

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

In re Application No. D-079145 of)	
)	DOCKET NO. TC-030489
SEATAC SHUTTLE, LLC, d/b/a)	
SEATAC SHUTTLE,)	ORDER NO. 02
)	
for a Certificate of Public)	INITIAL ORDER APPROVING
Convenience and Necessity to)	AND ADOPTING
Operate Motor Vehicles in)	STIPULATION AND
Furnishing Passenger and Express)	GRANTING APPLICATION
Service as an Auto Transportation)	
Company)	
.....)	

Synopsis: *This order proposes that a stipulation between SeaTac Shuttle and Shuttle Express be approved and adopted, and that the authority requested in the stipulation, to provide round trip airporter service from Oak Harbor to the Clinton-Mukilteo ferry with closed door service between Clinton and SeaTac, be granted over Airporter Shuttle's protest.*

INTRODUCTION

- 1 **Nature of Proceeding.** This is an application by SeaTac Shuttle, LLC, d/b/a SeaTac Shuttle (SeaTac Shuttle or Applicant) for a certificate of public convenience and necessity to operate motor vehicles in furnishing passenger service door-to-door, by reservation only between Oak Harbor and Seattle-Tacoma International Airport with pickup points on SR 20 and SR 525.

- 2 **Procedural History.** On April 7, 2003, SeaTac Shuttle filed an application (No. D-079145) to provide airporter service between Oak Harbor and Seattle-Tacoma International Airport with pickup points on SR 20 and SR 525. The authority, as originally requested, overlaps that of Shuttle Express d/b/a Shuttle Express (Shuttle Express) and Wickkiser International Companies, Inc. d/b/a Airporter Shuttle (Airporter Shuttle or Protestant) who protest the application.

3 Prior to the evidentiary hearing, SeaTac Shuttle and Shuttle Express filed a stipulation in which SeaTac Shuttle agrees to narrow and clarify the authority it seeks, essentially eliminating any overlap of service with Shuttle Express. (Stipulation) A copy of the Stipulation is attached as Appendix A. Shuttle Express stipulates that it has no objection to SeaTac Shuttle's application as long as the Commission adopts the amendments to SeaTac Shuttle's requested authority as set for in the Stipulation. Settlement efforts with Airporter Shuttle were unsuccessful.

4 Administrative Law Judge Karen M. Caillé (ALJ) convened evidentiary hearings in Oak Harbor on June 24, 2003, and in Olympia on July 2, 2003. The ALJ heard SeaTac Shuttle's application and received evidence from SeaTac Shuttle's witnesses and witnesses called by the Protestant. The hearing produced a transcript of 478 pages and 20 exhibits, including testimony from 15 witnesses.

5 **Initial Order.** The presiding Administrative Law Judge proposes that the Commission approve and adopt the Stipulation between SeaTac Shuttle and Shuttle Express and grant SeaTac Shuttle authority as amended in the Stipulation to operate motor vehicles in furnishing passenger transportation service between Oak Harbor and Seattle-Tacoma International Airport. The Applicant showed that the public convenience and necessity require the proposed service. The Applicant also showed that it is fit, willing, and able to provide the proposed service. Finally, the Applicant established that the existing certificate holder whose authority encompasses a portion of the same territory does not provide service to the satisfaction of the Commission.

6 **Appearances.** The parties were represented as follows:

Applicant SeaTac Shuttle	by John J. Solin and Michael Lauver. President and General Manager SeaTac Shuttle d/b/a SeaTac Shuttle 1150 S.E. Dock Street, #201 Oak Harbor, WA 98277
--------------------------	---

Protestants Shuttle Express and Airporter Shuttle	by David L. Rice Miller Nash LLP 4400 Two Union Square
--	--

601 Union Street
Seattle, WA 98101-2352

Commission Staff

by Mary Tennyson
Senior Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128

MEMORANDUM

- 7 **Factual Basis.** On April 7, 2003, SeaTac Shuttle filed an Application that requests authority to provide door-to-door passenger service, by reservation only, between Oak Harbor and the Seattle-Tacoma International Airport via SR 20 and SR 525 to the Clinton-Mukilteo Ferry via SR 525, SR 526, Interstate 5, direct to SeaTac with pickup points within 1 mile of SR 20 and SR 525. Shuttle Express and Airporter Shuttle protest the Application.
- 8 Shuttle Express's authority to provide door-to-door and scheduled service between Mukilteo and SeaTac Airport overlaps with the authority requested by Applicant. On June 24, 2003, Applicant and Shuttle Express filed a stipulation in which SeaTac Shuttle narrowed and clarified the authority it seeks, essentially eliminating any overlap of service with Shuttle Express.
- 9 The amended authority would provide door-to-door scheduled passenger service, by reservation only, between Oak Harbor and Seattle-Tacoma International Airport via SR 20, SR 525, the Clinton-Mukilteo Ferry, SR 525, SR 526, and Interstate 5. Pickup points along SR 20 and SR 525 would include Oak Harbor, Coupeville, Greenbank, Freeland, Langley, and Clinton, with closed door service between Clinton and SeaTac. *Joint Exhibit; Exhibit 20, Tr. 178.*
- 10 Airporter Shuttle's authority to provide door-to-door and scheduled service between Oak Harbor and SeaTac Airport overlaps with the authority requested by SeaTac Shuttle. Although Airporter Shuttle possesses authority to provide service between Whidbey Island and SeaTac via SR 20 and SR 525, it does not provide service south of Oak Harbor, and only protests the Oak Harbor portion of the authority requested by SeaTac Shuttle. Significantly, no other airporter

offers service on Whidbey Island south of Oak Harbor, and Airporter Shuttle's Oak Harbor to SeaTac service requires a change of vehicles in Mount Vernon.

- 11 **Applicant's Evidence.** Mr. John Solin and Mr. Michael Lauver testified regarding SeaTac Shuttle's proposed service, management, and operations. Mr. Solin testified that he is the president of SeaTac Shuttle, and that he will primarily be responsible for the financial accounting and business side of the airporter service. *Tr. 169, 181.* He asserted that his education, military, and business experience qualify him to start this business and manage it. Mr. Solin testified that he has a bachelor's degree from the University of Idaho in mathematics and statistics, and a master's degree in business administration and finance and accounting from UCLA. He stated that he was a naval officer on active duty for nine years, during which he was a commercial flight instructor. Following active duty he continued another eighteen years of reserve service during which he taught at Chapman University and at Embry-Riddle University as an assistant professor. He is a former real estate broker. In 1981, he developed a circuit of five movie theaters that he operated for ten years and then sold. Since then he has been involved in the management of three vacation rental properties and is the landlord of the Plaza Cinema Movie Theater in Oak Harbor. *Tr. 181-182.*
- 12 Mr. Solin described the shuttle service as commencing at the south end of Oak Harbor with stops down the island in Coupeville, Greenbank, Freeland, Langley and Clinton. At Clinton, SeaTac Shuttle would have priority boarding on the ferry that would allow SeaTac Shuttle to go to the head of the line for boarding. After exiting the ferry, SeaTac Shuttle would continue non-stop from Mukilteo to SeaTac. In developing a schedule for four daily round trips, Mr. Solin testified that he talked with travel agents to find out what schedule met their customers needs. *Tr. 176, 178.*
- 13 Mr. Solin testified that the original application listed the equipment Applicant intended to purchase as two Chevy three-quarter standard passenger-type vehicles, but they have since decided to purchase two Dodge Sprinters because they get better mileage per gallon, are more spacious, and require less frequent routine maintenance. Mr. Solin stated that they discussed the purchase price and availability of the vehicles with Lynnwood Dodge, and Applicant intends to purchase the vehicles as soon as authority is granted. Mr. Solin added that

