

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of  SAN JUAN EXPRESS, INC.,  Petitioner,  Relating to Discontinuance of Commercial Ferry Service Authorized by Certificate of Convenience and Necessity No. BC-117	DOCKET TS-220267  ORDER 01
In the Matter of the Tariff Revisions of  SAN JUAN EXPRESS, INC.,	DOCKETS TS-220220 & TS-220233  ORDER 01  GRANTING TEMPORARY DISCONTUANCE OF SERVICE; APPROVING THE WITHDRAWAL OF TARIFF FILINGS

**BACKGROUND**

- 1 On April 13, 2022, San Juan Express, Inc. (SJE or Company), [BC-117], filed with the Washington Utilities and Transportation Commission (Commission) a Petition requesting the Commission grant a temporary discontinuance of service authorized under SJE’s Certificate of Public Convenience and Necessity (Petition).
- 2 Earlier, on March 29, 2022, SJE filed Time Schedule 54, proposing the ferry schedule for the summer season, in Docket TS-220220, and Supplement No. 1 reflecting a fuel surcharge, in Docket TS-220233.
- 3 SJE operates annually from May through October, providing commercial ferry service between Seattle and Friday Harbor.
- 4 SJE states in its Petition that in late March 2022, SJE’s maritime architect was notified by the United States Coast Guard that the vessel “San Juan Clipper, O.N. 965831” is not allowed to carry more than 150 passengers. This was on the same day the Company submitted its proposed fuel surcharge in Docket TS-220223. Historically this vessel has been allowed to carry up to 245 passengers. The Coast Guard reasoning is that for the vessel to carry more than 150 passengers the egress

configuration would have to be modified as “The vessel currently does not meet the standards to carry additional passengers due to staircases having direct access to accommodation spaces (i.e., engine room) in which a fire may originate.”

- 5 SJE explains that the change in the passenger capacity directly limits a ferry Company’s ability to generate revenues, given rates are calculated using an average historical passenger count greater than 150. Furthermore, this notice was delivered in the year following two historically bad years due to COVID-19. In 2020, due to COVID restrictions, the Commission granted a temporary discontinuance, and in 2021 the Company offered only limited service due to continuing COVID restrictions and lower demand. SJE has experienced reduced ridership and revenues. The restrictions now imposed stopping the ship from going back to the historical passenger capacity of 245 would continue this trend.
- 6 SJE requests that it be allowed to temporarily discontinue service for a period of 12 months, beginning May 12, 2022, returning to service on May 11, 2023. SJE believes this gives enough time for the Company to either procure a new vessel that has the capacity required to operate the service at a profit or retrofit the current vessel to meet the updated standards for egress.
- 7 In the cover letter submitted with its Petition, SJE notes that, should the Commission grant its Petition, the earlier tariff revisions filed in Dockets TS-220220 and TS-220233 should be withdrawn.
- 8 Commission staff (Staff) reviewed the Petition and recommended that SJE’s Petition be granted. The Coast Guard, who is responsible for maritime safety, has made a ruling which directly impacts the asset used to provide passenger ferry service. The result makes it drastically harder for the Company to operate at a level that would allow for operating costs to be recovered. Given these facts Staff agrees that allowing the Petition for a one-year period allowing SJE to retrofit or procure a new vessel which can provide this service at a level which allows the company to earn a reasonable profit is in the public interest.
- 9 With the suspension of service granted, Staff notes that filing for a fuel surcharge serves no purpose. Neither does filing a change to an operating schedule when no service is to be provided during that period. Staff agrees with the Company that those filings should not go into effect.

## DISCUSSION

- 10 Under WAC 480-51-130, a commercial ferry company must request approval from the Commission to discontinue some or all its operations. The Company must provide 15 days' notice to the Commission and the public before the effective date of the discontinuance. The Commission shall not grant a discontinuance of service for a period longer than twelve months.
- 11 We grant SJE's Petition. The Company credibly explains that a change in passenger capacity has limited its ability to generate revenue under the present circumstances and that it requires more time in order to consider procuring a new vessel or retrofitting its existing vessel. The Company should be allowed to temporarily discontinue service for a period of 12 months, beginning May 12, 2022, and returning to service on May 11, 2023.
- 12 Because we grant SJE's Petition to temporarily discontinue service, we agree with the Company's request to withdraw the earlier tariff filings in Docket TS-220220 and TS-220233. These tariff revisions are unnecessary now that the Company seeks to discontinue service.

## FINDINGS AND CONCLUSIONS

- 13 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including commercial ferry companies.
- 14 (2) SJE, [BC-117], is engaged in the business of providing commercial ferry service within the state of Washington as a public service company and is subject to Commission jurisdiction.
- 15 (3) Under WAC 480-51-130, a commercial ferry company must request approval from the Commission to discontinue some or all of its operations. The company must provide 15 days' notice to the Commission and the public before the effective date of the discontinuance. The Commission shall not grant a discontinuance of service for a period longer than twelve months.

- 16 (4) This matter came before the Commission at its regularly scheduled open meeting on April 28, 2022.
- 17 (5) SJE's Petition should be granted, authorizing SJE to temporarily discontinue service from May 12, 2022, until May 11, 2023.
- 18 (6) The Commission should allow the Company to withdraw the tariff revisions filed in Dockets TS-220220 and TS-220233.

**ORDER**

**THE COMMISSION ORDERS:**

- 19 (1) The Petition San Juan Express, Inc. filed requesting permission to temporarily discontinue service authorized by Certificate of Public Convenience and Necessity BC-117 is GRANTED.
- 20 (2) San Juan Express, Inc., is allowed to temporarily discontinue service effective from May 12, 2022, until May 11, 2023.
- 21 (3) The tariff revisions San Jan Express, Inc., filed in Dockets TS-220220 and TS-220233 are withdrawn by the Company.
- 22 (4) Should an immediate need arise for commercial ferry service, San Juan Express, Inc., BC-117, must be prepared to resume service to meet those needs. If San Juan Express, Inc., BC-117 cannot, or will not, resume service, the Commission will deem that San Juan Express, Inc. has waived interest in its commercial ferry certificate of public convenience and necessity and will grant authority to another carrier who is prepared to meet the needs of the traveling public. The Commission will then institute proceedings to cancel San Juan Express, Inc.'s certificate and to grant authority to another carrier who is prepared to meet the needs of the traveling public.
- 23 The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective April 28, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AMANDA MAXWELL  
Executive Director and Secretary