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

2 JUDGE MACE: Good morning. This is a hearing
3 before the Washington State Utilities and Transportation
4 Commission. This is the hearing in the application
5 docketed Number TC-041340, an application filed by
6 Pennco Transportation, Inc., and Docket Number
7 TC-041593, an application filed by Heckman Motors, Inc.
8 d/b/a Olympic Bus Lines. These applications have been
9 consolidated for purposes of hearing, and so today this
10 is a hearing on both applications.

11 My name is Theo Mace, and I'm the
12 Administrative Law Judge who has been assigned to hold
13 the hearings in this case, and now what I want to do is
14 have the parties' representatives introduce themselves,
15 and I will begin with you, Mr. Heckman. You have
16 already given us what we call the long form of your
17 appearance, if you will just tell us who you are and who
18 you represent.

19 MR. HECKMAN: I'm Jack Heckman, and I'm the
20 President of Heckman Motors, Inc., d/b/a Olympic Bus
21 Lines.

22 JUDGE MACE: And you're here representing
23 that company today?

24 MR. HECKMAN: Yes, I am.

25 JUDGE MACE: You don't have an attorney?

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1 MR. HECKMAN: No, I do not.

2 JUDGE MACE: Okay, thank you.

3 I note for the record that I believe it's
4 Mr. Kevin Harris who is the person who has been
5 representing Pennco Transportation is not here in the
6 hearing room at this time. We may give him some time to
7 come into the hearing room. Perhaps we'll adjourn after
8 I take appearances for a few moments. Well, maybe we
9 don't have to adjourn. Mr. Harris?

10 MR. HARRIS: Yes.

11 JUDGE MACE: You came in just in time. If
12 you would introduce yourself for the record.

13 MR. HARRIS: Kevin Harris, President of
14 Pennco Transportation.

15 JUDGE MACE: And you're representing Pennco
16 today?

17 MR. HARRIS: Yes.

18 JUDGE MACE: All right, thank you.

19 MR. THOMPSON: And my name is Jonathan
20 Thompson, I am an Assistant Attorney General, and I am
21 representing the Commission Staff.

22 JUDGE MACE: All right, thank you.

23 Let me further indicate for the record that
24 we are convened in a hearing room in Port Angeles,
25 Washington at 201 West First Street in Port Angeles.

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1 Well, we're convened today for an evidentiary
2 hearing, and that involves the presentation of witnesses
3 and the presentation of exhibits. I have received from
4 is it better for me to call your company Olympic Bus
5 Lines or --

6 MR. HECKMAN: That would be easier.

7 JUDGE MACE: Olympic Bus Lines an exhibit
8 list and a witness list, and the exhibit list shows that
9 Mr. Heckman intends to testify, there will be testimony
10 from Mr. Don Farmer and testimony from Mr. Stanley
11 Estes. Staff filed an exhibit and witness list
12 indicating that Ms. Bonnie Allen may testify. I have
13 received nothing from Pennco, however, and I don't know
14 what your plan is for today.

15 MR. HARRIS: Okay. I faxed our list to your
16 office on Monday, and I faxed a copy as well to all the
17 other respondents to the event.

18 JUDGE MACE: Mr. Heckman, did you receive
19 such a list?

20 MR. HECKMAN: I received a fax, yes.

21 JUDGE MACE: All right. We did not receive a
22 fax. Do you have a copy of it by any chance?

23 MR. HARRIS: I didn't bring it, no.

24 JUDGE MACE: All right. Could you let me
25 know who is on that list?

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1 MR. HARRIS: Yes, Tim.

2 JUDGE MACE: Tim is Mr. Tim?

3 MR. HARRIS: Caldwell.

4 JUDGE MACE: Caldwell?

5 MR. HARRIS: From the Port Townsend Chamber
6 of Commerce.

7 JUDGE MACE: Okay, and who else will testify?

8 MR. HARRIS: And myself.

9 JUDGE MACE: And do you have any exhibits
10 that you intend to present?

11 MR. HARRIS: I have some letters of support,
12 yes.

13 JUDGE MACE: All right. You need to have
14 copies of those to distribute to people here today if
15 you intend to present them as exhibits.

16 MR. HARRIS: Okay.

17 JUDGE MACE: And what I'm going to ask you to
18 do is to number them. Mr. Heckman has 13 proposed
19 exhibits, so what you will do is you will number your
20 exhibits 14 and following.

21 MR. HARRIS: Okay.

22 JUDGE MACE: So make sure that each exhibit
23 is numbered, and make sure you have enough for myself
24 and for Mr. Heckman and Mr. Thompson.

25 MR. HARRIS: Will there be a break during the

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1 day?

2 JUDGE MACE: Well, we can take a break
3 probably around quarter to 11:00.

4 MR. HARRIS: Okay.

5 JUDGE MACE: In light of the fact that you
6 don't have copies, I'm going to ask Mr. Heckman to
7 present his witnesses first.

8 MR. HARRIS: Okay.

9 JUDGE MACE: So let me just clear up a few
10 more procedural items. What will happen is,
11 Mr. Heckman, you will present yourself first. I'm
12 assuming you're going to be the first witness. This is
13 our witness chair off to my left. You can hold on
14 because I'm just going to give a little bit of an
15 explanation as to what we're going to do. And you will
16 present your testimony. And I'm assuming that a lot of
17 the exhibits that you have prepared you will refer to
18 them during your testimony and you will present them to
19 us at that time. In fact, you might even want to
20 distribute them before you take the witness stand so
21 that we just have them to look at while you're referring
22 to them.

23 MR. HECKMAN: Okay.

24 JUDGE MACE: After you finish what's called
25 your direct testimony, then Mr. Harris and Mr. Thompson

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1 will have an opportunity to cross-examine you. When
2 that's finished, you can give a brief redirect if you
3 need to, and we have one other small round of cross, and
4 then you're excused. And then your second witness will
5 take the stand and give testimony, and you can ask that
6 witness questions to get them to testify, or he can just
7 make a statement, whatever you have talked with your
8 witnesses about. And it's the same thing, parties get a
9 chance to cross-examine and the same with the third
10 witness. And then we'll go to Mr. Harris for his case.
11 He will testify, people get a chance to cross-examine
12 him, and then his witness will take the stand.

13 Do you have any questions, do either of you
14 have any questions about it? Maybe you have already
15 been through this before so you sort of know what will
16 happen, but I just want to make sure that we are clear.

17 And, Mr. Thompson, then if you want to
18 present Ms. Allen, you can do so.

19 MR. THOMPSON: Okay.

20 JUDGE MACE: I think that pretty much covers
21 procedural items. There may be some that come up during
22 the course of the case and we'll deal with those as they
23 arise.

24 I understand that there is a preliminary
25 matter, there may be more than one, but at least one

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1 that Mr. Heckman raised with me before we went on the
2 record today, and that is the question of the authority
3 for Pennco that we're going to be proceeding on in this
4 hearing today.

5 So, Mr. Heckman, would you go over with us
6 what your objection to that authority is.

7 MR. HECKMAN: On page 2 of the notice of
8 acceptance of amendments to the application, it notes
9 that there was a removal of the restriction against
10 providing service concerning:

11 To passengers from any point served by
12 Heckman motors d/b/a Olympic Bus Lines
13 under Certificate C-992 without advance
14 reservations.

15 JUDGE MACE: One thing, I have to jump in,
16 you need to remember that the court reporter is making a
17 record of this proceeding, and when you speak very
18 quickly and you don't annunciate and leave some space,
19 it's really hard for her to record what you're saying,
20 especially when you're reading. You know, you tend to
21 read quicker and you need to read slower.

22 MR. HECKMAN: Okay.

23 JUDGE MACE: So if you would go back to the
24 beginning of that so that she can pick up what you were
25 reading.

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1 MR. HECKMAN: Okay.

2 Again on page 2 of the notice of acceptance
3 of amendments to the application there was a service
4 date on here of March 9, 2005. There was a proposal by
5 Pennco Transportation to remove a restriction against
6 providing service, and that was:

7 To passengers from any point served by
8 Heckman Motors Incorporated d/b/a
9 Olympic Bus Lines under Certificate
10 Number C-992 without advance
11 reservations made at least one hour in
12 advance of the pickup times at each such
13 point indicated by Heckman Motors,
14 Incorporated d/b/a Olympic Bus Lines
15 scheduled as published from time to time
16 in accordance with WAC 480-30-060.

17 And we had not made an actual agreement to
18 remove that restriction. We had discussed an amendment
19 to that but hadn't actually removed that, and we
20 actually had not come to a final agreement between
21 Mr. Harris and myself, at least not in this respect
22 right here.

23 JUDGE MACE: Before I ask for your response,
24 Mr. Harris, I need to tell you that I picked this up
25 from I believe it was a piece of correspondence that was

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1 not between you and Mr. Harris, but rather was from
2 another participant in the proceeding. It was either
3 Bremerton Kitsap or, I'm forgetting who the other one of
4 the other protestants was, but there was an earlier
5 round where those protestants agreed with Mr. Harris
6 about the authority, and I took from that the authority
7 that we would proceed on today. So it is possible that
8 this does not represent the agreement between you and
9 Mr. Harris, and I just wanted to make clear how that
10 wording came to be in this document.

11 Mr. Harris, go ahead, your response.

12 MR. HARRIS: If I'm understanding Jack
13 correctly, what you're referring to is the fact that
14 there has been that restriction on our authority, and
15 then we did not reach final agreement on negotiations,
16 and so you would like to keep that restriction on our
17 authority; is that correct?

18 MR. HECKMAN: I would like to keep the
19 restriction on the authority until we reach a final
20 agreement as to how to word -- we had talked and
21 discussed about getting permission first, verbal
22 permission, which I was okay with, but this is
23 indicating here that it's removed all together without
24 that.

25 MR. HARRIS: Okay, that's my recollection as

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1 well is that the restriction was still on our
2 certificate. Jack and I had been discussing how we
3 could settle that so that the customers in certain
4 situations weren't just left there, and we had not yet
5 penned out a final agreement, so.

6 JUDGE MACE: Well, so for purposes of --
7 Mr. Thompson.

8 MR. THOMPSON: Yeah, I was just going to add,
9 maybe this is obvious to everyone, but I think Mr.,
10 well, Pennco's initial application contained the
11 proposal to remove this existing restriction, and
12 apparently there's no -- so whether or not that
13 restriction should be removed is still a contested
14 matter I guess today because they haven't reached any
15 sort of settlement about that, so.

16 JUDGE MACE: I see what you're saying. In
17 other words, this didn't -- this wasn't some add in
18 related to an amendment, it's something that's --

19 MR. THOMPSON: Right, it was in the original
20 application.

21 JUDGE MACE: -- part of the application.

22 All right, so do you understand what
23 Mr. Thompson is saying? In other words, when Mr. Harris
24 filed his application, he filed it with this language.
25 You don't agree with the language, and you get a chance

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1 to say why you don't agree with it, but that's what he's
2 proposing here.

3 MR. HECKMAN: Okay.

4 JUDGE MACE: Do you understand?

5 MR. HARRIS: Yes.

6 JUDGE MACE: Okay. So this is still part of
7 the hearing today because it was part of the initial
8 proposal. And if you two had agreed, maybe it wouldn't
9 be, but you didn't, so it's still here.

10 MR. HECKMAN: Okay.

11 JUDGE MACE: Is there anything else that we
12 need to address before we begin hearing from witnesses?

13 Okay, then, Mr. Heckman, would you distribute
14 your exhibits at this point. You don't have them
15 numbered, do you, by any chance?

16 MR. HECKMAN: Just the first page.

17 JUDGE MACE: All right, let's be off the
18 record to do this.

19 (Discussion off the record.)

20 JUDGE MACE: Mr. Heckman has provided to us
21 copies of his exhibits. While we were off the record,
22 we discussed that we will have the independent witnesses
23 testify first in this proceeding so that if they wish to
24 they may leave the hearing room and not need to be here
25 for the whole length of the hearing. So then I would

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1 propose that it would be Mr. Farmer, Mr. Estes, and
2 Mr. Caldwell, and then we will go to Mr. Heckman, and
3 then, Mr. Harris, we'll take a break so that you can
4 make copies of your exhibits. Does anybody have any
5 problem with that method of operation?

6 All right, then, so, Mr. Farmer, what I need
7 to have you do is come over to our witness chair and
8 raise your right hand.

9 (Witness Donald R. Farmer sworn.)

