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BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

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In re Application of)	
)	
SEATAC SHUTTLE, LLC d/b/a)	DOCKET NO. TC-090118
WHIDBEY-SEATAC SHUTTLE,)	
)	
For Extension of Authority)	Volume II
under Certificate No. C-1077,)	Pages 11 to 165
for a Certificate of Public)	
Convenience and Necessity to)	
Operate Motor Vehicles in)	
Furnishing Passenger and)	
Express Service as an Auto)	
Transportation Company,)	
)	

A hearing in the above matter was held on
Wednesday, June 10, 2009, from 10:00 a.m to 2:45 p.m.,
at 1300 South Evergreen Park Drive Southwest, Room 108,
Olympia, Washington, before Administrative Law Judge
MARGUERITE FRIEDLANDER.

The parties were present as follows:
SEATAC SHUTTLE, LLC d/b/a WHIDBEY-SEATAC
SHUTTLE, by JOHN SOLIN and MICHAEL LAUVER, P.O. Box
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679-4003, Fax (360) 323-8894, E-Mail
Mike@seatacshuttle.com and john@seatacshuttle.com.
SHUTTLE EXPRESS, INC., d/b/a SHUTTLE EXPRESS,
by JIMY SHERRELL, 800 Southwest 16th Street, Renton,
Washington 98057, Telephone (425) 981-7070, Fax (425)
981-7071, E-Mail jimysh@attglobal.net.

EVERGREEN TRAILS, INC., d/b/a GRAY LINE OF
SEATTLE, by DAVID L. RICE, Attorney at Law, MILLER NASH
LLP, 600 Union Street, Suite 4400, Seattle, Washington
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Joan E. Kinn, CCR, RPR
Court Reporter

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1 P R O C E E D I N G S

2 JUDGE FRIEDLANDER: Good morning, my name is
3 Marguerite Friedlander, I am the Administrative Law
4 Judge presiding over this auto transportation
5 proceeding. We are here before the Washington Utilities
6 and Transportation Commission on Wednesday, June 10th,
7 2009, to hear the matter of the application of Seatac
8 Shuttle LLC doing business as Whidbey Seatac Shuttle for
9 an extension of Certificate C-1077 in Docket TC-090118.

10 Let's begin by taking appearances, and then
11 we'll address any preliminary administrative matters
12 people may have, and let's go ahead and start with
13 Seatac Shuttle.

14 MR. SOLIN: I'm John Solin, Member and
15 Co-Owner of Whidbey Seatac Shuttle.

16 JUDGE FRIEDLANDER: Okay.

17 MR. LAUVER: Mike Lauver, Member and Co-Owner
18 of Whidbey Seatac Shuttle.

19 JUDGE FRIEDLANDER: Okay.

20 And on behalf of Evergreen Trails doing
21 business as Gary Line.

22 MR. RICE: David Rice with Miller Nash.

23 JUDGE FRIEDLANDER: Thank you.

24 And on behalf of Shuttle Express.

25 MR. SHERRELL: Jimmy Sherrell, Owner and

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1 President of Shuttle Express.

2 JUDGE FRIEDLANDER: Okay.

3 MR. ROWLEY: And John Rowley, General
4 Manager, Chief Operating Officer of Shuttle Express.

5 JUDGE FRIEDLANDER: Great, thank you.

6 Okay, before we went on the record I
7 discussed with the parties the agenda for today's
8 hearing. Seatac Shuttle will have the opportunity to
9 put on its case in chief regarding the application for
10 extension of authority. Shuttle Express will then have
11 the opportunity to cross-examine Seatac Shuttle's
12 witnesses. Then the settling parties will present
13 support for the settlement agreement that has recently
14 been filed with the Commission. And again Shuttle
15 Express will have the opportunity to cross-examine the
16 witness. Finally, Shuttle Express will put on its case
17 in opposition to the application as amended by the
18 settlement agreement. Both Seatac and Gray Line will
19 have an opportunity to cross-examine Shuttle Express's
20 witness.

21 Are there any preliminary procedural matters
22 that the parties would like to address at this time?

23 MR. LAUVER: Yes, Your Honor, the exhibits.

24 JUDGE FRIEDLANDER: Sure.

25 MR. LAUVER: I would like to note an

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1 objection to a couple of the exhibits presented by
2 Shuttle Express, and I can only do so on the assumption
3 that the reasoning behind the exhibits. And
4 specifically since these exhibits aren't numbered, I'm
5 referring to the poster that they submitted and the
6 E-mail that they submitted. I can only assume that
7 these are to show that they are providing service
8 adequate to the Commission and/or the public, but the
9 poster gives nothing more than a poster produced by
10 their marketing department with no attribution of any
11 comments on it other than developed by the marketing
12 department. I have no opportunity to cross-examine
13 anybody that made any statements on here. It doesn't
14 prove a thing. I can certainly come up with all the
15 posters I want through my marketing department and
16 submit them as evidence that I'm doing a wonderful job.
17 Likewise, they submit an exhibit that is an E-mail from,
18 an internal E-mail from one of their employees to
19 another employee relaying supposedly a completed survey
20 from a customer, but it's not directly from a customer,
21 and there's no way to contact that customer or to
22 verify. Once again, I can create E-mails all day long
23 that say we're wonderful or that they're bad or
24 anything, I don't see that there's anything here that
25 applies to what we're examining today.

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1 JUDGE FRIEDLANDER: Okay.

2 And Shuttle Express.

3 MR. SHERRELL: Yeah, we want to present our
4 marketing material as part of our promotion which is
5 important to let customers know who we are and what we
6 do.

7 JUDGE FRIEDLANDER: Right. Why specifically
8 though did you include it as an exhibit in this hearing?

9 MR. SHERRELL: To give an example of what we
10 do in marketing.

11 JUDGE FRIEDLANDER: So this isn't offered for
12 the veracity, this is offered just as an example of the
13 services that you offer?

14 MR. SHERRELL: Correct.

15 JUDGE FRIEDLANDER: Okay, so it sounds like
16 this is not being offered --

17 MR. LAUVER: I would question why a customer
18 survey is included.

19 JUDGE FRIEDLANDER: So the E-mail?

20 MR. LAUVER: Yes.

21 JUDGE FRIEDLANDER: And I did have a question
22 regarding the E-mail myself, because I can't tell who
23 this customer is. It looks like it's from
24 ba99@comcast.net.

25 MR. SHERRELL: That is offered as a piece of

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1 information that we operate off of, you know, to testify
2 not to what they say but how it supports and the general
3 manager follows up on information that he receives.

4 JUDGE FRIEDLANDER: So this is not offered
5 for the truth of the survey results, it's offered more
6 for --

7 MR. SHERRELL: An example.

8 JUDGE FRIEDLANDER: -- an example of surveys
9 that you have conducted?

10 MR. SHERRELL: And how we follow up on them,
11 yes, ma'am.

12 JUDGE FRIEDLANDER: Okay, so it's just an
13 example?

14 MR. SHERRELL: Yes.

15 JUDGE FRIEDLANDER: I see.

16 MR. SHERRELL: We don't offer it as hearsay.

17 JUDGE FRIEDLANDER: Okay.

18 Did that answer your concern?

19 MR. LAUVER: I guess I will deal with them in
20 context at the time.

21 JUDGE FRIEDLANDER: That's fine, and you will
22 certainly have an opportunity to cross-examine the
23 witness for Shuttle Express who will be offering this
24 exhibit.

25 But you raise a good point as far as let's

0020

1 identify these exhibits, because some of them have not
2 been, and I actually have two copies of this E-mail, but
3 some of them have not been marked as such. So for
4 Seatac Shuttle I have the first exhibit being the
5 protest of Shuttle Express, which witness will be
6 offering that exhibit?

7 MR. LAUVER: Well, I'm going to use that
8 throughout.

9 JUDGE FRIEDLANDER: So will you be offering
10 it with your first witness, Mr. Solin?

11 MR. LAUVER: Yes, I can.

12 JUDGE FRIEDLANDER: I think that would be
13 good.

14 MR. LAUVER: Okay.

15 JUDGE FRIEDLANDER: So why don't we go ahead
16 and have that be JS-1.

17 What the Commission does, if you're not
18 familiar with how we number our exhibits, is whoever the
19 witness is, we use their initials with the numerical
20 equivalent chronologically for that exhibit, so this
21 will be JS-1.

22 And let's go ahead and do similar with the
23 application of Seatac Shuttle, will you be offering that
24 for Mr. Solin?

25 MR. LAUVER: I can do that with Mr. Solin

0021

1 too.

2 JUDGE FRIEDLANDER: All right, so let's go
3 ahead --

4 MR. LAUVER: That will be JS-2?

5 JUDGE FRIEDLANDER: Yeah, that will be JS-2.
6 And the tariff of Seatac Shuttle?

7 MR. LAUVER: No, the tariff is Shuttle
8 Express.

9 JUDGE FRIEDLANDER: I'm sorry, that will be
10 Shuttle Express.

11 MR. LAUVER: And that will be JS-3.

12 JUDGE FRIEDLANDER: Yes.

13 So you will be offering these all with the
14 same witness then?

15 MR. LAUVER: Right, I will introduce them at
16 that point.

17 JUDGE FRIEDLANDER: Okay, that's fine.

18 And the service map, that will be JS-4?

19 MR. LAUVER: Sure, that will work.

20 JUDGE FRIEDLANDER: The others are a little
21 bit less complicated because there's only one witness
22 for each, so for Evergreen Trails I have the statement
23 in support of the multi-party settlement.

24 MR. RICE: That's correct.

25 JUDGE FRIEDLANDER: And I have that as JB-1.

0022

1 And then I have for Shuttle Express, and I'm
2 at a loss of what to call this though, well, I guess the
3 first exhibit that I have for Shuttle Express is a list
4 of persons. It looks like it's a matrix, this right
5 here.

6 MR. SHERRELL: Yes.

7 JUDGE FRIEDLANDER: What specifically is
8 this?

9 MR. SHERRELL: It's our drivers list.

10 JUDGE FRIEDLANDER: Okay, so it's a drivers
11 list?

12 MR. SHERRELL: Yes.

13 JUDGE FRIEDLANDER: Okay, so the drivers list
14 will be JR-1.

15 And then I see that there are the E-mails
16 which will be JR-2.

17 Another matrix of Shuttle Express operated
18 vehicles, which will be JR-3.

19 The Shuttle Express permit C-975, which will
20 be JR-4.

21 And I think what I'm going to do since --
22 will these be offered simultaneously?

23 MR. SHERRELL: Yes.

24 JUDGE FRIEDLANDER: Will they be offered
25 together?

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1 MR. SHERRELL: Yes.

2 JUDGE FRIEDLANDER: Okay, let's just combine
3 the two advertisements together as JR-5.

4 Okay, so does anybody have any other
5 procedural questions that you would like to address
6 before we get into the hearing?

7 Okay, well, let's go ahead, and I believe
8 Seatac is up, and you can go ahead and call your first
9 witness.

10 I can give you a minute if you need it.

11 MR. LAUVER: Okay.

12 Okay, Seatac Shuttle would like to call
13 Mr. John Solin.

14 JUDGE FRIEDLANDER: Okay, if you will go
15 ahead and stand and raise your right hand.

16 (Witness JOHN SOLIN was sworn.)

17 JUDGE FRIEDLANDER: Okay, you can proceed.

18

19 Whereupon,

20

JOHN SOLIN,

21 having been first duly sworn, was called as a witness

22 herein and was examined and testified as follows:

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0024

1 D I R E C T E X A M I N A T I O N

2 BY MR. LAUVER:

3 Q. Good morning, Mr. Solin, would you please
4 state for the record what your position is here with
5 Seatac Shuttle?

6 A. I am a Co-Owner and Member of the LLC
7 corporation that owns Seatac Shuttle and probably best
8 described as the financial and administrative side of
9 the house, manager.

10 Q. And did you recently prepare and submit an
11 application for expansion of authority on behalf of
12 Seatac Shuttle?

13 A. I did prepare that, I did that in January of
14 this year.

15 Q. I see. And you did that because?

16 A. We felt that as both the need for passenger
17 scheduled service from Whidbey Island to Paine Field and
18 likewise from Paine Field to Sea-Tac does not exist, and
19 clearly our operation as a scheduled operator for the
20 past almost six years has shown that there certainly is
21 a desire for scheduled service on Whidbey Island and
22 with the advent of future service from Paine Field that
23 there would be a requirement for scheduled service from
24 Paine Field as well to and from Whidbey and to and from
25 Sea-Tac.

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1 Q. And you did ensure that there was no current
2 or previous issue to determine scheduled service from
3 Paine Field by any operator to Sea-Tac or to Seattle?

4 A. That's right. Being aware of the existing
5 shuttle operators in the area as well as of course a web
6 search, there is no one that I saw that does provide
7 scheduled service from Paine Field to Sea-Tac or Whidbey
8 Island.

9 Q. Does any other operator operate any other
10 type of service in the area?

11 A. Shuttle Express does operate door-to-door
12 service throughout the Seattle Metro area. Bellair
13 Airporter does go through that area along the freeway
14 taking people down I-5 as far south as Marysville to the
15 airport. And then of course we operate our scheduled
16 service right past Paine Field on the way to Sea-Tac as
17 well.

18 Q. Now in the future if airlines do start up
19 there, would the necessity for this service as you see
20 it is because?

21 A. Well, it's twofold. There are people that
22 always are going to want to have a service that they
23 know what time does it leave, what time does it arrive.
24 All airports typically have some form of scheduled
25 service to and from communities in their area. And

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1 Paine Field with two new airlines starting up this year
2 hopefully would offer the same thing, and it just
3 enhances the public's traveling ability to get to and
4 from the airports.

5 Q. Once the application was filed, did you
6 receive any protest to that application?

7 A. We did, we received a protest from Shuttle
8 Express and from Evergreen representing Gray Line.

9 Q. And that protest is currently listed as JS-1
10 in the application, I mean in the -- for the purposes of
11 the hearing here today, is it not?

12 A. That's correct.

13 Q. And that is a protest of Shuttle Express?

14 A. It is a protest originally of Shuttle Express
15 and Gray Line both.

16 Q. And once again, does Shuttle Express provide
17 any scheduled service from Paine Field to Sea-Tac or
18 Paine Field to Seattle?

19 A. No.

20 Q. And you mentioned that you did file an
21 application, and that is here today as Exhibit JS-2?

22 A. Yes, I did.

23 Q. Okay. And in that application, did you
24 request any door-to-door service?

25 A. No.

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1 Q. Not in any territory?

2 A. No.

3 Q. That the application covers whatsoever?

4 A. No.

5 Q. Do you provide any -- do you have any
6 authority for door-to-door service at this point in any
7 area?

8 A. We do have authority on Whidbey Island for
9 door-to-door service.

10 Q. Does anybody else have authority for door to
11 door on Whidbey Island?

12 A. I don't believe anybody has authority. They
13 may -- Shuttle Express may have authority depending on
14 how you interpret their authority, but no one is
15 operating door to door on Whidbey Island.

16 Q. Well, let's clarify, did you review Shuttle
17 Express's certificate --

18 A. Yes.

19 Q. -- of necessity?

20 A. Yes.

21 Q. And do they operate or do they have authority
22 in any particular area relative to Paine Field?

23 A. Their authority is worded as a blanket 25
24 mile radius from Paine Field.

25 Q. And does that cover a portion of Whidbey

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1 Island?

2 A. It covers most of Whidbey Island all the way
3 south of Coupeville.

4 Q. So in theory, well, not in theory, but in
5 fact then Shuttle Express also has door-to-door
6 authority on Whidbey Island?

7 A. The majority of Whidbey Island, that is
8 correct.

9 Q. When you filed the original application for
10 Seatac Shuttle back in 2003, you were aware of this
11 situation, were you not?

12 A. Yes.

13 Q. And did Shuttle Express protest the fact that
14 we were requesting door-to-door service in that area
15 that they already had on their certificate?

16 A. I believe we --

17 Q. On Whidbey Island?

18 A. On Whidbey Island, no.

19 Q. Okay.

20 Did you have an opportunity at any point to
21 review Shuttle Express's filed tariff?

22 A. Yes.

23 Q. And that is listed here today as Exhibit
24 JS-3, is it not?

25 A. Yes.

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1 Q. All right. And as long as we're looking at
2 all of this, did you produce a map of segments of the
3 service area of Shuttle Express and provide them to the
4 Commission?

5 A. Yes, as an exhibit.

6 Q. That is Exhibit JS-4 here today?

7 A. Yes, service map.

8 Q. Okay, thank you.

9 Going back to their tariff, do you see any
10 area that they provide a scheduled service in?

11 A. On their tariff, no. They have a -- they
12 call it scheduled service to hotels in the Everett and
13 Bellevue and Lynnwood and Seattle area.

14 Q. You say they call it scheduled service, do
15 they not operate a regular schedule?

16 A. I can't tell if they actually operate the
17 schedule. All I can tell is they state that they have
18 departure times from hotels and arrival times at
19 Sea-Tac, but we don't believe that they are actually
20 operating that as a regular schedule on every hour as
21 they state in their operations.

22 Q. Well, did you investigate this at all any
23 further as to the nature of the service that they're
24 providing?

25 A. Yes, I did.

0030

1 Q. Did you contact Shuttle Express, for instance
2 their reservation service --

3 A. Yes, I did.

4 Q. -- to explore this?

5 A. Yes.

6 Q. And when you contacted their reservation
7 service, what did you ask, and what was their reply?

8 A. I contacted them two times in April and
9 contacted them just two days ago and posed the exact
10 same questions. I said, I am looking to travel from the
11 Everett Holiday Inn to Sea-Tac Airport, and according to
12 your web page, you show that you leave every hour from
13 the Holiday Inn in Everett. And so I said, what do I
14 need to do, do I just show up and you stop by or what?
15 And the reservationist said, no, you have to make a
16 reservation, and then we will give you a time frame to
17 be at the hotel and get you to the airport in the proper
18 window for your flight to Sea-Tac.

19 Q. Did they indicate that they had a specific
20 number of stops, or was this a shared ride situation
21 that now you would be included on?

22 A. They said that you would be part of our
23 shared ride to the airport. Because I wanted to make
24 sure, I stressed that I have to make this flight, what
25 time will I be there, and they said, we will tell you

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1 what time to show up and give you one and a half to two
2 hours prior to your flight and get you to the airport.
3 But it was definitely made clear that I had to make a
4 reservation and that we were using a shared ride van.

5 Q. You've been an operator of a scheduled
6 shuttle for nearly six years now. Can you tell me your
7 interpretation of the difference between a scheduled
8 shuttle and a shared ride shuttle?

9 A. Well, simply a scheduled shuttle has specific
10 route, specific stops on that route. It leaves
11 scheduled departure times, and it arrives at a scheduled
12 arrival time bearing any unforeseen delays. A shared
13 ride has times that vary depending upon the pickup
14 location and where they are going from and depending
15 upon the number of other passengers that are either
16 picked up or dropped off depending upon the direction.
17 Those times are adjusted for those people on that
18 shuttle so that everyone on the shuttle eventually gets
19 to the airport in time for their various flights. Some
20 may get to the airport an hour before or an hour and a
21 half or whatever the minimum is, and some may get to the
22 airport two hours, but they will all be told different
23 times for different pickups depending on where they're
24 being picked up from. So they do not know until they
25 call what time to be at the stop, and likewise they

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1 won't know what time they're going to get to the
2 airport.

3 Q. So to distill this, correct me if I'm wrong
4 here, what you're saying is that a scheduled operator
5 has a fixed route with fixed departure times with fixed
6 stops and fixed arrival times?

