

DATE PREPARED: April 3, 2017
DOCKET: TC-143691, TC-160516
REQUESTER: Shuttle Express, Inc.

WITNESS: Jack Roemer
RESPONDER: Jack Roemer
TELEPHONE: (206) 233-2895

Data Request No. 46:

Regarding Mr. Roemer's testimony at page 6, in what ways is SpeediShuttle service similar to and in what ways is it different than its service in Hawaii?

RESPONSE to Data Request No. 46:

Speedishuttle objects that this request is better suited for a deposition or cross examination, both of which are available to Shuttle Express (and in fact Shuttle Express conducted Mr. Roemer's deposition subsequent to serving this request) and which are less burdensome to Speedishuttle. Speedishuttle further objects that this request confounds Speedishuttle Washington, LLC with Speedishuttle, LLC, which are two distinct entities. This request is also vague and ambiguous. Is the request intended to inquire about what Jack Roemer meant by "similar"? Or is this request intended to inquire about every difference and similarity?

Subject to and without waiving the foregoing objections, the testimony that Speedishuttle Washington proposed to provide a similar service to that of Speedishuttle Hawaii relates to the service features discussed at the application hearing, all of which were previously provided by Speedishuttle Hawaii.

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Data Request No. 47:

Regarding Mr. Roemer's testimony at pages 6, 44, and 45, regarding comparison of the Seattle and Hawaii markets and sustainability, for each of the airports SpeediShuttle serves in Hawaii, please provide data and supporting documents showing or comparing the numbers and percentage of passengers transported to or from a hotel or resort on the one hand, compared to passengers transported to or from a residence (single or multi-family) or office, on the other hand. If the data cannot be provided in exactly the form or format requested please provide the data in as similar and disaggregated form and substantive content as is available to SpeediShuttle.

RESPONSE to Data Request No. 47:

Speedishuttle objects that this request misstates testimony. There is no testimony on page 6, 44 or 45 "regarding comparison of the Seattle and Hawaii markets and sustainability."

Further, the request seeks irrelevant information which is incapable of establishing any issue in controversy and is not reasonably calculated to lead to the discovery of admissible evidence. The Administrative Law Judge ruled on March 28, 2017 during a discovery conference at the deposition of Mr. Roemer that sustainability is not an issue in this proceeding.

The information requested is not available in the format requested and would have to be created, which Speedishuttle is not required to do.

This request is not limited in time and thus seeks data for all 19 years of operation by Speedishuttle Hawaii. This request is therefore overbroad and unduly burdensome.

Further, this request confuses that Speedishuttle, LLC ("Speedishuttle Hawaii") and Speedishuttle Washington, LLC ("Speedishuttle Seattle") are two distinct entities. Speedishuttle Washington is not obligated to acquire and produce Speedishuttle Hawaii's trip data and Speedishuttle Hawaii is not subject to regulation in Washington.

Even if the data were acquired and produced, the data would be incomplete and unhelpful to a comparison between the markets because there are multiple other providers at each airport in Hawaii served by Speedishuttle Hawaii whose trip data would also have be obtained and evaluated. But that information is not available by subpoena here.

SPEEDISHUTTLE'S RESPONSES TO SHUTTLE EXPRESS'
THIRD DATA REQUESTS - 5

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This request also blatantly ignores the scope of discovery which the Administrative Law Judge provided on September 27, 2016 at p. 185 lines 4-14 of the hearing transcript. That scope was limited to “whether Speedishuttle is providing the service the Commission authorized it to provide consistent with the business model approved by the Commission in Docket TC-143691, and whether Speedishuttle is providing service below cost as alleged in the complaint in Docket TC-160516.”

In that same hearing, the Administrative Law Judge denied Shuttle Express’ Motion to Compel as to Data Request No. 13 as to data for Hawaii, which should demonstrate to Shuttle Express that this request seeks irrelevant information.

Speedishuttle’s testimony pointing out the inadequacy of foundation to the opinions expressed by Don Wood, Paul Kajanoff and Wesley Marks, by simply noting that other markets in which there are multiple providers exist, does not “open the door” to new discovery to attempt to retroactively support previously unfounded opinions.

Finally, Speedishuttle previously sought comparative data from Shuttle Express by which the Commission could compare the fare/cost ratio utilized by both Speedishuttle and Shuttle Express, but Shuttle Express asserted the following objection to Speedishuttle’s Data Request No. 31, which Speedishuttle incorporates by reference here:

“Shuttle Express objects to the terminology and definitions purportedly applied to each and every data request. The terms and definitions are biased in nature and responses that acknowledge such terminology could be prejudicial or misleading. Shuttle Express further objects to this request as overbroad, unduly burdensome, irrelevant in the discovery sense, imposed for an improper competitive and harassing purpose and not made in good faith. Moreover, Shuttle Express objects that this question seeks proprietary and competitively damaging information and is thus sought for an improper purpose, particularly in light of the unavailability of a protective order in this proceeding. Sharing specific cost and revenue data with a competitor would essentially, and unfairly, enable that competitor to target its services, marketing, and fares to better compete with Shuttle Express for the most profitable territories and services and to avoid competing for the less profitable or unprofitable territories an service.”

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Data Request No. 48:

Regarding Mr. Roemer's testimony at pages 6, 44, and 45, regarding comparison of the Seattle and Hawaii markets and sustainability, for Sea-Tac airport, please provide data and supporting documents showing or comparing the numbers and percentage of passengers transported to or from a hotel or resort on the one hand, compared to passengers transported to or from a residence (single or multi-family) or office, on the other hand. If the data cannot be provided in exactly the form or format requested please provide the data in as similar and disaggregated form and substantive content as is available to SpeediShuttle.