10 JUDGE MACE: All right, please be seated.

11

12 Whereupon,

13

DONALD R. FARMER,

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

15 herein and was examined and testified as follows:

16

17

E X A M I N A T I O N

18

BY JUDGE MACE:

19

Q. And if you would please state your full name,

20

who you're with, who you support here, and then I will

21

let Mr. Heckman take it from there.

22

A. My name is Donald R. Farmer, I represent the

23

Laborers Union of North America, Local 242 Seattle,

24

Local 252 Port Angeles, among the other 16 halls in the

25

Northwest. I'm a laborer here to work on the Hood Canal

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1 Bridge project. I'm also on the injured list and am
2 presently using Olympic Bus Lines for the past six
3 months to go to Harborview Medical Center for treatment
4 for my back injury.

5 JUDGE MACE: Okay, Mr. Heckman, did you want
6 to ask Mr. Farmer some questions?

7 MR. HECKMAN: Yeah.

8

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

10 BY MR. HECKMAN:

11 Q. Mr. Farmer, I would just like to know if you
12 can describe your experience with Olympic Bus Lines in
13 our daily scheduled service that we provide.

14 A. Yes, my experience with Olympic Bus Lines is
15 -- I kind of thought this through trying to development
16 a synopsis so I could lay it out for you. Upon arriving
17 here last August after topping off the Seahawk stadium
18 and the library in Seattle with hopes of building a
19 graving yard while injured, we decided to transfer me
20 over here from the Seattle hall to obtain job
21 stewardship and create a organized labor movement to get
22 busy and build this bridge, which never happened.

23 Well, at that time I had a panic attack
24 because, gees, how am I going to get from Port Angeles
25 to Harborview and be treated for my lumbar injury, and

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1 lo and behold there was Olympic Bus Lines. Door-to-door
2 hospital dropoff, impeccable timing, picked me up at the
3 hospital for EMG testing, MRI testing. Their dispatch
4 was concrete, never failing. Drivers were above and
5 beyond as far as getting me to the hospital safely,
6 picking me up at night sometimes at even another
7 destination at Amtrak where my doctors would be at
8 another facility and I just didn't want to be in that
9 section or try to make it up to Greyhound, and they went
10 out of their way to make it a destination and pick me up
11 safely at dark down toward the Pioneer Square Clinic
12 stop destination.

13 There's, you know, being in the safety
14 division for our union, I learned about the safety
15 corridor, the Highway 101, with Sheriff Joe Martin and
16 its dangers, and I was quite concerned about our
17 laborers and construction workers traveling this
18 corridor. And again, Olympic Bus Lines went out of
19 their way with their drivers while driving this corridor
20 at night, which I think this nice lady mentioned was a
21 beautiful trip but at night it can be a little hairy.
22 And Olympic Bus drivers, we have even dialed in to where
23 we report aggressive drivers on board without hindering
24 the driver's driving. I called up on Joe -- Sheriff
25 Martin's advice, if we see a driver out there erratic,

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1 might be drinking, too close, this company right here
2 has established a concern with their regular customers
3 to indeed be loyal to our safety first, last, and
4 always.

5 So with that, in support of them the one
6 thing I felt very important is putting their schedule up
7 down at the union hall in Seattle, which represents all
8 16 halls, was their 10:40 departure from Greyhound.
9 It's a departure that if you're stuck in Seattle and lo
10 and behold do miss, they're there at 10:40 whether they
11 have a customer or not to make sure that person gets
12 back to Port Angeles safely or to Sequim or wherever
13 they need to go.

14 So with that, in support of that, my doctors'
15 reports are here, their dependability and safe driving
16 have been impeccable, my treatment is going forward from
17 Harborview. And, you know, it's quite a thing to say
18 you're going to drop a patient off at Harborview and be
19 on time, that's a very big hospital, a lot going on, and
20 so I stand beside them 110%. I wouldn't want to see it
21 any other way with any other transportation as far as
22 I'm concerned. And you can't beat the price, \$49 bucks
23 round trip. I mean where's that going to happen,
24 where's that going to happen today, just watch your gas
25 prices in today's news. So with what that, you know,

0045

1 I'm grateful for this service, I'm grateful for Jack and
2 Ron and their -- this has been over seven months they
3 have been transporting me for treatment. So I can stand
4 with that, and I put my union reputation on it.

5 JUDGE MACE: Anything else?

6 Q. I just wanted to clarify, you mentioned it's
7 door-to-door service, it's actually daily scheduled
8 services where you stand in a specific spot in Port
9 Angeles, but it's not from a particular door --

10 A. Right.

11 Q. -- and then takes you over to one of our
12 scheduled stops, which is Harborview --

13 A. Yeah, at Oak Street bus depot, you leave from
14 there. Amazing thing is it transports you to any
15 hospital. I think that front door service, I have seen
16 senior citizens on that bus just elated with the fact
17 that it's at the front door safe and not walking a block
18 or two.

19 Q. Mr. Farmer, do you feel that there is a need
20 for another competing scheduled service between Port
21 Angeles and downtown Seattle?

22 A. None whatsoever, absolutely not.

23 MR. HECKMAN: That's all the questions I
24 have.

25 JUDGE MACE: Okay.

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1 Mr. Harris.

2 MR. HARRIS: Thank you, Your Honor.

3

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

5 BY MR. HARRIS:

6 Q. Nice to meet you, Mr. Farmer, appreciate your
7 heartfelt comments.

8 The question that I have initially, are you
9 familiar with the qualifications of the drivers that
10 transport you back and forth to Seattle, Olympic Bus
11 Lines; for example, are those drivers trained in CPR?

12 A. Well, I should hope so. I mean somewhat
13 there would have to be -- come under the CDL regulations
14 and transporting other passengers with CPR and trauma
15 and advanced first aid and clean and sober and driving
16 records and et cetera.

17 JUDGE MACE: Well, I need to have you answer
18 from your knowledge.

19 A. No, I'm not a Department of Licensing
20 official, I don't know those qualifications.

21 Q. Okay.

22 A. I'm a concrete laborer.

23 Q. Are you aware of any other services that
24 companies that provide the same service, i.e., getting
25 you from this area to Seattle to those medical

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1 appointments?

2 A. Yeah, I think there was one service, a
3 Paratransit, which indeed it involved a medical coupon,
4 and last time I investigated that, it was a nightmare.

5 Q. Okay.

6 JUDGE MACE: What was the name of that
7 service? What was the name of it?

8 THE WITNESS: Paratransit.

9 JUDGE MACE: Okay.

10 THE WITNESS: Could that be?

11 JUDGE MACE: I'm just asking --

12 MR. HARRIS: That is correct. And for
13 clarification purposes, Paratransit is, Paratransit
14 Services of Bremerton, is the local contract to deliver
15 those services for the city here. They also are the
16 broker for the State of Washington for this region.

17 JUDGE MACE: Well, Mr. Harris, I appreciate
18 the explanation. There's a fine line between that and
19 testimony, and if he knew that, that would be fine, but
20 let's confine ourselves to trying to find out what he
21 knows instead of having you tell us this stuff on the
22 record.

23 MR. HARRIS: Okay.

24 BY MR. HARRIS:

25 Q. So you're aware of one other company that

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1 provided those services?

2 A. I have called them before, the Department of
3 Labor claim number for my injury, and it was just an
4 enormous amount of red tape to get a ride with them.

5 Q. Have you used any other service to get to
6 your appointments?

7 A. No. Well, yes, a plane. I tried plane two
8 weeks ago, I have a fear of flying, but it didn't work
9 out.

10 Q. Okay.

11 A. Going over it worked out. Coming back I took
12 the Olympic bus.

13 Q. Is that really the only reason that you
14 commute regularly back and forth at this point is for
15 the medical treatments?

16 A. Somewhat and some visits to the Seattle hall,
17 dialing me in on graving yard issues, even though that
18 is not the jurisdiction. This is the Tacoma union
19 jurisdiction. But yes, Harborview Medical Center.

20 Q. How often are you traveling at this point?

21 A. Two to three times a month depending on
22 doctor's orders, once a month at least round trip.

23 Q. At least once a month. Is there a set time
24 of day you usually travel and return?

25 A. Yeah, because of the Harborview, the enormous

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1 amount of traffic there, I make it from -- I take the
2 7:00 a.m., and I'm picked up at 6:00, so it's a full day
3 for me at the hospital.

4 Q. So you meet the bus at 7:00 a.m.?

5 A. Yes.

6 Q. And then the bus has you back at the original
7 takeoff point by 6:00 that evening?

8 A. No, I exit the hospital at 6:00.

9 Q. Okay. And so you're back wherever you
10 started at --

11 A. 9:40 at night.

12 Q. Okay.

13 Have you had the opportunity -- well, do you
14 have a car?

15 A. No.

16 Q. So you do not have a car?

17 A. No.

18 Q. How long have you lived on the Peninsula?

19 A. Since August last year.

20 Q. So that's about what, is that eight or nine
21 months?

22 A. Right.

23 Q. Okay.

24 A. With expectations of building a graving yard
25 here.

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1 JUDGE MACE: Of building a?

2 THE WITNESS: The graving yard.

3 JUDGE MACE: The graving --

4 THE WITNESS: Which never happened.

5 JUDGE MACE: And is that G-R-A-V-I-N-G?

6 THE WITNESS: Yes, ma'am, yes, Your Honor.

7 BY MR. HARRIS:

8 Q. During this period, have you visited the
9 other communities on the -- do you live in Port
10 Townsend?

11 A. Yes, I do, I live at Peabody Creek RV Park
12 over here.

13 Q. Okay. Have you had the opportunity to visit
14 the other communities on the Peninsula, for example
15 Sequim?

16 A. Somewhat. We have a stop there. I have
17 explored it, but not --

18 Q. There's a bus stop there, is that what --

19 A. Yes.

20 Q. Port Hadlock?

21 A. No.

22 Q. Port Ludlow?

23 A. Possibly if our graving yard goes there,
24 that's next on our list.

25 Q. Okay, but just not the chance yet --

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1 A. No.

2 Q. -- to get over and explore?

3 A. No.

4 Q. Port Townsend?

5 A. No.

6 Q. Some of the touristy destinations like Fort
7 Warden, which is located in --

8 A. No.

9 Q. -- Port Townsend?

10 A. I have been lock, stock, and barrel with my
11 head down and focused completely on the graving yard
12 here with hopes of it --

13 Q. So apart from just your medical
14 transportation needs without a car, do you see any value
15 in being able to move easily around the Peninsula, be
16 able to explore without having to have a car; does that
17 seem of any value to you?

18 A. Well, the less I drive today I personally am
19 in favor of. I'm not -- I'm very, very concerned about
20 safety and driving, especially in this Highway 101
21 corridor area. It's forever on my mind. It's a new
22 place for me, and I'm not in a hurry to get out there
23 and get into the mix with the drivers here.

24 Q. So from your perspective, a service which
25 allows fewer cars to be on the road would help with the

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1 safety corridor issues?

2 A. Most definitely.

3 Q. So fewer cars on the road would allow for
4 people who don't have cars to be able to get around
5 inexpensively and be able to see some of the wonderful
6 things here on the Peninsula first of all would be a
7 plus?

8 A. Well, if that would be a sightseeing tour,
9 yes, I would imagine. I mean that's pooling, car
10 pooling, correct?

11 Q. Not necessarily, but --

12 A. I mean --

13 Q. What I am describing to you is a scheduled
14 service which makes multiple stops here on the Peninsula
15 before it goes to --

16 A. As a sightseeing service?

17 Q. As a regularly scheduled run.

18 A. Oh.

19 Q. Where there is a place where you get on, and
20 then there is stops along the way, so that a person
21 without a car could get out, explore that community, and
22 then continue on to the next destination or go back to
23 their origination point.

24 A. Well, if they looked at it that way, I
25 suppose you could develop it into that.

0053

1 Q. So a service that provided that kind of
2 community transportation access for people without cars
3 so people didn't have to bring their cars over there,
4 you could see that as a plus for the community?

5 A. I could see it as a plus, but I don't see it
6 realistically happening.

7 Q. Okay, well, that's --

8 A. I don't see a person chopping up their trip,
9 well, that's nice, let's get back on board, let's keep
10 going, let's take a picture, we're out of here, I don't
11 see that happening.