7 A. Correct.

8 Q. And operates on a fixed schedule. Whereas a
9 shared ride is a variable schedule dependent upon where
10 those stops are and what those stops are and how many
11 people are going to be scattered amongst those defined
12 or undefined stops out there?

13 A. Exactly, correct.

14 Q. All right.

15 Did you follow up with any other calls, for
16 instance did you call any hotels to see what their
17 procedure was?

18 A. I called two hotels in Everett. I called the
19 Everett Holiday Inn and I called the Cascadia Best
20 Western and posed exactly the --

21 (Bridge line interruption.)

22 JUDGE FRIEDLANDER: This is Judge
23 Friedlander, do we have somebody on the conference
24 bridge now?

25 Okay, apparently it's not your witness.

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1 MR. LAUVER: It's an air raid.

2 JUDGE FRIEDLANDER: There you go.

3 So please continue, sorry for the
4 interruption.

5 A. As I stated, I contacted the Everett Holiday
6 Inn, spoke with I believe a Donna there, and I called
7 the Cascadia Best Western and spoke with a gentleman
8 named Bruce and essentially posed the same kind of
9 question, made it very clear that I needed to go from
10 their hotel to Sea-Tac, had a specific flight that I
11 wanted to make, what time, you know, according to what I
12 saw on Shuttle Express's brochure and web page, they
13 leave the Everett Holiday Inn on the hour, so I said,
14 well, I see that they leave on the hour, what do I have
15 to do, just show up? And they both said, no, you have
16 to call and make a reservation, they will then tell you
17 what time to be at the hotel to get to the airport. And
18 I said, do they show up every hour or every two hours
19 with their van? And again, no, they do not, they only
20 come when you call them.

21 BY MR. LAUVER:

22 Q. In going back to when you talked to Shuttle
23 Express, when you spoke to the employee there, did they
24 specifically say this is a scheduled service or this is
25 a shared ride service?

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1 A. They said, you have to make a reservation and
2 it's a shared ride.

3 Q. Okay. You were told at each location that
4 you needed to make the reservation, did you find this to
5 be supported anyplace else, for instance when you
6 reviewed the tariff?

7 A. Well, their tariff is rather unique, because
8 the tariff lists the hotels, and there's some conflicts
9 in there as well as to which hotels are listed in the
10 tariff versus which hotels are listed on line, but their
11 tariff says that the trips from the hotels in Everett
12 and Lynnwood do not require a reservation, and yet their
13 reservationist as well as all the people at the hotels
14 that I spoke with said that you have to call to make a
15 reservation.

16 Q. So going by their tariff, you assume that you
17 could go to one of these hotels listed in the tariff and
18 not make a reservation?

19 A. That's right. If you go by their tariff, it
20 says they leave the Everett Holiday Inn every hour.

21 Q. And as you mentioned before, that was not the
22 case?

23 A. That is not the case in practice by at least
24 the managers at those two places that I called.

25 Q. Okay.

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1 Do you see how there could be any particular
2 downside to the traveling public customers by granting
3 this application?

4 A. No. The more options that the public has,
5 whether it be private operators like airporters or buses
6 or light rail, to get to and from airports, it can only
7 enhance their ability to travel and to get more cars off
8 the road. It just makes no sense to not have service
9 that provides something more than is already there, and
10 in this case there's nothing at this point.

11 Q. You mentioned a little earlier that you saw
12 some conflicts in the tariff; can you describe some of
13 those?

14 A. Well, the two most glaring conflicts in the
15 tariff are there are two different pages in the tariff
16 that refer to the time schedules. One is dated 1996,
17 and the other is dated 2006. The old tariff has a
18 different time schedule departing from the Holiday Inn
19 in Everett than the new tariff and likewise a different
20 trip time to Sea-Tac Airport differing by 30 minutes I
21 believe, 20 or 30 minutes. And there's also a conflict
22 in the tariff of in one location there are -- I believe
23 in the tariff there are only six hotels listed in
24 Everett and Lynnwood, but on line on their web page and
25 in their brochure they list nine hotels between Everett

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1 and Seattle, so their tariff is not showing what
2 locations they even service in practice.

3 Q. So was there any specific locations that you
4 recall that they are servicing and that they list in
5 their marketing materials, their brochures, their web
6 sites, that are not on their tariff?

7 A. Well, one that I believe is being advertised
8 but is not on their tariff is the Everett Naval Station,
9 and then there are three other Lynnwood hotels that they
10 are servicing that are not in their tariff. I believe
11 the three in Everett are in both locations, but there's
12 also a duplicate name of a different hotel. There's the
13 Comfort Inn and there's the Quality Inn both listed as
14 Everett and both with the same address, and I believe
15 only one of them is listed on line now, but the tariff
16 still lists both of them. So it's a little confusing.
17 If it's confusing for me, I think the traveling public
18 certainly could be more confused.

19 Q. Well, really the whole point here that I
20 believe you're attempting to make, and correct me again,
21 is that there is a mishmash of services, some of which
22 are allowed by tariff, some of which apparently are not
23 allowed by tariff, none of which according to you really
24 meet your definition of scheduled out there, and that's
25 the reason that you filed this application, to get a

0037

1 true scheduled service going between two fairly major
2 airports, one international airport and one soon to be
3 domestic airport, and downtown Seattle?

4 A. That's right.

5 MR. SHERRELL: Your Honor, I have an
6 objection. They seem to want to have a conclusion that
7 there is --

8 Could you read back when he said that there's
9 a mishmash of tariffs that are not legal, is that what
10 the intent was on that?

11 If that's the case, then I object, because
12 that's a conclusion of law that we're doing something
13 illegal, and they haven't proven anything that's illegal
14 in this. Unless they want to restate it.

15 (Record read as follows.)

16 Q. Well, really the whole point here
17 that I believe you're attempting to
18 make, and correct me again, is that
19 there is a mishmash of services, some of
20 which are allowed by tariff, some of
21 which apparently are not allowed by
22 tariff, none of which according to you
23 really meet your definition of scheduled
24 out there, and that's the reason that
25 you filed this application, to get a

0038

1 true scheduled service going between two
2 fairly major airports, one international
3 airport and one soon to be domestic
4 airport, and downtown Seattle?

5 MR. SHERRELL: My objection is one's allowed,
6 one's not allowed, and that's a conclusion that they
7 have to prove or address, so I will object to that
8 conclusion. They're saying we're doing something
9 illegal.

10 JUDGE FRIEDLANDER: And does Seatac have a
11 response?

12 MR. LAUVER: Yes, I did not assert that
13 anything was illegal, simply that it was not reflected
14 in their tariff. If Mr. Sherrell would like to draw the
15 conclusion that by not putting things in his tariff he's
16 doing something illegal, that's something he can
17 conclude. But I merely asked the purpose of submitting
18 the application, and that was because there was no
19 clarity in the tariff, and these were some of the points
20 that Mr. Solin found in the tariff that caused him to
21 say we should file this application.

22 JUDGE FRIEDLANDER: Sounds like to me he's
23 actually, and you can correct me if I'm wrong, but what
24 I'm hearing is that he has a problem with the word
25 allowed, some of the services are allowed and some of

0039

1 them are not, maybe you can restate that.

2 MR. LAUVER: Certainly.

3 MR. SHERRELL: Thank you, I agree.

4 JUDGE FRIEDLANDER: Sure.

5 BY MR. LAUVER:

6 Q. In your review of the tariff prior to
7 submitting the application, you did or did you find
8 inconsistencies between the filed tariff and the
9 promotional materials, the brochure time schedules which
10 are out there, and that is what essentially caused you
11 to say, we want a cleaned up true scheduled service
12 here, so we're going to file?

13 A. Yes. Based on my interpretation of their
14 tariff and their authority and our authority for
15 scheduled service, there is clearly from my point of
16 view nothing in their authority or tariff that I think
17 gives them the ability to operate -- that they are
18 operating scheduled service. They are doing
19 door-to-door service, and we are doing scheduled
20 service, and we are providing scheduled service in our
21 application, and I do not believe they are providing any
22 scheduled service in their current operations.

23 MR. LAUVER: All right, thank you, I have no
24 further questions at this time. However, I would like
25 to reserve the right to recall Mr. Solin later in the

0040

1 proceedings.

2 JUDGE FRIEDLANDER: Okay, and you will get
3 redirect as well after we do cross.

4 So does Shuttle Express wish to cross this
5 witness?

6 MR. SHERRELL: Yes.

7 JUDGE FRIEDLANDER: Okay.

8

9 C R O S S - E X A M I N A T I O N

10 BY MR. SHERRELL:

11 Q. You testified that you think there's airlines
12 that are coming into Paine Field?

13 A. Yes.

14 Q. Is that one of the reasons that you filed
15 this application?

16 A. Yes.

17 Q. Do you have knowledge, any knowledge
18 specifically that airlines are coming in?

19 A. Yes.

20 Q. What is that?

21 A. We have communicated with both Horizon and
22 Allegiant. There were articles earlier in the year
23 about their plans to provide service this summer. That
24 has been delayed. We have also talked to Dave Wagner,
25 the airport manager at Paine Field, and confirmed that

0041

1 yes, both of those airlines are desiring to provide
2 service out of Paine Field.

3 Q. So they're desiring, but there's a difference
4 between desiring and actually starting service, so there
5 really isn't any service, airline service currently,
6 correct?

7 A. Correct.

8 Q. So really this is speculation that they're
9 going to start because they said they were going to
10 start and they haven't started when they said they were
11 going to start?

12 (Bridge line interruption.)

13 JUDGE FRIEDLANDER: Excuse me, who is this on
14 the conference bridge?

15 Excuse me, ma'am, this is Judge Friedlander.

16 Did that sound like your witness?

17 MR. SOLIN: No, that didn't sound like Mary
18 Kamb.

19 JUDGE FRIEDLANDER: Ma'am, you can not
20 testify until you've been sworn under oath if you are
21 actually wishing to participate in this proceeding.
22 It's Docket TC-090118, and we currently have a witness
23 on the stand, so please refrain from making any further
24 comments.

25 And I believe you had asked a question, do

0042

1 you need that read back?

2 MR. SOLIN: Yes, I think he got halfway
3 through.

4 JUDGE FRIEDLANDER: Okay, can we read that
5 back, Joan.

6 (Record read as follows.)

7 Q. So really this is speculation that
8 they're going to start because they said
9 they were going to start and they
10 haven't started when they said they were
11 going to start?

12 A. I would not consider it speculation. It was
13 planning based on what we determined to be very reliable
14 information. It's the time frame I think more than
15 whether or not they are going to start or not. But we
16 don't know for sure, so classify it as you will.

17 MR. SHERRELL: Your Honor, I think this is
18 speculation that they are going to start, because nobody
19 has started.

20 MR. LAUVER: Excuse me, I object.

21 JUDGE FRIEDLANDER: You will have an
22 opportunity to address that in your closing brief, but
23 you're certainly welcome to ask any further
24 cross-examination questions of Mr. Solin.

25 MR. SHERRELL: I have an objection that

0043

1 speculation is not allowed within UTC and the WAC, and
2 they're basing this on the speculation that something is
3 going to happen that hasn't happened, so.

4 MR. LAUVER: My answer to that is anybody
5 starting any business speculates on the prospect of
6 customers. And when Jimmy began Shuttle Express, he
7 speculated that he would have customers from Sea-Tac, he
8 would have customers from downtown Seattle. If I start
9 a bagel shop, I speculate that I am going to be able to
10 sell bagels. As the witness indicated, he has very
11 reliable information that this is all going to happen.
12 Additional witnesses will further bolster that. And as
13 a business plan, he has submitted this application to
14 get the process rolling to serve the public when this
15 occurs.

16 JUDGE FRIEDLANDER: And I guess I would also
17 point out that because Mr. Solin has testified to
18 something does not necessarily mean that -- the
19 Commission determines the weight of the testimony, so if
20 indeed it's found by the Commission that this is
21 speculation, we'll give it the appropriate weight.

22 MR. SHERRELL: Okay.

23 A. Could I add to my comment that again I don't
24 classify it as speculation per se, but because of the
25 nature of the time frame involved, that's the other

0044

1 reason that we always must apply for something in
2 advance of being able to service. Because as you can
3 see, it's June now, we started this process in January,
4 had in fact the airlines been operating based on what
5 their initial time frame was, there would be no service
6 provided by our application until at least after August
7 if we are granted our application. So we have to plan
8 in advance of the event, otherwise we're lagging way
9 behind the need for service when in fact service is
10 already demanded by the public.

11 MR. LAUVER: In addition, airlines have no
12 particular connection between our Seattle service
13 necessarily and --

14 JUDGE FRIEDLANDER: Right. I guess if you're
15 going to be examining the witness, you can't testify at
16 this time.

17 MR. LAUVER: I'm responding to his objection
18 here.

19 JUDGE FRIEDLANDER: Okay.

20 Did you have any further cross-examination
21 questions?

22 MR. SHERRELL: Yes, I do.

23 MR. LAUVER: Excuse me, was that sustained or
24 overruled?

25 JUDGE FRIEDLANDER: The last objection?

0045

1 MR. LAUVER: His objection.

2 JUDGE FRIEDLANDER: Which was to the
3 speculation, that was overruled.

4 MR. LAUVER: Thank you.

5 BY MR. SHERRELL:

6 Q. Do you operate door to door on Whidbey
7 Island?

8 A. No.

9 Q. You do not operate door to door on Whidbey
10 Island.

11 Do you have any intimate knowledge of how
12 Shuttle Express operates their door-to-door and their
13 scheduled service other than what you testified today?

14 A. No.

15 Q. Do you actually stop at every stop you have
16 on your scheduled list every time on every trip?

17 A. No.

18 Q. Will the hotels within the 1 mile radius of
19 Paine Field increase the number of stops people who are
20 using your service from Whidbey Island will go through
21 on the way to Sea-Tac?

22 A. I don't understand your question.

23 Q. Okay, let me reask it then.

24 By adding Paine Field and hotels within a 1
25 mile radius, will that put extra stops on your scheduled

0046

1 service for people using your service out of Oak Harbor
2 going to Sea-Tac?

3 A. No.

4 Q. Can you explain that to me, how that routing
5 would work?

6 A. It's a separate route.

7 Q. Where does it start, and where does it end,
8 and what would be the stops?

9 A. It would go Whidbey Island -- it would not be
10 the same as our current scheduled service. Since it
11 would be by reservation only, we would only stop at
12 those stops that we pick up at, and we would go from
13 Whidbey Island to Paine depending on whether we had
14 stops, and then nonstop from Paine to Sea-Tac.

15 Q. And you testified that Shuttle Express
16 doesn't stop at every one of their stops on a scheduled
17 service earlier, correct?

18 A. Correct.

19 Q. And you were also testifying today that you
20 don't stop at every one of your stops on your scheduled
21 list every time either; is that correct?

22 A. We're not required to, because we are by
23 reservation only.

24 Q. Yes or no, is that correct that you do not
25 stop at every stop on your --

0047

1 A. Yes, we do not stop at every stop.

2 Q. Okay. So I'm a little confused, so would you
3 carry passengers from Whidbey Island through the stop at
4 Paine Field en route to Sea-Tac?

5 A. We would carry passengers from?

6 Q. Whidbey Island.

7 A. To Paine Field?

8 Q. To Paine Field through that stop and on to
9 Sea-Tac.

10 A. Not on the proposed schedule that we're
11 operating. We would carry passengers from Whidbey
12 Island to Paine Field who have to catch a flight to
13 Paine Field.

14 Q. So you wouldn't carry a passenger, say if I
15 was -- what's one of your stops on Whidbey Island, it
16 doesn't matter, just anything?

17 A. Green Bank.

18 Q. Green Bank?

19 A. Leave Oak Harbor and you go through Green
20 Bank.

21 Q. Okay, so if I was in Green Bank and I wanted
22 to go to Sea-Tac, would I ever stop through Paine Field
23 going to Sea-Tac?

24 A. Our plan now is that no, that would be a
25 separate shuttle. You would be on our regular shuttle

0048

1 to Sea-Tac.

2 Q. So you're saying that you are going to have
3 equipment dedicated just to Paine Field to Sea-Tac only?

4 A. That's correct.

5 Q. So the origin will be Paine Field, and the
6 destination will be Sea-Tac, and Sea-Tac will be --

7 A. No, from Whidbey Island, you said from
8 Whidbey Island. We're proposing full service from
9 Whidbey Island to Paine Field.

10 Q. Yes, I understand that.

11 A. For scheduled passenger service. And
12 likewise scheduled passenger service from anyone at
13 Paine Field who desires to go to Sea-Tac. That would be
14 a dedicated run that is not the same as our regular
15 eight shuttle runs that we currently operate. This is
16 an extension of new service.

17 Q. The word extension?

18 A. Extension of authority.

19 Q. Okay, extension of authority, thank you.

20 So I would like to restate that so I make
21 sure I understand this clearly. So you are going to add
22 its own service which you will dedicate equipment to to
23 operate specifically and only between Paine Field and
24 Sea-Tac?

25 MR. LAUVER: Asked and answered.

0049

1 A. No, that's not correct. I said --

2 JUDGE FRIEDLANDER: I think he's just trying
3 to clarify.

4 A. I said we're going to operate from Whidbey
5 Island to Paine Field with a unique route and time
6 schedule to Paine Field from Whidbey Island.

7 Q. Okay.

8 A. By reservation only. And from Paine Field to
9 Sea-Tac by reservation only, and the reverse.

10 Q. Okay, I just want to make this very clear.
11 So you will not carry somebody from Whidbey Island
12 through Paine Field to Sea-Tac; is that yes or no?

13 A. I can't answer that as a yes or no.

14 Q. Well, I will take the yes or no, just answer
15 it. I'm trying to understand this.

16

17 E X A M I N A T I O N

18 BY JUDGE FRIEDLANDER:

19 Q. I guess I'm a little confused as well. Will
20 the shuttle go from Whidbey Island to Paine Field and
21 then to Sea-Tac whereby someone could get on at Whidbey
22 Island and ride it all the way to Sea-Tac?

23 A. They could do that, but we --

24 Q. Whether or not it would be economically
25 advantageous?

0050

1 A. But it would make no sense for them, because
2 there would be probably less flexibility for them to do
3 that than it would be to ride our regular scheduled
4 service to Sea-Tac, which does not spend time going to
5 Paine Field.

6 Q. I see.

7 A. We are trying to make efficient scheduled
8 service. And the more stops you have and the more
9 deviations you have from the straight line route, the
10 longer it takes.

11 Q. Sure.

12 A. Our proposal is a very expedited route from
13 Whidbey Island to Paine Field and from Paine Field to
14 Sea-Tac, not in conjunction with our regularly scheduled
15 service that we currently provide. However,
16 circumstances could change depending upon the market and
17 how it results that it may be more efficient to make a
18 -- make two runs go down at the same time. One is sort
19 of the express that picks up in Oak Harbor and doesn't
20 have passengers on South Whidbey and goes straight to
21 Sea-Tac. And the other one leaves Oak Harbor with some
22 more passengers that need to get to Sea-Tac and don't
23 have the requirements of getting there exactly in this
24 time and they could get there a half hour later, make a
25 pass through Paine Field and pick up those people or

0051

1 drop off those people. Our application has in it what
2 we have proposed as an initial time schedule and route,
3 and that one shows that we are doing a specific trip
4 just to Paine Field from Whidbey Island and from Whidbey
5 Island to Sea-Tac.

