11 **alternate service, charge fares other than those in its tariff or in the reservation, or**
12 **otherwise violate the alternate service definition and rule requirements?**

13 A: No, in fact he backed up some of those claims. In Mr. Pratt's testimony, he stated that
14 "During each trip, the company charged the published tariff rate for door-to-door service.
15 All trips served single parties. No trips involved a 'shared ride' service." (DP-1T Pg. 4 Ln
16 3-5).

17 **Q: Mr. Pratt takes exception to your claims and states that the customer is "switch[e]d"**
18 **to another form of service without their knowledge. Do you have a response to that?**
19 **(DP-1T Pg. 6 Ln 1-9)**

1 A: Yes. When Mr. Pratt and the other representatives of the Staff were at Shuttle Express
2 for their in-person review of our records, I showed the Staff an example of one of these
3 trips. The trip that we reviewed was one that was selected by Mr. Pratt from the list of
4 200 trips and 200 reservations they were requesting data from, and not one that was
5 selected by me. When reviewing the selected trip, I showed the reservation details,
6 complete audit history, payment records, and internal notes linked to the reservation.

7 **Q: What did that data show?**

8 A: As was presented to Mr. Pratt and the other Staff present, all records and timestamps of
9 the trip were intact. Furthermore, an internal note was present in the booking, which was
10 placed there prior to the time of service by one of our dispatch team. That note indicated
11 that the dispatcher (or one of their assistants) had contacted the guest and received verbal
12 approval to upgrade the passenger to a private vehicle which I believe in that case was a
13 sedan vehicle owned and operated by one of the contractors we use for our black car
14 service.

15 **Q: Did you provide additional data to Staff as a result of this conversation?**

16 A: Yes, we provided detailed audit history to Staff which showed not only the booking and
17 dispatching process, but also that a dispatcher went into each booking to retrieve contact
18 information and place notes in the bookings regarding the upgrade service.

19 **Q: What is the term “upgrade” you just used intended to indicate?**

1 A: We use the term upgrade to indicate that we've contacted the passenger and received
2 positive approval to send them an alternate vehicle for their transportation. Generally,
3 the dispatcher advises the guest that Shuttle Express would like to upgrade their service
4 from a shared van to a private town car or SUV at no additional charge. If the customer
5 accepts the change, we then dispatch the replacement vehicle and service to the guest,
6 and make no other change to their booking. If they decline, we send an employee driver
7 in a company owned vehicle.

8 **Q: You said you make no other changes to the reservation when you upgrade**
9 **passengers to the alternate service. Why is that?**

10 A: It is best looked at like an airline ticket. The customer has purchased a coach fare with a
11 window seat. Upon checking in, the gate agent advises that they'd like to offer them a
12 complimentary upgrade to first class, but with an aisle seat. If the passenger accepts, the
13 airline does not cancel the ticket, refund the airfare and recharge it, they simply adjust the
14 seat for the passenger while they maintain the same cost, ticket number, class of fare, and
15 travel information. If the passenger were to decline, their seat would not change. This is
16 similar to what we do when we upgrade. When the passenger accepts the upgraded
17 service, we simply note the booking and dispatch the accepted changed mode of travel.

18 **Q. Are there any practical reasons not to fully cancel and re-book the passenger?**

19 A. It would be against the traveler's interests to have to cancel their original booking, refund
20 the charge (which takes 3-5 days to post to the account), rebook a new trip from scratch,
21 collect and charge the credit card again, and finally dispatch the driver under the new

1 booking. Passengers don't like having to watch their credit card accounts to make sure a
2 credit is posted. This also runs the risk that the passenger would end up having additional
3 charges to their credit card if the refund isn't posted in time, if interest posts to their
4 account, if sufficient funds aren't available for the dual charge for service, or if the credit
5 card company believes that the charges are duplicate and not proper thus voiding the
6 refund (which happened previously with Visa and MasterCard as a part of their fraud
7 protection program). And we would incur additional bank charges which ultimately have
8 to be recovered from passenger fares.

9 **Q: How would you handle a customer who originally booked regulated service but**
10 **decided to change their service to a private limousine vehicle for example?**

11 A: In that case, the customer has directed the change directly, and not the company. Shuttle
12 Express would adjust the requested vehicle type on the booking, generate the replacement
13 vehicle's cost, and charge only the fare difference to the guest. Again, we would not
14 unilaterally cancel, refund, rebook, and recharge the guest, simply make the requested
15 adjustments to the requested segments of travel.

16 **Q: Does this conclude your testimony at this time?**

17 A: Yes it does.