12 Q. But if there were, if that did happen where
13 there were a service where let's say for an example you
14 started in Port Angeles here in your community, but then
15 one of the first stops was Sequim so that if you were
16 not inclined to explore that area, maybe the next stop
17 was Port Ludlow, if you were a golfer maybe you could
18 golf or maybe you could visit the resort or have lunch
19 down at the nice restaurant they have there.

20 A. Depending how long the stops would be, sir.

21 Q. But my question to you is, if that
22 infrastructure was in place, could you see that as
23 beneficial for people without cars in terms of getting
24 around and also as an encouragement for people not to
25 have to bring their cars into the middle of this traffic

0054

1 safety corridor issues, they could just get on something
2 that was scheduled and consistent; do you see that as a
3 plus for the community?

4 A. No, not with a safety net or backup or -- I
5 can't see making a day of that, ad-libbing. I could see
6 a very adventurous person probably, but with the time
7 frames to play a round of golf and get back to the bus,
8 no, I don't find that realistic. But I see your point.

9 Q. Okay.

10 A. That's my opinion.

11 MR. HARRIS: All right, well, I appreciate
12 your time.

13 THE WITNESS: Thank you, sir.

14 MR. HARRIS: That's all I have.

15 MR. THOMPSON: I think I might just have a
16 few more questions just to clarify a couple things,
17 Mr. Farmer.

18

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

20 BY MR. THOMPSON:

21 Q. You indicated that you're with I think the
22 laborers union?

23 A. Laborers Union of North America, correct.

24 Q. And are you here today representing the union
25 or just on your own behalf?

0055

1 A. I'm here on my own behalf.

2 Q. Okay. The other thing --

3 A. Although -- may I extend that?

4 Q. Sure, go ahead.

5 A. Although I have -- why I said that was
6 whenever I speak union, I need to back it up. And I
7 mentioned to my union hall, which is the AFL-CIO,
8 Associate General Contractors and Teamsters of North
9 America, that their schedule is posted at my union hall,
10 and I must back up what I say, or I could have serious
11 complications being a job steward and approved by the
12 Attorney General. We don't speak union --

13 Q. Okay, but you're here --

14 A. -- make sure we can back it up.

15 Q. But it's not as if you were sort of
16 officially authorized today to come and speak on behalf
17 of the union?

18 A. No, sir.

19 Q. Okay.

20 A. But I recommended Olympic to my brothers and
21 sisters in the union.

22 Q. I see.

23 A. And I stand by that.

24 Q. Are you aware of the additional stops that
25 Olympic is proposing to serve in its application?

0056

1 A. No, sir.

2 Q. Okay. So your comments are more about
3 Olympic's existing service, the service that you have
4 used?

5 A. You bet.

6 Q. Okay.

7 A. For my safety and --

8 Q. And so you have not used Olympic's service to
9 go say to any points in between Port Angeles and
10 Harborview?

11 A. No, sir.

12 MR. THOMPSON: Okay, that was my clarifying
13 questions.

14 THE WITNESS: I would like to elaborate on
15 the safety, Mr. Harris mentioned about the drivers. I
16 have seen Olympic drivers, well, of course they pass out
17 bottled water during the middle of the trip and a snack
18 bar, a trail mix bar, but I have seen them often ask
19 senior citizens if there is any cramping, if they would
20 like some more water, and escorts up to the Kingston
21 Ferry for relaxation. Because some seniors get a little
22 stiff, and their drivers are very, very trained to be
23 concerned about their passengers. There's a first aid
24 kit aboard and very safe drivers. They keep their
25 distance, which I think is a major accident thing on

0057

1 this safety corridor, tailgating.

2 JUDGE MACE: Mr. Heckman, do you have
3 anything else, any other questions that you would like
4 to ask Mr. Farmer before we close?

5

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

7 BY MR. HECKMAN:

8 Q. One last question that I think Mr. Harris was
9 alluding to a little bit when he was asking about are
10 there any other services that are available. Are you
11 aware of Pennco Transportation?

12 A. I think that when I hear Pennco, I hear more
13 red tape and medical coupons and a lot of problems, but
14 I'm aware of the name.

15 Q. Okay. But you haven't --

16 A. No.

17 Q. -- actually used them?

18 A. Never been aboard their vehicles.

19 Q. Or aware of any other information about them?

20 A. Well, you know, to be honest, Your Honor, in
21 fairness I haven't heard good things about Pennco, but
22 that's all.

23

24

25

0058

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

2 BY JUDGE MACE:

3 Q. But you have not used them?

4 A. No, ma'am.

5 Q. Okay.

6 A. No, Your Honor.

7 JUDGE MACE: And, Mr. Harris, any final?

8

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

10 BY MR. HARRIS:

11 Q. Do you have specifics on the not good things?

12 A. No, I need to be perfectly honest. If you
13 ask me what I have heard of Pennco, it's, well,
14 specifics, too much money, red tape, medical coupons,
15 turnover of drivers, that would be the local talk to the
16 best of my knowledge.

17 MR. HARRIS: Okay.

18 JUDGE MACE: Mr. Thompson?

19 MR. THOMPSON: I don't have anything else.

20 JUDGE MACE: All right, thank you very much
21 for coming today, you're excused.

22 THE WITNESS: Thank you, Your Honor.

23 JUDGE MACE: Mr. Estes.

24 MR. FARMER: Can I go now, Your Honor?

25 JUDGE MACE: If Mr. Heckman is all right with

0059

1 that, yes, you're excused.

2 MR. FARMER: Yes, ma'am.

3 JUDGE MACE: All right, please raise your
4 right hand.

5 (Witness Stanley Estes was sworn.)

6 JUDGE MACE: Please be seated.

7

8 Whereupon,

9 STANLEY ESTES,

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

11 herein and was examined and testified as follows:

12

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

14 BY JUDGE MACE:

15 Q. And again, I would like to have you give your
16 name and who you're here on behalf of.

17 A. Thank you. My name is Stanley Estes,
18 E-S-T-E-S, I live in Port Angeles.

19 Q. Could you give your address in Port Angeles.

20 A. My address is 625 Milwaukee Drive, and my zip
21 is 98363.

22 Q. And how long have you lived in Port Angeles?

23 A. I have lived here over 30 years.

24 JUDGE MACE: All right, I will turn you over
25 to Mr. Heckman, and he may ask you a question.

0060

1 THE WITNESS: Thank you.

2

3 DIRECT EXAMINATION

4 BY MR. HECKMAN:

5 Q. Mr. Estes, can you please also describe your
6 experience with Olympic Bus Lines in providing scheduled
7 service between Port Angeles and Seattle?

8 A. Certainly. Thank you, and thanks to the
9 panel for allowing me to be here.

10 I know you're probably thinking what does an
11 80 year old man have to offer that's pertinent to this
12 discussion. And I can understand you asking that, but I
13 do think my age and my experience has given me the
14 benefit of a certain amount, if you will, of wisdom and
15 good old fashioned common sense. Now I'm not going to
16 talk in generalities like a lot of people of my
17 generation do talk. I am going to give what I consider
18 relatively good business comments.

19 I founded the Estes Engineering Company, and
20 I remained active administratively in that company for
21 20 years until I retired. As far as Olympic Bus Lines
22 is concerned, I have ridden them often, very, very
23 frequently at times, since their inception. Prior to
24 their inception, I rode the preceding bus lines and even
25 going back so far as when the Greyhound themselves

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1 served this area. I have to mention, because it's very
2 impressive to me, how much Mr. Heckman, for example, has
3 updated the equipment of that line. I know of two
4 updates on equipments and buses and everything like that
5 that make that equipment practically state of the art in
6 my opinion.

7

8 EXAMINATION

9 BY JUDGE MACE:

10 Q. Mr. Estes, could I interrupt for just one
11 moment --

12 A. Certainly.

13 Q. -- and have you tell us a little bit more
14 specifically, you say you have ridden OBL, Olympic Bus
15 Lines, often since their inception, where do you take
16 the bus and how often?

17 A. Well, as to frequency, I will just use this
18 month as an example, I last rode them on March 4, and I
19 have reservations now for March 23 and 24, and
20 projecting into next month, I will say I will probably
21 have at least three specific reservations.

22 Q. And where do you intend to go?

23 A. And almost exclusively I go to the Virginia
24 Mason Medical Center in Seattle.

25 Q. Go ahead, I'm sorry I interrupted, I just

0062

1 wanted to make sure I had specific information.

2 A. Okay, thank you for explaining that.

3 They not only, I say they, Mr. Heckman has
4 not only updated that equipment admirably, but he has
5 accumulated a very good staff, helpful and knowledgeable
6 and efficient, and he has schedules that are just
7 religiously adhered to by those drivers barring anything
8 unforeseen like a bridge being open or traffic jams. I
9 always feel when I ride OBL, to borrow your term, that I
10 am really getting a lot of bang for my buck, and to me
11 that's great.

12 But having said all that, many, many times,
13 and I emphasize many, many times, when I ride the bus
14 it's apparent to me that they don't have enough riders
15 to really crack the nut. Now in my language crack the
16 nut means are they making enough money to have a
17 positive cash flow, and are they making enough money to
18 actually make a return on their investment. Both of
19 those are so important to any business. I'm convinced
20 that the problem is not that they don't have the
21 equipment or that they don't have the personnel or that
22 they don't have proper scheduling. The problem is they
23 don't have enough passengers. Therefore, and this will
24 be the conclusion of my ranting here, therefore I don't
25 think it's prudent, I don't think it's prudent at all to

0063

1 consider an additional company to be adding or
2 duplicating a service that already exists, and it not
3 only already exists, but it's definitely being
4 underutilized.

5 Q. Mr. Estes, when you talk about this
6 underutilization, are you referring specifically to the
7 trips you have taken down to Seattle?

8 A. And back.

9 Q. And back?

10 A. Yes, ma'am.

11 Q. Okay.

12 A. That's the only thing I can honestly comment
13 on. But that is the end of my discussion unless there
14 are questions or comments.

15 JUDGE MACE: Well, we'll see if Mr. Heckman
16 has any more questions, and then Mr. Harris gets to ask
17 you and then Mr. Thompson.

18 THE WITNESS: Thank you.

19 JUDGE MACE: Mr. Heckman, anything else?

20 MR. HECKMAN: Nothing further.

21 JUDGE MACE: Mr. Harris.

22 MR. HARRIS: I have a few questions.

23

24

25

0064

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

2 BY MR. HARRIS:

3 Q. Thanks for coming down today.

4 A. You're very welcome.

5 Q. Mr. Estes, you mentioned the new equipment
6 that was recently put on line by Olympic Bus Lines?

7 A. Yes.

8 Q. As being very nice equipment you said,
9 something like that?

10 A. Yes, I would rate it, as I said, state of the
11 art, yes.

12 Q. Are you familiar with how Olympic Bus Lines
13 obtained the money to acquire those vehicles?

14 A. No, I'm not.

15 Q. Okay. Mr. Estes, would you say that the
16 primary reason you travel to Seattle now is for medical
17 treatments?

18 A. Yes.

19 Q. Are you aware of any other services, any
20 other companies, excuse me, that provide that same
21 transportation service from this area to the hospitals
22 and doctors offices and things like that in Seattle?

23 A. Well, I will answer that in two pieces. I'm
24 aware of your company, sir, and I have been aware of it
25 I guess since it began, but I'm not aware that it

0065

1 provides anything like Mr. Heckman's company does, in
2 other words a line operated like a bus line, scheduled
3 pickup points and delivery times and so forth. But yes,
4 I'm aware of your company.

5 Q. Okay.

6

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

8 BY JUDGE MACE:

9 Q. You haven't used Mr. Pennco's, Mr. Pennco,
10 Mr. Harris's --

11 A. That's a flattering remark to call you
12 Mr. Pennco. I will call you Mr. OBL, how's that.

13 Q. I'm sorry. You haven't used Pennco --

14 A. No, ma'am. Early in their times I had called
15 out of curiosity to make a competitive analysis let's
16 say, but no, I have never stepped foot on their
17 equipment.

18

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

20 BY MR. HARRIS:

21 Q. Are you familiar at all, Mr. Estes, with the
22 qualifications of the drivers that are taking you to
23 your medical appointments?

24 A. No.

25 Q. So you wouldn't know whether or not they had

0066

1 a commercial license or whether or not they were trained
2 to operate the wheelchair lift in the vehicle or whether
3 or not they had CPR training, any of the things that
4 might be associated with taking someone to a hospital on
5 a regular basis, you would not know whether or not those
6 drivers had that training specifically?