6 Q. Okay.

7 A. We are initially not proposing mixing the two
8 routes.

9 Q. I see.

10 JUDGE FRIEDLANDER: So does that answer your
11 question, Mr. Sherrell?

12 MR. SHERRELL: Yes, it speaks to speculation,
13 okay, yes, it does answer.

14 JUDGE FRIEDLANDER: And did you have any
15 other cross-examination?

16 MR. SHERRELL: Yes.

17

18 C R O S S - E X A M I N A T I O N

19 BY MR. SHERRELL:

20 Q. You are familiar with your financials you
21 stated in your qualification?

22 A. My financials?

23 Q. Yes, the company's financials.

24 A. Yes.

25 Q. Have you, the company, made money in the last

0052

1 two years?

2 A. Yes.

3 Q. Okay. Do you have the ability to purchase
4 additional equipment for this?

5 A. Yes.

6 JUDGE FRIEDLANDER: Did you have anything
7 further?

8 MR. SHERRELL: I do not.

9 JUDGE FRIEDLANDER: Do you have redirect?

10 MR. LAUVER: Yes, I do.

11 JUDGE FRIEDLANDER: Okay.

12

13 R E D I R E C T E X A M I N A T I O N

14 BY MR. LAUVER:

15 Q. You were asked if this application was purely
16 speculative, and you did mention time frames involved.
17 Can you elaborate on that a little bit, when exactly did
18 you file this application?

19 A. I believe it was mid January. The
20 application's an exhibit, so I don't have that in front
21 of me, but January of this year.

22 Q. And when at this point are you expecting a
23 final order on this?

24 A. August of this year.

25 Q. So you're looking at how many months?

0053

1 A. Seven or eight months.

2 Q. Seven or eight months just to add a run?

3 A. Seven or eight months to get the approval to
4 start the process of being able to add a run. To
5 provide the service is going to take at least another
6 month to start up and advertise and market.

7 Q. And so if you waited until such time as there
8 was some absolute provable quantifiable necessity for
9 this rather than an informed business move and plan, you
10 would be --

11 A. It would be again seven or eight months
12 behind the start of airline service, so there would be
13 seven or eight months when no one would be able to
14 provide scheduled service from Paine Field.

15 Q. So would you characterize this as speculative
16 or good business planning?

17 A. Good planning. It's a market that we believe
18 based on our current operations deserves to have some
19 scheduled service.

20 Q. The issue of stopping at every stop on a
21 scheduled run was brought up here, and you indicated
22 that Seatac Shuttle does not necessarily stop at every
23 stop on its run on every trip. Can you tell me why that
24 is?

25 A. Because our authority is very specific in

0054

1 that we are by reservation only, which requires that
2 someone have a reservation to ride on the shuttle. If a
3 reservation is not made and we don't have anyone at
4 Green Bank, we are not required to stop at Green Bank
5 even though we go right by it. All of our stops are on
6 the highway, but we do not have flag stops. People
7 can't just wave us down and hop on the shuttle because
8 we do not stop if they don't have a reservation. A
9 scheduled operator like --

10 Q. Let me make this clear to myself here now.
11 You said that our authority is specific and says that we
12 are by reservation only. Authority or did you mean our
13 tariff or our marketing?

14 A. Well, our tariff, which, you know, the intro
15 to our tariff is our authority as well as the
16 certificate itself.

17 Q. Okay, so by authority what you're referring
18 to is the certificate then?

19 A. Right.

20 Q. Okay. And is it your understanding, having
21 dealt with the Utilities and Transportation Commission
22 on numerous occasions for extensions and original
23 application, that if you're going to be by reservation
24 only, it needs to be on your certificate?

25 A. Right.

0055

1 Q. I see.

2 Now this route from Whidbey Island to
3 Sea-Tac, does it have stops that are all over the
4 island, or are they linear and sequential, or how does
5 that work?

6 A. All of the stops are right on the main
7 highway from Oak Harbor southbound all the way to the
8 Clinton Ferry. We stop at various shopping centers or
9 mini-marts that are literally right on Highway 20 or
10 Highway 525.

11 Q. So it's not a matter of, gee, I've got to
12 stop at this stop today but not that one so my schedule
13 might be 10 minutes different?

14 A. No, our stops are so brief that when we
15 bypass a stop, the only change to that is when we get to
16 the next stop, if there's passengers, since we are on a
17 schedule, we don't depart that stop until either all the
18 passengers are boarded, since we know who's going to be
19 there, or the departure time, and then we coordinate
20 that to get to the ferry. So if we have less passengers
21 and some stops that we don't have to stop at, we may get
22 to the ferry 5 or 10 minutes early, but we're still on
23 the same schedule and the same ferry and we are at the
24 airport at the same time regardless of whether we do or
25 don't have stops at all of our locations on the island.

0056

1 Q. Well, further reviewing the certificate then,
2 you have on that certificate specific points and
3 essentially a routing that you take to Sea-Tac; is that
4 correct?

5 A. The certificate basically just says from
6 Whidbey Island to Sea-Tac. The routing is not on our
7 certificate. Originally when we first filed, WTC did
8 want somewhat an idea of routing, but now they have
9 given us permission to go by the most efficient and
10 expeditious route depending on traffic.

11 Q. Okay. So since you have Whidbey Island,
12 certainly you have all points on Whidbey Island then?

13 A. Well, actually we do not, because we asked
14 for a modification of our certificate of authority last
15 year to offer service to a couple of communities on the
16 island, and in that process we asked for "Whidbey Island
17 to Sea-Tac," all points, and WTC said that we can not
18 have blanket authority, they required us to have
19 specific stops and specific schedules and specific
20 tariffs between two or three communities on Whidbey
21 Island.

22 Q. So for instance you couldn't go between Oak
23 Harbor and Green Bank as --

24 A. We can not do that now without filing another
25 authority modification asking for that specific route.

0057

1 Q. So that doesn't go on your tariff, you can't
2 just add that?

3 A. No.

4 Q. That has to be on your certificate?

5 A. Yes.

6 Q. I see.

7 And I want to be absolutely clear, you
8 operate a current schedule now of how many round trips a
9 day to Sea-Tac from Whidbey Island?

10 A. Eight round trips a day.

11 Q. Will you continue to operate that same exact
12 schedule should this authority extension be granted?

13 A. Yes, our plan is to continue to operate our
14 current schedule.

15 Q. And if authority extension is granted, you
16 will be operating a second set of runs then; is that
17 correct?

18 A. That's correct.

19 Q. In addition to what you do currently?

20 A. That's correct.

21 Q. So one does not necessarily impact the other?

22 A. No.

23 Q. If a passenger decides that they want to go
24 to Sea-Tac but for whatever reason, sell out, the
25 timing, they want to meet somebody at Paine Field, could

0058

1 they in theory ride from Whidbey Island to Sea-Tac
2 through Paine Field?

3 A. Yes, they could.

4 Q. But that would once again be on a separate
5 routing than the eight trips that you currently operate?

6 A. That's correct.

7 Q. Okay.

8 It was asked if you are able to purchase
9 additional equipment, and your response was?

10 A. Yes.

11 Q. How many vehicles does it take to operate
12 your current schedule?

13 A. We have a total of 12 vehicles.

14 Q. How many does it take to operate that
15 schedule?

16 A. It takes 4.

17 Q. It takes 4 and you have?

18 A. 12.

19 Q. And you have 12. Do you consider those
20 vehicles surplus?

21 A. We rotate vehicles, we have extra vehicles,
22 and yes, we do, you know, have to have more than
23 obviously 4 due to service or just routine maintenance
24 or the occasional breakdown, or we also do charter
25 service, so, you know, there are requirements certainly

0059

1 to have more vehicles than just the absolute minimum.

2 Q. So is it your feeling then that given the
3 request before the Commission today, you already have
4 enough vehicles to service the additional proposed
5 service?

6 A. Yes, I believe we could do it with what we
7 have now.

8 Q. And if that proved not to be the case, do you
9 have the ability to acquire additional vehicles on very
10 short notice?

11 A. Absolutely.

12 Q. Do you require financing --

13 A. No.

14 Q. -- to purchase those?

15 A. No.

16 Q. So you're telling me that you're in a
17 financially healthy enough condition that you can go out
18 and purchase vehicles for cash?

19 A. Yes.

20 MR. LAUVER: No further for now, thank you.

21 JUDGE FRIEDLANDER: Okay.

22 I do have just a couple of questions for you.

23

24

25

0060

1 E X A M I N A T I O N

2 BY JUDGE FRIEDLANDER:

3 Q. You mentioned on redirect that in 2008 I
4 believe it was the Commission declined to give you what
5 was termed blanket authority. Do you remember what
6 docket number that was?

7 A. I do not have the specific docket. I could
8 probably find it during a break here.

9 Q. Okay, that's fine.

10 A. In 5 or 10 minutes. I could give that to
11 you.

12 Q. How is the request that you filed in 2008
13 different from the request that you filed here? It
14 sounds like you were wanting authority to go from
15 Whidbey Island to --

16 A. There was a request from several communities
17 on Whidbey Island to provide inter-island service.

18 Q. Okay.

19 A. Primarily to support tourism in Coupeville
20 and in Langley.

21 Q. Okay.

22 A. We went to the Commission and said since we
23 are the only operator on Whidbey Island and
24 realistically we don't see anybody else providing
25 inter-city service, we asked for a change of our

0061

1 authority to simply state all points on Whidbey Island
2 and were told that we can not offer blanket authority,
3 we'll have to put the specific cities that we want to
4 offer service from. In this case it was from the
5 Keystone Ferry when it was having the closure issues to
6 Coupeville for tourism and likewise to Langley from the
7 south end ferry.

8 Q. I see. So you had asked for blanket
9 authority to and from points within Whidbey Island?

10 A. To give us the flexibility of other
11 communities asking for the same thing.

12 Q. Sure.

13 A. Or to be able to go from Coupeville to
14 Langley or Coupeville to Green Bank and provide the
15 service.

16 Q. Right.

17 A. But that was specifically stated that we had
18 to create a request and specific times and routes for
19 those communities only, and we could not have that
20 unique coverage in our authority.

21 JUDGE FRIEDLANDER: I see, and that was the
22 only question that I had, so.

23 MR. SOLIN: I will get you the docket number
24 of that application.

25 JUDGE FRIEDLANDER: Thank you, I appreciate

0062

1 it, and so you're dismissed, and Seatac is welcome to
2 call its next witness.

3 MR. LAUVER: Seatac calls me, and I'm going
4 to ask Mr. Solin to present the questions.

5 JUDGE FRIEDLANDER: Okay, if you will stand
6 and raise your right hand.

7 (Witness MIKE LAUVER was sworn.)

8 JUDGE FRIEDLANDER: Mr. Solin, you may
9 proceed.

10

11 Whereupon,

12

MIKE LAUVER,

13 having been first duly sworn, was called as a witness
14 herein and was examined and testified as follows:

15

16 D I R E C T E X A M I N A T I O N

17 BY MR. SOLIN:

18 Q. Mr. Lauver, what is your position with Seatac
19 Shuttle?

20 A. I'm a Co-Owner.

21 Q. Have you had an opportunity to observe
22 Shuttle Express's specific operations relating to the
23 area of coverage that they are objecting to?

24 A. Yes, I have.

25 Q. And when was that?

0063

1 A. Last Friday, so that would have been June 5.

2 Q. Okay. And where exactly did you go to
3 observe them or what did you do?

4 A. Well, I went to a couple of locations that
5 were as close in to the Paine Field area as I could find
6 from their tariff, and those were the Comfort Inn in
7 South Everett and the Hampton Inn in Langley.

8 Q. Okay, and you went -- let's talk about you
9 mentioned Comfort Inn and the Hampton Inn, what did you
10 find at each individual motel, and who did you speak
11 with?

12 A. Well, I went to the South Everett location,
13 and I waited until the departure time of their scheduled
14 service. And observing no van, I went immediately down
15 to the Hampton Inn and waited until the scheduled
16 departure time of that stop and observed no van. So I
17 went in and spoke to the desk clerk, a lady named Linda,
18 and I asked her, where's Shuttle Express, do they -- did
19 they not come today, do they -- I asked a whole blanket
20 of questions such as, you know, how often do they run,
21 when do I need to be here, et cetera, and was told that
22 it was by reservation only and that I needed to call for
23 that. And I said, well, I can't just wait around here
24 and speak to a driver then? No, they don't come that
25 often. Well, do you remember the last time they came

0064

1 by? And she just shrugged her shoulders and said, well,
2 sometimes we don't see them for a couple weeks at a
3 time. So I scurried right on back up to the Comfort Inn
4 in South Everett, and I spoke to the manager on duty, a
5 gentleman named Sanket, and I posed the same questions
6 to him. Can I expect to see the shuttle here shortly?
7 No, you need to have a reservation. Do they come here
8 every day? No, we see them occasionally. Have they
9 been here today? I'm not sure, perhaps once. So I saw
10 nothing, you know, I saw no Shuttle Express vans at two
11 different times at two different locations listed in
12 their tariff as shuttle stops.

13 Q. So based on your experience at these
14 locations, would you say that a scheduled shuttle by the
15 understandings of WAC and WTC rulings that we've dealt
16 with allow a scheduled service to not operate individual
17 runs?

18 A. Well, there is one exception of course, and
19 that's by reservation only. However, I reviewed their
20 certificate, and I saw no indication of by reservation
21 only. They put it on their brochures, they put it on
22 their web sites, and there are areas in their tariff
23 that they list certain runs by reservation only. I'm
24 not clear as to whether simply a notation in the tariff
25 is sufficient enough to proclaim a run as by reservation

0065

1 only, but I chose these two stops not only because of
2 their proximity to Paine Field, but because when I
3 reviewed their tariff, they were specifically excluded
4 from the by reservation only provision that they had put
5 other runs on. So I was certainly expecting to see the
6 shuttles, but I did not.

7 Q. So you're stating that the runs from Everett
8 and Lynnwood state in their tariff that they are not by
9 reservation only?

10 A. That is correct, there is a notation there
11 that --

12 MR. SHERRELL: Your Honor, can I --

13 JUDGE FRIEDLANDER: I'm sorry, there's been
14 an objection.

15 What is the objection?

16 MR. SHERRELL: Just a clarification. I hear
17 them trying to establish the same thing as last time,
18 that there's unlawful operations, do you want me to
19 argue that in the brief, or do you want me to argue it
20 here?

21 JUDGE FRIEDLANDER: I didn't --

22 MR. LAUVER: It's a statement of fact. We
23 can look at the tariff. I'm not arguing law, I'm not
24 arguing anything. I'm simply saying I saw this in the
25 tariff, that was the reason I went to these stops.

0066

1 JUDGE FRIEDLANDER: You will certainly have
2 an opportunity to cross-examine.

3 MR. SHERRELL: Do it in brief?

4 JUDGE FRIEDLANDER: Well, or cross-examine
5 Mr. Lauver.

6 MR. LAUVER: Almost, Lauver.

7 JUDGE FRIEDLANDER: Lauver, sorry.

8 You will have an opportunity to cross-examine
9 Mr. Lauver, so you certainly can bring that up at that
10 time.

11 MR. SHERRELL: Okay, that's fine.

12 JUDGE FRIEDLANDER: So I would say that the
13 objection is overruled.

14 BY MR. SOLIN:

15 Q. So to clarify, essentially their advertising
16 and their web page and their people that you spoke with
17 imply that you have to make a reservation?

18 A. No, they didn't, they did not imply, they
19 specifically stated.

20 Q. Right. And their tariff specifically
21 excludes that route, the 900 routes to and from the
22 airport or to the airport rather, excludes them but from
23 making a reservation?

24 A. That is correct.

25 Q. So there appears to be a conflict?

0067

1 A. It would seem to be to me since I went there
2 based on what's by on file with the UTC, and I saw no
3 vehicles.

4 Q. Are you familiar with our application of what
5 we are requesting?

6 A. Yes.

7 Q. Did Seatac Shuttle request any door-to-door
8 service in its application for expansion of authority?

9 A. No, it did not.

10 Q. Final question is just what is your opinion
11 of Shuttle Express's operation as to their current
12 service that they provide as door-to-door operator and
13 charter and exclusive van type service?

14 A. They're excellent. They provide very good
15 service in door to door. Their Portland service is gone
16 down to rave reviews. They've created a network of
17 door-to-door and shared ride van service in Western
18 Washington that is equaled by no one. It's a very
19 complex, hard to manage system, and I certainly applaud
20 Jimmy for doing so. I wouldn't tackle it for a lot more
21 money than he's making. We do what we do, and that is a
22 very simplistic straightforward scheduled service by
23 reservation only. He has a very complex matrix that he
24 has to deal with every single day, I think that's great.
25 What he does not provide is scheduled service.

0068

1 MR. SOLIN: That's all the questions I have
2 at this time.

3 JUDGE FRIEDLANDER: Okay.

4 And did you want to go ahead and do
5 cross-examination now?

6 MR. SHERRELL: Yes.

7 JUDGE FRIEDLANDER: Okay, go ahead.

8 MR. SHERRELL: I think I had just one
9 question.

10 JUDGE FRIEDLANDER: Sure.

11

12 C R O S S - E X A M I N A T I O N

13 BY MR. SHERRELL:

14 Q. Where in the Shuttle Express operating
15 certificate does it exclude the requirement to have on
16 call or make a reservation?

17 A. It does not exclude the requirement to have
18 an on call -- do you want to state that again, please.
19 If you're asking where in your certificate it says that
20 you have to have reservations or you don't have to have
21 reservations?

22 Q. Either one.

23 A. It doesn't say that in your certificate
24 anywheres. And UTC, clearly when you examine our
25 certificate, it says first thing by reservation only in

0069

1 the authority, that's where it belongs.

2 Q. So just yes or no then, there is no exclusion
3 that you see in the Shuttle Express certificate that
4 says a reservation must be made or must not be made?

5 A. That's kind of a convoluted sentence, but I
6 guess I will say no.

7 JUDGE FRIEDLANDER: Why don't you go ahead
8 and rephrase it, because I think there might be a little
9 bit of confusion.

10 Q. So what I think I hear you saying is that
11 nowhere in the Shuttle Express certificate does it state
12 that a reservation must be made or must not be made?

13 A. Nowheres in the certificate are you
14 authorized to do by reservation only. I think that
15 answers both sides of the question.

16 JUDGE FRIEDLANDER: Authorized I guess in my
17 mind is different from restricted.

18

19 E X A M I N A T I O N

20 BY JUDGE FRIEDLANDER:

21 Q. So, Mr. Lauver, you are saying that there is
22 no authorization of Shuttle Express by the Commission to
23 conduct reservation only service?

24 A. That's correct, and that is how the UTC has
25 ruled on other applications including our own, that it

0070

1 must say by reservation only on the certificate. And
2 you may review certificate C-1077 and see the wording,
3 first words on it are by reservation only.

4 MR. SHERRELL: I don't have any other
5 questions.

6 JUDGE FRIEDLANDER: Okay.

7 And, Mr. Solin, did you have any redirect?

8 MR. SOLIN: I do not.

9 JUDGE FRIEDLANDER: Okay, and I don't have
10 any questions, so the witness is dismissed.

11 MR. LAUVER: Then I would like to ask for a
12 brief recess while we contact our following witness to
13 get her on the bridge line, please.

14 JUDGE FRIEDLANDER: Sure. How long do you
15 think you'll need, 5, 10 minutes?

16 MR. LAUVER: I would hope that 5 minutes
17 would be more than sufficient.

18 JUDGE FRIEDLANDER: Okay, let's go off the
19 record and take a brief recess for 5 minutes.

20 (Recess taken.)