Applicant will have a back-up vehicle in the event of breakdowns. Routine maintenance on the Sprinters will be done locally by a dealer-authorized facility, and the 20,000 mile services would be done through the dealer network. *Tr.183-184.* Mr. Solin indicated that Applicant will maintain comprehensive vehicle maintenance files on all of its vehicles. *Tr. 185.*

14 Mr. Solin testified that Applicant has investigated insurance policies with two insurance companies, has received quotes from both, and will be ready to move forward with the insurance once the certificate is granted. *Tr. 186.* Likewise, Mr. Solin stated that he contacted the ground administration manager of SeaTac operations to discuss the procedures for obtaining a concession agreement, so he will be prepared to proceed upon receipt of the certificate. *Tr.191.*

15 Mr. Solin described the Applicant's operations, communications system, dispatch, hiring and training procedures, driver safety program, and driver monitoring. He testified that Applicant will comply with all requirements of the Washington State Department of Transportation. He stated that Applicant intends to hire between eight and ten drivers and four dispatchers based on two vans and four round trips per day. *Tr. 187-189.*

16 Mr. Solin testified that Applicant has approximately \$140,000 in assets including a \$100,000 letter of credit from himself to Applicant. *Tr. 192.* A *pro-forma* balance sheet is found at Item 15 of the Application.

17 Mr. Lauver testified that he is general manager of SeaTac Shuttle, and that he will have overall authority over the company subject to policies and procedure discussions with Mr. Solin. *Tr. 211, 233.* Mr. Lauver holds two degrees, one in anthropology from the University of California and one in computer science from Coleman College in San Diego. Mr. Lauver stated that most recently, he owned and operated a restaurant in Coupeville. Prior to that, for nearly 20 years, he managed a trust fund with assets of up to \$40 million and six to eight businesses both domestically and internationally. *Tr. 211-212.*

18 Mr. Lauver testified that he has personal experience providing transportation to the public. For nearly 15 years he owned and operated an FAA certificated air charter service, providing on-demand passenger flights, scheduled cargo, and scheduled passenger flights under private contract. In addition, he operated

airport-type and hotel-type shuttles between his air carrier and the hotels he owned and train stations and other hotels in the vicinity of the airports. He added that he has flown as a pilot with American Airlines' Eagle in regularly scheduled international service, and he has a commercial driver's license. *Tr. 212-213.*

- 19 Mr. Lauver testified that in his capacity as an air charter operator he developed training, safety, alcohol and drug testing programs, and he will develop similar programs for SeaTac Shuttle. *Tr.213, 221.* He described Applicant's pre-employment screening process, the driver's status board to monitor drivers' certificates, licenses, authorities, and their daily total time in service, and driver log sheets to track the travel times en route to the various stops. *Tr. 218-222.*
- 20 Mr. Lauver explained that all drivers are expected to have the commensurate skill level to operate the vans before they are hired on. Training will focus on regulatory and safety issues, traffic flows, ferry procedures, terminal procedures, and safety. Applicant will provide classroom and on-the-road training. Mr. Lauver asserted that he will accompany all drivers along the entire route as the training officer to determine that they exercise the appropriate level of safety to accomplish the route. *Tr. 224.*
- 21 Mr. Lauver described how Applicant's maintenance program will be managed using a cardex system where the various component systems are identified, categorized, indexed, and tracked for in-service times and interval service times. Additionally, a vehicle status board similar to the driver's status board would show the majority component features, in-service times, and service interval times for each vehicle. *Tr.222-223.*
- 22 Mr. Lauver testified that Applicant proposes to do a post-trip inspection, in addition to the required pre-trip inspection. He explained that the purpose of the pre and post inspections is to ensure that all vans are independently inspected twice before they go out on the road. *Tr. 223-224.*
- 23 Mr. Lauver testified that SeaTac Shuttle's service will differ from Airporter Shuttle's service in two respects. First, the transit time on SeaTac Shuttle is significantly less than it is on the Airporter Shuttle. Second, the route is completely different and more expeditious since SeaTac Shuttle will service all of

Whidbey Island beginning with Oak Harbor down SR 20 to central Whidbey and than on SR 525 to the Mukilteo ferry. *Tr.215.*

24 **Applicant's Public Witnesses.** SeaTac Shuttle presented the testimony of nine public witnesses regarding the needs of the traveling public and the adequacy of Airporter Shuttle's services in meeting those needs.

25 Loretta Martin is executive director of the Langley South Whidbey Island Chamber of Commerce. She testified that she assists people in planning trips to SeaTac or from SeaTac approximately thirty times a year. *Tr. 36-37.* When she travels to SeaTac herself, she usually tries to find someone to take her or she drives her own car. *Tr. 37-38.* She explained that neither of those options would be her first choice in traveling to SeaTac, because it is difficult to find someone to take her, and she does not like to leave her car at the airport because the car has been vandalized in the past. *Tr. 38.* Ms. Martin stated that the only other option would be for her to prearrange for Shuttle Express to meet the Mukilteo ferry. Then she would have to find a ride to the ferry, or take Island Transit to the ferry and carry her luggage on each leg of the journey. *Tr. 38-39.* Ms. Martin acknowledged that she was aware of some shuttle service up in Oak Harbor, but she has never used it, and has never helped anyone use it because it's so far north that is impractical. *Tr. 40.*

26 Ms. Martin testified that she sees a need for service as proposed by SeaTac Shuttle for herself and other travelers on the island because there is no other viable service for the people on the south end of the island. The existing options require either hauling heavy luggage across on the ferry, finding transportation, or a trip all the way north. *Tr. 39-40.*

27 William Bradkin is owner of Coupeville Travel, a travel agency in Coupeville. Mr. Bradkin testified that he has been in the travel business on Whidbey Island for ten years. *Tr. 44, 59.* He described his clientele as concentrated in the central Whidbey Island/Coupeville area, with some located in Oak Harbor and some from south Whidbey. *Tr. 49.*