7 A. Well, I would answer it like this. I have
8 heard the drivers talking, and this pertains to the new
9 equipment with the very mechanized motor lifts and so
10 forth, I have heard them say, for wheelchairs, I have
11 heard them say how they have been trained to use that
12 equipment, because there are many levers and removable
13 railings and so forth. And when I see them operate it,
14 it goes very, very smoothly in my opinion. So I don't
15 think they picked that up in their spare time, I have a
16 hunch, and that's all, that they were coached and
17 trained on doing that. But as to their CPR capabilities
18 and qualifications, no, I have no way of knowing, and
19 being 80 years old, maybe I should know.

20 Q. You made a comment about on your way to
21 Seattle there doesn't seem to be enough people on the
22 vehicle for you to feel in your mind like they're making
23 money; is that --

24 A. Yes, that's exactly right.

25 Q. -- fair?

0067

1 A. My whole career has been predicated on making
2 money. I don't mean making a lot of money, but making a
3 fair profit or a fair return, and it doesn't take a
4 rocket scientist in my opinion to know that in OBL's
5 case, I'm stealing your name again, in their case that X
6 number of dollars round trip and we've got two
7 passengers, common sense tells me that that's not even
8 going to pay for the driver's salary, let alone the
9 depreciation on the vehicles and insurances and those
10 types of things.

11 Q. How familiar would you be with the other
12 runs, the runs that you're not on?

13 A. Well, I wouldn't be familiar at all.

14 Q. So it's possible there could be many, many
15 more people on other runs, or there could be no one on
16 other runs, right?

17 A. Yes, that's exactly right.

18 Q. You wouldn't really know?

19 A. Yeah.

20 Q. Are you aware of the fact that publicly
21 certificated transportation, public transportation
22 carriers, are regulated by the Washington State
23 Utilities and Transportation Commission, and as such
24 their rates that they charge are regulated as well and
25 overseen; are you aware of that? So companies like

0068

1 Olympic Bus Lines and Pennco --

2 A. Oh, I would assume that any UTC type thing is
3 regulated, yes.

4 Q. Are you aware that even the profit, I think
5 you called that covering the -- what did you call that,
6 what was that term you said in the beginning?

7 A. I can't recall.

8 Q. Okay.

9 A. But profit is a good name for it, yes.

10 Q. Is that good?

11 A. I don't think it's a dirty name.

12 Q. Are you aware that even their profits are
13 regulated, and certificated carriers --

14 A. I'm sure of that, yes.

15 Q. -- are, for lack of a better term, they are
16 told how much they can make?

17 A. Well, certainly, they're regulated.

18 Q. Okay.

19 A. Yes, I'm very aware of that.

20 Q. So there's really no way to know if they're
21 making money or not just by being on the particular runs
22 that you're on?

23 A. No, that's right. But I will say that my
24 curbstome opinion, if you will, says that if I was
25 running that company, I would sure try to get a rate

0069

1 adjustment of some type. It looks to me like it would
2 be very, I'm talking in generalities now, Mr. Heckman,
3 but it looks to me like it would be very marginal to
4 have that few passengers at times and yet have all these
5 fixed costs that had to be met. And even among simple
6 things like the cost of fuels or the accelerated ferry
7 schedules that happen in summer and so forth, if I were
8 in your businesses, I'm afraid I would really be
9 squeezed.

10 JUDGE MACE: Well, I appreciate your answer,
11 I'm not sure how helpful going in this direction is
12 going to be to having the Commission decide this matter.
13 It gets a little bit -- it's getting up into sort of the
14 theory of the thing, and we're not really here for a
15 rate case per se.

16 THE WITNESS: Yes, I understand.

17 JUDGE MACE: So anyway, I will let it go, but
18 move on to your next question.

19 MR. HARRIS: I will move on. Actually, I
20 think I might have gotten it here.

21 BY MR. HARRIS:

22 Q. Would you like to see -- well, let me ask you
23 this question.

24 Have you ever -- you live here in Port
25 Angeles, you said?

0070

1 A. Yes, sir.

2 Q. Have you ever, and if so, how often, have you
3 ridden from Port Angeles to Kingston on Olympic Bus
4 Lines and gotten off in Kingston?

5 A. Oh, I never do, no.

6 Q. On the times that you ride, you ride pretty
7 frequently from what you told us.

8 A. Yes, I do.

9 Q. How often have you seen other passengers with
10 you get off of Olympic Bus Lines in Kingston?

11 A. Well, I have seen them get off. In fact, I
12 can't name names, but -- and I have seen them pick up in
13 Kingston. But, in fact, I think the driver says to
14 them, well, they know, can I get off at so and so, and
15 he says, no, I have to take you to a certain point. And
16 they say, well, my friend was going to pick me up
17 somewhere else, and they say you can use the phone, the
18 cell phone, if you want, but yeah.

19 Q. So it happens occasionally?

20 A. Yes, it has, but occasionally, Mr. Harris,
21 yes.

22 Q. But you have never gotten off in Kingston?

23 A. No, no, not at all.

24 MR. HARRIS: Okay, great, well, thank you.

25 THE WITNESS: You're very welcome, thank you.

0071

1 JUDGE MACE: Mr. Thompson.

2 MR. THOMPSON: Yeah.

3

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

5 BY MR. THOMPSON:

6 Q. Just following up on what Mr. Harris was
7 asking about Kingston, would the same, well, have you
8 ever used the service to go to Sequim or Discovery Bay?

9 A. Oh, never, no, no. I drive of course.

10 Q. Okay. And I suppose the same is true of
11 Edmonds?

12 A. Yes, yes.

13 Q. What about your observation of other
14 passengers getting on or off at those points in between
15 Port Angeles and Seattle?

16 A. My observation in what regard, sir?

17 Q. Well, have you observed Olympic dropping off
18 and picking up other passengers at those locations?

19 A. Oh, yeah, it's quite common for them to pick,
20 well, forgetting Sequim now because that's the first
21 stop, but at Discovery Bay they will pull in for a
22 pickup, yes, Kingston and Edmonds. Edmonds is quite
23 common. Greyhound, obviously that's a common stop. And
24 my stops at the Virginia Mason Medical Center of course
25 are probably the next stop after Greyhound. But then

0072

1 the driver will announce now the next stop is Swedish
2 Hospital or the next stop Amtrak or things like that,
3 yes.

4 Q. Okay. Do you see, as a person who has used
5 the service, do you see, well, do you have any way of
6 shedding a little more light on the amount of passengers
7 you see using the service just between points up here on
8 the Peninsula like between Port Angeles and Sequim say
9 or --

10 A. Well, there are no points between PA and
11 Sequim.

12 Q. What I mean is to use the service to go from
13 Port Angeles to Sequim.

14 A. I have never seen it happen.

15 Q. Well, but I assume passengers do get on at
16 Sequim and proceed on to Seattle?

17 A. Yes, yes, they do, yes.

18 Q. Is that also true of Discovery Bay?

19 A. Well, Discovery Bay isn't a big stop, but
20 yes, we have been on the bus many times when there's a
21 pickup at Discovery Bay or a dropoff on the way back.

22 Q. And how about Edmonds?

23 A. Well, I would say of those so-called interim
24 parts, Edmonds may be more prevalent than the other
25 stops. Because once they get to Edmonds, why that opens

0073

1 up a lot of population that wants to meet their uncle or
2 aunt or what have you, yes.

3 MR. THOMPSON: Thank all I have.

4 JUDGE MACE: Anything else, Mr. Heckman?

5 MR. HECKMAN: No.

6 JUDGE MACE: All right, thank you very much,
7 you're excused.

8 THE WITNESS: Thank you, ma'am, I appreciate
9 it.

10 JUDGE MACE: Thank you for coming.

11 THE WITNESS: Well, it's been my pleasure.

12 But above all I thank you for giving us witnesses the
13 priority so that we can get in and then out again,
14 you're very considerate and I thank you.

15 JUDGE MACE: You're welcome.

16 All right, I would like to have Mr. Caldwell
17 take the stand if that would be okay for the same reason
18 as the other two that have already testified.

19 (Witness Timothy Dennis Caldwell was sworn.)

20 JUDGE MACE: All right, please be seated.

21

22 Whereupon,

23 TIMOTHY DENNIS CALDWELL,

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

25 herein and was examined and testified as follows:

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

2 BY JUDGE MACE:

3 Q. And just as I did with the other witnesses, I
4 want to ask you to give your full name and address, and
5 tell us who you're here supporting today.

6 A. Okay. My name is Timothy Dennis Caldwell,
7 and I live at 531 Montgomery Lane, Port Ludlow,
8 Washington. I'm the General Manager of the Port
9 Townsend Chamber of Commerce. And on behalf of the Port
10 Townsend Chamber of Commerce and Board of Directors, I'm
11 here to testify on behalf of Pennco Transportation.

12 JUDGE MACE: All right, I will have
13 Mr. Harris ask you some questions.

14 MR. HARRIS: Thank you, Your Honor.

15

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

17 BY MR. HARRIS:

18 Q. Good morning, Tim.

19 A. Good morning.

20 Q. Tim, you live in Port Ludlow, correct?

21 A. That's correct.

22 Q. And you currently, your job is?

23 A. General Manager of the Port Townsend Chamber
24 of Commerce, and my office is located on the second
25 floor of the Frontier Bank Building at 2200 Sims Way.

0075

1 It's a -- so I work in Port Townsend but live in Port
2 Ludlow.

3 Q. Tim, how long have you lived in the overall
4 Port Townsend, Jefferson County community?

5 A. I was born and raised in Port Townsend. I
6 left Port Townsend 1968, returned with my family in 1992
7 to take the job with the Chamber of Commerce. The first
8 -- from '92 to '98, or '99, excuse me, we actually lived
9 in Port Townsend, and we moved out to Port Ludlow four
10 years ago, five years ago now I guess.

11 Q. In your responsibilities as -- well, first
12 let me -- before I say -- can you tell me what boards or
13 associations you are a member of?

14 A. Okay. For the Port Townsend Chamber of
15 Commerce, and since I have worked there, one of the
16 primary goals is, for the Chamber, is to support
17 transportation infrastructure. That's now expanded into
18 electronic infrastructure, but it was the underlying
19 goal was to support and help enhance alternative
20 transportation to the Olympic Peninsula. And this --
21 there are several reasons, but the underlying reasons
22 are obviously tourism has become one of the three major
23 industries in East Jefferson County, the other two being
24 marine trade and pulp and paper manufacturing. And as
25 you know, the Olympic Peninsula, the access points onto

0076

1 Olympic Peninsula are very limited and also very
2 fragile. Just quickly going around the Olympic
3 Peninsula, if you started at the north from Port
4 Angeles, you have boat service, an auto vehicle service
5 and a passenger ferry service, they're both privately
6 owned.

7 JUDGE MACE: Can I ask you to slow down just
8 a little bit.

9 THE WITNESS: I'm sorry.

10 JUDGE MACE: Just because I want the reporter
11 to be sure she's accurately recording what you're
12 saying.

13 THE WITNESS: Kevin touched a button, I can
14 get on my soap box very quickly.

15 JUDGE MACE: That's fine, if you could just
16 slow down a little.

17 THE WITNESS: Certainly.

18 A. But then moving down to the east side is the
19 Port Townsend-Keystone auto ferry. It's a run limited
20 by the size of the terminals. Only three boats in the
21 entire ferry fleet can be used in the Port
22 Townsend-Keystone run. It is always subject to high
23 winds and low tides, so it's a fragile entry point onto
24 the Peninsula as well.

25 The next, which is the largest, is the Hood

0077

1 Canal Floating Bridge, and as the first witness
2 attributed to talking about the graving dock, this is a
3 bridge that needs to be repaired, and there is quite an
4 issue around even finding the place to get the pontoons
5 built to repair the bridge. And then you have the only
6 I guess you would say unlimited access points are coming
7 up 101, which we again talked about off the record as a
8 beautiful but very windy and dangerous drive, and then
9 coming up through Clearwater on the west end of the
10 state. So the Peninsula is beautiful, yet half of the
11 fun of coming here I suppose would be the trip. I mean
12 it's always a kind of an adventure to get here.