RESPONSE to Data Request No. 48:

Speedishuttle objects that this request misstates testimony. There is no testimony on page 6, 44 or 45 "regarding comparison of the Seattle and Hawaii markets and sustainability."

This request also seeks information similar to that of Shuttle Express' Data Request No. 6 for which the Administrative Law Judge previously denied a motion to compel. Thus, not only is this request unreasonably cumulative, it disregards and attempts to circumvent the Administrative Law Judge's ruling on September 27, 2016 which denied Shuttle Express' Motion to Compel as to that data request. Additionally, the Administrative Law Judge ruled on March 28, 2017 during a discovery conference at the deposition of Mr. Roemer that sustainability is not an issue in this proceeding. Thus, the data this request seeks are irrelevant information which is incapable of establishing any issue in controversy and which is not reasonably calculated to lead to the discovery of admissible evidence.

The information requested, in the format requested, is also not available for the King County market, and attempting to create it is unreasonably burdensome as the information is not tracked in the way requested and would have to be created.

This request also blatantly disregards the scope of discovery which the Administrative Law Judge duly limited on September 27, 2016 at p. 185 lines 4-14 of the hearing transcript. That scope again was limited to "whether Speedishuttle is providing the service the Commission authorized it to provide consistent with the business model approved by the Commission in Docket TC-143691, and whether Speedishuttle is providing service below cost as alleged in the complaint in Docket TC-160516," which was also referenced in Order 08.

SPEEDISHUTTLE'S RESPONSES TO SHUTTLE EXPRESS'
THIRD DATA REQUESTS - 7

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Mr. Roemer's testimony pointing out the inadequacy of foundation to the opinions expressed by Don Wood, Paul Kajanoff and Wesley Marks, by simply noting markets in which there are multiple providers, does not "open the door" to new discovery to attempt to retroactively support previously unfounded opinions featured in Shuttle Express' testimony.

Speedishuttle similarly objects to providing its competitor with readily identifiable customer information as well as data that is proprietary and could be directly used to harm its position in the marketplace. Speedishuttle asserts the request is also unduly burdensome, overbroad and oppressive and seeks information that is not compiled in the format requested, which increases the amount of time required to provide the information requested.

Finally, Speedishuttle previously sought comparative data from Shuttle Express by which the Commission could compare the fare/cost ratio utilized by both Speedishuttle and Shuttle Express, but Shuttle Express asserted the following objection to Speedishuttle's Data Request No. 31, which Speedishuttle incorporates by reference here:

"Shuttle Express objects to the terminology and definitions purportedly applied to each and every data request. The terms and definitions are biased in nature and responses that acknowledge such terminology could be prejudicial or misleading. Shuttle Express further objects to this request as overbroad, unduly burdensome, irrelevant in the discovery sense, imposed for an improper competitive and harassing purpose and not made in good faith. Moreover, Shuttle Express objects that this question seeks proprietary and competitively damaging information and is thus sought for an improper purpose, particularly in light of the unavailability of a protective order in this proceeding. Sharing specific cost and revenue data with a competitor would essentially, and unfairly, enable that competitor to target its services, marketing, and fares to better compete with Shuttle Express for the most profitable territories and services and to avoid competing for the less profitable or unprofitable territories an service."

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Data Request No. 49:

Regarding Mr. Roemer's testimony at page 12, please provide copies of SpeediShuttle's Fleet Replacement Policy and documents that show the actual application and replacement of vehicles used in the Seattle market by SpeediShuttle Washington to [sic] date."provide the current mileage on each vehicle in your Washington and Hawaii fleets.

RESPONSE to Data Request No. 49:

Speedishuttle objects that this request again obfuscates that Speedishuttle, LLC ("Speedishuttle Hawaii") and Speedishuttle Washington, LLC ("Speedishuttle Seattle") are two distinct entities. Speedishuttle Seattle is not obligated to acquire and produce Speedishuttle Hawaii's records. This data request also ignores the Administrative Law Judge's September 27, 2016 ruling on previous requests for Speedishuttle Hawaii's records.

This request is unreasonably cumulative and harassing. Speedishuttle has produced a fleet list which provided model years of each of the vehicle in Speedishuttle's fleet in response to previous data requests from Shuttle Express. That response should be adequate and provide any information needed to compare to Shuttle Express' fleet.

Subject to and without waiving the foregoing objections, Speedishuttle generally replaces its vehicles before they are five years old (as does Speedishuttle Hawaii).

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Data Request No. 50:

Regarding Mr. Roemer's testimony at page 12, please provide the current mileage on each vehicle in your Washington and Hawaii fleets

RESPONSE to Data Request No. 50:

Speedishuttle objects that this data request is unreasonably cumulative in that the same information was requested in Data Request No. 49. Speedishuttle further objects to this request as being irrelevant to any issue raised in the pleadings or testimony. Mr. Roemer, at page 12 testified that the vehicles were newer, which they are, not as to the mileage of the vehicles.

Speedishuttle further objects that this request again confuses that Speedishuttle, LLC ("Speedishuttle Hawaii") and Speedishuttle Washington, LLC ("Speedishuttle Seattle") are two distinct entities. Speedishuttle Seattle is not obligated to acquire and produce Speedishuttle Hawaii's records. This data request ignores the Administrative Law Judge's September 27, 2016 ruling on other requests for Speedishuttle Hawaii's records.