21 JUDGE FRIEDLANDER: I believe that Seatac was
22 going to call their next witness.

23 MR. LAUVER: Yes, Seatac would like to call
24 Mary Kamb, please.

25 JUDGE FRIEDLANDER: And, Ms. Kamb, since you

0071

1 will be participating on the conference bridge, I just
2 want to warn you that sometimes we have a little bit of
3 difficulty hearing you and vice versa, so if you can go
4 ahead and speak up into the receiver, that would be very
5 helpful. And if at any time you can't hear us, let us
6 know.

7 MS. KAMB: Okay.

8 JUDGE FRIEDLANDER: And, Ms. Kamb, I can't
9 see you do this, but if you would go ahead and stand and
10 raise your right hand.

11 (Witness MARY KAMB was sworn.)

12 JUDGE FRIEDLANDER: Okay, great, thank you.

13 Seatac may proceed.

14

15 Whereupon,

16 MARY KAMB,

17 having been first duly sworn, was called as a witness
18 herein and was examined and testified as follows:

19

20 DIRECT EXAMINATION

21 BY MR. LAUVER:

22 Q. Good morning, Mary, this is Mike Lauver for
23 Seatac Shuttle.

24 A. Good morning.

25 Q. I just have a few brief questions here for

0072

1 you today, and I would like to start off with can you
2 describe for us what your occupation is, where you work,
3 and how long you've been in the business, please?

4 A. Okay. I'm a travel agent at the Mount Vernon
5 AAA office, and I work in Mount Vernon, and I've been in
6 the travel business for 17 years.

7 Q. Thank you.

8 And how long have you known about Whidbey
9 Seatac Shuttle?

10 A. I believe that we've worked with Whidbey
11 Shuttle since about 2005.

12 Q. All righty, so going on four years here?

13 A. Mm-hm.

14 Q. You stated that you are located out of Mount
15 Vernon with a AAA office, can you give me a little
16 indication of the sort of the service area of your AAA
17 office? I mean are you localized right in Mount Vernon,
18 or do you deal with AAA customers from around the North
19 Sound and Skagit area?

20 A. Yeah, our office is in Mount Vernon, but the
21 only other offices, AAA offices that are nearby are
22 Bellingham North and then Everett South, so we have a
23 lot of AAA members that are in Anacortes and Oak Harbor,
24 big, big portion in Oak Harbor, Coupeville, that area,
25 so we service a lot of that area that, you know, that

0073

1 they don't reach out to the Everett AAA office. I've
2 been amazed, our office has been AAA for about seven
3 years, and then before that we were a smaller agency,
4 and we didn't get very many Oak Harbor and Anacortes
5 people, but now that we're AAA we just get, you know,
6 many, many people from that area.

7 Q. I see. Well, in as much as you've indicated
8 you have a fairly large service area, have you ever had
9 occasion to book for or refer clients to Whidbey Seatac
10 Shuttle?

11 A. Yes, we do it all the time. We keep the
12 brochures up front, we make reservations. I think we
13 also give out a lot of the brochures, so people do that
14 on their own also, but we make reservations for the
15 shuttle. And everything I've found from people taking
16 the shuttle is that it's been a really good service for
17 them. Most of them leave from the Oak Harbor area, got
18 a couple of people that pick it up in Coupeville, and
19 just find that the convenience and the price has been a
20 great way to get to Sea-Tac.

21 Q. We certainly appreciate your support. Have
22 you had occasion to book for other shuttles such as
23 Bellair?

24 A. We do the Bellair shuttle very consistently.
25 We've booked them, you know, for years and years, so we

0074

1 use them a lot. They no longer go over to Oak Harbor,
2 so that's why we use Whidbey specifically for Oak
3 Harbor, but we do Bellair, you know, very consistently.

4 Q. And they provide pretty good service too?

5 A. Oh, yeah.

6 Q. Very good. And have you booked for any other
7 companies, perhaps Shuttle Express?

8 A. Shuttle Express is a good company. They
9 don't come to the Mount Vernon area, but I have referred
10 people to them for people leaving like from Everett and
11 Seattle, and we use them for other cities, but they're
12 definitely an option for, you know, other places beyond
13 Mount Vernon.

14 Q. So you have a number of options for shuttle
15 service, and spreading your customer base out amongst
16 them according to their needs and their geographic
17 location assists you in the business, and would you say
18 it also, you know, facilitates their travel?

19 A. Oh, definitely. And I think people like to
20 have choices. You know, there's people that want to
21 have like a door-to-door service like Shuttle Express,
22 but then there's a lot of people who for the price and
23 for the very specific times like to have a scheduled
24 service like Bellair and Whidbey Shuttle. You know,
25 they know when it's going to pick them up, they know

0075

1 what time they're going to get to the airport. And I
2 think especially with the number of senior clients we
3 have, we just have people all the time that want, you
4 know, a real consistent service that they know that they
5 can use. Something like Shuttle Express is also a good
6 option, but I think it's good for people to have
7 choices.

8 Q. Are you aware of any fairly significant
9 changes that are supposed to be coming to Paine Field in
10 the fairly near future?

11 A. Yes, we've certainly heard about it, and I
12 think it will be a great thing to have.

13 Q. What exactly is coming to Paine Field, could
14 you enlighten us?

15 A. Well, I've heard that Allegiant and Horizon
16 are going to try to operate service. I believe they're
17 talking anywhere from this October on. I'm not sure if
18 it's finalized yet, but I think that that's what they're
19 working on. And from Mount Vernon we do a lot of
20 service out of Bellingham, so I think Paine Field would
21 be a really great addition to this area.

22 Q. So if scheduled service were to come to Paine
23 Field, do you feel that that is something that really
24 would be needed out of an airport that now would be
25 supporting some major airlines?

0076

1 A. Oh, definitely, and I think people would use
2 shuttle service to get there.

3 Q. And that's both from the perspective of being
4 a travel professional and perhaps as a user even?

5 A. Oh, definitely.

6 Q. That it would be more convenient and a
7 necessity really to throw in the travel matrix?

8 A. Oh, definitely, yeah, I think it will be
9 great. People are asking about it and wondering if
10 we've heard anything more about it, and I've had people
11 ask me is there going to be shuttle service to it. So
12 yeah, I think there's going to be a lot of people who
13 will be interested in using that. And, you know, I also
14 find that so many people from this area and Oak Harbor
15 and Anacortes area, you know, they just don't want to
16 drive to Sea-Tac any more. They want to do a shuttle
17 service, and it's just people just do not want to do the
18 traffic, they don't want to do the cost, they're willing
19 to pay, you know, \$50, \$60, whatever it is to get to the
20 airport, and that's just an important part of their
21 travel program.

22 Q. Very good.

23 Lastly I just want to be crystal clear on
24 this now, so we're asking for passenger service between
25 Whidbey Island and Paine Field and Sea-Tac and Seattle

0077

1 where no scheduled service currently exists, and so do
2 you see a need for these services?

3 A. I definitely do, yes. I definitely think it
4 will be important, yeah. People will use it, and I
5 think it's important to have choices. I think there's a
6 need for scheduled service, and there's a need for the
7 door-to-door service as well as your type of service
8 where they have scheduled times and that they know
9 exactly when they're going to be picked up and when
10 they're going to be dropped off. I think, you know,
11 it's really going to be important to offer both options
12 to the clients.

13 Q. So all of these proposed routes will assist
14 you and assist the traveling public then in their quest
15 for the seamlessness of trying to get from A to B?

16 A. I definitely believe so, and I think AAA, you
17 know, as far as a travel agency goes, there's enough,
18 you know, service they could offer, you know, many
19 choices to people.

20 MR. LAUVER: All right, Mary, I don't have
21 any more questions for you right at the moment, and I
22 appreciate you taking the time to talk with us here
23 today.

24 MS. KAMB: Oh, I'm very happy to help, thank
25 you.

0078

1 MR. LAUVER: And you may have more questions
2 here in just a moment, the Judge will come on.

3 JUDGE FRIEDLANDER: Yes, thank you.

4 Mr. Sherrell, did you have any questions?

5 MR. SHERRELL: Just a comment.

6 MR. LAUVER: Object.

7 JUDGE FRIEDLANDER: Do you have a specific
8 question for Ms. Kamb?

9 MR. SHERRELL: I just wanted to thank her for
10 referencing Shuttle Express in the past.

11 MR. LAUVER: I'm happy with that.

12 JUDGE FRIEDLANDER: Okay, certainly.

13 MR. SHERRELL: Mary, this is Jim Sherrell,
14 President of Shuttle Express, and I just wanted to thank
15 you for referencing Shuttle Express in the past.

16 MS. KAMB: Oh, you're welcome.

17 MR. SHERRELL: And also let you know that
18 through AAA our Seattle to Portland scheduled service is
19 getting a lot of bookings, so.

20 MS. KAMB: Well, good, we have your brochures
21 right here in the office.

22 MR. SHERRELL: Okay, well, thank you very
23 much, and thank you for taking the time out today.

24 MS. KAMB: Sure.

25 JUDGE FRIEDLANDER: And I'm assuming you have

0079

1 no redirect?

2 MR. LAUVER: Other than to get my marketing
3 ploy in, thank you so much Mary. Truly, thank you for
4 calling in.

5 JUDGE FRIEDLANDER: Ms. Kamb, thank you so
6 much, this is Judge Friedlander, and I have no questions
7 either, so you are dismissed.

8 MS. KAMB: Okay, thank you very much.

9 JUDGE FRIEDLANDER: Thank you.

10 MR. SHERRELL: Very nice person.

11 JUDGE FRIEDLANDER: Yes.

12 So I take it then Seatac has exhausted their
13 witnesses.

14 MR. SOLIN: Our witnesses are exhausted, yes.

15 JUDGE FRIEDLANDER: Your witnesses are
16 exhausted, okay, great.

17 Well, up next is Evergreen Gray Line, the
18 settling parties.

19 MR. RICE: We're ready.

20 JUDGE FRIEDLANDER: Would you like to call
21 your first witness then?

22 MR. RICE: Yeah, I would like to call Jeremy
23 Butzlaff.

24 JUDGE FRIEDLANDER: Okay, will you go ahead
25 and raise your right hand.

0080

1 (Witness JEREMY BUTZLAFF was sworn.)

2 JUDGE FRIEDLANDER: Mr. Rice, you may
3 proceed.

4 MR. RICE: Thank you.

5

6 Whereupon,

7 JEREMY BUTZLAFF,

8 having been first duly sworn, was called as a witness
9 herein and was examined and testified as follows:

10

11 D I R E C T E X A M I N A T I O N

12 BY MR. RICE:

13 Q. Would you spell your full name and provide
14 your work address.

15 A. Yeah, Jeremy Butzlaff, J-E-R-E-M-Y,
16 B-U-T-Z-L-A-F-F, as in Frank Frank. Work address 4500
17 West Marginal Way Southwest, Seattle, Washington 98106.

18 Q. And where are you currently employed?

19 A. Gray Line of Seattle.

20 Q. What are your current duties at Gray Line?

21 A. I am the General Manager.

22 Q. And as General Manager, what sorts of duties
23 do you have?

24 A. Pretty much the entire control over the
25 facility from scheduling, hiring, marketing, future

0081

1 planning, day-to-day operations, maintenance, et cetera.

2 Q. Does any of that include operations relating
3 to the airporter service?

4 A. Correct, absolutely.

5 Q. Thank you.

6 I would like to hand you an exhibit, and this
7 is Exhibit JB-1. I have extra copies here if other
8 people need. I would like you to turn to page 11 of
9 this document. Do you know what this document is?

10 A. I do, it's our -- yeah, I do.

11 Q. And what is it?

12 A. It's our WUTC certificate.

13 Q. Thank you. And what does it entitle you to
14 do?

15 A. Essentially operate, specifically for the
16 airporter, operate between Seattle, Sea-Tac and Seattle
17 downtown hotels, cruise ship piers, and various other
18 routes within the area.

19 Q. Okay. Is Gray Line currently providing that
20 service?

21 A. Correct, yes, we are.

22 Q. And let me ask you to turn to page 7 of that
23 document you're holding, can you identify this document?

24 A. Yeah, I can.

25 Q. What is it?

0082

1 A. This is our certificate, or this is basically
2 our appeal to one of the operating authorities or one of
3 the requests that we saw from Seatac Shuttle basically
4 talking about what we've been chatting about today
5 earlier.

6 Q. Mm-hm.

7 A. About them wanting to operate from Paine
8 Field down to Seattle and Sea-Tac, et cetera.

9 Q. Could you briefly explain why Gray Line filed
10 a protest to Seatac's application?

11 A. Yeah, we were concerned that there would be
12 some sort of infringement upon our operating authority
13 between the Seattle downtown hotels and Sea-Tac.

14 Q. Thank you.

15 Could you please turn to page 2 of the
16 document you're holding, and do you know what this
17 document is?

18 A. I do.

19 Q. What is it?

20 A. This is our appeal, I believe this is our
21 appeal towards --

22 Q. Are you referring to looking at the statement
23 in support of settlement?

24 A. Yeah, I am, correct.

25 Q. Pardon me, if I can first ask you to turn to

0083

1 page 20. I apologize, I'm going out of order here.

2 MR. LAUVER: Excuse me, which exhibit are we
3 in?

4 MR. RICE: We're in JB-1.

5 MR. LAUVER: Okay, thank you. Page 20 of
6 JB-1?

7 MR. RICE: That's correct, they're numbered
8 at the bottom.

9 MR. LAUVER: Thank you.

10 BY MR. RICE:

11 Q. Sorry about that.

12 What document is this?

13 A. This is the stipulation that we responded
14 back to Seatac Shuttle with, and it contains the changes
15 that we would agree to their application.

16 Q. Why did you agree to settle?

17 A. Basically we agreed that amongst working with
18 Seatac Shuttle that there wouldn't be -- that they
19 wouldn't try to operate between downtown Seattle hotels
20 and Sea-Tac Airport.

21 Q. And so does the stipulation in front of you
22 contain the language that the parties agreed to?

23 A. It does. The underlined section there on
24 page 20 was what we had agreed to.

25 Q. Thank you.

0084

1 And let's turn back to page 2 now of that
2 document, and you previously I believe identified this
3 as the statement in support of settlement?

4 A. Correct.

5 Q. Have you reviewed this document?

6 A. I have.

7 Q. Are the statements in it true to the best of
8 your knowledge?

9 A. Yes, they are.

10 MR. RICE: We would like to offer Exhibit
11 JB-1 into evidence.

12 JUDGE FRIEDLANDER: Are there any objections?

13 MR. LAUVER: No.

14 JUDGE FRIEDLANDER: Okay, so admitted.

15 MR. RICE: Thank you, that's the end of my
16 direct examination. I would like to reserve an
17 opportunity for redirect if it's necessary.

18 JUDGE FRIEDLANDER: Sure.

19 Does Shuttle Express have any questions for
20 Mr. Butzlaff?

21 MR. SHERRELL: No.

22 JUDGE FRIEDLANDER: Okay, and I have no
23 questions either, so.

24 MR. LAUVER: I have one or two, thank you.

25 JUDGE FRIEDLANDER: Oh, all right. I thought

0085

1 the settling parties were together, but.

2 MR. LAUVER: I just wanted to clarify
3 something here.

4 JUDGE FRIEDLANDER: Sure.

5 MR. LAUVER: That's all.

6 JUDGE FRIEDLANDER: Sure.

7

8 C R O S S - E X A M I N A T I O N

9 BY MR. LAUVER:

10 Q. Referring to page 20 in JB-1 once again, and
11 this is the language of the settlement. The changed
12 language as you indicated is underlined. In paragraph 2
13 it begins with the actual language that's to go on the
14 certificate. Can you tell me what that says?

15 A. The underlined section?

16 Q. No, the very beginning of the language that
17 is going to go on the certificate if this is approved.
18 Do you see paragraph 2 right there?

19 A. That first line of paragraph 2, yeah.

20 Q. No, down there in the third line beginning
21 with passenger service.

22 A. Oh, passenger service by reservation only?

23 MR. LAUVER: Thank you.

24 So that is going on the certificate itself.

25 I have no further questions.

0086

1 JUDGE FRIEDLANDER: Okay.

2 MR. RICE: And I have no redirect.

3 JUDGE FRIEDLANDER: Okay, great.

4 And I have no questions, so the witness is
5 dismissed, thank you.

6 Okay, then we turn to Shuttle Express, and
7 you may offer Mr. Rowley for your witness.

8 And if you will go ahead and raise your right
9 hand.

10 (Witness JOHN ROWLEY was sworn.)

11 JUDGE FRIEDLANDER: Great, you may proceed,
12 Mr. Sherrell.

13 MR. RICE: Your Honor, may I ask a question,
14 is it necessary for Mr. Butzlaff to stay with us, or is
15 he excused?

16 JUDGE FRIEDLANDER: He is excused, thank you.

17

18 Whereupon,

19

JOHN ROWLEY,

20 having been first duly sworn, was called as a witness

21 herein and was examined and testified as follows:

22

23 D I R E C T E X A M I N A T I O N

24 BY MR. SHERRELL:

25 Q. Mr. Rowley, state your name.

0087

1 A. John Rowley, R-O-W-L-E-Y.

2 Q. And where do you work?

3 A. Shuttle Express.

4 Q. And what is your position?

5 A. I am the General Manager.

6 Q. Are you a Vice President?

7 A. Chief Operating Officer, Vice President, and
8 General Manager.

9 Q. How long have you been at Shuttle Express?

10 A. I will be at Shuttle Express 20 years in
11 September.

12 Q. How long have you been at the current
13 position that you're in as General Manager Operations?

14 A. Just over 10 years.

15 Q. What are your duties?

16 A. I run the operations, day-to-day operations.

17 Q. Are you familiar with marketing?

18 A. Yes, the director of marketing reports
19 directly to me, and we strategize on everything.

20 Q. Are you familiar with accounting finances and
21 profits?

22 A. The CFO also reports directly to me. I audit
23 the financial statements before they go out.

24 Q. Are you familiar with maintenance?

25 A. Yes, I work with our Director of Maintenance

0088

1 as well.

2 Q. Are you involved in any national alliances?

3 A. Yes, Shuttle Express is a franchisee of The
4 Go Group, which is an international contingency of
5 operators that markets services over one centralized web
6 site. I am on the board of directors for that
7 particular group.

8 JUDGE FRIEDLANDER: And does The Go Group
9 stand for anything, does G-O stand for anything in
10 particular?

11 MR. ROWLEY: No.

12 JUDGE FRIEDLANDER: Okay, just checking.

13 BY MR. SHERRELL:

14 Q. Were you employed by San Juan Airlines?

15 A. I was from 1982 to 1989.

16 Q. What were your duties with San Juan Airlines
17 that might pertain to this hearing?

18 A. Particularly I scheduled pilots and wrote the
19 timetables for the airlines. I was trained by United
20 Airlines to take on such a task, which involved
21 connecting our particular service to the flights at
22 Sea-Tac.

23 Q. How long has Shuttle Express been in service?

24 A. Shuttle Express was formed in 1987, so 22
25 years.

0089

1 Q. Approximately how many vans do they operate?

2 A. We have close to 75 right now.

3 Q. And how many drivers?

4 A. Between 180 and 200 drivers.

5 Q. You stated that marketing, sales and
6 marketing reports directly to you, about how much money
7 does Shuttle Express, how much equivalent money does
8 Shuttle Express spend in advertising a year?

9 MR. LAUVER: Objection, Your Honor, I'm not
10 sure where this is leading. I don't see the
11 relationship to a protest here. We're getting -- I'm
12 willing to stipulate that Mr. Rowley is perfectly
13 qualified to speak for Shuttle Express if that's where
14 we're heading with this.