13 Given that reason, the Port Townsend Chamber
14 of Commerce sees it as its mission to help the business
15 community is to ensure infrastructure remains open and
16 accessible. And one of the reasons we have looked at
17 that is to try and impact the growing tourism is to
18 provide alternative ways for visitors to get from the
19 I-5 corridor, which is our major market, onto the
20 Olympic Peninsula. And over the last few years,
21 legislation and activities by private entrepreneurs has
22 made those opportunities become more visible, more
23 accessible. And I'm speaking primarily of the high
24 speed passenger only ferry service. It started about a
25 year ago running from Bremerton to Seattle, and it

0078

1 started just a couple months ago running from Seattle to
2 Kingston. And this has been a project that the Port
3 Townsend Chamber of Commerce in partnership with the
4 Kingston Chamber of Commerce and the community has long
5 advocated for. In fact, the Chamber spoke at a UTC
6 hearing on behalf of Aqua Express at that hearing about
7 four months ago I believe.

8 It was announced by Matt Nichols, one of the
9 partners of Aqua Express, at the transportation forum
10 just recently held on the Microsoft campus in Redmond,
11 that after one month of operation, Aqua Express came
12 very close to breaking even operationally in its first
13 month. It has done what they anticipated, what the
14 community of Kingston had said it would do if they ever
15 operated it, would be to provide a means for commuters
16 living not only in Kitsap County but in East Clallam and
17 East Jefferson County to get from the Olympic Peninsula
18 into downtown Seattle.

19 So it has started as a commuter run, it runs
20 only Monday through Friday, and this is where the
21 opportunity, Port Townsend Chamber, and even the Port
22 Ludlow Chamber of which I am an individual member of the
23 Port Ludlow Chamber of Commerce and serve on their
24 board, it was an opportunity for people living, working,
25 and needing to get into the I-5 corridor to downtown

0079

1 Seattle by an alternative means of transportation. They
2 could go, instead of to Bainbridge Island, park their
3 car, and walk on Washington State Ferries, they could go
4 to Kingston, park their car, and then travel by
5 passenger ferry into downtown Seattle.

6 One of the primary reasons the Kingston
7 Transportation Service, Aqua Express is working well,
8 was a partnership with Kitsap Transit. And again, just
9 very quickly, if your -- passenger ferry service is in
10 my mind very limited without proper ground
11 transportation, and it has to be something more than
12 automobiles.

13 So again, I -- one of the other committees
14 that I serve on is the Jefferson Transit Citizens
15 Advisory Committee, which is appointed by the Jefferson
16 County Transit Board, which is made up of the county
17 commissioners and representatives from the city council,
18 Port Townsend City Council. And Jefferson Transit, we
19 wanted, we being the chamber reporting to the transit
20 board, wanted to have Jefferson Transit run a route from
21 Port Townsend through East Jefferson County, points like
22 Port Hadlock and Port Ludlow, and run direct to Kingston
23 with connections to Aqua Express to downtown Seattle.

24 At this time, Jefferson Transit runs to
25 Poulsbo with connections with Kitsap Transit, which then

0080

1 runs to Bainbridge. Rerouting that route is not
2 something that Jefferson Transit can do at this time in
3 terms of its schedule and in terms of funding. But what
4 Jefferson Transit is willing to hear and willing to work
5 with was a route that would run out to the intersection
6 of Highway 19 and 104 with a connection through a
7 transit through a private operator, in this case it was
8 Pennco, who would then run, which was running from Port
9 Angeles with a pickup at 104 and 19 to take passengers
10 to Kingston. So it was one of those things that's build
11 it and they will come. It was Jefferson Transit needed
12 to see a market before it could invest in time and
13 money, and we need to establish the market before
14 Jefferson Transit thinks to take action. So this was
15 the best of all possible worlds to get Jefferson Transit
16 to coordinate its schedule with Pennco for service
17 direct to Kingston.

18 Just some quick numbers, and this may be one
19 of the exhibits from Pennco, we have a document -- I
20 also serve on the Olympic Peninsula Work Force
21 Development Council, which is a five county cooperative
22 that is made up of private operators, or excuse me,
23 private businesses as well as Economic Development
24 Council reps and chambers, and it's obviously, you know,
25 it's like an employment service, help find jobs, help

0081

1 train people, and help get them to their jobs. And one
2 of the documents that we had at our, I think it was our
3 September '04 meeting was --

4 JUDGE MACE: Well, let me just interrupt for
5 a minute.

6 THE WITNESS: Sure.

7 JUDGE MACE: Is this a document that you --

8 MR. HARRIS: No.

9 JUDGE MACE: It's not, okay.

10 Go ahead.

11 A. But this document shows the ebb and flow of
12 commuters between Kitsap, Clallam, Jefferson, and even
13 the counties of King, Pierce, and Snohomish. And quote
14 the county numbers, of the 10,000, approximately 10,000
15 employed people living in Jefferson County, nearly 1,900
16 commute into other counties to work. Of that 1,900, 600
17 of those are into the Pierce, King, Snohomish County,
18 mostly being King County. So there is a -- and what's
19 interesting, there is another 150 living in the King,
20 Pierce, Snohomish County area that commutes into
21 Jefferson County to work. But in terms -- and I can
22 quote all of these numbers, but essentially what I'm
23 saying is there's about 1,100 people living in Clallam
24 and Jefferson Counties commuting into the King County,
25 Pierce County area. To me that's a market that's

0082

1 screaming for another way to get to work other than
2 taking their vehicle.

3 It was pointed out about the Hood Canal
4 Bridge, this summer there are two scheduled 78-hour
5 closures of that bridge. We're still trying to
6 determine whether they're going to be weekends or
7 weekdays. We know they're coming, and at this point the
8 State has advised us that the contractor is only
9 required to give a six week notice for these two 78-hour
10 bridge closures. The Port Townsend Chamber of Commerce
11 knows about this, we have been working with this bridge
12 closure for over eight years. Our intent is to mitigate
13 those closures using a service like the passenger only
14 ferry service rather than have it -- we intend to have
15 passenger only ferry service operate from Seattle to
16 either Port Ludlow or Port Townsend or both during those
17 two bridge closures that are scheduled for this summer.
18 So again, we need ground transportation to link with the
19 passenger ferry service. We have been in contact with
20 Aqua Express as well as Puget Sound Express as well as
21 Victoria Express. All of them have boats, all of them
22 are drafting bids at this time to see what it would
23 cost, we are working with our City Lodging Tax Advisory
24 Committees, we are working with our Chamber of Commerce
25 and private businesses to put together these excursions

0083

1 that will mitigate those two 3-hour closures, excuse me,
2 3-day closures.

3 JUDGE MACE: Mr. Harris.

4 BY MR. HARRIS:

5 Q. Tim, would it be fair to say that from your
6 lifetime of living in Jefferson County, from the
7 numerous organizations that you are either on the board
8 or serve in some capacity in the community, the chamber,
9 you went through four or five organizations right there,
10 I couldn't actually keep up with them all, is it fair to
11 say that you feel you have a pretty good understanding
12 of the business needs of Jefferson County?

13 A. I would -- I think there -- that's debatable.
14 I mean Port Townsend, because we all know you get three
15 people, you get four opinions. But yes, I would think I
16 have an understanding of the business climate in Port --
17 in East Jefferson County.

18 Q. But because you're not just on things in Port
19 Townsend, you're associated with like the commission
20 that was part of Jefferson Transit, which is the whole
21 county?

22 A. Yes.

23 Q. Okay, so I just wanted to get your feedback
24 on that question first of all. So then my next question
25 is, as you look at the Seattle marketplace, the dynamics

0084

1 there in terms of the money that's spent, what portion
2 of that goes -- is both possible for travel or tourism,
3 things like that, as you look at the number of people
4 that you shared with us that are commuting regularly
5 from this area, I know that you have the statistics for
6 both Clallam and Jefferson County, but if you look at
7 the daily commuters from these areas that are going to
8 the Seattle area and think in terms again of the people
9 visiting Seattle or living in Seattle who could
10 potentially come here to spend dollars, and then also I
11 would like you to consider Victoria, which is a fairly
12 dynamic marketplace right on the other side of the
13 water, do you feel that the equipment -- are you
14 familiar with Olympic Bus Lines' shuttle, have you seen
15 their shuttle?

16 A. Yes, just seen the vehicle, I have not used
17 Olympic Bus Lines.

18 Q. But you know what their vehicle looks like?

19 A. Yes, I know what the vehicles look like.

20 Q. And I don't know if you're familiar with
21 their schedule, but they have three runs a day. Is that
22 still accurate? Yeah. When you look at all those
23 things, the commuter market, the potential market in
24 Seattle for people that come over here without vehicles,
25 the potential for the Victoria marketplace, do you feel

0085

1 that what Olympic is offering currently is enough to
2 bring that business here; is that enough? Right now
3 they actually don't currently have the authority to pick
4 up and drop off in Kingston, so I guess I can answer
5 that question by saying if Olympic gets the authority to
6 be able to pick up and drop off in Kingston, do you
7 think that that is enough to create the infrastructure
8 that the area needs?

9 A. No, I believe, and speaking on behalf of the
10 Port Townsend Chamber of Commerce, East Jefferson County
11 is a community waiting on the corner for a bus. There
12 is not enough ground transportation to meet the current
13 market needs of even Aqua Express is now offering.

14 Besides the commuter portion of it, which is
15 I think would be the bread and butter of any commuter
16 service, there is a real need for the tourism industry
17 to look at ways of providing a new way to get to the
18 Olympic Peninsula and a much needed alternative way of
19 getting to the Olympic Peninsula. And we're going to be
20 tested this summer to some extent to find out are we
21 going to be successful in maintaining some sort of
22 continuity with the I-5 corridor, which is the major
23 market for the tourism industry. So there is not enough
24 there now.

25 It's, I can give you an example, the Chamber

0086

1 has sponsored passenger ferry excursions from Seattle to
2 Port Townsend in the past. They were very successful
3 with capturing market on the Peninsula and taking people
4 to Seattle. Our biggest concern about putting these
5 excursions together was accessibility to passenger
6 ferries. They were only available off season because
7 during the summer the routes are full. With the advent
8 of passenger ferry service Seattle to Kingston, which is
9 again only a commuter service, they now have capacity on
10 weekends to run excursion service to East Jefferson
11 County, either Ludlow or Port Townsend or both. We want
12 to take advantage of that, but we are selling our
13 customers short if we don't have comparable ground
14 transportation to meet that passenger ferry service, and
15 we don't have that now.

16 Q. As Heckman has proposed, our origination
17 point would be the ferry terminal in Port Angeles, a few
18 stops along the way, but it would be an express service
19 terminating at the foot ferry in Kingston. What that
20 would allow is a person to be able to get on, stop in
21 one of the points like Sequim, shop for a while, catch
22 the next bus, go to the next point or continue on to the
23 foot ferry and on to Seattle, so there would be a way
24 for people to be, without transportation, without their
25 own vehicles, to be able to explore the Peninsula, to be

0087

1 able to get around and to be able to count on that
2 happening. Do you see any value in that service being
3 put into place?

4 A. Yes, and I think the immediate gain would
5 come from the Port Ludlow area. It's a community,
6 unincorporated community, of I would say about 4,000 or
7 5,000, mostly retirees, you do have some employment that
8 comes out of there. There's a lot of traffic, obviously
9 Port Ludlow situates right between about, you know, 35
10 minutes from Port Townsend or 45 minutes from the Kitsap
11 area. With Kingston essentially 20 minutes away with
12 then a 40 minute passenger ferry ride into downtown
13 Seattle, we're talking about a one hour commute. And if
14 you were to draw your one hour commute circle around
15 Seattle, that wouldn't get you very far outside of
16 Seattle.

17 The realtors in the area are aware of this
18 service. It is a, you know, Port Ludlow is zoned
19 through our county comp plan as a build-out area, it has
20 a plan for the number of housing units that are going to
21 be built over the years. There is a Wal-Mart that is
22 coming in that wants to put a time share condominium in
23 Port Ludlow. The selling point of having the Peninsula
24 with the marina and the parks and the trails within
25 literally shouting distance of downtown Seattle by

0088

1 alternative transportation is something both the Port
2 Ludlow Chamber and the Port Townsend Chamber see as an
3 economic benefit, you know, to the Olympic Peninsula, to
4 East Jefferson County.

5 So yes, there would be I believe an immediate
6 benefit, particularly as I mentioned Hood Canal Bridge
7 closures for the summer, and then a long-term benefit in
8 terms of a community that is already zoned to be a
9 residential community with access to the I-5 corridor.