28 Mr. Bradkin testified that he travels to SeaTac airport approximately six times a year. Generally, he drives his own car from Coupeville and parks it in an airport lot or at a hotel. *Tr. 45.* According to Mr. Bradkin he would allow at least three

hours to drive depending on ferry traffic and other traffic. *Tr. 45-46.* Mr. Bradkin stated that he has used Shuttle Express and Airporter Shuttle. He recalled that the one time he used Airporter Shuttle out of Oak Harbor the total trip from his house took probably five hours. *Tr. 46.* He explained that he had to travel to Oak Harbor to catch Airporter Shuttle which would stop at a couple locations in Anacortes and then make a connection in Mount Vernon. *Tr. 47-48.* According to Mr. Bradkin, the Airporter schedule and route do not meet his needs. He testified that he would not use Airporter Shuttle again because of the time factor and the convenience factor. *Tr. 50.* He asserted that there is a need for a service like that proposed by SeaTac Shuttle, and that he would use it, and he expected many of his clients would use it. *Tr. 47.*

29 Diane Manninen lives in Greenbank and works in Seattle at the Battelle Seattle Research Center. She travels to SeaTac twelve or more times a year primarily on business, occasionally for pleasure. *Tr. 63-64.* Ms. Manninen testified that she has tried pretty much every way that you can possibly get to the airport from her home, including Island Transit to the ferry, community transit to downtown Seattle and the Metro Transit to SeaTac, and Island Transit to the ferry and then Shuttle Express from the ferry to SeaTac. Ms. Manninen stated that she generally drives her own car to the airport and parks in the parking garage at the airport, because that is the fastest option. She estimated that it takes her between two and three hours by car depending on the wait at the ferry and the traffic on I-5. *Tr. 64-65.*

30 Ms. Manninen said that her trips to SeaTac on Shuttle Express take about three hours because she is often the first passenger on the van which then drives through Edmonds and Lynnwood to pick up other passengers. She testified that her trip home from SeaTac using Shuttle Express takes four hours because of the wait at the airport and the ferry schedule. *Tr. 65-66.* She acknowledged that she has heard of Airporter Shuttle, but she would not consider using them because it would add at least another half hour to the trip for her to get to Oak Harbor. *Tr. 68-69.* Ms. Manninen stated that she has a need for SeaTac Shuttle's proposed service, and that it would be a factor in booking her flights. She added that she knows a number of other people that work in Central and South Whidbey who do a lot of travel, and would use the service. *Tr. 67-68.*

- 31 Katie Dickerson is a recently retired elementary school principal from Sacramento, California who lives in Coupeville. She estimated that she travels from her home in Coupeville to SeaTac about fifteen to twenty times a year for business, pleasure, and medical reasons. She also picks up her children that come to visit. *Tr. 77.* Mrs. Dickerson testified that her husband usually drives her to the airport in their car because it is the most convenient alternative. She said typically they plan on close to three hours for the drive because they are not sure what ferry they will catch. *Tr. 77-78.* Mrs. Dickerson testified that she checked the schedule and the amount of time it would take to get to SeaTac using Airporter Shuttle and decided it was not convenient. *Tr. 81.* Mrs. Dickerson stated that she has a need for SeaTac Shuttle's service and would use it regularly because it would save her husband driving down to SeaTac and driving back to pick her up. In addition, when they travel together, it would save the expense of parking the car at SeaTac. *Tr. 79-80.*
- 32 Sue Sebens is the owner of Oak Harbor Travel, and has worked as a travel agent on Whidbey Island for ten years. She estimates that she travels from Oak Harbor to SeaTac between five and eight times a year for business and pleasure. *Tr. 85, 88, 109.* She testified that if she travels alone she would take the shuttle. If she travels with her husband or someone else, she would take the car because she could use the HOV lanes and she would get there faster. She estimated her travel time by car to be between two to two and a half hours depending on traffic. *Tr. 89.* When taking Airporter Shuttle, she stated that she would never leave out of Oak Harbor, rather she would drive to Mount Vernon and leave her car there, or have someone take her to Mount Vernon. *Tr. 89.* She stated that the travel time from Mount Vernon to SeaTac on the shuttle is one hour and fifty minutes, and it takes her about forty minutes to drive to Mount Vernon from her home. She explained that by driving to Mount Vernon, she saves forty-five minutes because the travel time from Oak Harbor to Mount Vernon on the shuttle is one and a half hours. *Tr. 90-91.* She testified that if she were to take Airporter Shuttle from Oak Harbor, her travel time to SeaTac would be three and a half hours. *Tr. 90.*
- 33 Ms. Sebens testified that on a good day her agency writes about 20 airline tickets for Oak Harbor customers. She estimated that there are probably an equal amount of tickets purchased by folks independently. *Tr. 87-88.* She recalled that over the last five months, her agency sold about 193 Airporter Shuttle tickets. *Tr.*

96. Of the tickets sold 70% of the people purchased Mount Vernon departures, while 30% purchased Oak Harbor departures. *Tr. 97.* She explained that it is more convenient to depart from Mount Vernon because it avoids going into Anacortes and waiting for the ferry and then heading to Mount Vernon. *Tr. 92-93.* Ms. Sebens stated that her clients want a hassle-free experience down to SeaTac that is the quickest and most direct route possible. *Tr. 99, 101, 105.* She testified that she sees a need for SeaTac Shuttle's direct, expedited and convenient service between Oak Harbor and SeaTac airport. *Tr. 85.*

34 Greg Wasinger owns two 7 Eleven franchises in Oak Harbor and travels to SeaTac airport twelve times a year. *Tr. 111.* He testified that he usually drives his car to the airport, and on a good day, without any traffic in the corridors, he can make it to SeaTac in two hours to two hours and fifteen minutes. *Tr. 111-112.* He stated that he would prefer an alternative to driving because he tends to be worn out when he returns to SeaTac and then has to drive for two to two plus hours to get home. *Tr. 112.* Mr. Wasinger testified that he needs a convenient, direct, expeditious service like that proposed by SeaTac Shuttle for his business and personal travel. He indicated that he would also use SeaTac Shuttle's service to pick up his children and friends. He stated that, without exception, he presently picks up his children and friends on the Airporter Shuttle in Mount Vernon because he does not want to put them through the additional time it takes from Mount Vernon to the Coachman Inn in Oak Harbor. *Tr. 113.* He reiterated that he has never sent anyone to SeaTac airport from Oak Harbor. He said he personally used Airporter Shuttle from Oak Harbor one time, and it took about three and a half hours. *Tr. 114.* He does not consider Airporter Shuttle's Oak Harbor departure convenient for his use or his friends' use. *Id.*

35 Dave Johnson is senior vice-president and manager of Whidbey Island Bank and has served on the board of the Chamber of Commerce in the past for about five years. *Tr. 124-125.* He testified that he travels to SeaTac airport six to eight times a year, and then also takes various members of family down. He usually drives to SeaTac and depending on the traffic, the drive is two to two hours and fifteen minutes. *Tr. 125.* He recalled that he took the Airporter Shuttle one time from Mount Vernon. He explained that he took the shuttle from Mount Vernon instead of from Oak Harbor because it was more convenient to drive over to Mount Vernon. He testified that it took him about 45 minutes to drive to Mount Vernon, and then the ride from Mount Vernon to SeaTac was about two hours.