15 JUDGE FRIEDLANDER: Mr. Sherrell, is this
16 going to go someplace --

17 MR. SHERRELL: I was just going to say how we
18 advertise in the communities in Everett and Paine.

19 JUDGE FRIEDLANDER: Okay.

20 MR. SHERRELL: Do you want me to just go
21 there directly?

22 MR. LAUVER: What does that have to do with
23 the protest?

24 JUDGE FRIEDLANDER: Well, I guess I would
25 wonder how does the advertising relate to the protest

0090

1 against Seatac's application?

2 MR. SHERRELL: Showing that we actually
3 provide service and pursue service in the Everett/Paine
4 Field area.

5 JUDGE FRIEDLANDER: All right, proceed, it's
6 overruled.

7 MR. SHERRELL: And I will shorten it up.

8 JUDGE FRIEDLANDER: Okay, that's fine.

9 BY MR. SHERRELL:

10 Q. Does Shuttle Express pursue business in the
11 Everett/Paine Field?

12 A. Yes, we do.

13 Q. How would Shuttle Express react to more
14 demand if there's more people wanting to use our
15 service?

16 A. We add more drivers and more vehicles if
17 necessary.

18 Q. Does Shuttle Express serve the Everett/Paine
19 Field area?

20 A. Yes.

21 Q. Is Shuttle Express profitable?

22 A. Yes.

23 Q. Is Shuttle Express able to purchase
24 additional equipment if needed?

25 A. If needed, yes.

0091

1 Q. Do you feel the service provided by Shuttle
2 Express is sufficient to the public demand?

3 A. Yes, to my knowledge. When we have that
4 demand, we meet it.

5 Q. Do you think Shuttle Express has a dominance
6 in the market?

7 A. No, there are other forms of transportation
8 within the market, people taking friends, family, taxi
9 cabs, rental cars, so no, I would say not.

10 Q. Does Shuttle Express have a good safety
11 record?

12 A. An excellent safety record.

13 Q. Your involvement with San Juan Airlines, did
14 San Juan Airlines serve Paine Field?

15 A. We did, we served Paine Field.

16 MR. LAUVER: I'm going to object here, San
17 Juan Airlines has nothing to do with this.

18 MR. SHERRELL: Your Honor, I think it speaks
19 to the validity of whether airlines will serve Paine
20 Field or not.

21 JUDGE FRIEDLANDER: Do you have a response to
22 that, Mr. Lauver?

23 MR. LAUVER: Well --

24 MR. SOLIN: Again, what does this have to do
25 with the protest? Whether or not San Juan Airlines'

0092

1 expertise determines whether they may or may not serve
2 Paine Field has nothing to do with whether or not we
3 have the ability to offer service to an area that would
4 need service if the airlines in fact came. His argument
5 would be basing -- his entire argument is that don't
6 approve this application now because there's no airline
7 there.

8 MR. SHERRELL: It speaks to speculation and
9 what has actually happened in Paine Field. It speaks to
10 speculation also. I will keep it short.

11 JUDGE FRIEDLANDER: Did you have something to
12 add, Mr. Lauver?

13 MR. LAUVER: No, if he wants to go down this
14 road, I guess go ahead and we'll tolerate it for now.

15 JUDGE FRIEDLANDER: All right, go ahead,
16 please proceed.

17 MR. SHERRELL: Sure.

18 BY MR. SHERRELL:

19 Q. When you were with San Juan Airlines, was
20 there any traffic of passengers traveling between Paine
21 Field and Sea-Tac?

22 A. Not many. We did it for a while and pulled
23 out.

24 Q. So it wasn't successful?

25 A. It was not successful.

0093

1 Q. Okay. Will Shuttle Express continue to --
2 does Shuttle Express -- you stated that Shuttle Express
3 does provide service to Paine Field and the Everett
4 area?

5 A. Yes.

6 Q. Will Shuttle Express continue to provide
7 service to Paine Field and the Everett area?

8 A. Most definitely. If there is a demand for a
9 scheduled service, Shuttle Express will also apply for
10 scheduled service.

11 Q. Do you feel the service to Paine Field and
12 the surrounding area is sufficient and expedient?

13 A. Yes, on both counts, it is expeditious, and
14 it is meeting the current demand.

15 Q. Can Shuttle Express handle additional traffic
16 if an airline came to Paine Field?

17 A. Absolutely.

18 Q. Would you be willing to offer additional
19 service to that area?

20 A. Yes.

21 Q. Is there similarities between scheduled
22 service and door-to-door service?

23 A. There is. Our door-to-door operation in
24 essence is a scheduled service operation.

25 Q. Can you tell me a little bit about how that

0094

1 works?

2 A. For instance in Mukilteo at that particular
3 zip code, our computer has three specific times that
4 will allow a reservation to be booked. The computer
5 also determines based on the time that the flight is
6 arriving which of those three schedules to offer. The
7 guest has the choice to pick those three, and then that
8 one is selected. And all routes go from that area
9 directly to the airport. They don't go backwards, they
10 go towards the airport.

11 Q. To your knowledge, does the Washington
12 Utilities and Transportation Commission license allow
13 for scheduled service out of Paine Field, and would you
14 if there was a demand to operate scheduled service out
15 of Paine Field?

16 A. Yes, I believe so with the application.

17 JUDGE FRIEDLANDER: Actually, I'm confused
18 now. Your first question was do you currently offer --

19 MR. SHERRELL: How about if I just restate
20 it.

21 JUDGE FRIEDLANDER: Perfect.

22 BY MR. SHERRELL:

23 Q. To your knowledge, is Shuttle Express allowed
24 by the Washington Utilities and Transportation
25 Commission license to offer scheduled service out of

0095

1 Paine Field?

2 A. Yes.

3 Q. And would you if there was the demand offer
4 the service?

5 A. Yes.

6 Q. Are you committed to charge lawful fares?

7 A. Absolutely.

8 Q. Are you willing and able to comply with
9 Commission laws and rules?

10 A. Yes.

11 MR. SHERRELL: Your Honor, that's the only
12 questions.

13 JUDGE FRIEDLANDER: Okay, thank you.

14 And, Mr. Lauver or Mr. Solin, do you have
15 any?

16 MR. SHERRELL: There was one hearsay that was
17 objected to, and I don't really see a need to bring that
18 into this hearing, so if we want to throw this out,
19 that's fine.

20 JUDGE FRIEDLANDER: Okay, so did you want --

21 MR. SHERRELL: That was JR-2.

22 JUDGE FRIEDLANDER: Okay, so you would like
23 to withdraw that exhibit?

24 MR. SHERRELL: That's correct.

25 JUDGE FRIEDLANDER: Okay, then that's fine,

0096

1 we will eliminate as withdrawn the exhibit that has been
2 marked JR-2 on behalf of Shuttle Express.

3 With that, Mr. Lauver or Mr. Solin, do you
4 have any cross-examination?

5 MR. LAUVER: Maybe one or two.

6 JUDGE FRIEDLANDER: Okay, go for it.

7

8 C R O S S - E X A M I N A T I O N

9 BY MR. LAUVER:

10 Q. Good morning. Boy, where to start on this.
11 Well, I'm just going to -- I'm going to address some of
12 the questions that you just answered first off here.
13 Shuttle Express is profitable, you stated?

14 A. Yes.

15 Q. Have you had any rate increases in the past
16 five year period?

17 A. Yes, we have.

18 Q. How many have you had?

19 A. Off the top of my head, three.

20 Q. Three. And can you give us an approximation
21 of what those rate increases entailed in a sort of gross
22 percentage number?

23 A. Ranging between 3% and 7% increase.

24

25

0097

1 C R O S S - E X A M I N A T I O N

2 BY MR. SOLIN:

3 Q. Did you not file for a rate increase in 2008
4 for 12% plus, generating about \$1.9 Million in
5 additional revenue?

6 A. I wouldn't know off the top of my head. We
7 did file for one in 2008. As far as the numbers go, I
8 would have to review that.

9

10 C R O S S - E X A M I N A T I O N

11 BY MR. LAUVER:

12 Q. Well, if you filed for three increases in
13 five years, under UTC guidelines in order to be awarded,
14 if you will, a rate increase, you have to operate --
15 your financial picture has to be within a certain
16 operating ratio, 97.3 or 93.7. If you're able to get
17 all of these increases, you had to be able to show that
18 you weren't making any money in essence. So if three
19 times in five years you were able to go to the well and
20 say, help, we need more money, how can you tell me here
21 today that you're profitable?

22 MR. SHERRELL: I object to that, that's
23 conclusions that have not even been addressed as to
24 profitability of the company.

25 MR. LAUVER: But they were, Mr. Sherrell

0098

1 introduced it, he asked the question, and now I'm just
2 trying to clarify.

3 MR. SHERRELL: He's making conclusions
4 that --

5 MR. LAUVER: No, I'm asking direct --

6 MR. SHERRELL: He was making conclusions that
7 Shuttle Express was not profitable, and he does not have
8 knowledge to that effect.

9 JUDGE FRIEDLANDER: Do you want to restate
10 the question then, have it read back and then restate
11 it?

12 BY MR. LAUVER:

13 Q. Given that you've had to ask for rate
14 increases three times, one as recently as 2008, how can
15 you purport that you are a healthy and profitable
16 entity?

17 A. As I testified, we were profitable. 93% is
18 the operating ratio, and that 7% allows room to do that.

19 Q. If you're at 93%, are you allowed to ask for
20 more?

21 A. No.

22 Q. So you were below the 93%?

23 A. Right, but we were not below 100%, which
24 would make us profitable.

25 Q. Well, 93 is below 100.

0099

1 A. Not above, we were not above 100%, which
2 would make us not profitable.

3 Q. All righty.

4 And how many vans once again do you have?

5 A. Between -- less than 75 right now I believe.

6 Q. Less than 75, okay, come back to that in a
7 moment.

8 Now in reference to San Juan Airlines, what
9 type of equipment do they fly?

10 A. They are no longer in service.

11 Q. No, what type of equipment did they fly, past
12 tense?

13 A. I'm sorry, I thought you said do.

14 They flew Cessna 402s and Beech 99s, Embraer
15 Bandeirantes.

16 Q. Which Bandeirante?

17 A. Embraer.

18 Q. 110, 120?

19 A. 120 I believe, I don't recall. 19 passenger
20 turboprop.

21 Q. Okay, that would be a 110.

22 So in essence you're trying to equate an air
23 carrier that operated 9 seat --

24 MR. SOLIN: 19.

25 Q. -- 19 seat, what else did you have, you had

0100

1 402s, you had Bandeirantes, and, oh, and a 15 seat
2 Beech. With Allegiant Airlines operating 737s with
3 approximately 150 seats and Horizon Airlines operating
4 Q400s with 72 seats and RSs with up to 70 seats, and you
5 want us to believe that because this 19 seat or less
6 airline wasn't able to make it a decade or more ago that
7 Allegiant with all its resources and its modern large
8 equipment and Horizon Airlines, a subgroup of Alaska
9 Airlines, probably won't make it in Paine Field either?
10 That was your testimony, is that what you still want us
11 to believe?

12 A. That was not my testimony actually. I gave
13 you information as to what San Juan Airlines did, and
14 that information is for you to draw your own conclusion.

15 Q. I believe you speculated that it's not a good
16 market?

17 A. I'm not sure if I said it was not. I think I
18 said that it was not at the time.

19 Q. All righty.

20 And I heard earlier that according to your
21 certificate you have the ability to provide scheduled
22 service to and from Paine Field?

23 A. Correct.

24 Q. I see. And that you do provide some service
25 from Paine Field today?

0101

1 A. Correct.

2 Q. What is the nature of that service from Paine
3 Field?

4 A. If somebody calls and says, I would like to
5 be picked up at Paine Field, we can supply them with a
6 trip to Sea-Tac Airport.

7 Q. So that would be a door-to-door service?

8 A. That's correct.

9 Q. And can you tell me how often you've been
10 doing that?

11 A. How often?

12 Q. Do you pick up 1 person a week, 100 people a
13 week at Paine Field?

14 A. I could not tell you off the top of my head,
15 no.

16 Q. Okay. But you don't offer any scheduled
17 service from Paine Field?

18 A. That is correct at this time, no.

19 Q. But you claim you have the authority to do
20 so. You also said that you would apply for should the
21 airlines come in; is that correct?

22 A. I believe my testimony was that if there is a
23 demand that we would apply for it.

24 Q. So you would apply for it if the airlines
25 came in and there was a demand?

0102

1 A. We would apply if there was a demand is what
2 I would say.

3 Q. I believe your words were or the question
4 asked was are you willing to offer that service, to
5 which you answered the affirmative, and would you offer
6 that service to which you answered in the affirmative;
7 is that correct?

8 A. That's correct.

9 Q. As of then the filing date, January 13th of
10 2009, you offered no scheduled service?

11 A. From Paine Field, that is correct.

12 Q. Okay.

13 I think you made a statement that
14 door-to-door is scheduled service, can you clarify that
15 a little for me?

16 A. The way in which we operate door-to-door has
17 various elements that are the same as scheduled service.
18 There are exact times that the computer selects, which
19 is similar to scheduled service. There is a time that
20 is quoted that they would arrive at the airport, which
21 is the same as scheduled service. In essence, all
22 reservations within the area within Paine Field are
23 stops, can be stops, and which is very similar to
24 scheduled service.

25 Q. Similar but not scheduled service. Are you

0103

1 aware of the clear distinction that the Commission makes
2 between scheduled service and door-to-door service?

3 A. I can't answer that, I don't know.

4 Q. But your definition of scheduled service is
5 just that then, your definition. You don't know what
6 the Commission's definition is, you've decided that this
7 door-to-door scheduled is scheduled?

8 A. My definition of scheduled service is --

9 Q. No, I'm just asking you if that is your
10 definition?

11 A. I'm sorry, what was the exact question?

12 Q. You've come up with a definition of scheduled
13 service on your own without knowledge of what the
14 Commission's definition of scheduled service is?

15 A. That's not true.

16 MR. LAUVER: I believe -- could you go back a
17 question or two there, and we just asked and answered
18 that question. I believe the witness stated he did not
19 know the difference between door-to-door and scheduled
20 service as the Commission purports it to be.

21 (Record read as follows.)

22 Q. Similar but not scheduled service.

23 Are you aware of the clear distinction

24 that the Commission makes between

25 scheduled service and door-to-door

0104

1 service?

2 A. I can't answer that, I don't know

3 MR. LAUVER: Thank you.

4 BY MR. LAUVER:

5 Q. So in fact you do not know?

6 A. The clear distinction that the Commission
7 makes.

8 Q. Okay, thank you.

9 I would like to look at one of the exhibits
10 here, JS-1, which is your protest, because I want to be
11 perfectly clear about this. Do you have that in front
12 of you? JS-1 is your protest to our application.

13 A. Have you got a copy of that?

14 Q. Do you need one?

15 A. Yes.

16 Q. Well, I'm going to pose my question from over
17 here so that we can both look at this. I'm going to ask
18 you to read from Paragraph 2 of your protest. Would
19 you, let's see, would you read the second sentence
20 beginning right here in Paragraph 2 of the exhibit.

21 JUDGE FRIEDLANDER: And maybe you can
22 indicate where right here is.

23 MR. LAUVER: Paragraph 2, sentence 2, second
24 sentence, Exhibit JS-1.

25 JUDGE FRIEDLANDER: Okay, thank you.

0105

1 A. (Reading.)

2 Under this certificate Shuttle Express
3 has the authority to provide
4 door-to-door service between Sea-Tac
5 Airport, Boeing Field, Renton Airport,
6 Paine Field, and points within a 25 mile
7 radius of these airports, including
8 points in King County among other
9 locations.

10 BY MR. LAUVER:

11 Q. Now I would also like you to further examine
12 that and ask you where you have a protest or state that
13 you have scheduled -- well, two part. Show me in that
14 protest, please, where you state you have any scheduled
15 authority.

16 A. I can not do that.

17 Q. Show me in there where you specifically
18 protest a scheduled operator coming in to your
19 door-to-door territory?

20 A. I'm sure I can't do that either, otherwise
21 you wouldn't have asked me that question.

22 Q. How about that. Thank you.

23 Now I'm going to ask you to look at Exhibit
24 JS-2, the application of Seatac Shuttle. Do you have a
25 copy of that?

0106

1 A. I've got JS-3.

2 Q. Well, here is JS-2.

3 A. I do have that one somewhere.

4 MR. SHERRELL: Right here, John.

5 A. Oh, here it is.

6 Q. Having that in front of you, can you tell me
7 any place in there that indicates that Seatac Shuttle
8 has applied for any door-to-door service as a part of
9 its application?

10 A. No, I would not be able to find that.

11 Q. So your protest proclaims you as a
12 door-to-door operator, you don't protest shuttle
13 service, there's no door-to-door service requested in
14 our application, why are we here? You haven't protested
15 anything that we've offered to do on the table here
16 today, what exactly are we doing here?

17 A. We believe that you entering our market in
18 Paine Field with a scheduled service --

19 Q. What market?

20 A. The market that we currently are operating --

21 Q. Your door-to-door market on your protest?

22 MR. SHERRELL: Your Honor, I think the
23 witness needs to have time to answer each question
24 individually rather than be interrupted.

25 JUDGE FRIEDLANDER: I would agree, so just

0107

1 ask one question at a time and allow a little bit of
2 time for --

3 MR. LAUVER: I will.

4 JUDGE FRIEDLANDER: Thank you.

5 MR. ROWLEY: What was the question?

6 Would you like to read it back, please.

7 MR. LAUVER: Why are we here.

8 (Record read as follows.)

9 Q. So your protest proclaims you as a
10 door-to-door operator, you don't protest
11 shuttle service, there's no door-to-door
12 service requested in our application,
13 why are we here? You haven't protested
14 anything that we've offered to do on the
15 table here today, what exactly are we
16 doing here?

17 A. We believe that you entering our
18 market in Paine Field with a scheduled
19 service --

20 A. -- would damage the market that we currently
21 are operating under door-to-door. We have a -- if there
22 is a desire for scheduled service, we feel we are the
23 applicants that would have the authority to do so.

24 BY MR. LAUVER:

25 Q. Are you aware that the Commission has held in

0108

1 several cases, hearings, applications before it, that
2 the financial impact upon an existing operator is not a
3 criteria for evaluating the applicant?

4 A. Yes, I have been aware of that.

5 Q. And so if there were any financial
6 implications to you, it would not be -- it would not
7 have any real bearing on this case; is that correct?

8 A. I wouldn't want to speculate.

9 Q. Okay, let's take a look at one of your
10 exhibits now, please, I refer to Exhibit JR-1, which is
11 a drivers list, which was not so captioned, but you
12 explained earlier that that is in fact what it is. How
13 many drivers are on this list again?

14 A. On this list there are 182.

15 Q. And out of the 182 drivers listed, how many
16 are in your door-to-door department?

17 I believe it's on the exhibit.

18 A. 182.

19 Q. Thank you. I see no one on here that's
20 listed as working in a scheduled department; is that
21 correct, yes or no?