10 Q. You testified --

11 JUDGE MACE: Mr. Harris, on the one hand I
12 want to have you be able to conclude your examination of
13 the witness, but it is 11:00, and we haven't taken a
14 break, so I propose that we take a ten minute break. I
15 will still give you time to copy your exhibits, but I
16 think we need to take a ten minute break right now if
17 that's okay with the witness. Ten minutes then.

18 (Brief recess.)

19 JUDGE MACE: Before we go ahead with your
20 testimony, Mr. Caldwell, I want to address a
21 housekeeping issue that's come up about the authority.
22 I sent out a notice of acceptance of the amendment to
23 the Pennco authority. I apparently neglected to include
24 a line that was part of the original application, and
25 that line goes directly above the last sentence of the

0089

1 noted authority that is the noticed authority, and that
2 last sentence is between Clallam and Jefferson Counties
3 and Kitsap County ferry terminals, directly above that
4 line there should be in capital letters, passenger
5 service, colon. That makes a difference because
6 apparently the prior reference to passenger service in
7 the earlier portion of the authority is restricted to
8 door-to-door by reservation only. So I want to make
9 sure that that's clear on the record that that addition
10 should be made.

11 Is there anything else that we need to be
12 sure about?

13 Okay, go ahead, Mr. Harris.

14 BY MR. HARRIS:

15 Q. So, Tim, you testified a little bit ago that
16 there were more than I believe you said 1,000 commuters
17 traveling from this area to Seattle?

18 A. To the counties of -- the data collection put
19 all the I-5 corridor into Pierce, Snohomish, and King
20 County. We don't -- the conjecture is out of the 1,100
21 commuters from Clallam and Jefferson County to the
22 Pierce, King, and Snohomish County, most of them are
23 going into King County.

24 Q. Based on your knowledge of the communities
25 here in Jefferson and Clallam Counties, could you

0090

1 estimate how many people to King?

2 A. I would say probably 70% of that number.

3 Q. Okay, so around 700 people?

4 A. Correct.

5 Q. You heard earlier Mr. Estes testify that when
6 he traveled to Seattle on Olympic Bus Lines, he didn't
7 feel like there were enough other people traveling with
8 him to Seattle; do you remember that?

9 A. Correct, yes, I do.

10 Q. Olympic I believe charges \$58 round trip to
11 get from here to Seattle. Do you think that the cost,
12 the \$58 round trip, would have anything to do with why
13 those 700, I mean even if we were just conservative and
14 just said it was 500 people commuting to Seattle every
15 day, do you think the cost of the round trip on Olympic,
16 or Pennco for that matter, we charge \$98 to take people
17 from their doors to Seattle, Olympic is at \$58, but
18 there's these 500 to 700 people commuting every day, do
19 you think that that cost has any bearing on why those
20 700 people aren't going to Seattle with Mr. Estes?

21 A. Well, cost would certainly be a factor, but
22 any transportation is about affordability and
23 accessibility. Not only is it cost, but the
24 transportation has to be there when the customer wants
25 it, so that would be a factor I think just as much as

0091

1 cost would be a factor.

2 Q. Okay.

3 A. Would be accessibility.

4 Q. So your feeling from the statistics that you
5 have received from the Department of Transportation and
6 your knowledge of the communities that we serve here is
7 that there is a real -- there is a market for regularly
8 scheduled transportation between points on the Peninsula
9 connecting to the foot ferry terminal in Kingston, it
10 just hasn't been capitalized on yet; is that fair?

11 A. I think that's a fair assessment, yes.

12 Q. Okay. And in order to capitalize on it from
13 what you have seen, it would have to be, number one, a
14 service that was regular and somewhat frequent, and it
15 would have to be priced somewhat affordably for those
16 commuters to, like they do with the Aqua Express now, to
17 be able to say it makes sense for me to go this way, and
18 right now from what you have seen, that doesn't exist?

19 A. That's correct, that's correct. I mean just
20 very quickly, if Transit ran -- if Jefferson Transit ran
21 from Jefferson County direct to Kingston, a round trip
22 from Jefferson County to Seattle and back would be \$13,
23 so. But that gap between Jefferson County and Kingston,
24 we don't have a public or a private transportation
25 system that makes that connection. That's what we feel

0092

1 Pennco brings to the table. If the schedule at the very
2 minimum would have to match the six routes or the six
3 departure times that Aqua Express has, so that's what I
4 would be looking for, that's what the market is getting
5 used to now. But what the market needs to see is
6 something that's regularly scheduled, it needs to see
7 the fares involved, and it just needs to be made known
8 to the market.

9 Q. How often do you travel to Seattle?

10 A. Oh, I would say at least five or six times a
11 month.

12 Q. Have you tried the new foot ferry yet?

13 A. Yes.

14 Q. If there were a service that allowed you to
15 get from your community in Port Townsend to the foot
16 ferry, regularly scheduled as we have talked about so
17 far, affordably priced, would you leave your car at
18 home?

19 A. Certainly.

20 Q. Would you take that route?

21 A. Yes, I have to -- I'm in Seattle, downtown
22 Seattle, for business at least twice a month. One of
23 them is I'm the representative, one of the
24 representatives from Jefferson County for the Ferry
25 Advisory Committee, Washington State Ferry Advisory

0093

1 Committee, which meets in downtown Seattle, and that's a
2 monthly meeting. Unfortunately I had to drive to
3 Kingston and park, and right now parking is only \$4 a
4 day as opposed to \$7 a day in Bainbridge, and already
5 that lot is nearly full, which again shows the need for
6 more ground transportation. Because it's actually less
7 expensive and more convenient to take a bus because the
8 bus can go right to the ferry terminal. But even that,
9 it was -- it's an excellent service. I would have
10 preferred to bus down there and then take the boat
11 across, but I did drive.

12 Q. Through either any of the organizations that
13 you serve on, the Chamber of Commerce in Port Ludlow or
14 Port Townsend or through the transit agency, Jefferson
15 Transit, have you had the opportunity to use, work with,
16 or interact with Pennco Transportation either chartering
17 a bus or using a bus or any --

18 A. There have been different events held in Port
19 Townsend, things like homes tours, and at that time we
20 have used Pennco in the past, we have used Jefferson
21 Transit. And again, and we see this for almost -- we
22 see more and more of it at the major events, Port
23 Townsend Wooden Boat Festival, parking becomes a very
24 big issue. We have a Park & Ride lot, people go there,
25 leave their vehicles, then the buses then take people

0094

1 downtown. We have had blues festivals, jazz festivals
2 where -- and this -- it's interchangeable depending on
3 the non-profit and the organization and what kind of a
4 contract they work out whether they use Jefferson
5 Transit or Pennco to move people. A blues festival, for
6 example, you have bands in all the establishments
7 downtown as well as the establishments uptown, and this
8 bus service would run between the various
9 establishments. So short answer, yes, we have on a
10 capacity mostly event driven to move people from their
11 vehicles to the event without, you know, dealing with
12 the limited parking that's in the historic district of
13 Port Townsend. So yes, we have used both Pennco and
14 Jefferson Transit for events for traffic control.

15 Q. You heard earlier testimony by Mr. Farmer
16 stating that he -- at first he said that he couldn't
17 really be specific, but then later he was able to
18 identify some comments that he had heard about Pennco,
19 and those comments were -- the first comment I have to
20 say was associated with the Paratransit Medical
21 Transportation, that he said there was red tape involved
22 with, which I will explain in my testimony, but -- so we
23 won't deal with that one. But he also mentioned that
24 there were -- he had heard that there was turnover of
25 drivers and he said medical coupons, again that's

0095

1 separate, I guess turnover of drivers. Maybe just in
2 general how the interaction has been between Pennco in
3 whatever capacity, driver, vehicle, whatever, and the
4 events that you were associated with, so you described
5 that there have been opportunities where you have used
6 Pennco to take people from one point to one or more
7 points in some kind of a format there, you or your
8 groups have had the opportunity to deal with the drivers
9 and the vehicles and all those other issues, what has
10 been your experience in, number one, in dealing with
11 Pennco in that way, and then number two, what's your
12 feeling about, based on that experience, Pennco's
13 ability to be able to deliver a regularly scheduled
14 service getting people from point A to point B to point
15 C and back again?

16 A. We have had no complaints while working with
17 Pennco, and I don't foresee any problems with Pennco
18 achieving its plan, which is to run, my understanding,
19 is regularly scheduled fixed service between Port
20 Angeles and Kingston, and we are actually looking
21 forward to it, we being the Port Townsend Chamber of
22 Commerce.

23 MR. HARRIS: Okay, thank you, Tim, those were
24 my questions.

25 JUDGE MACE: Okay.

0096

1 Mr. Heckman.

2

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

4 BY MR. HECKMAN:

5 Q. Hi, Tim, thanks for coming today.

6 A. You bet.

7 Q. Tim, are you aware of any studies or surveys
8 that have been done which would show the potential
9 ridership of the proposed Pennco's new service?

10 A. No. Well, no, not directly to Pennco. We
11 have -- we are aware of surveys done both by again
12 through the City of Port Townsend Lodging Tax Advisory
13 Committee --

14 JUDGE MACE: Which tax advisory committee?

15 A. The City of Port Townsend Lodging Tax
16 Advisory Committee. This is all tax municipalities that
17 collect hotel-motel tax revenue are required by state
18 law to have an advisory committee on how to spend those
19 dollars. They are very specific according to RCW's that
20 they are spent on the tourism, be that product
21 development, marketing and promotion, or capital
22 facilities like a visitor's center.

23 The Jefferson County Lodging Tax Committee
24 has also done a study, these are through Dean Runyan,
25 and it talks about the traffic onto the Olympic

0097

1 Peninsula, the tourism market, where does it come from,
2 the frequency, how do they get here.

3 There is also another survey, this was done
4 by DOT I believe in 1998, and it was an
5 origin-destination survey. They actually mounted a
6 camera on the Hood Canal Bridge. This was done in the
7 month of April of '97 I believe. And if they saw a
8 license enough times, they -- it was correlated to their
9 home address, and they were sent a survey and asked to
10 fill it out saying where are they coming from, where
11 were they going, how often do they do it. And the
12 results of that survey were significant in the number of
13 commuters and also in the number of people living on the
14 Olympic Peninsula that cross that bridge for medical
15 reasons. And I think we have heard both witnesses prior
16 to myself the reason for the Hood Canal Bridge. That
17 particular survey brought out a challenge for the Port
18 Townsend Chamber and Port Ludlow Chamber to look at how
19 do we mitigate this bridge closure again for these two
20 3-day closures coming up this summer. And then when we
21 ever do get a graving dock, to build these pontoons to
22 repair this bridge it will be shut down for two months.
23 We're looking now to schedule --

24 JUDGE MACE: Okay, I need to have you focus
25 on the answer to the question, which was the question of

0098

1 whether surveys have been done.

2 THE WITNESS: And these surveys have been
3 done, and I was just explaining the survey.

4 JUDGE MACE: Okay.

5 A. But a quick count, and this survey is from
6 '97, 17,000 vehicle trips were across Hood Canal Bridge
7 weekday, 20,000 weekend, and it's growing at 4% a year.
8 So very early on in my testimony about the fragility of
9 how you get onto the Olympic Peninsula, on and off the
10 Olympic Peninsula, the Hood Canal Bridge is essential,
11 and that bridge has construction schedules and closures
12 scheduled, and we need to get our goods and services and
13 our workers and those needing health care to the I-5
14 corridor. Passenger ferry service is a critical part of
15 that mitigation, and of course ground transportation is
16 a critical part of the passenger ferry service. So
17 there have been surveys done, but specific to Pennco,
18 no, but there's definitely a lot of data there for any
19 ground transportation service to use.

20 BY MR. HECKMAN:

21 Q. There is no specific survey or study that has
22 been done to show the actual potential ridership for
23 this proposed new service?

24 A. Not that I'm aware of.

25 Q. How much in your opinion, Tim, would you see

0099

1 would be commuters using this proposed new service
2 versus say travel, leisure, tourist type of people?

3 A. Right now there is our own visiter center
4 does receive requests, and I don't have specific data,
5 but I would have to say it's not frequently,
6 infrequently, I would say possibly 10 requests a month,
7 how to get from the I-5 corridor to Port Townsend
8 without a vehicle. So that is a minor part of the --
9 it's my estimate that the initial need for this service
10 would be for commuters, primarily in the East Jefferson,
11 East Clallam County area.