He said if he had taken the shuttle from Oak Harbor, the trip time would have been three plus hours. *Tr. 125-126.* Mr. Johnson testified that he believes there is a public need for the service SeaTac Shuttle would offer, and he would certainly consider using SeaTac Shuttle. *Tr. 127-128.*

36 Priscilla Heistad is the executive director of the Greater Oak Harbor Chamber of Commerce, a member of the Island County Joint Board of Tourism, and liaison for the Joint Board and the marketing firm hired by the joint board. *Tr. 139.* Ms. Heistad testified that she sees a need for a service such as SeaTac Shuttle based on her knowledge of the traveling public. She defines that need as getting to the airport as quickly as possible with the least amount of trouble. *Tr. 139-140, 142-143.* Ms. Heistad explained that there are only two options for getting to SeaTac from Oak Harbor, Airporter Shuttle and Kenmore Air, a sea plane service, neither of which is as convenient or direct as SeaTac Shuttle's proposed service. *Tr. 140-141, 147-148.*

37 Garry Brown owns an insurance agency in Oak Harbor. He testified that he travels to SeaTac about three times a year. *Tr. 154-155.* He stated that he drives his car to SeaTac now that Harbor Air is closed. He explained that Harbor Air flew him to SeaTac in a half hour. Mr. Brown estimated that driving time to SeaTac takes him two hours in the middle of the night and about two and a half hours in the daytime. *Tr. 155.* He testified that if there was shuttle service such as that proposed by SeaTac Shuttle, and he was able to coordinate his flights with the shuttle service, SeaTac Shuttle would be a convenient option to driving. He explained that it is extremely important that a shuttle get him to the airport in approximately the same amount of time it would take him to drive. *Tr. 155-156.* Mr. Brown stated that he has used Airporter Shuttle's service from Oak Harbor and from Mount Vernon for family members. He explained that he would drive to Mount Vernon to minimize the time spent on the shuttle. He acknowledged that Airporter Shuttle's schedule is longer than he can stand. *Tr. 157-158.*

38 Dave Everett, a pilot for Southwest Airlines, provided historical data from his association with Harbor Airlines. He testified that he spent five and a half years with Harbor Airlines, and served as general manager and director of operations. *Tr. 149.* He recalled that Harbor Airlines ceased operations in May 2001. He estimated that prior to closing, the airline carried in the neighborhood of 25,000 to 30,000 passengers per year, between 50 and 100 people a day. *Tr. 150.*

39 **Protestant's Evidence.** Airporter Shuttle presented the testimony of Larry Wickkiser, and Richard Johnson, president and general manager, respectively, of Wickkiser International Companies doing business as Airporter Shuttle and Belair Charters to show that Airporter Shuttle's service is satisfactory. In addition, Jo Balda, testified as a public witness.

40 Mr. Wickkiser testified that he has been involved in the airporter industry for eighteen years. He started working with his father in 1985 as a driver and over the next ten to twelve years drove more than 2,000 trips to SeaTac. He also worked as the marketing manager and held other positions. In 1993 he became sole proprietor of the corporation. Mr. Wickkiser recalled that he acquired the Oak Harbor to SeaTac run in 1993. *Tr. 248.* He described Airporter Shuttle's management, facilities, schedule and fares, equipment, maintenance, dispatch procedures, airport concession agreement, drug and alcohol testing, and safety record. *Tr. 250-251, 255, 257, 262, 265-267.*

41 Mr. Wickkiser testified that the route currently used by Airporter Shuttle from Oak Harbor is primarily on I-5. His shuttles run Oak Harbor to Anacortes to Mount Vernon, where they connect to his I-5 corridor route between Bellingham, Mount Vernon, Marysville, and SeaTac Airport. He explained that they do not take the SR 20 and SR 525 route south down Whidbey Island because there is often slow traffic and there are only two lanes. *Tr. 249.* He recalled that ten years ago, they had an inner-city service going southbound on SR 20 and SR 525 to Seattle, but did not go to SeaTac. He stated that the service was quite unsuccessful in carrying people to Seattle. *Tr. 254.*

42 Mr. Wickkiser testified that the population base in Oak Harbor is smaller than most of the other areas that Airporter Shuttle serves. He added that Oak Harbor is at the end of a route, so economically they feel they need to go to Anacortes to pick up additional passengers in order to offer as many trips a day from Oak Harbor. *Tr. 254.* He stated that Airporter Shuttle runs nine round trips from Oak Harbor to SeaTac with service to Anacortes, basically every two hours from 3:40 a.m. to 6:55 p.m. Mr. Wickkiser explained that they run that many round trips because their formal customer surveys consistently ask for more frequency of service. *Tr. 255.* He opined that passengers want frequency of service because it

gives them less waiting time at the airport, especially waiting to get back home after getting off an airplane. *Tr. 256.*

43 According to Mr. Wickkiser, SeaTac Shuttle's four round trips a day will result in a significant wait at the airport either upon arrival waiting for the plane to depart or after arrival at the airport waiting to go back home. Moreover, he believes that the passenger volume in Oak Harbor is insufficient to support another shuttle. He considers SeaTac Shuttle's service proposal a predatory situation where Airporter Shuttle is providing a service and has created a market and then SeaTac Shuttle comes in and takes the cream from the top by taking the best times of the day. *Tr. 259-260.*

44 Richard Johnson testified that he is general manager of Wickkiser International. As general manager he is responsible for oversight of the operations of the business, including supervision of marketing operations, personnel, and finance. *Tr. 390-391.* Mr. Johnson stated that the purpose of his testimony is to show that the people of Oak Harbor are well-served. In support of his position, Mr. Johnson discussed the demographics of the Oak Harbor market, and opined on the financial implications of the business if two carriers were to operate competing for the same market. *Tr. 392.*

45 According to Mr. Johnson, if Airporter Shuttle did not have the larger population centers that connect with the Oak Harbor run, it would not be economical for Airporter Shuttle to run the service to Oak Harbor at its current frequency. *Tr. 392-393.* He stated that it is not economically possible for both Airporter Shuttle and SeaTac Shuttle to simultaneously service Oak Harbor. He explained that the small population of Oak Harbor would not provide enough revenue to support two airporters. *Tr. 393.*

