

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Cancellation of)	DOCKET TS-080825
Certificate of)	
)	NOTICE OF INTENT TO CANCEL
KITSAP FERRY COMPANY, LLC)	CERTIFICATE,
(BC-128))	
)	NOTICE OF OPPORTUNITY FOR
)	HEARING
.....)	

I. INTRODUCTION

- 1 **Nature of Proceeding.** The Washington Utilities and Transportation Commission (Commission), pursuant to RCW 81.84.010, hereby provides notice of its intention to cancel Certificate BC-128, held by Kitsap Ferry Company, LLC (Kitsap Ferry or Company).
- 2 The certificate holder may request a hearing to contest the factual allegations set forth below. If the certificate holder requests a hearing, but cannot materially rebut the allegations set forth below, the Commission will cancel the authority. If the certificate holder does not request a hearing, the Commission will cancel the certificate by further order or orders.
- 3 **Procedural Background.** Kitsap Ferry holds authority to provide scheduled passenger-only ferry service between Bremerton and Seattle, Washington, granted by the Commission on August 13, 2004.
- 4 On March 8, 2007, Kitsap Ferry filed a petition with the Commission requesting permission to temporarily discontinue passenger-only ferry service pursuant to WAC 480-51-130. In its petition, the Company requested permission to discontinue ferry service beginning April 1, 2007, and resuming service by April 1, 2008. The petition was assigned to Docket TS-070474.

- 5 In its petition, the Company stated its request was based on Kitsap Transit no longer providing operating funds. Its request was also based on lower than expected ridership, increased fuel prices and the Washington State Ferries' fare-free eastbound travel policy.
- 6 On March 28, 2007, the Commission granted the Company's petition to temporarily discontinue service for a twelve-month period, beginning April 1, 2007, and resuming service by April 1, 2008. In addition, the Commission's order required the Company to file, by September 28, 2007: (1) a pro forma financial statement of operations that includes ridership and revenue forecasts identifying likely alternative funding options, and (2) a report on the progress of obtaining alternate funding and an up-to-date plan to resume service by April 1, 2008. The order stated that the information in the reports would allow the Commission to determine, midway through the suspension period, if progress was being made in acquiring funding to resume service by the end of the suspension period.
- 7 Kitsap Ferry did not file the information required by the Commission's order, nor did Kitsap Ferry resume service on April 1, 2008.

II. APPLICABLE LAW

- 8 The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, regulations, practices, accounts, securities, and transfers of public service companies, including commercial ferry companies. *RCW 81.84 and WAC 480-51.*
- 9 WAC 480-51-025 provides that "commercial ferries must comply with all pertinent federal and state laws, chapter 81.84 RCW, and the rules of the Commission."
- 10 WAC 480-51-130 provides that: "no certificate holder shall discontinue the service authorized under its certificate and set forth in its filed time schedule without first having given to the Commission and to the public, at least fifteen days' notice, in writing, of its intention to discontinue such service, and without having secured the Commission's permission. The Commission shall not grant permission for discontinuance of service for periods exceeding twelve months."

- 11 WAC 480-51-140(2) provides, in part, that: “Discontinuance or suspension of service by a certificate holder for a period of five consecutive days without notice to the Commission shall be deemed a forfeiture of all right secured under and by virtue of any order or permission to operate, issued by the Commission.”
- 12 RCW 81.84.060 and WAC 480-51-150 provide that the Commission may cancel a certificate for the violation of any provision in RCW 81.84, or for violation of an order, decision, rule, regulation, or requirement established by the Commission under this chapter.

III. FACTUAL ALLEGATIONS

- 13 The Commission takes official notice of the following facts, subject to the certificate holder’s opportunity for rebuttal:
- 14 Kitsap Ferry’s approved twelve-month discontinuance of service ended April 1, 2008. Kitsap Ferry was required by Commission order in Docket TS-070474 to resume service by April 1, 2008. Kitsap Ferry has not resumed service.
- 15 Kitsap Ferry did not give notice to the Commission of its intent to further discontinue service, or seek permission from the Commission to discontinue service after April 1, 2008, as required by WAC 480-51-130.
- 16 Kitsap Ferry failed to meet the requirements of the Commission’s order in Docket TS-070474: The Company failed to file by September 28, 2007, a pro forma financial statement of operations, a report on the progress of obtaining alternate funding, or an up-to-date plan to resume service by April 1, 2008. Kitsap Ferry has not filed any documents with the Commission from April 1, 2007 to the date of this notice.
- 17 **NOTICE OF OPPORTUNITY FOR HEARING.** Kitsap Ferry Company, LLC may request a hearing to contest the factual allegations set forth in this Notice. If the Company wants to request a hearing to contest the cancellation of its certificate it must make a written request for a hearing with the Commission by **June 13, 2008**. An original and five (5) paper copies of the request must be directed to the attention of Carole J. Washburn, Executive Secretary of the Washington Utilities and Transportation Commission, and must reference Docket TS-080825.

- 18 If the certificate holder requests a hearing, the Commission will schedule a brief adjudicative proceeding under RCW 34.05.482 and WAC 480-07-610. If a certificate holder requests a hearing, but cannot materially rebut the allegations set out above, the Commission will cancel the certificate. If the certificate holder does not request a hearing, the certificate will be cancelled by further Commission order.

DATED at Olympia, Washington, and effective May 13, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN
Executive Secretary