12 Q. Are you aware of the total cost of ridership
13 for the commuter, the proposed rate plus the cost of the
14 ferry for each individual commuter daily, what that
15 would be?

16 A. In terms of --

17 Q. Dollars spent that day. For instance, how
18 much would it cost to use the proposed service, and how
19 much would it be for the ticket on the passenger ferry
20 combined for a round trip?

21 A. No, I only know the Aqua Express fare at this
22 point, which is \$10.50 round trip.

23 Q. If I was to say that that dollar amount would
24 be as much as \$25 for the round trip for that service
25 plus the \$10.50 for the ferry, being a total of \$35.50

0100

1 per day, which comes out to a little over \$700 a month,
2 do you think that that's a service that would be used by
3 individual commuters?

4 A. By some, particularly as you watch Washington
5 State Ferry fares increase and parking fares increase.
6 Right now it would be competitive only if that person
7 going to the Seattle side is paying for parking, because
8 parking downtown is upwards of \$20 a day. So it's a
9 small market, but the market would exist even at that
10 rate.

11 Q. So you would say that it would be a very
12 small market if they had to pay \$25 from Jefferson
13 County to get to the ferry verses taking their own car
14 and parking in the lot?

15 A. Correct. But again, that's -- I'm willing to
16 bet anybody that \$4 parking fee at the Port of Kingston,
17 we'll look at that very closely here in the next few
18 months.

19 MR. HECKMAN: That's all the questions I
20 have, thank you.

21 JUDGE MACE: Mr. Thompson.

22 MR. THOMPSON: Yeah.

23

24

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

0101

1 BY MR. THOMPSON:

2 Q. Mr. Caldwell, I just want to clarify what
3 exactly -- what's your understanding of what the new
4 service that Pennco is proposing. In other words, what
5 are the -- do you -- what's your understanding of what
6 the points of, you know, origin, termination are?

7 A. My understanding is that it's a service from
8 Port Angeles to Kingston.

9 Q. Okay.

10 A. With connections with Jefferson Transit.
11 This is through discussions both at the Transit Citizens
12 Advisory Committee with Dave Turissini, who is the
13 executive director of the Jefferson County Transit
14 system.

15 Q. Where would the connections be with the
16 Jefferson Transit service?

17 A. The -- I'm just -- I have no idea if Pennco
18 has a specific site. My recommendation would be at the
19 intersection of Highway 19 and 104. That's where the
20 gateway visitors center is located, and it's already
21 being used by people who car pool. There is probably a
22 dozen cars Monday through Friday that park at that
23 visitors center and connect to either Clallam County or
24 Kitsap County.

25 Q. So the purpose of the connection with the

0102

1 Jefferson Transit would be sort of to collect people who
2 have come by Jefferson Transit from their homes and then
3 they would get on the proposed Pennco service and take
4 that to the Kingston ferry terminal?

5 A. That's correct.

6 Q. Okay. Is Jefferson Transit, is that a public
7 transportation benefit area?

8 A. I would say yes, it serves the entire county,
9 its revenues are tied to the Jefferson County sales tax.

10 Q. Okay. And maybe if you could talk a little
11 bit more about I think you said there was -- is there
12 presently an agreement between Pennco and Jefferson
13 Transit; do you know?

14 A. No, I wouldn't call it an agreement. I think
15 it would say it's a statement of partnership, that
16 Jefferson Transit at this time does not have the
17 capacity to add a route from Jefferson County to
18 Kingston, however they would be willing to work with
19 Pennco Transportation in making that connection.

20 Q. Do you have any idea of the frequency or the
21 scheduling of the proposed service?

22 A. No.

23 Q. Okay.

24 A. Again my conjecture was it would be tied to
25 the schedule of Aqua Express, which has three trips in

0103

1 the morning out of Kingston and three trips in the
2 evening out of Seattle, round trips.

3 Q. And are you aware of Olympic's existing
4 scheduled service that's an issue in this case?

5 A. No, I'm not.

6 Q. Do you think there would be, well, if -- do
7 you think there would be sufficient demand for two
8 providers, if you can say at all, to provide scheduled
9 service between Port Angeles and the Kingston terminal?

10 A. I would believe it would be as strong or not
11 stronger than from Jefferson County. Again, 1,100
12 doesn't sound like a large market, but that is nearly
13 19% of the work force in East Jefferson and East Clallam
14 County. And again, that's commuters. And then it would
15 be up to again these lodging tax committees to market
16 these services for the tourism element, tourism market
17 on the I-5 corridor that come over to the Peninsula.

18 MR. THOMPSON: Okay, thank you, Mr. Caldwell.

19 JUDGE MACE: Anything else, Mr. Harris, do
20 you have any redirect of this witness?

21 MR. HARRIS: Yes.

22

23

24

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

0104

1 BY MR. HARRIS:

2 Q. Tim, the question on the cost of the service,
3 I think that one of the tools that the Aqua Express used
4 you may be familiar with is a monthly pass.

5 A. Correct.

6 Q. Which has been very successful for them.
7 There's obviously a difference between someone who
8 commutes on a service every day and someone who needs it
9 occasionally. So if you pay based on the numbers that
10 Mr. Heckman shared, if you had to pay on the daily rate
11 \$700, that might be discouraging for someone who has to
12 do it five days a week. But if there were a significant
13 discount given to the bus portion of that fare, as Aqua
14 Express does for their portion of the commute for their
15 frequent riders, if there were a significant discount,
16 do you think that would be more enticing to those
17 commuters, so again the lower the cost of the monthly
18 pass, proportionally the more people that would sign up?

19 A. Again, transportation is always about
20 accessibility and affordability. So if the schedule
21 matches the needs of the customer and the price matches,
22 obviously it would develop I think a larger share of the
23 market. And again, citing the two closures scheduled
24 for this summer, it becomes the only market. So even if
25 it's only temporary, and again this is one of the

0105

1 reasons the Chamber is here, we see an immediate need,
2 and it's a chance to make lemonade out of lemons. If we
3 could show the feasibility of this during these two
4 summer closures, I think it would go a long way in
5 helping to establish a permanently fixed route.

6 MR. HARRIS: Thank you.

7 JUDGE MACE: Anything else, Mr. Heckman?

8 MR. HECKMAN: I just wanted to clarify one
9 particular item. Kevin had mentioned that our round
10 trip fare to Seattle is \$58. Our round trip to Seattle
11 is \$49, it's \$58 to the airport. So just a point of
12 clarification.

13

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

15 BY MR. HECKMAN:

16 Q. Tim, you had mentioned that you thought that
17 it might be stronger in Clallam County versus Jefferson
18 County even for people say who had to go to work over in
19 Seattle. Currently right now the proposed rate is \$25
20 for the round trip on the bus and the \$10.50 for the
21 ferry ticket coming to a total of \$35.50. Do you feel
22 in your opinion that someone from say Port Angeles would
23 pay \$35.50 a day to commute to his job to and from
24 Seattle?

25 A. I mentioned that it was only stronger in that

0106

1 there was even a larger number that are commuting into
2 and out of Clallam County than there is out of
3 Jefferson. Obviously the higher the price, it -- I
4 can't determine what the market would be on that. If
5 it's a matter of price, you're right. If it's a matter
6 -- it would be prohibitive if the price is too high
7 unless that is the only way you can get there.

8 Q. Would you consider a price of say \$35.50 a
9 day for a working person in Port Angeles as too high in
10 your opinion?

11 A. In my opinion, yeah, that would be a high
12 price.

13 MR. HECKMAN: Thank you, that's all I have.

14 JUDGE MACE: Mr. Thompson, anything else?

15 MR. THOMPSON: No.

16 JUDGE MACE: Thank you very much,
17 Mr. Caldwell, you have been on the witness stand for a
18 long time, but we appreciate your testimony, thank you.

19 THE WITNESS: Thank you.

20 JUDGE MACE: You're excused.

21 Well, I'm going to propose that we take our
22 lunch break now, and what if we take a break until 12:30
23 and come back, and then we'll take the testimony from
24 the two owner applicants, so we're adjourned until
25 12:30.

0107

1 (Luncheon recess taken at 11:30 a.m.)

2

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

4 (12:30 p.m.)

5

6 (Witness Jack Heckman was sworn.)

7 JUDGE MACE: All right, so make sure you
8 state your name and your address and do those
9 preliminaries and identify yourself, and then go ahead
10 and make your statement.

11

12 Whereupon,

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

16

17 MR. HECKMAN: I'm Jack Heckman. I'm the
18 President of Olympic Bus Lines. I reside here in Port
19 Angeles, Washington. I would like to just start with my
20 first exhibit, Exhibit 1, which is my own personal
21 resume', and I'm a graduate of Washington State
22 University School of Business, graduated in 1982. I
23 have listed my work experience.

24 JUDGE MACE: Let's recess for just a moment.

25 (Discussion off the record.)

0108

1 JUDGE MACE: Let me just indicate that
2 Mr. Heckman has presented to us off the record a series
3 of exhibits that he intends to identify today while he's
4 making his statement, and those are Exhibits Number 1
5 through 13. And Mr. Harris when he begins to testify
6 also has a series of exhibits numbered 14 through 20,
7 and Mr. Harris will identify those.

8 So I will let you go ahead now, Mr. Heckman,
9 and if you would identify, as you're going through, if
10 you would identify the exhibit.

11 MR. HECKMAN: I think I just mentioned
12 Exhibit 1, which is my personal resume'. I have listed
13 my work experience primarily to show the number of years
14 that I have been involved in the transportation industry
15 in one form or another actually going back further than
16 this. My family started the first Lincoln Mercury
17 dealership here in Port Angeles back in 1941. Our
18 family has been in the automobile and car rental
19 business for years. I actually started washing cars
20 when I was in high school for my dad's Nissan Jeep
21 franchise, which was Heckman Nissan here in Port
22 Angeles. Worked my way up after college into the Nissan
23 Jeep dealership as the general manager. That dealership
24 was sold in 1987, and I retained the used car portion of
25 the business as Heckman Automotive Specialists as owner

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1 operator there for three years. Then went on to work
2 for Ruddell Auto Mall, which was in Port Angeles, which
3 was a Pontiac, Buick, Cadillac, GMC, Mazda manager at
4 the time and was a used car manager at that place.
5 Basically took a year off and became senior partner in a
6 micro brewery equipment manufacturing company. I was
7 again a senior partner in that. And since that time,
8 from '98 until present, I'm the President of Heckman
9 Motors, Incorporated and am responsible for managing and
10 overseeing Olympic Bus Lines, six franchise operations,
11 Budget Rent a Car operations, and a parking business
12 which operates here in town that services foot
13 passengers on the ferry to Victoria and parking of their
14 vehicles here in town.

15 I would like to also present Exhibit Number
16 3, which is our current passenger service vehicle
17 inventory, and I would like to note that we operate
18 three vehicles for our three scheduled daily runs. All
19 three of these vehicles are late model vehicles, were
20 all purchased brand new. All three are wheelchair
21 equipped, ADA, and we're very proud of our fleet.

22 Next exhibit would be Exhibit Number 2, which
23 is our actual current operating certificate, Number
24 C-992, showing our service primarily starting in Port
25 Angeles and ending up over in Seattle and Seatac Airport

0110

1 as our primary areas of service. We got that
2 certificate originally in 1999 is when we first
3 purchased that from a gentleman named Mr. Glen Larson
4 out of Port Angeles, who had operated the same territory
5 for approximately ten years before that, so all in all
6 this service or this certificate has been in operation
7 for over 15 years if you combine his service plus the
8 time since we have taken over the service.

9 I would like to bring up Exhibit Number 5 is
10 the next exhibit. Exhibit Number 5 if you read was
11 naming rates for passenger and express service in the
12 following described territory, and this is from 1999
13 when we first originally took over the service from
14 Mr. Larson's company and received our certificate, and
15 at the time we listed flag stops along the route, which
16 we have continued to list up until recently, which
17 included Kingston as one of our flag stops, Kingston and
18 Edmonds, Discovery Bay, and we were under the assumption
19 the entire time that those were basically our territory
20 that we were allowed to stop and go from. It was just
21 recently that we were informed by WUTC staff that our
22 tariff that we had didn't match what our certificate
23 actually allowed, and the term that was used to me is
24 that we needed to clean up our tariff and our
25 certificate and that we would need to reapply for those

0111

1 areas that we had shown as flag stops, which is what we
2 have done.