46 In support of his position, Mr. Johnson sponsored Exhibit No. 7, a service impact study that he prepared for the hearing. *Id.* He testified that the study is based on information that he gathered in his job. According to the study, in 2002 Airporter Shuttle carried a total of 8662 passengers between Oak Harbor and SeaTac, or just over one person on each of its daily 19 one-way trips. *Ex. 7, p. 3.* Additionally, Airporter Shuttle carried a total of 15,686 passengers between Anacortes and SeaTac, or just over two persons on each of its daily 19 one-way trips. *Ex. 7, p. 4.* He explained that the additional passengers they pick up in

Anacortes allows Oak Harbor the frequency of service it currently enjoys. *Tr. 395, Ex. 7, p.12.*

47 Mr. Johnson then explained that his study listed the variable operating costs for SeaTac Shuttle based on data gathered at Airporter Shuttle, and the fixed operating costs projected for SeaTac Shuttle from his experience operating a business that is 10 to 50 times larger than SeaTac Shuttle. *Ex. 7, p. 5-6, Tr. 396-399.* On cross-examination, Mr. Johnson acknowledged that the cost information presented in Exhibit 7 is not based on SeaTac Shuttle's pro forma information. *Tr.429..*

48 Next, Mr. Johnson explained that he multiplied the variable costs in his study by the number of miles that SeaTac Shuttle would travel via SR 525, and that Airporter Shuttle travels via I-5 to arrive at the variable costs per one way trip. *Ex. 7, pp. 7-8, Tr. 401-402.* Based on his calculation, if the 8662 annual passengers are split between the two carriers, each carrier would earn revenues of just over \$100,000. Mr. Johnson asserts that those revenues are substantially less than the variable costs of \$78-\$80 per one way trip. According to Mr. Johnson, with two carriers splitting the existing passengers, the economics will support only four one way trips a day. *Ex. 7, p. 11, Tr. 402-403.*

49 Mr. Johnson concludes that the current population of Oak Harbor will not supply enough ridership to support the costs two carriers would incur. *Ex. 7, p. 13, Tr. 403.* He suggests that the community would end up having less service and each carrier would cherry-pick the peak times of day and year. *Tr. 404.* According to Mr. Johnson, this would be a step backwards because the market wants frequency of service. *Tr. 405-406.*

50 Mr. Johnson also asserts that the demographics show that there is not enough population to run a service four times a day down the south portion of Whidbey Island to SeaTac. He cites a population of 70,00 for Island County, subtracts 15,000 for Camano, 10,000 for the Naval Air Station, and 40,000 for Oak Harbor, to arrive at an island population of 5,000 to 7,000 south of Oak Harbor. *Tr. 409-410.* On cross-examination, Applicant used Exhibit No. 26, Washington County Population Estimates and Population Change: July 1, 2001 to July 1, 2002, to refute Mr. Johnson's population demographics. Mr. Johnson acknowledged that

the population stated on the exhibit for Island County is 75,050, and that Island County is the fourth fastest growing county in Washington. *Tr. 433.*

51 Mr. Johnson sponsored Exhibit No. 10, examples of the advertising that Airporter Shuttle has placed in the Oak Harbor market. He testified that their budget for advertising is \$80,000. *Tr. 418* On cross-examination, Mr. Johnson clarified that the \$80,000 a year advertising budget is company-wide, and he could not say how much is spent for Oak Harbor. *Tr. 435.* He also acknowledged that a part of the advertising budget is for the charter service. *Tr. 438.*

52 Mr. Johnson refutes Sue Sebens testimony that 70% of the Airporter Shuttle tickets her agency sold in the past 5 months were for departures from Mount Vernon with a document illustrating Airporter Shuttle's travel agency sales for 2002 that shows that 78% of the tickets sold by Oak Harbor Travel Service were to passengers boarding in Oak Harbor. . *Ex. 8, Tr. 411-413, 439.* According to Mr. Johnson, this exhibit also illustrates that as a company, 86% of all tickets sold to Oak Harbor residents were for Oak Harbor departures. *Ex. 8, Tr. 413.*

53 Mr. Johnson claims that the Applicant's schedule at two hours and fifteen minutes is inaccurate when compared to his experience driving southbound on Whidbey Island. He asserts that Island Transit takes one hour and twenty-five minutes to do the southbound route and it makes eight stops. He does not think it is reasonable that Applicant can make five stops and arrive at the ferry in fifty-five minutes. *Tr. 421.* Mr. Johnson also contends that Applicant's schedule of one hour from the Clinton ferry landing to SeaTac is not possible because there is a twenty minute ferry ride and even with priority boarding the shuttle would need to arrive ten minutes before departure. Upon arrival in Mukilteo, he contends that there is a ten minute drive to I-5, and notes that the express lanes on I-5 are not open all hours of the day. He maintains that a reasonable expectation for Applicant's schedule is two hours and fifty minutes to three hours. He suggests that there must be time built in for loading, unloading, accidents, traffic, bad weather. He testified that Airporter Shuttle has twenty minutes built into its schedule to anticipate such delays. *Tr. 422-423.*

54 On cross-examination, Mr. Johnson acknowledged that the last time he drove from Oak Harbor down SR 20 and 525 to the Clinton/Mukilteo ferry, and from the ferry to SeaTac without stopping was the previous Fall. He admitted that he

has never boarded the ferry with priority boarding. He could not recall whether he used the commuter lane during that trip, and he did not recollect how long the total trip took. *Tr. 436.* He acknowledged that the distance from the ferry to SeaTac is 39.7 miles, and that of those miles 36 are freeway miles. *Tr. 437.*

55 **Protestant's Public Witness.** Airporter Shuttle presented the testimony of one public witness. Jo Balda works in public relations at Key Bank in Oak Harbor. *Tr. 241.* She testified that she travels from Oak Harbor to SeaTac airport three times a year. *Tr. 242.* She recalled that she has taken Airporter Shuttle from Oak Harbor to SeaTac on three or four occasions. She described her experiences on Airporter Shuttle as satisfactory, safe, and on time. *Tr. 242-243.*

DISCUSSION AND DECISION

56 **Standard for Determination.** The fundamental standard governing this application is contained in RCW 81.68.040:

No auto transportation company shall operate for the transportation of persons, and baggage, mail and express on the vehicles of auto transportation companies carrying passengers, for compensation between fixed termini or over a regular route in this state, without first having obtained from the commission under the provisions of this chapter, a certificate declaring that public convenience and necessity require such operation;... The commission shall have power, after hearing, when the applicant requests a certificate to operate in a territory already served by a certificate holder under this chapter, only when the existing auto transportation company or companies serving such territory will not provide the same to the satisfaction of the commission, and in all other cases with or without hearing, to issue said certificate as prayed for; or for good cause shown to refuse to issue same, or to issue it for the partial exercise only of said privilege sought, and may attach to the

exercise of the rights granted by said certificate to such terms and conditions as, in its judgment, the public convenience and necessity may require.