22 A. Yes.

23 Q. Can you -- let's take a look at your tariff
24 now, which is exhibit?

25 A. JS-3.

0109

1 Q. Can you show me on this document where you
2 have listed the Everett Naval Station as a stop?

3 A. On the 15th revised page 3b.

4 Q. I'm sorry, what was that page number again?

5 A. 9 pages in on 15th revised page 3b.

6 Q. 3b, all right, so that's not on any of your
7 900 series runs, you just listed it as an address for a
8 stop, but you don't include it --

9 MR. SOLIN: It's not a schedule.

10 Q. -- on your --

11 MR. SOLIN: Time schedule.

12 Q. -- time schedule?

13 A. That appears to be correct.

14 Q. So you're operating something that is not
15 part of your time schedule at this point apparently?

16 A. That is not listed on the time schedule,
17 that's correct.

18 Q. Looking at original page 3c-5, can we look at
19 the 901 through 947 series of runs, please.

20 A. Yes.

21 Q. And those runs in theory go from where to
22 where?

23 A. Everett to Sea-Tac.

24 Q. Everett to Sea-Tac.

25 A. And Sea-Tac to Everett.

0110

1 Q. Well, I'm just looking at the odd numbered
2 ones right now. So from Everett to Sea-Tac. If we move
3 to page 4th revised page 3d as in Delta, this is getting
4 to be fun, under item number 1, would you read me the
5 third paragraph exception.

6 A. Page 3?

7 Q. 3.

8 A. Slash AB, that one?

9 Q. Right, where it says excluding Nendels.

10 A. (Reading.)

11 Excluding Nendels, University Plaza,
12 Lynnwood Silver Cloud, and Lynnwood
13 Residence Inn.

14 Q. And now the next sentence.

15 A. (Reading.)

16 Trips 903, 905, 907, 909, 911, 913
17 through 929 operate without prior
18 reservations unless passengers do not
19 exist at departure time.

20 Q. So all of those trips operate without prior
21 reservations. I'm not really clear with passengers do
22 not exist at departure time, but we have an exception
23 here to your supposed restriction that you put on your
24 passengers that they must have a reservation, and you
25 have 900 series odd number going from Everett to Sea-Tac

0111

1 not requiring reservations, correct?

2 A. Correct.

3 Q. And as a scheduled service therefore, are you
4 not required to stop at every single stop on every run
5 every single day?

6 A. We're of the opinion that we have authority
7 to do with or without reservations.

8 Q. No, that isn't my point. My point is, if you
9 do not have reservations required, must you operate that
10 run with or without passengers, because you don't know,
11 because you don't have reservations, because you don't
12 require them?

13 A. No, we would not be required if there were no
14 people there.

15 Q. How would you know there was no person there?

16 A. They have no reservation.

17 Q. They're not required to have reservations.

18 A. Was there a question?

19 Q. Yes. If they're not required to have
20 reservations, how do you know they're not there?

21 A. We wouldn't know.

22 Q. You wouldn't. So I could be standing at the
23 Hampton Inn for four hours wondering where my shuttle
24 is, because I'm not required to have a reservation, and
25 you don't show up. Do you believe that meets the

0112

1 definition of scheduled service?

2 A. To the best of my knowledge, yes.

3 Q. To the best of your knowledge.

4 And as General Manager, you've told us that
5 you manage all these operations, and presumably you're
6 aware of the WACs, particularly 480-30, that apply to
7 the operation of door-to-door and scheduled shuttles?

8 A. I'm somewhat familiar with them.

9 Q. Somewhat apparently doesn't cover everything.

10 JUDGE FRIEDLANDER: Let me just go ahead and
11 take a brief recess right now, because I would like to
12 discuss with the parties since it is after noon, and the
13 court reporter, how we want to proceed with the rest of
14 the hearing, whether we want to continue going forward
15 or whether we want to take a brief lunch recess, so we
16 will be off the record for 2 minutes.

17 (Discussion off the record.)

18 JUDGE FRIEDLANDER: And then, Mr. Lauver, if
19 you want to continue with cross, and then we'll go ahead
20 and take a brief recess after Mr. Rice has an
21 opportunity to do a closing on the settlement agreement.

22 BY MR. LAUVER:

23 Q. Okay, moving on hopefully fairly quickly, are
24 you familiar with your web site?

25 A. Yes.

0113

1 Q. And on the top of the page that you describe
2 your scheduled as you've defined it, well, actually it's
3 a list of scheduled service hotels. Do you recall the
4 very first line of that that the customer sees?

5 A. I do not.

6 Q. Would you recognize it if I read it to you?

7 A. I couldn't answer that.

8 Q. Well, I'll read it to you, and let's see if
9 you recognize it.

10 Shuttle Express serves all hotels with
11 our share ride and/or exclusive
12 services.

13 Does that sound familiar?

14 A. Sure.

15 Q. That's a yes?

16 A. Does that sound familiar?

17 Q. Yes, does that sound familiar, yes or no? It
18 doesn't sound familiar, I never heard it before in my
19 life, or yes, I think that's what our web site probably
20 says?

21 A. Yes. If you're asking if that's what our web
22 site says --

23 Q. Would you like to see your web site or a
24 printout of it?

25 JUDGE FRIEDLANDER: Are you planning on

0114

1 offering that into evidence?

2 MR. LAUVER: I was just offering to refresh
3 his memory.

4 JUDGE FRIEDLANDER: Okay.

5 BY MR. LAUVER:

6 Q. Okay, well, we'll just move on from that
7 point then in the interest of brevity here.

8 On your brochure, which you introduced as
9 Exhibit JR-5 I believe, you list description of services
10 of private limos. Well, let me just look at it here.
11 We've got a description of services, one-way share rides
12 to and from Sea-Tac, exclusive van rates, non-airport
13 exclusive hourly rates, point-to-point charter service,
14 Seattle-Portland scheduled service, one-way sedan rates,
15 one-way executive limos, non-airport hourly sedan
16 executive limos, and luxury limos. I don't see any
17 description about scheduled service.

18 A. On the back page.

19 Q. On the back page is not a description, it's
20 simply a list of stops.

21 A. The heading is scheduled service.

22 Q. Selected hotels to Sea-Tac Airport, and at
23 the top of the page it says scheduled service. My
24 question is, if you go to such pains to describe each of
25 your other services and now you're having us believe

0115

1 that your scheduled service is such an important
2 component of your operation, why don't you have even a
3 descriptor of it in here? You introduced these as
4 marketing materials.

5 A. The back page oftentimes is more valuable
6 than the inside pages.

7 MR. LAUVER: I'm not going to get into it
8 before the break, but I will want to discuss that time
9 schedule versus the tariff's time schedule later on.
10 I'll tell you what, why don't we let Mr. Rice do his
11 thing now, and then I will come back with the rest of
12 these, because I'm afraid that once I get into these I'm
13 going to want to continue.

14 JUDGE FRIEDLANDER: Sure, understood.

15 Mr. Rice, if you want to go ahead and give
16 your closing on the settlement agreement.

17 MR. RICE: Thank you.

18 Today we presented a voluntary settlement
19 between Evergreen Trails and Seatac Shuttle. There was
20 no objection to the two parties settling from Shuttle
21 Express, and we view this as a non-controversial but
22 efficient resolution of the issues between the parties.

23 There's a three-part standard that the
24 Commission uses when examining settlement agreements.
25 First is that the settlement must be in the public

0116

1 interest, it must be lawful, and it must be supported by
2 an appropriate record, and we believe that it meets that
3 criteria here.

4 First of all with regard to the public
5 interest, Seatac Shuttle has said that they have no
6 interest in serving points in Seattle, providing service
7 between points in Seattle and Sea-Tac Airport, and that
8 is fine with Gray Line. And so once we learned that
9 that was the case, the parties got together and resolved
10 the issue. This is an area where Gray Line already
11 provides service, so there's not going to be an adverse
12 impact on the public.

13 Second, the settlement is permitted by law.
14 It's not presented for any kind of improper purpose.
15 Our sole reason is to have an efficient resolution of
16 the parties' differences.

17 Lastly, the settlement is supported by the
18 record. We have filed the actual settlement language
19 with the Commission, we've also filed a statement in
20 support of the settlement, and also you heard from our
21 witness today from Gray Line, Jeremy Butzlaff, who spoke
22 in support of the settlement.

23 With that being the case, we request the
24 Commission approve the settlement as soon as possible
25 and with an effective date as soon as possible, also

0117

1 approve the settlement as it is currently worded. Thank
2 you.

3 JUDGE FRIEDLANDER: Thank you.

4 Okay, then with that let's go ahead, it's
5 almost 12:30, we'll break for an hour and come back at
6 1:30 to resume cross-examination, thank you.

7 (Luncheon recess taken at 12:30 p.m.)

8

9 A F T E R N O O N S E S S I O N

10 (1:30 p.m.)

11 JUDGE FRIEDLANDER: We left off before the
12 lunch break with Mr. Lauver cross-examining Mr. Rowley,
13 so we will go ahead and continue.

14 MR. LAUVER: Thank you.

15

16 C R O S S - E X A M I N A T I O N

17 BY MR. LAUVER:

18 Q. Welcome back, and what I would like to do is
19 just for a moment revisit the tariff, and that is
20 Exhibit --

21 MR. SOLIN: JS-3.

22 Q. -- JS-3. I looked at your brochure,
23 Mr. Rowley, and I see on your as you defined it
24 scheduled hotel stops down here the Guest House and the
25 Deca. Can you find any of those in the tariff form,

0118

1 either of those?

2 MR. SHERRELL: Your Honor, I would like to
3 object to this questioning. It doesn't speak to
4 operations out of Paine Field, and there's been
5 questions asked about the scheduled service, and I think
6 bantering over how we file our tariff doesn't speak to
7 the applicant trying to seek service from Paine to
8 Seattle. It has no relationship with how our tariffs do
9 with the rest of our service. I think if he wants to
10 ask how we operate our scheduled service, that's fine.
11 But to banter us about problems we may have in our
12 filings or supposedly problems doesn't speak to the
13 case.

14 JUDGE FRIEDLANDER: Mr. Lauver.

15 MR. LAUVER: Well, I, strangely enough,
16 disagree. The crux of the matter here today is
17 door-to-door versus scheduled operations, and we seem to
18 be skirting around that issue and cluttering it up with
19 all of these other things trying to show that Shuttle
20 Express is doing a wonderful job in providing all the
21 service necessary, which puts us in the unfortunate
22 position of having to show that they are not necessarily
23 serving to the satisfaction of the Commission. And it's
24 clearly evident by the exhibits provided that the tariff
25 does not reflect their operations, which is contrary to

0119

1 WAC. They list stops that they do not have in their
2 tariff, they list stops in their tariff that they do not
3 have on their time schedule. So if we're not going to
4 directly head on address the issue of door-to-door
5 versus scheduled, then by necessity I must show that
6 they are not serving to the satisfaction of the
7 Commission, hence I have to go into the tariff here and
8 show that they're not performing according to WAC.

9 JUDGE FRIEDLANDER: Well, and I think -- did
10 you have a response to that, Mr. Sherrell?

11 MR. SHERRELL: Yeah. I think if you want to
12 question how we operate our scheduled service, it's
13 fine. But to go into how we file our fares to other
14 areas, not to specifically Paine Field, doesn't speak to
15 the case at all. This doesn't have any bearing on this
16 case. They're asking for service between Seattle and
17 Paine, and our tariff, how we file our tariff has
18 nothing to do with that service or the need for it. I
19 mean they haven't shown the need for service yet. So I
20 don't think bantering us on how we file our tariff, or
21 if they find problems they need to file a complaint
22 against it, not to banter us about our tariffs. It
23 doesn't speak to the case at all.

24 JUDGE FRIEDLANDER: Well, I guess my concern
25 is that part of the case is based on what type of

0120

1 service you provide, and that's found in your tariff,
2 and what's in the tariff at this point doesn't seem to
3 be as clear as mud as far as what's actually being
4 offered. And I agree with you that the Guest House and
5 -- now I forget which other hotel.

6 MR. LAUVER: The Deca.

7 JUDGE FRIEDLANDER: The Deca, Hotel Deca, I
8 see, University District, I agree those do not relate
9 directly to the extension of authority that Seatac has
10 requested, so I would go ahead and grant the objection
11 as to those two. But I would reiterate that these
12 advertising brochures are taken as advertising
13 brochures, it's marketing. It's not for the veracity of
14 what's inside of them.

15 MR. LAUVER: May I speak to that?

16 JUDGE FRIEDLANDER: Sure.

17 MR. LAUVER: They are required by WAC to have
18 their time schedule in all of their vehicles.

19 JUDGE FRIEDLANDER: But does it have to be in
20 the form of a brochure?

21 MR. LAUVER: It doesn't have to be in any
22 specified brochure, except that the time schedule must
23 be there.

24 JUDGE FRIEDLANDER: Right.

25 MR. LAUVER: And this is what they are

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1 purporting to be their time schedule, and it is
2 incorrect. They're offering areas that they do not
3 serve. And my whole point is whether it's a specific
4 hotel right next to where we want to be, it speaks to
5 the entire operation in that they are not -- if in fact
6 somebody wants to accept that they have scheduled
7 service, our point is they're not providing scheduled
8 service to the satisfaction of the Commission, and this
9 is evidence of that.

10 JUDGE FRIEDLANDER: Mr. Sherrell.

11 MR. SHERRELL: Then we need to speak to a
12 violation complaint, not to somebody trying to do a
13 speculative service out of a specific area. Tariff only
14 speaks to fares, that's all tariffs speak to, so we're
15 just talking about tariffs, we're not talking about
16 schedules, so.

17 MR. LAUVER: Tariff and time schedules are
18 all part of the same filing.

19 JUDGE FRIEDLANDER: Well, I guess my question
20 is if Shuttle Express's protest is in the nature of a
21 protest against the type of service that you would like
22 to provide at Seatac Shuttle, I don't see that anything
23 other than the planned service territory that you would
24 like to extend into as is covered by this brochure is
25 relevant. Because as Mr. Sherrell stated, this is being

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1 offered for marketing purposes only, which again is also
2 I would hazard a guess not related to the type of
3 service that you're protesting. Is that correct, this
4 is just to show the types of service that you provide?

5 MR. SHERRELL: That's correct.

6 JUDGE FRIEDLANDER: It's not to show
7 specifically which types of service you're protesting in
8 Seatac's application?

9 MR. SHERRELL: That is correct.

10 JUDGE FRIEDLANDER: Okay.

11 You're certainly welcome to cross-examine
12 Mr. Rowley with regards to this brochure for marketing
13 purposes or for specific hotels that are within the
14 service territory that you are attempting to expand
15 into, but I do have a problem with it going further than
16 that.

17 MR. LAUVER: Okay, then let me state my
18 question thusly.

19 BY MR. LAUVER:

20 Q. Is this on all of your vans, this being
21 Exhibit JR-5, the brochure?

22 A. We endeavor to carry all of those on our
23 vans.

24 Q. Do you carry a separate timetable on your
25 vans?

0123

1 A. No, do not.

2 Q. Do you carry this for satisfaction of the WAC
3 requirement that your tariff is available on all your
4 vehicles to passengers?

5 A. No, we do not.

6 Q. Do you carry anything on your vehicles so
7 that scheduled passengers wherever they may be from,
8 Paine Field or elsewhere, will know what the schedule
9 is?

10 A. No, we do not.

11 Q. Thank you.

12 Moving on, and you are aware of WAC
13 480-30-276 and the tariffs and time schedules and the
14 compliance with the provisions?

15 A. I have read them, I'm not an attorney, so.

16 Q. Well, let me refresh. 480-30-276:
17 An auto transportation company must
18 provide service along all rights to all
19 points listed on a company's filed time
20 schedule.

21 Do you do so?

22 A. No.

23 Q. Okay.

24 A. I answered that previously.

25 Q. The Commission has held in numerous cases

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1 that door-to-door service and scheduled service are two
2 separate and distinct types of service and when
3 operating in the same service area do not constitute an
4 overlapping service. Once again in your protest you
5 identify your company as a door-to-door operator. We
6 have not filed for door-to-door, we have filed for
7 scheduled services.

8 MR. SHERRELL: I object, this should be
9 covered in a brief, it's a brief argument, not a
10 question.

11 MR. LAUVER: Brief is a summary.

12 JUDGE FRIEDLANDER: I'm going to go ahead and
13 allow it because I would like to hear Mr. -- I would
14 like to hear the question finished first and then
15 Mr. Rowley's response.

16 BY MR. LAUVER:

17 Q. First off, do you agree with that?

18 A. No.

19 Q. You don't. That's kind of interesting
20 because you were involved in a case that specifically
21 addressed that situation a while back. Let me read you
22 the Commission's finding, and this is off of Docket
23 TC-041340.

24 The Commission found that two types of
25 service are at issue in this case.

0125

1 Door-to-door service provided under
2 Pennco's existing authority requires
3 passengers to make reservations with
4 Pennco and for Pennco to pick up those
5 passengers at their doors and take them
6 to destinations that Pennco is
7 authorized to serve. Scheduled service
8 provided by Olympic under its tariff
9 requires the carrier to pick up
10 passengers at a designated stop and
11 deliver them to another designated stop
12 within the carrier's certificate of
13 authority. The currently provided
14 services of Olympic and Pennco do not
15 overlap because they are different
16 services. Olympic provides a scheduled
17 service that involves picking up
18 passengers at predetermined stops on a
19 posted schedule. Pennco provides a
20 door-to-door advanced reservations
21 service, which is a type of service that
22 does not rely on predetermined stops or
23 schedules. The Commission has found
24 that door-to-door service and scheduled
25 fixed terminized services are distinct

0126

1 and not overlapping even if performed in
2 the same geographic area.

3 And they reference Order MVC Number 1809 in
4 re San Juan Airlines Inc. d/b/a Shuttle Express.

5 MR. SHERRELL: Your Honor, I object, this
6 again should be covered in a brief argument, and it
7 doesn't speak to the specifics of licenses, so I object
8 to this line of questioning. This should be covered in
9 a brief argument, this seems to be arguing rather than
10 asking a question.

11 MR. LAUVER: This is the entire matter before
12 us. They have submitted -- I mean they filed a protest
13 proclaiming themselves to be a door-to-door company, we
14 are not. We have not filed for door-to-door. That's
15 what is at issue here, and truly that is all that is at
16 issue here. The Commission has ruled, it's crystal
17 clear, if they had read this, they would not have filed
18 or should not have filed a protest.

19 JUDGE FRIEDLANDER: Did you have something to
20 add, Mr. Sherrell?

21 MR. SHERRELL: Yeah, I'm about 180 degrees
22 south of what's being said here. I mean it's fine to
23 have this argument in a brief, and then you can put
24 substantiating material in back of that if that's your
25 endeavor. But what we're really arguing here is the

0127

1 need of public convenience of operating between Paine
2 Field and Seattle, not cases of the past, and so it
3 doesn't speak to what we're talking about.

4 MR. LAUVER: Mr. Sherrell did not address
5 this issue in his protest at all. He does not want what
6 he considers overlapping service. I can't be any
7 clearer than that. There's your protest, that's what
8 you protested, there's nothing else on the table here
9 that you're involved in.

10 JUDGE FRIEDLANDER: Okay, first, you have to
11 talk to me. I appreciate the dialogue. What I'm going
12 to do is I'm going to go ahead and take administrative
13 notice of the order in Docket TC-041340, and both
14 parties are certainly welcome to use it in their briefs.
15 The witness, however, is not an attorney. He doesn't --
16 he does not practice law. He's certainly willing --
17 you're certainly able I should say to ask him questions
18 about the case, whether he was involved in it, however
19 you want to frame this. However, not being an attorney,
20 we will save the legal arguments for the briefs.

21 MR. LAUVER: Well, I can only state I'm not
22 an attorney either, and I keep hearing almost every
23 subject that I touch on needs to be done in brief, and
24 my only -- the only thing I can surmise from that is
25 that the protestant is unprepared to defend his protest

0128

1 or to advance it. They just want to hear what we have
2 to say and now go away for a month and write a brief.
3 We're here at a hearing to resolve this. Brief is just
4 a summary.