57 In addition, consistent with the Commission's rules for auto transportation companies in Chapter 480-30 WAC, the Commission considers an applicant's financial fitness, and its fitness generally to provide the service for which it seeks authorization. Thus, two sets of questions must be addressed with respect to the application:

- 1) Public convenience and necessity:
 - a) Do the public convenience and necessity require the proposed service?
 - b) Does an existing auto transportation company operating in the territory at issue provide service to the satisfaction of the Commission?
- 2) Financial Fitness:
 - a) Is the company financially fit and capable of providing the service?
 - b) Does the company exhibit regulatory fitness?

58 These questions are considered and answered below.

Public Convenience and Necessity

59 An applicant for an auto transportation certificate must establish that the public convenience and necessity require the proposed operations. *RCW 81.68.040. In re Lloyd's Connection, Inc., d/b/a Airport Connection Airporter, Hearing No. D-2556, Order M.V.C. No. 1892 (December 1990).* Public convenience and necessity require the services of an additional carrier if existing carriers cannot meet the needs of the traveling public. *Id.* Convenience, directness, and speed are essential characteristics of airporter passenger service. The Commission will give substantial weight to those factors in its satisfactory service determination and in its public convenience and necessity determination. *In re Sharyn Pearson & Linda Zepp, d/b/a Centralia Sea-Tac Airport Express, App. No. D-76533, Order M.V.C. No. 2057 (June 1994), In re CWA, Inc., d/b/a Central Washington Airporter, App.No. D-079116, Docket No. TC-021402 (April 2003).*

a) Do the public convenience and necessity require the proposed service?

60 The testimony of Loretta Martin, William Bradkin, Diane Manninen, and Katie Dickerson establishes that there is a need for door-to-door service between cities in Central and South Whidbey Island and SeaTac. Each of the witnesses testified that there is no airporter service south of Oak Harbor, and that the Airporter Shuttle from Oak Harbor is inconvenient because it requires them to travel north. According to Ms. Martin and Ms. Manninen, Shuttle Express's service from the Mukilteo ferry to SeaTac is also inconvenient. Ms. Martin expressed difficulty with carrying luggage on the Island Transit bus, and the ferry. Ms. Manninen also mentioned the inconvenience of taking public transportation to the ferry, and she found that Shuttle Express's service from the ferry through Edmonds and Lynnwood took too long. Airporter Shuttle does not protest the portion of the Applicant's requested authority that would service Central and South Whidbey Island. Airporter Shuttle acknowledges that it possesses authority to serve Central and South Whidbey Island but does not provide service to the area or intend to provide service because it is uneconomical.

61 The testimony of William Bradkin, Sue Sebens, Greg Wasinger, Dave Johnson, Priscilla Heistad and Gary Brown establishes that there is a need for Shuttle Express's proposed service from Oak Harbor to SeaTac. All of the witnesses found the existing Airporter Shuttle service out of Oak Harbor to be inconvenient and time consuming, because Airporter Shuttle stops in Anacortes and requires a change of buses in Mount Vernon. Mr. Bradkin, owner of Coupeville Travel, testified that the one time he used Airporter Shuttle out of Oak Harbor the total trip time from his house in Coupeville to SeaTac was about five hours. Ms. Sebens and Mr. Wasinger testified that they have taken Airporter Shuttle from Oak Harbor to SeaTac and the trip takes three and one half hours. Ms. Sebens and Mrs. Wasinger, along with Dave Johnson and Gary Brown, prefer to leave from Mount Vernon when they take Airporter Shuttle because the shuttle takes twice as long to get to Mount Vernon as driving by car. Ms. Sebens, who is owner of Oak Harbor Travel, testified that of the 193 Airporter Shuttle tickets sold by her agency over the last five months, 70% of the people purchased Mount Vernon departures.

62 Protestant challenges Applicant's evidence of need by arguing that the testimony of Applicant's witnesses assumes that Airporter Shuttle will continue to operate

its nine round trips daily and that SeaTac Shuttle will be supplementing that service. Protestant maintains that Applicant must show a need for its service independent of Protestant's service. *Tr. 463, 467-468.* Protestant's characterization of Applicant's witnesses' testimony is inaccurate and thus the argument is without merit.

63 Protestant also challenges Applicant's evidence on the number of tickets sold for departure from Mount Vernon versus tickets sold for departure from Oak Harbor. Ms. Sebens testified that 70% of the 193 Airporter Shuttle tickets her agency sold in the past 5 months were for Mount Vernon departures. Protestant unsuccessfully attempted to impeach Ms. Sebens' testimony with Exhibit No. 8, that purportedly shows that 78% of the tickets sold by Oak Harbor Travel Service were for Oak Harbor departures. On cross-examination, Mr. Johnson stated that Exhibit No.8 represents the number of tickets sold for all of 2002. Ms. Sebens figures were for 5 months of 2003. Moreover, it is not clear from the exhibit how Protestant arrived at these figures.

64 Protestant also contests Applicant's representation that SeaTac Shuttle's proposed route will only take two hours and fifteen minutes from departure to arrival. According to Protestant, it is not possible for Applicant to drive down Whidbey Island on SR 20 and SR 525, make five stops, board the ferry, exit the ferry and drive from Mukilteo to SeaTac on I-5 in that amount of time. Applicant successfully rebutted this contention by impeaching Mr. Johnson's experience driving the SeaTac Shuttle route to SeaTac. Similarly, Mr. Wickkiser's testimony on Applicant's ability to run from Oak Harbor to Clinton in forty-five minutes with five stops lacks weight because it is based on his experience ten years ago. *Tr. 378.* In addition, Applicant's schedule shows that it allows one hour and fifteen minutes travel time between Oak Harbor and the ferry in contrast to the fifty-five minutes Mr. Johnson relied upon and the forty-five minutes Mr. Wickkiser relied upon. *Ex. 20.*

65 Protestant also suggests that Airporter Shuttle's published schedule of three and a half hours for its route to the airport is not really how long it takes because they have built in a twenty minute pad for heavy traffic and accidents. Protestant asserts that it would be a good business practice for Applicant to do the same. Applicant successfully rebutted the need to build additional time into its schedule with Exhibit No. 24, a comparison of the total accident count for

Airporter Shuttle's route and SeaTac Shuttle's route, and Exhibit No. 25, a similar comparison of the traffic count for the two routes. Each of the exhibits shows a substantially higher number of accidents and a higher volume of traffic on the Airporter Shuttle route than on SeaTac Shuttle's proposed route. *Tr. 353-354.*

b) Do existing auto transportation companies operating in the territory at issue provide service to the satisfaction of the Commission?

- 66 When an applicant requests authority to operate in a territory already served by a certificate holder, the Commission has the power to grant the requested authority "only when the existing auto transportation company or companies serving such territory will not provide the same to the satisfaction of the commission, . . ." *RCW 81.68.040*. The issue of satisfactory service "is not whether more persons like the service than dislike it, or find it satisfactory or not, but whether the service is meeting the needs of the public." *In re Bremerton-Kitsap Airporter, Inc., d/b/a Bremerton-Kitsap Airporter, et al., Hearing No. D-2444, Order M.V.C. No. 1457 (August 1984) at p. 5*. Failure to meet the real needs of travelers is a sufficient basis for finding that a carrier has failed to provide service to the Commission's satisfaction under *RCW 81.68.040*. *In re Sharyn Pearson & Linda Zepp, d/b/a Centralia Sea-Tac Airport Express, App. No. D-76533, Order M.V.C. No. 2057 (June 1994), In re CWA, Inc., d/b/a Central Washington Airporter, App.No. D-079116, Docket No. TC-021402 (April 2003)*.
- 67 Applicant's witnesses William Bradkin, Sue Sebens, Greg Wasinger, Dave Johnson, Priscilla Heistad and Gary Brown all testified that Airporter Shuttle's service between Oak Harbor and SeaTac is inconvenient, time consuming, and non-direct because it takes an hour and a half to get from Oak Harbor to Mount Vernon and requires a change of vehicles in Mount Vernon. Similarly, Applicant's witnesses from Central and South Whidbey Island, Mr. Bradkin, Loretta Martin, Diane Manninen and Katie Dickerson testified that service to SeaTac on Airporter Shuttle was not a convenient, direct, or expedient option because it require them to drive to Oak Harbor, and then change vehicles in Mount Vernon, before proceeding to SeaTac.
- 68 Protestant asserts that it is providing satisfactory service because its witness and some of Applicants witnesses testified that their experience on Airporter Shuttle was satisfactory. In addition, Protestant maintains that its service is satisfactory

because customers want frequency of service, and the only economical way that Airporter Shuttle can offer the nine round trips that it currently offers is to include Anacortes and Mount Vernon in its Oak Harbor route to SeaTac. Protestant's position ignores the evidence of the traveling public of the need for convenient, direct, and expedited airporter service to SeaTac.

69 Protestant contends that it is not economically feasible for Applicant to operate its route of four daily round trips from Oak Harbor to SeaTac. Protestant's contention is based on unsupported statements about the population demographics of Island County and Mr. Wickkiser's experience when he first acquired authority to serve the territory ten years ago. Applicant successfully impeached Protestant's population demographics, and Mr. Wickkiser's experience ten years ago carries little weight.

70 In addition, Protestant contends that it is not economically feasible for two airporters to offer service from Oak Harbor. In support of Protestant's contention, Mr. Johnson sponsored Exhibit No. 7, a service impact study prepared by him for this proceeding that is based on information he gathered in his job. The "hard facts" that Mr. Johnson bases his study upon for the costs of operating SeaTac Shuttle are the costs of Airporter Shuttle, not those of Sea Tac Shuttle. Not only is this evidence unreliable because it is unsupported by reliable data, but it is offered by Protestant's president and general manager and is self-serving. There is no persuasive evidence in the record to support a finding that Sea Tac Shuttle's proposed service is not economically feasible, or that it is not economically feasible for two airporters to offer service from Oak Harbor.

71 When an applicant shows that existing transportation companies will not serve the territory in question to the satisfaction of the Commission, a grant of authority for the territory is consistent with the public interest and required by the public convenience and necessity. *RCW 81.68.040. In re San Juan Airlines, Inc., d/b/a Shuttle Express, App. No. D-2566, Order M.V.C. No. 1809 (April 1989).* There is substantial competent evidence in the record that the airporter service that Airporter Shuttle offers between Oak Harbor to SeaTac airport is not as direct, expedited, or convenient as the traveling public in the territory expects and desires of airporter service. Rather, the evidence shows that Airporter Shuttle has struck a compromise between economics and public need, to the detriment of public need. Based on the evidence presented Airporter Shuttle's

existing service between Oak Harbor and SeaTac does not meet the reasonable expectations of the public or the Commission with respect to convenience, directness, and speed. The existing service is not to the satisfaction of the Commission.

Fitness

a) Is the company financially fit and capable of providing the service?

- 72 The Commission's examination of an applicant's financial fitness must be commensurate with the responsibilities of the public service that the firm seeks to provide, the risks to the public of failure, and the firm's financial history. *RCW 81.68.040. In re San Juan Airlines, Inc., d/b/a Shuttle Express, App. No. D-2589, Order M.V.C. No. 1899 (March 1991); modified, Order M.V.C. No. 1909 (May 1991).* However, the Commission does not consider an applicant's financial condition to be a critical element in a grant of authority, so long as there is credible evidence that the applicant has sufficient financing to begin operations and continue them for a reasonable period while its business is building. *In re Application of Valentinetti, Commission Decision and Order, Docket No. TC-001566, App. No. D-78932 (February 2002).*
- 73 In this proceeding the Applicant has provided a pro-forma balance sheet and pro-forma income statement for prospective business operations. *See Application.* The financial information included in SeaTac Shuttle's application and the testimony of Mr. Solin show adequate resources to begin operations.
- 74 Protestant challenges Applicant's fitness to provide the proposed service, asserting that Mr. Solin and Mr. Lauer lack experience running an airporter service. Applicant is not required to demonstrate extensive experience in running a large business of the sort they seek to enter. Such a demand would operate to stifle, rather than expand, the adequacy of service to the public. *In re Application of Valentinetti, Commission Decision and Order, Docket No. TC-001566, App. No. D-78932 (February 2002).*
- 75 The record shows that Mr. Solin and Mr. Lauer have 50 years combined business experience, 60 years combined aviation experience, and Mr. Lauer has 15 years of transportation experience, including shuttle service between his hotels and his air charter. They have both been involved in owning their own

businesses and demonstrate a thorough knowledge of the business on which they are embarking.

b) Does the company exhibit regulatory fitness?

76 To qualify for authority, an applicant must establish that it is willing and able to comply with Washington laws and Commission rules. *In re Lloyd's Connection, Inc., d/b/a Airport Connection Airporter, Hearing No. D-2556, Order M.V.C. No. 1892 (December 1990).*

77 The testimony of Mssrs. Solin and Lauver demonstrates their knowledge of Washington laws and Commission rules and what they must do to comply with those laws and rules. Both gentlemen have extensive aviation experience and are used to complying with federal regulations. Mr. Lauver ran an air charter service that involved compliance with extensive federal regulations. Applicant has shown both a willingness and the ability to comply. The Applicant is fit.

78 **Conclusion.** SeaTac Shuttle showed by substantial competent evidence that the public convenience and necessity require the proposed service. SeaTac Shuttle showed by substantial competent evidence that Airporter Shuttle, the existing certificate holder whose authority encompasses the same territory, does not provide service to the satisfaction of the Commission. SeaTac Shuttle is fit, willing and able to provide the proposed service. The Application is granted or these reasons in accordance with RCW 81.68.040.