5 JUDGE FRIEDLANDER: Well, we're here at a
6 hearing to take testimony and exhibits --

7 MR. LAUVER: Exactly.

8 JUDGE FRIEDLANDER: -- in an effort to
9 resolve it. I will say this, we knew right off the bat
10 from the prehearing conference that this was not going
11 to be resolved today. I understand your frustration,
12 however, we have a witness on the stand, you can either
13 ask him cross-examination questions, or you can close
14 with that.

15 BY MR. LAUVER:

16 Q. You provide door-to-door service in King
17 County, do you not?

18 A. We do.

19 Q. Does anybody provide scheduled service in
20 King County?

21 A. Yes, we do.

22 Q. Pardon me?

23 A. We do as well.

24 Q. Oh, you do. Does anybody else?

25 A. Scheduled service in King County?

0129

1 Q. Mm-hm.

2 A. No, not to my knowledge.

3 Q. Evergreen Trails was party to this hearing
4 earlier, do they provide scheduled service in King
5 County?

6 A. I'm sorry, Evergreen Trails does, yes.

7 Q. Oh, they do, okay. So you're currently
8 providing door-to-door in conjunction with Evergreen
9 Trails scheduled service, and that's been going on for
10 how long?

11 A. Since the beginning of 1987.

12 Q. And they're two different services, and is
13 that why they're permitted in that area?

14 A. I don't know the answer to that question.

15 Q. So they just happened as far as you know, and
16 you don't know any particular reason why that was; is
17 that correct?

18 A. There was a couple of cases at the very
19 beginning back in the late '80's that all of that came
20 down on. That's quite a long time ago.

21 Q. But those resolved apparently then the issue
22 of you being able to operate in a territory served by
23 Gray Line as a scheduled carrier, correct?

24 A. Correct.

25 Q. I looked at your protest, and I see that you

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1 claim service rights within a 25 mile radius of Sea-Tac
2 Airport, Renton Airport, Boeing Airport, and Paine
3 Field; is this correct?

4 A. Yes, that's what our certificate states.

5 Q. Do any other operators provide service within
6 that service area?

7 A. I can think of one, Capital Aeroporter.

8 Q. Anybody else?

9 A. Not that I can think of off the top of my
10 head.

11 Q. (Indicating.)

12 A. Oh, you guys, okay.

13 Q. Would that be Whidbey Seatac Shuttle?

14 A. 25 mile radius, that's true, from Paine
15 Field.

16 Q. How about Bellair Airporter?

17 A. 25 miles, maybe, from Paine Field to Mount
18 Vernon, I don't think they would fit there, Yakima, I
19 don't think so, but I could be wrong.

20 Q. Well, in fact 25 miles takes you up beyond
21 Stanwood, which is in fact one of their stops. And as
22 we mentioned previously, also Gray Line. Do all of
23 these providers provide scheduled service or
24 door-to-door service?

25 A. All of them provide scheduled service with

0131

1 the exception of Jim Fricke, who provides some
2 door-to-door service.

3 JUDGE FRIEDLANDER: And who is Jim Fricke?

4 MR. LAUVER: Capital Aeroporter.

5 JUDGE FRIEDLANDER: Okay, thank you.

6 BY MR. LAUVER:

7 Q. Did you protest Bellair Airporter providing
8 scheduled service in an area that you serve?

9 A. Not to my recollection.

10 Q. Did you protest Seatac Shuttle operating on
11 Whidbey Island in an area that is covered by your --

12 A. No, we did not.

13 Q. And did you protest Capital Aeroporter?

14 A. They were incumbent carriers when we arrived
15 on the scene.

16 Q. Did they protest you?

17 A. I don't recall.

18 Q. So they were incumbent carriers, and you came
19 into then their territory with what I'm hearing as your
20 definition would be overlapping service, but in fact you
21 both have services in this area now?

22 A. That's correct.

23 Q. And the same can be said of Gray Line?

24 A. Yes.

25 Q. So you've either never protested, or if

0132

1 memory doesn't serve you quite right or there was some
2 other issue out there, in all of these instances either
3 you didn't protest or if there was a hearing it was
4 found that both of these services were compatible; is
5 that not correct?

6 A. That's correct. We have protested other
7 cases that apparently do not operate or did not get
8 their operating extension or license.

9 Q. Were those because they offered scheduled
10 service or because they were going to offer door-to-door
11 service?

12 A. I don't recall the distinction. Valentinetti
13 is the one that comes to mind, and I believe he was
14 scheduled service.

15 Q. I just happen to have a copy of Valentinetti
16 here, and the docket on that is TC-001566, and I believe
17 a review of it will show that they were protested
18 because they wanted door-to-door and scheduled, and they
19 lost their application, their hearing for application,
20 because door-to-door was conflicting with your
21 door-to-door.

22 MR. SHERRELL: Your Honor, I object, this is
23 the same thing that we went through before, this needs
24 to be covered in the brief.

25 JUDGE FRIEDLANDER: I'm going to allow

0133

1 Mr. Rowley to answer it.

2 MR. LAUVER: Mr. Rowley brought up
3 Valentinetti, not me.

4 JUDGE FRIEDLANDER: And the company did
5 participate in the case, so I would like to hear what
6 Mr. Rowley has to say.

7 A. I'm sorry, what was the question?

8 BY MR. LAUVER:

9 Q. Was that in fact the case that
10 Mr. Valentinetti was looking for door-to-door service,
11 and you protested based on your door-to-door service,
12 and their application was denied?

13 A. You know, I don't recall if it was the
14 door-to-door piece of it that caused the denial. I know
15 that they were looking at doing some scheduled service
16 as well, so I don't know.

17 Q. Were you offering scheduled services at the
18 time?

19 A. Yes, we were.

20 Q. In the area that Mr. Valentinetti requested?

21 A. No, we were not.

22 Q. So they weren't subject -- a subject of your
23 protest then?

24 A. They were what?

25 Q. His scheduled service therefore was not a

0134

1 subject of your protest?

2 A. The fact they were in our territory was the
3 subject of our protest.

4 Q. So it is your position that any type of
5 service that comes in to what you consider to be your
6 service area constitutes overlapping service and is
7 therefore disallowed?

8 A. Correct.

9 Q. So you have a very large territory via your
10 certificate that stretches 80 miles north and south and
11 50 miles east and west, and it's your position that no
12 other operator can operate within that territory?

13 MR. SHERRELL: Your Honor, objection, does
14 this speak to -- I don't feel that this speaks to
15 providing convenience and service out of Paine Field to
16 Seattle. It only speaks to the fact that he's trying to
17 get us to say that we object to anything and everything,
18 and I don't think this speaks to the case at all.

19 MR. LAUVER: It speaks exactly to it. It's
20 our position that Shuttle Express has got a very
21 specific business plan that involves gobbling up as much
22 territory as it can to the exclusion of all other
23 operators. Now other operators are operating in that
24 territory, and Mr. Rowley has said either they didn't
25 object or they lost their protest. But they have this

0135

1 massive territory out there, and if I take a look at I
2 think it's 480-30-136 probably, it says that in (5)(a)
3 the, and this is something that we are allowed to
4 examine at hearing, is the protestant's authority of
5 existing companies and whether or not they are serving
6 to the full extent of that authority. I don't believe
7 they're serving to the full extent of that authority.
8 They have large unserved areas. They wish to preclude
9 anybody else from serving in those areas regardless of
10 the type of service that is being proposed, regardless
11 of the type of service that they operate or don't even
12 operate in that area.

13 MR. SHERRELL: Your Honor, that illustrates
14 exactly what I'm trying to prove is that they're trying
15 to attack another area rather than talk about the
16 Seattle-Paine and prove that that is a necessity for the
17 public, so they're trying to paint a picture --

18 JUDGE FRIEDLANDER: Well, my recollection is
19 that the last question you asked that was objected to
20 was in relation to this specific protest filed in this
21 docket.

22 Is there a way you can read that back, Joan,
23 the question that was asked and objected to.

24 (Record read as follows:)

25 Q. So you have a very large territory

0136

1 via your certificate that stretches 80
2 miles north and south and 50 miles east
3 and west, and it's your position that no
4 other operator can operate within that
5 territory?

6 JUDGE FRIEDLANDER: You know, I'm going to go
7 ahead and allow it as it relates to this protest, so I
8 would like the witness to answer.

9 A. Well, I think as I've indicated or as we've
10 drawn out, we have allowed people to, yourself, take
11 areas that are within that 80 mile radius, so I would
12 say no, that's not true.

13 BY MR. LAUVER:

14 Q. But at this juncture you're saying we can't?

15 A. This is an area that we are currently
16 serving. That's the difference between you being at
17 Whidbey Island where we are not serving and we allow
18 that protest to not protest versus this particular case.

19 Q. I believe you said you do not have any
20 scheduled service from Paine Field?

21 A. We do not, but we are servicing that market
22 adequately currently in my opinion.

23 Q. But you claimed that you had the authority to
24 service Paine Field with scheduled service?

25 A. That's true.

0137

1 Q. I direct you once again to WAC 480-30-136 and
2 say the authority of the existing companies and whether
3 or not they are serving to the full extent of that
4 authority, are you serving to the full extent of that
5 authority?

6 A. I believe we are.

7 Q. By not providing the scheduled service that
8 you claim is part of the extent of that authority, you
9 maintain that you are serving to the extent of that
10 authority?

11 A. My interpretation is that the market that we
12 are serving is the public, and if we are getting people
13 to the airport efficiently in a good manner for that
14 market, then yes, we are complying with the WAC that you
15 pointed out.

16

17 E X A M I N A T I O N

18 BY JUDGE FRIEDLANDER:

19 Q. Let me just ask a clarifying question. Do
20 you pick up passengers at Paine Field?

21 A. I'm sure we have as an address. I don't have
22 that knowledge though, so I really would have to answer
23 I don't know.

24 Q. Okay.

25 A. But we pick up in all areas in that zip code,

0138

1 Mukilteo, the Hilton Gardens, right around Paine Field,
2 and so I'm sure that if somebody was there we would have
3 picked them up.

4 Q. I'm going to go ahead and ask as a Bench
5 Request that you provide the Commission with the
6 information whether or not under your certificate
7 Shuttle Express has picked up passengers from Paine
8 Field.

9 A. Okay. I have -- I did pull up some
10 information as to how much business we're doing in the
11 zip code, but not specific to Paine Field itself.

12 Q. Okay.

13 A. So I will do that.

14 JUDGE FRIEDLANDER: Thank you. And that will
15 be BR-1 if you could reference that.

16 MR. SHERRELL: Your Honor, may I make a
17 comment on that?

18 JUDGE FRIEDLANDER: Yes.

19 MR. SHERRELL: One of the things that I hear
20 from Oak Harbor is that they are looking at service if
21 and when, so they're speculating service will come in,
22 so I don't see a relevance now of many people using --

23 MR. LAUVER: I'm going to object to this
24 comment.

25 MR. SHERRELL: Can I finish?

0139

1 MR. LAUVER: We have never stated that we are
2 speculating on anything. Jimmy keeps coming back to
3 this, this speculation, I don't understand where it's
4 coming from.

5 JUDGE FRIEDLANDER: Well, and I guess I would
6 like to clarify also. It's my understanding,
7 Mr. Sherrell, that your protest is based on the fact
8 that you believe if the Commission grants the extension
9 of authority to Seatac, they will be overlapping in your
10 certificated territory; is that correct?

11 MR. SHERRELL: That's correct.

12 JUDGE FRIEDLANDER: However, you've also or I
13 should say Seatac Shuttle has raised the possibility
14 that Shuttle Express does not serve Paine Field. That's
15 why I would like to know from Mr. Rowley and from you in
16 particular whether or not you have and do pick up
17 passengers in Paine Field. If you don't, then it seems
18 like there really isn't -- I guess I need to know
19 whether or not there is service to that territory. And
20 if you don't pick up passengers, I'm wondering where the
21 service is.

22 MR. SHERRELL: Can I finish my first
23 statement?

24 JUDGE FRIEDLANDER: Sure, go ahead.

25 MR. SHERRELL: Having been involved in the

0140

1 airlines and ground transportation, I know Paine Field
2 quite well, and the proposed service has to do with if
3 and when a major airline comes in to Paine Field, and
4 that will generate passengers. So currently the only
5 people that would operate out of Paine Field going to
6 Sea-Tac would be people that worked at Paine Field or
7 somebody that would fly in on a rare occasion and seek
8 to travel to Sea-Ta. It's more relevant if we take a
9 look at the surrounding area of Paine Field and say do
10 we serve Paine Field, because that's where people are
11 moving. There is currently no traffic coming into Paine
12 Field seeking to Sea-Tac until if and when, and that's
13 why I say it's speculation, that a major airline comes
14 in to Paine Field, then I think it's a relevant
15 question. But it's not a relevant question today
16 because there isn't any traffic in Paine Field. There
17 is in the outside areas that surround it and hotels.

18 JUDGE FRIEDLANDER: Well, I think -- go
19 ahead, Mr. Rowley.

20 MR. ROWLEY: Just a suggestion, the applicant
21 is asking for Paine Field and the surrounding 1 mile
22 radius, perhaps that's the information that we could
23 supply. That would mean I think there's a couple of
24 hotels in that area that we can provide that information
25 as to how many people we are transporting.

0141

1 MR. SOLIN: Can I just comment on that, I
2 don't believe on their "brochure" or web page there are
3 no hotels within the 1 mile radius of Paine Field. The
4 closest one I believe is about 3 miles away.

5 JUDGE FRIEDLANDER: Okay, why don't we save
6 this discussion for the briefs then. I would like a
7 Bench Request response for my own purposes, and please
8 do serve it on the parties as well, and then we'll save
9 this, the speculative/not speculative, for the briefs.

10 MR. SHERRELL: Could I make a request to the
11 Bench that we include, since the license that they're
12 asking for permit is for that area around there, that we
13 include that area along Paine Field so you really get a
14 good picture?

15 JUDGE FRIEDLANDER: And that is the territory
16 that you're asking for Seatac Shuttle, Mr. Solin?

17 MR. LAUVER: Once again we're getting into
18 this airline speculation situation, and that's why they
19 would like to draw these in. Any major airport,
20 Sea-Tac, there are a dozen shuttles down there,
21 scheduled, door-to-door, and we're not terribly
22 concerned about the outlying area. We're only looking
23 to move passengers from the airport. Now whether those
24 passengers just like our passengers on Whidbey Island
25 opt to drive a mile or 2 miles and go to the airport to

0142

1 catch our shuttle to go to Seattle or Sea-Tac, I don't
2 care if they come in on an airplane or not.

3 JUDGE FRIEDLANDER: So you're not asking for
4 authority then to serve the 1 mile radius outside of
5 Paine Field?

6 MR. LAUVER: Yes, we are, and they did not
7 protest that.

8 MR. SHERRELL: Yes, we have protested. We
9 have protested their application in its entirety.

10 JUDGE FRIEDLANDER: And the 1 mile radius,
11 would that overlap your territory?

12 MR. SHERRELL: Yes, it's in our territory.

13 JUDGE FRIEDLANDER: And again, just to
14 reiterate, you are asking for that 1 mile radius outside
15 of Paine Field?

16 MR. LAUVER: That is correct. The ability to
17 pick up and drop off passengers, not between Paine Field
18 and those locations, simply as a convenience on incoming
19 -- I mean people that are going to go out the next day
20 on a flight to be able to take them to the hotel rather
21 than the airport and then get on a hotel shuttle.

22 JUDGE FRIEDLANDER: Okay, why don't we go
23 ahead and give me both figures. Don't aggregate them.
24 Put in Paine Field separate, put in the 1 mile radius
25 separate, and you guys can all hash this out in the

0143

1 briefs, and we'll just continue with cross-examination
2 at this point.

3 MR. LAUVER: Okay.

4

5 C R O S S - E X A M I N A T I O N

6 BY MR. LAUVER:

7 Q. Then let me just make this positively
8 absolutely clear, you do not offer scheduled service to
9 Paine Field currently?

10 A. That is correct.

11 Q. When asked by Jimmy, you said you would
12 provide it, that you were willing to provide it?

13 A. Correct.

14 Q. That you have the authority to provide it,
15 but you're not providing it?

16 A. Right.

17 Q. Are you aware that it's always, always been
18 the position of the Commission that once somebody else
19 files for a service that you are not providing, you have
20 30 days to file for that service or you're done?

21 A. No, I was not aware of that.

22 Q. So for you to speculate --

23 MR. SHERRELL: Objection --

24 Q. For you to speculate --

25 JUDGE FRIEDLANDER: What is the objection?

0144

1 MR. SHERRELL: Well, it seems like he's
2 trying to step into the Commission's pocket here, and
3 it's a really convoluted question, and it doesn't really
4 speak to this case.

5 JUDGE FRIEDLANDER: Do you have a response,
6 Mr. Lauver?

7 MR. LAUVER: It speaks absolutely to it.

8 JUDGE FRIEDLANDER: Okay, why don't --

9 MR. LAUVER: When we applied for our original
10 certificate, we went into an actual overlapping
11 situation with another scheduled carrier. He did not
12 offer to provide any of the services that we offered to
13 provide. After the fact, he changed some of his
14 services and tried to have that as a mitigating factor.
15 The Commission found no, you may not change service to
16 prove adequacy or compliance after the fact.

17 JUDGE FRIEDLANDER: And you're referring to a
18 previous docket that the Commission has litigated?

19 MR. LAUVER: That is correct.

20 JUDGE FRIEDLANDER: Which docket is this?

21 MR. SOLIN: Our original application.

22 MR. LAUVER: Can you look that up.

23 MR. SOLIN: In 2003.

24 MR. SHERRELL: Again, Your Honor, this needs
25 to be covered in the brief argument.

0145

1 MR. LAUVER: My question is what is supposed
2 to be covered in the hearing, Jimmy?

3 MR. SHERRELL: Present the information -- I'm
4 sorry.

5 JUDGE FRIEDLANDER: Just as a reminder, don't
6 talk to each other, just talk to me.

7 I would like to have Joan, after Mr. Solin
8 refers us back to which docket Seatac is referencing,
9 then I would like to have Joan read back your question,
10 Mr. Lauver, and then I will determine -- I will rule on
11 the objection at that time.

12 MR. LAUVER: All right.

13 JUDGE FRIEDLANDER: You said that was a 2003
14 docket?

15 MR. LAUVER: Correct.

16 MR. SOLIN: Yes, I should be able to have it
17 here shortly hopefully if I can find it.

18 TC-030489.

19 JUDGE FRIEDLANDER: Thank you.

20 Joan, why don't we go ahead and read back
21 that question.

22 (Record read as follows:)

23 Q. Are you aware that it's always,
24 always been the position of the
25 Commission that once somebody else files

0146

1 for a service that you are not
2 providing, you have 30 days to file for
3 that service or you're done?

4 A. No, I was not aware of that.

5 JUDGE FRIEDLANDER: Okay, so obviously if
6 your witness answers it, then you can't object. But
7 having said that, I would like a clarification on the
8 question myself. When you say you have 30 days, you
9 have requested service, what do you mean by requested?

10 MR. LAUVER: If I file an application, an
11 original application or an application for extension,
12 parties have 30 days to file a protest or to file for
13 like service.

14 JUDGE FRIEDLANDER: Right, and I guess my
15 confusion comes in that the protestants did file a
16 protest.

17 MR. LAUVER: They filed a protest, but
18 they're not providing the service, and they're saying
19 you shouldn't grant this because we would provide the
20 service, and we would is not the criteria.

21 JUDGE FRIEDLANDER: Okay, that's what I
22 wanted to clarify.

23 MR. LAUVER: For the Commission to consider.

24 JUDGE FRIEDLANDER: That's what I wanted to
25 clarify.

0147

1 MR. SOLIN: Do it.

2 JUDGE FRIEDLANDER: Why don't you go ahead
3 and continue the cross-exam then.

4 MR. LAUVER: All right, I will put that in
5 the brief.

6 BY MR. LAUVER:

7 Q. I know this is going to engender an
8 objection, but I'm going to do it anyways, and then I
9 guess we'll speak to it.

10 In your protest you state that you have a
11 fleet of 100 vans, correct?

12 A. Mm-hm.

13 Q. And you state that you have a surplus of
14 vehicles so that you can easily accommodate any
15 additional service that comes down, correct?

16 A. Right.

17 Q. In your statement here today you said you
18 have approximately 75 vehicles?

19 A. Mm-hm.

20 Q. Is that correct?

21 A. Yes, we recently retired our CNG vehicles,
22 and we are currently looking for 10 more as we speak.

23 Q. How many surplus vehicles do you have?

24 A. Right now probably 20, 25.

25 Q. 20 to 25. Well, in your Exhibit JR-3, I

0148

1 believe you list a total of 79 vans, vehicles, and when
2 you take out the coaches and all the limos, that would
3 leave you down to 62 vans, so are you still operating
4 with a big surplus of vans out there?

5 A. The surplus is correct, that's just based on
6 what we've got left in the lot presently, but we are
7 ordering 10 more because we're starting to come up
8 against it.

9 Q. But you claimed in the protest you had 100
10 when in fact you had 79 at the time?

11 A. Yeah. As I mentioned, we retired the CNG
12 vehicles, that would speak to the difference.

13 Q. When did you do that?

14 A. Between then and now.

15 Q. Do you want to narrow it down any -- well,
16 never mind.

17 Let's take a look then still talking about
18 your vehicles and your equipment list there, you've got,
19 well, let's see, how many vehicles, it looks like
20 they're all perhaps except 1, 8 seats or larger.

21 A. Correct.

22 Q. Correct, okay. So out of the I believe it's
23 79 that you list, only 1 is 6 seats, all the others are
24 8 and go up to as high as 32?

25 A. Correct.

0149

1 Q. Let's look at the certificate that you
2 provided us, your Certificate Number 000975, and let's
3 look at page 2, the bottom of page 2 there's a caption
4 restrictions, can you read the first restriction there
5 for me?

6 A. (Reading.)
7 Service may be provided in vehicles no
8 larger than a 7 passenger van.

9 Q. And how many vehicles do you have again that
10 are 7 passengers or less?

11 A. We have 1.

12 Q. Are you in compliance with your certificate?

13 A. Further on we also obtained 2 other licenses,
14 one is a Suburban license, the other was a certificate
15 from Everett. Both of them were scheduled service
16 operations, and with the acquisition of those we also
17 acquired their vehicle authorities.

18 Q. Well, I believe if you will review this, this
19 is specific to the Paine Field area that is in
20 contention now between Seattle-Tacoma International
21 Airport, Boeing Field, Renton Airport, and Paine Field,
22 and points within a 25 mile radius of these airports,
23 this particular section of your certificate has this
24 restriction on it, does it not?

25 A. This is the original certificate?

0150

1 Q. Yes.

2 A. I don't know, what was the question again?

3 Q. The question is, in light of this, are you in
4 compliance with your authority?

5 A. I believe I am, with the rest of the
6 certificate.

7 Q. You acquired apparently Certificate Number
8 C-859, which gives you service in some areas that might
9 be within that 25 mile radius, but not exclusively. And
10 specifically the points named in here, you might be able
11 to operate between those specific points I would think,
12 but as a blanket provision of your certificate you are
13 not permitted to operate more than 7 seat vehicles. Can
14 you take a look at this and tell me if that's correct?

15 A. I feel that is incorrect.

16 Q. On what basis?

17 A. That would be my opinion versus your opinion.

18 Q. No substantiation, just an opinion?

19 A. The license is rather convoluted, but because
20 of the acquisition, I am of the opinion that we are able
21 to operate the larger sized vehicles.

22 JUDGE FRIEDLANDER: Because of the
23 acquisition of what?

24 MR. ROWLEY: Everett, Ease Airporter and
25 Suburban Airporter.

0151

1 JUDGE FRIEDLANDER: And what certificates
2 were those, do you have those numbers?

3 MR. ROWLEY: They're listed on the
4 certificate. C-859 is Suburban.

5 JUDGE FRIEDLANDER: Okay.

6 MR. ROWLEY: And C-858 is Ease Airporter.

7 JUDGE FRIEDLANDER: Okay, thank you.

8 BY MR. LAUVER:

9 Q. At what point in time did you start running
10 larger vehicles? I'm looking for a date.

11 A. Probably in maybe the late '90's.

12 Q. And when did you acquire C-859?

13 A. It would have been in the late '90's. The
14 vans became available a little bit larger.

15 MR. LAUVER: Okay, I would like at this time
16 to recall Mr. Solin.

17 JUDGE FRIEDLANDER: We need to do redirect,
18 and then --

19 MR. LAUVER: Oh, I'm sorry.

20 JUDGE FRIEDLANDER: We need to do redirect,
21 and then I will get to that.

22 For now, okay, let's just go ahead and do,
23 Mr. Sherrell, did you have redirect for Mr. Rowley?

24 MR. SHERRELL: Just a few.

25

0152

1 R E D I R E C T E X A M I N A T I O N

2 BY MR. SHERRELL:

3 Q. Mr. Rowley, you were asked about a list that
4 showed our drivers, and it showed door-to-door, do those
5 door-to-door drivers do both scheduled service and
6 door-to-door?

7 A. They do.

8 Q. Mr. Rowley, is Shuttle Express allowed to
9 serve all downtown hotels?

10 A. No, we are excluded from 8 downtown hotels.

11 Q. Is scheduled service served in those hotels
12 that we are excluded from?

13 A. Yes, by Evergreen Trails, Gray Line.

14 Q. When Bellair asked for service in which could
15 be construed as our area, were we serving that area at
16 the time when Bellair was serving or asked for the
17 permit to serve that area?

18 A. No, we were not.

19 Q. Did we have any desire to serve that area?

20 A. No, we did not.

21 Q. Why are we currently not offering any scheduled
22 service out of Paine Field?

23 A. It's my opinion that there is no demand for
24 scheduled service out of Paine Field at this time.

25 Q. I asked you this before -- well, never mind.

0153

1 MR. SHERRELL: That's it.

2 JUDGE FRIEDLANDER: Okay, thank you.

3 And I have no questions but will just
4 reiterate the Bench Request.

5 MR. ROWLEY: Yes.

6 JUDGE FRIEDLANDER: Then you're dismissed,
7 thank you.

8 MR. ROWLEY: Thank goodness.

9 JUDGE FRIEDLANDER: With regard to your
10 request to recall Mr. Solin, I will allow that relating
11 to issues that have been brought up with this witness
12 only that have not been addressed by Mr. Solin
13 previously.

14

15 Whereupon,

16

JOHN SOLIN,

17 having been previously duly sworn, was called as a
18 witness herein and was examined and testified as
19 follows:

20

21 R E D I R E C T E X A M I N A T I O N

22 BY MR. LAUVER:

23 Q. Mr. Solin, you heard the testimony of
24 Mr. Rowley stating that the advent of airline service at
25 Paine Field is questionable at best?

0154

1 A. Yes, I did.

2 Q. And you've looked into that somewhat and
3 spoken with some people as you indicated earlier?

4 A. Yes, I have.

5 Q. Are you aware of any other provisions that
6 would strengthen the airlines' resolve or ability rather
7 to be at Paine Field?

8 A. Yes.

9 Q. And are those economic incentives to the
10 airlines or to the airport?

11 A. Primarily economic incentives to the airport.

12 Q. And those economic incentives to the airport
13 are of what nature?

14 A. Again getting back to the beginning, the
15 airlines requested and have indicated that they want to
16 be at Paine Field. Paine Field has never had scheduled
17 large major airlines or shuttle carriers of the scale in
18 the past primarily because the airport and Snohomish
19 County felt they did not want to offer that at that
20 airport and interfere with what they perceived as an
21 issue with jeopardizing Boeing's plant's operations.
22 However, once the airlines specifically have made a
23 request to Paine Field, Paine Field receives about \$17
24 Million in federal grant funding to support and maintain
25 that airport. If an individual airport refuses to

0155

1 permit a scheduled U.S. carrier to operate on that
2 field, they will lose their funding, whether they want
3 this airline to operate or not.

4 Q. So these are federal subsidy grants given to
5 airports all around the country, and what you just said
6 is that if an airport that has been receiving these
7 grants for whatever purposes, maintenance and
8 operations, capital expenditures, refuses to allow a
9 certificated air carrier to operate out of that field,
10 they lose their grant ability and their federal funding?

11 A. That is correct.

12 Q. Has Boeing said anything about the fact that
13 if the airport doesn't continue to receive its ongoing
14 federal funding that that will affect them negatively or
15 positively?

16 A. That was a comment made by them when this
17 first came out about the airport attempting to possibly
18 reject the air carrier application.

19 Q. And that comment was essentially?

20 A. We're going to consider looking elsewhere if
21 we have to, if we can't maintain the facilities at this
22 field to our satisfaction or if the port can't maintain
23 the facilities for Boeing.

24 Q. And so the attitude as communicated to you
25 via the operations people and/or the airport manager at

0156

1 Paine Field was that they were going to continue to
2 accept these federal grant moneys or that they were
3 going to reject them?

4 A. No, the airport manager made it very clear
5 that they will do whatever it takes to accommodate the
6 airlines at the expense versus the loss of their
7 funding, so they are going to be very much pro airline
8 regardless of the neighborhood surrounding the airport
9 being the main objection.

10 Q. So in your opinion, over the past number of
11 years then the reason that these carriers or perhaps
12 smaller carriers have not gone in there is because of
13 this not in my back yard sort of mentality from the
14 Mukilteo and surrounding neighborhoods?

15 A. Yes, there's a very vocal group that made it
16 clear they did not want air service in and out of Paine
17 Field for many years.

18 Q. But now that position has been reversed
19 because?

20 A. Well, the airport and the port and the
21 commissioners are reversing their feelings based on the
22 funding situation.

23 Q. So are you aware of any plans to create a
24 passenger terminal or anything at Paine Field?

25 A. Yes. When we talked to the airport manager,

0157

1 they said they would certainly provide facilities for
2 passengers, talking about additional parking lots for
3 customers, and of course said we'll do whatever it takes
4 to welcome, you know, scheduled service to take
5 passengers in and out of the airport.

6 MR. SHERRELL: Your Honor, this does speak to
7 more hearsay, because if they wanted to have a witness,
8 a qualified witness that is an expert in the field, they
9 should have really presented this as part of it. I
10 don't object to what they've already gone through, but I
11 think going forward you need an expert witness on this,
12 and it wasn't provided, and there's no way you can
13 cross-examine, so a lot of this could be hearsay. I
14 think they've made their case, so I would just object to
15 going forward with further testimony on this.

16 JUDGE FRIEDLANDER: Do you have -- go ahead.

17 MR. LAUVER: Not only were these direct
18 conversations that Mr. Solin was involved in and a
19 participant of, much of this information has been
20 published in the Snohomish Business Journal for the
21 public to see.

22 MR. SHERRELL: Business journals are hearsay,
23 sorry.

24 JUDGE FRIEDLANDER: Well, why don't you go
25 ahead, and this will be Bench Request Number 2, the

0158

1 Snohomish Business Journal, is that what you said?

2 MR. LAUVER: (Nodding head.)

3 JUDGE FRIEDLANDER: All right, let's go ahead
4 for BR-2, Mr. Solin can provide the Commission with
5 copies of those articles, and to the parties as well.

6 MR. SHERRELL: Just a question, isn't that
7 hearsay because it's a -- you can't cross-examine, it's
8 just a newspaper article. I don't think it's
9 admissible.

10 JUDGE FRIEDLANDER: It's documentary evidence
11 though. It's just a documentary -- it would be like a
12 newspaper or a journal of any kind.

13 MR. SHERRELL: It doesn't bear weight,
14 because you can't cross-examine, you can't --

15 JUDGE FRIEDLANDER: Well, I think what
16 they're doing is they're offering it for the statements
17 within it relating to -- you're free to object at the
18 time that they offer this if you don't think that -- I'm
19 forgetting now, who did you say that the journal quotes?

20 MR. LAUVER: The airport manager.

21 JUDGE FRIEDLANDER: And what is his name?

22 MR. LAUVER: The mayor and some councilmen.

23 JUDGE FRIEDLANDER: So if you feel that the
24 article's credibility is lacking, you're certainly free
25 to make that argument.

0159

1 MR. SHERRELL: Okay.

2 JUDGE FRIEDLANDER: Okay, did you have
3 additional direct?

4 MR. LAUVER: I think that's all.

5 BY MR. LAUVER:

6 Q. Well, simply to reiterate that you did not
7 apparently apply for any door-to-door service?

8 A. No, we applied for scheduled service.

9 Q. And the company protesting you proclaims
10 itself to be a door-to-door company providing
11 door-to-door service in its protest?

12 A. Exactly, that's the wording of their protest
13 is specific as to door-to-door.

14 MR. LAUVER: Thank you.

15 JUDGE FRIEDLANDER: Okay, did you have any
16 cross-examination?

17 MR. SHERRELL: (Shaking head.)

18 JUDGE FRIEDLANDER: All right, I don't have
19 any questions either, so, Mr. Solin, you're excused.

20 As preliminary procedural matters, I would
21 indicate to the parties, as I did on the record in the
22 transcript, that I'm taking administrative notice of
23 Docket TC-041340 and TC-001566, and I would also
24 reiterate that I have made two Bench Requests, one from
25 Mr. Rowley and one from Mr. Solin, that would be BR-1

0160

1 and BR-2 respectively.

2 Now, Mr. Lauver, I have four exhibits for
3 Seatac Shuttle, are you requesting that these be
4 admitted to the record?

5 MR. LAUVER: Yes.

6 JUDGE FRIEDLANDER: Is there any objection?

7 MR. SHERRELL: No.

8 JUDGE FRIEDLANDER: Okay, they are so
9 admitted.

10 And, Mr. Sherrell, I have four exhibits,
11 keeping in mind that we grouped together as JR-5 both
12 advertising pamphlets, and then you withdraw JR-2, are
13 you asking that these be admitted to the record?

14 MR. SHERRELL: I am.

15 JUDGE FRIEDLANDER: Is there any objection?

16 MR. LAUVER: Yes.

17 JUDGE FRIEDLANDER: Okay, with respect to?

18 MR. LAUVER: 5.

19 JUDGE FRIEDLANDER: Okay.

20 MR. LAUVER: I have a twofold concern here.
21 Unfortunately we folded these in as marketing materials.

22 JUDGE FRIEDLANDER: Right.

23 MR. LAUVER: And yet one, the brochure, seems
24 to speak to a timetable that the protestant purports to
25 operate. The other one is purely a marketing material

0161

1 and has no time schedule whatsoever on it and in fact
2 was never referenced in this hearing today, so I don't
3 think that the poster portion of JR-5 should be
4 admitted. I think that the brochure portion of JR-5
5 should be admitted.

6 JUDGE FRIEDLANDER: Okay, and do you have --

7 MR. SHERRELL: I have no objection.

8 JUDGE FRIEDLANDER: Okay, so then JR-5 will
9 solely be the advertising pamphlet of Shuttle Express,
10 and we will note that Shuttle Express has withdrawn the
11 newspaper advertisement from the Seattle PI. Is there
12 any other objection to the rest of the exhibits?

13 MR. LAUVER: No.

14 JUDGE FRIEDLANDER: Okay, they are so
15 admitted.

16 I don't have any further questions for the
17 parties. I would note that as we stated before on the
18 record simultaneous briefs are due July 8th, and I will
19 render a decision I believe we had down August 12th for
20 a decision. I would like the Bench Requests to be in
21 within five business days. Is that enough time for
22 everybody?

23 MR. SHERRELL: Bench Requests?

24 JUDGE FRIEDLANDER: Yes, the list of
25 customers that were picked up --

0162

1 MR. SOLIN: So that's the 17th of June?

2 JUDGE FRIEDLANDER: Yes.

3 MR. SOLIN: One week from today?

4 JUDGE FRIEDLANDER: Exactly. All right, then
5 we will go ahead and I will expect those. And as I said
6 before, please serve those on the parties as well. So
7 that's June 17th.

8 All right, do the parties have any other
9 administrative matters that they needed to address at
10 this time?

11 MR. SHERRELL: When will we get the
12 transcript?

13 JUDGE FRIEDLANDER: Typically it's within I
14 believe 10 to 14 calendar days.

15 MR. LAUVER: 48 hours.

16 JUDGE FRIEDLANDER: Typically it's within 2
17 to 3 weeks.

18 MR. SHERRELL: So June 24th.

19 JUDGE FRIEDLANDER: This is a rather long one
20 so --

21 MR. SOLIN: So we'll have approximately two
22 weeks?

23 JUDGE FRIEDLANDER: Right, exactly.

24 (Discussion off the record.)

25 JUDGE FRIEDLANDER: So your question has been

0163

1 answered with regard to the time of the transcript
2 filing, that will be at the Commission and if you order
3 it you'll get a copy within two weeks.

4 MR. SHERRELL: How do we order it, can we
5 order it now?

6 JUDGE FRIEDLANDER: You can do that after the
7 hearing.

8 MR. SHERRELL: Okay.

9 JUDGE FRIEDLANDER: So Mr. Sherrell has
10 requested that we, while we were off the record, has
11 requested that the parties be given an additional week
12 to file simultaneous closing briefs, that would bring us
13 to July 15th, what is the sentiment of Seatac Shuttle?

14 MR. LAUVER: The sentiments of Seatac Shuttle
15 are that we are at the seven month mark at that point in
16 this process, and we're purporting now to delay that
17 even further. Besides that being essentially a
18 disservice to Seatac Shuttle and its endeavor to do
19 business, I feel it's a disservice to the traveling
20 public that we can not simply add a route within a
21 reasonable time. Mr. Solin is unavailable after or
22 beginning the 9th of July, so the additional time does
23 not serve us at all, it's merely a convenience for
24 Mr. Sherrell.

25 MR. SOLIN: Question, would this delay the

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1 decision then again by another week from August 12th?

2 JUDGE FRIEDLANDER: More than likely. More
3 than likely, because I need a full amount of time to
4 review whatever is coming in from the parties.

5 Mr. Sherrell, I assume that like some high
6 school students you're not going to wait until the last
7 minute to do the simultaneous brief, so if you have
8 something going on the first week of July, you could
9 perhaps begin working on the brief prior to that.

10 MR. SHERRELL: I could, but were they to get
11 the license, it would save them some money, because
12 there's no traffic out of Paine Field right now anyway,
13 so.

14 JUDGE FRIEDLANDER: Well, we won't even get
15 into that, we're just discussing the schedule right now.

16 MR. LAUVER: Don't do me any favors.

17 JUDGE FRIEDLANDER: So I'm inclined to,
18 unless you have a medical emergency or something that
19 you can't get Mr. Rowley to help you on as far as
20 writing the brief goes, I'm inclined to stick to the
21 original schedule, and then we'll keep on schedule from
22 the prehearing conference.

23 So is there any other administrative matters
24 that we need to deal with before we close the hearing?

25 Okay, Bench Requests in a week, and thank you

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1 very much.

2 (Hearing adjourned at 2:45 p.m.)

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