79 **Stipulation between SeaTac Shuttle and Shuttle Express.** The Stipulation attached as Appendix A to this Order, resolves Shuttle Express's protest by amending SeaTac Shuttle's authority to provide service by removing service to Mukilteo, thus eliminating any overlap of service with Shuttle Express. Based on analysis presented above, the authority described in the Stipulation has been granted. The Stipulation is consistent with the public interest, and should be approved and adopted as a resolution of the issues between Shuttle Express and SeaTac Shuttle.

FINDINGS OF FACT

80 Having discussed above all matters material to this decision, and having stated the findings and conclusions, the summary findings of fact are set forth below. Those portions of the preceding discussion that include findings pertaining to the ultimate decisions in this order are incorporated by this reference.

- 81 (1) On April 7, 2003, SeaTac Shuttle, LLC, d/b/a SeaTac Shuttle filed with the Commission Application No. D-079145 for a certificate of public convenience and necessity to operate motor vehicles in furnishing passenger and express service as an auto transportation company. The Application requests authority to provide door-to-door passenger service, by reservation only, between Oak Harbor and the SeaTac International Airport via SR 20 and SR 525 to the Clinton-Mukilteo Ferry via SR 525, SR 526, Interstate 5, direct to SeaTac with pickup points within 1 mile of SR 20 and SR 525.
- 82 (2) Shuttle Express d/b/a Shuttle Express (Shuttle Express) is an existing auto transportation company whose authority to provide door-to-door and scheduled service between Mukilteo and SeaTac Airport overlaps with the authority requested by SeaTac Shuttle.
- 83 (3) Wickkiser International Companies, Inc. d/b/a Airporter Shuttle (Airporter Shuttle) is an existing auto transportation company whose authority to provide door-to-door and scheduled service between Oak Harbor and SeaTac Airport overlaps with the authority requested by SeaTac Shuttle.
- 84 (4) Shuttle Express and Airporter Shuttle filed timely protests of the Application.
- 85 (5) On June 24, 2003, SeaTac Shuttle and Shuttle Express filed a stipulation in which SeaTac Shuttle narrowed and clarified the authority it seeks, essentially eliminating any overlap of service with Shuttle Express, and Shuttle Express withdrew its protest as long as the Commission approves the amended authority.

- 86 (6) The stipulation of SeaTac Shuttle and Shuttle Express is consistent with the public interest and should be approved.
- 87 (7) Airporter Shuttle protests only the Oak Harbor portion of the authority sought by SeaTac Shuttle.
- 88 (8) SeaTac Shuttle possesses sufficient financial resources to begin operations and continue them for a reasonable period while its business is building.
- 89 (9) The testimony of Loretta Martin, William Bradkin, Diane Manninen, and Katie Dickerson establishes that there is a need for SeaTac Shuttle's proposed airporter-type service south of Oak Harbor between Oak Harbor and the Clinton/Mukilteo ferry, and then non-stop to SeaTac.
- 90 (10) The testimony of William Bradkin, Sue Sebens, Greg Wasinger, Dave Johnson, Priscilla Heistad, and Gary Brown establishes that there is a need for SeaTac Shuttle's proposed airporter-type service in Oak Harbor
- 91 (11) Airporter Shuttle does not provide service to the satisfaction of the Commission for its Oak Harbor customers because the company's service is not convenient, direct, or expeditious.
- 92 (12) SeaTac Shuttle is financially fit and capable of providing its proposed service, and exhibits regulatory fitness.

CONCLUSIONS OF LAW

93 Having discussed above all matters material to this decision, and having stated general findings and conclusions, the summary conclusions of law are set forth below. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions in this order are incorporated by this reference.

- 94 (1) The Washington Utilities and Transportation Commission has jurisdiction over the parties to and subject matter of this application.

- 95 (2) The Stipulation (Appendix A to this Order) fairly resolves the issues between Shuttle Express and SeaTac Shuttle and is consistent with the public interest.
- 96 (3) SeaTac Shuttle is fit, willing and able to provide the services requested under chapter 81.68 RCW and chapter 480-30 WAC.
- 97 (4) The existing certificate holder serving the requested territory does not provide service to the satisfaction of the Commission where SeaTac Shuttle proposes to operate and, therefore the Commission should grant overlapping authority to SeaTac Shuttle under RCW 81.68.040.
- 98 (5) It is consistent with the public interest and required by the public convenience and necessity that the Commission issue a certificate of public convenience and necessity to operate motor vehicles in furnishing passenger and express service as an auto transportation company to SeaTac Shuttle, LLC, doing business as SeaTac Shuttle to provide passenger service as set forth in Appendix B.
- 99 (6) Based on the above findings of fact and conclusions of law, the undersigned administrative law judge makes and enters the following order.

ORDER

IT IS ORDERED That application No. D-079145 of SeaTac Shuttle, LLC, d/b/a SeaTac Shuttle for a certificate of public and necessity to operate motor vehicles in furnishing passenger and express service as an auto transportation company is granted; and that contingent on the Applicant's compliance with chapter 81.68 RCW and the rules of the Commission governing auto transportation companies, a Certificate of Public Convenience and Necessity shall be issued to read in accordance with Appendix B, which is attached and, by this reference, made a part of this order.

Dated in Olympia, Washington, and effective this 8th day of September 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KAREN M. CAILLÉ
Administrative Law Judge

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial Order is not effective until entry of a final order by the Utilities and Transportation Commission. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below.

WAC 480-09-780(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-09-780(3). WAC 480-09-780(4) states that any *Answer* to any Petition for review may be filed by any party within (10) days after service of the Petition.

WAC 480-09-820(2) provides that before entry of a Final Order any party may file a *Petition to Reopen* a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

One copy of any Petition or Answer filed must be served on each party of record, with proof of service as required by WAC 480-09-120(2). An Original and nineteen copies of any Petition or Answer must be filed by mail delivery to:

**Attn: Carole J. Washburn, Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia Washington 98504-7250.**

APPENDIX B

SeaTac Shuttle d/b/a
SeaTac Shuttle
1150 S.E. Dock Street, #201
Oak Harbor, WA 98277

PASSENGER SERVICE by reservation only:

BETWEEN: Oak Harbor and the SeaTac International Airport via SR 20, SR 525, the Clinton-Mukilteo Ferry, SR 525, SR 526, and Interstate 5. Door to door service in conjunction with the above route with pickup points on SR 20 and SR 525. Closed door service between Clinton and Sea-Tac.

ALTERNATE ROUTE: In the event that the Clinton-Mukilteo Ferry service is not available, or there are no other reservations for passengers on the above named route south of Oak Harbor, the company may for any individual trip elect to utilize the following alternate route: SR 525, SR 20, Interstate 5 via Burlington, with closed door service between Oak Harbor and SeaTac.