3 And if you take Exhibit Number 6, you will
4 see the revised tariff that we were told to do in the
5 interim time until we received our new certificate, our
6 new tariff. This was a part of the cleaning up process
7 that we were told to do. I'm trying to just give you a
8 sequence of events of what's happened and show that we
9 have actually -- actually have serviced that Kingston,
10 Edmonds territory for a number of years. It's been
11 something that we have done.

12 The next exhibit I would like you to look at
13 is Exhibit Number 7. Exhibit Number 7 is, there's
14 actually two pages, the first two pages are our awards
15 that we received. These awards were from the Department
16 of Transportation. They are consolidated public
17 transportation grants in two forms. One was a capital
18 assistance agreement, and another one was an operating
19 assistance agreement. The capital assistance agreement
20 that you see on the first page was to help in the
21 funding of two ADA accessible minibuses to replace our
22 existing vehicles for our intercity bus service to
23 persons with special needs in the general public between
24 Port Angeles and Seattle. The second page shows a grant
25 in the form of operating assistance, and these funds

0112

1 were to sustain and enhance intercity bus transportation
2 services to the general public between Port Angeles and
3 Seattle. And this was the second grant that we had
4 successfully been awarded. We had been awarded during
5 the previous term of grants one for our first bus that
6 you saw on our equipment list in addition to some
7 software and some computers that helped move our
8 operation along.

9 The next pages were part of the grant that
10 were letters of support from various members of the
11 community starting with the City Manager, Michael Quinn,
12 here in Port Angeles. The second one was with Clallam
13 Transit General Manager, Daniel Di Giulio. The third
14 letter was from the Chamber of Commerce Services
15 Director, Louann Yager. The next one was from the
16 Olympic Community Action Program, which we are a member
17 of the ACCT coalition, and this is from Mr. Timothy
18 Hockett, who is the Deputy Director of that program.
19 The next letter was from Jennifer Brooks from Olympic
20 Medical Center, who we had coordinated numerous patients
21 between Port Angeles and Seattle. And then the final
22 one was just from one of our members of the community
23 who wanted to support us in the application of that
24 grant.

25 What I am trying to show through these award

0113

1 grants are the considerable amount of investment, not
2 only that Olympic Bus Lines has in the providing of
3 service between Port Angeles and Seattle, but also the
4 considerable investment that the Washington State
5 Department of Transportation has invested in us in order
6 to improve and enhance service between Port Angeles and
7 Seattle, and so those are the reasons that I wanted to
8 put those in as exhibits.

9 Again, I would like to say that Olympic Bus
10 Lines has been providing service between Port Angeles
11 and Seattle since July of 1999. Pennco Transportation,
12 Incorporated has applied through their application that
13 they're presenting today to overlap this territory in
14 order to provide service to meet the new Aqua Express
15 passenger ferry. Passengers will then board that ferry
16 destined for downtown Seattle, so in essence Pennco is
17 applying for an alternative route, daily scheduled
18 service between Port Angeles and Seattle. This will
19 cause competition for passengers to downtown Seattle
20 between Olympic Bus Lines and Pennco Transportation.
21 And we feel that since we will be competing for the same
22 passengers for this service between these two points
23 that it will cause significant financial damage to
24 Olympic Bus Lines.

25 In terms of the need to service the Aqua

0114

1 Express ferry, Olympic Bus Lines with its already
2 existing service with its own schedule that we currently
3 have now would be able to provide transportation to meet
4 the Aqua Express 8:50 a.m. departure from Kingston to
5 Seattle and then the 8:00 p.m. arrival from Seattle back
6 to Kingston. This could be accomplished with no
7 additional expense since it matches up with our current
8 existing schedule, and that schedule can be seen in that
9 tariff number 10. This would give Olympic Bus Lines the
10 opportunity to analyze the demand for passengers between
11 Port Angeles and the Aqua Express service in Kingston
12 and increase service if demand would warrant it. In
13 other words, we would look at this demand for people,
14 and if need be, we would be in a position where we could
15 add service if that was -- if we felt like it was a
16 service worth having a demand for.

17 I would like to present Exhibit Number 4 just
18 to have you look at the map. This is a map showing the
19 route that Olympic Bus Lines currently uses going
20 between Port Angeles. You can see it flags down through
21 Sequim, and then it goes past Discovery Bay, goes on to
22 Kingston, and I know it's hard to see where Kingston is
23 exactly right there on the water, but we actually go to
24 the ferry, and we actually take the ferry every day for
25 our first two runs directly across the Sound there into

0115

1 Edmonds, and then we drive down to Seattle and then all
2 the way down to Seatac Airport, and then that route
3 reverses itself coming home at night or that afternoon.

4 What Pennco is proposing to do is to just
5 shorten this route, so they would be leaving Port
6 Angeles, and they would ultimately be ending up in
7 Kingston also. Which in essence, if you were to just
8 look at it from Port Angeles to Kingston, if there was
9 actually a market for people between Port Angeles and
10 just Kingston, I would say maybe there was a -- you
11 might say that there might be a need for some type of
12 service like that. But in reality, what they're trying
13 to do is connect with that Aqua Express ferry, and that
14 Aqua Express ferry will take -- can go from Kingston
15 right to downtown Seattle. So when I look at the
16 application showing only between Port Angeles and
17 Kingston, in reality the market is not between Port
18 Angeles and Kingston, the market is between Port Angeles
19 and downtown Seattle. In fact, our bus as it crosses
20 over and takes the passengers across the ferry and into
21 downtown Seattle is only a short distance from where
22 that ferry that they would be taking, the Aqua Express,
23 would be dropping passengers.

24 We feel that it would actually be more
25 cumbersome also for those people with luggage or people

0116

1 with things they have to carry would have to get off of
2 the bus at that point in Kingston, carry those onto the
3 ferry, and then they would be dropped in downtown
4 Seattle at the ferry terminal and at that point would
5 have to find additional means of getting to wherever
6 they need to go to, whether it be work or the Greyhound
7 station or the hospitals or whatever destinations they
8 have. Whereas our service, they stay on the same bus,
9 they cross over the ferry with us, they end up downtown
10 Seattle right at the Greyhound station. We are the
11 authorized agent for Greyhound, we actually have an
12 interline agreement with Greyhound. And if they need to
13 go to the hospitals, we'll take them right up to the
14 door of the hospital. We can go down to the Amtrak
15 station, drop them there. And those are all before we
16 will head on off to Seatac. So we feel that it's a much
17 more seamless and easy operation for those customers
18 going between those two points, and I hope that you will
19 see that it is actually an overlap, it's not really
20 anything different than we're doing currently.

21 There are a couple of items that I know
22 Pennco, Mr. Harris, must address in their service that
23 they're proposing. One of those is need for the
24 service, and the other one would be financial fitness.
25 In looking at the exhibits that were just presented, I

0117

1 do not see any studies or any surveys that indicate in
2 any fashion as to the number of passengers that
3 potentially could be transported on his new proposed
4 service showing or indicating that there's any need for
5 this service or especially any additional need for the
6 service in addition to what we are currently providing
7 right now.

8 In terms of the financial fitness, I would
9 ask that you look at Exhibit Number 11. Exhibit Number
10 11 was received from Pennco's application for this new
11 proposed route, and it's the profit and loss statement
12 from April 2003 through March 2004, and this includes
13 their existing service that they have now, which is a
14 door-to-door service. If you turn to the last page of
15 that, it shows a net income figure as a loss of
16 \$342,981.16. With that loss, my question would be in
17 light of that, how would Pennco, number one, continue to
18 operate under its own existing authority with those
19 types of losses, much less start and fund a new
20 operation, which in general a new operation will operate
21 in the red at least to begin with, would be my question
22 as far as the financial fitness in that area.

23 If I could also refer to Exhibit Number 10,
24 Exhibit Number 10 was simply just a note in a meeting
25 from Kevin Harris to myself when we were discussing

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1 trying to work out some type of an agreement between us
2 to avoid this hearing in essence. And number 3
3 discusses or states, and this was from Mr. Harris to
4 myself, will you agree to allow us to look for and
5 obtain grant assistance without objecting or dovetailing
6 our requests, and he put in parentheses, to service the
7 route. This indicates to me that Mr. Harris will be
8 trying to obtain grant funding from some source or some
9 type of funding in order to fund this operation. And
10 again, my question for financial fitness is, without
11 this type of funding, is the company financially fit in
12 order to start a new proposed service if that funding
13 doesn't come through. I do know that the last
14 application for grants were just completed here about a
15 month ago for the next biennium, which was the 2005, 6,
16 and 7 period, of which we actually applied. So the next
17 round of grants would not even be available until
18 probably sometime in 2007 to even apply for if they're
19 available at all.

20 The next exhibit I would like to go to would
21 be Exhibit Number 8. Exhibit Number 8 is an article
22 from the Port Townsend Leader. This article is dated
23 November 17th, 2004.

24 JUDGE MACE: And I guess what I would like to
25 know from this is does it have anything to do with this

0119

1 application?

2 MR. HECKMAN: Only in the respect of
3 financial fitness. I don't -- I was -- I had
4 reservations as to bringing this. Kevin is not only a
5 competitor, but I feel a friend as well, and I didn't
6 feel that I wanted this to be a smear, but it brought up
7 a few facts of things that involve Pennco company
8 specifics as far as owing some taxes. And again, I
9 brought this up only strictly as to be evidence in
10 showing that there might be a problem in financial
11 fitness of the corporation or of the company, Pennco.
12 And again, I didn't want to go and won't go into details
13 of what this all says, you have the exhibits to read,
14 but it does specifically mention Pennco with a variety
15 of liens and tax delinquencies.

16 JUDGE MACE: What's the date of the article?

17 MR. HECKMAN: The date is November 17th,
18 2004.

19 JUDGE MACE: And does it show anywhere on
20 this?

21 MR. HECKMAN: It does on the second to the
22 last page on the top, you can see Wednesday, November
23 17th, 2004.

24 JUDGE MACE: Okay, thanks.

25 MR. HECKMAN: I was trying to keep it within

0120

1 an 8 1/2 by 11 page, so it was difficult for me to make
2 the copies, I apologize for not having that on the top.

3 The next exhibit I would like to bring up
4 would be Exhibit Number 9. Exhibit Number 9 is a
5 similar exhibit to the one that I have presented with
6 the newspaper article. This was a letter that was
7 privileged, given to me from Mr. Dick Asche of the
8 Bremerton Kitsap Airporter that was sent from his
9 attorney, Mr. Jim Sells, to Mr. Kevin Harris concerning
10 their application that Mr. Harris was trying to overlap
11 in a certain sense. And again, this doesn't
12 specifically address our application, but it does bring
13 up some areas that summarize the article in the Port
14 Townsend Leader, which talks about, if you look at
15 Paragraph Number 4, talks about:

16 Our initial investigation raises serious
17 fitness questions. Pennco itself
18 appears to have lost some \$353,000 last
19 year.

20 And then his opinion:

21 I have practiced before the WUTC for
22 over 20 years and I can assure you that
23 the Commission has never granted an
24 extension of authority to try and bail
25 out a certified carrier which is losing

0121

1 money. In fact, just the opposite is
2 true, i.e., the Commission on its own
3 motion is more likely to seriously
4 examine that carrier's situation to
5 determine if the certificate is being
6 properly utilized.

7 It also then mentions in the next paragraph
8 the documents of the local media, which were referring
9 to the article that I brought up in my previous exhibit.
10 They did a review of Jefferson or he did a review of
11 Jefferson County Superior Court records revealing at
12 least four lawsuits for collection of debt, some seven
13 tax suits by the State of Washington, and seven
14 judgments again for unpaid taxes. It says:

15 The Commission absolutely will not allow
16 a regulated business to in any manner
17 support or assist an unregulated
18 business to stay afloat.

19 JUDGE MACE: Well, let me just make clear,
20 Mr. Sells doesn't speak for the Commission now.

21 MR. HECKMAN: Correct, I'm just reading what
22 his statement was.

23 So I will leave it at that. The rest of the
24 article I would rather not even read. Areas that I was
25 completely unaware of until I received this letter, but

0122

1 they also refer to some things that were brought up by
2 Mr. Sells during his course of investigation. And I can
3 say from Mr. Asche that after this letter was sent, and
4 I don't know for what reasons, but Pennco Transportation
5 decided to back down on their application and with
6 Bremerton Kitsap Airpporter.

7 The last exhibit I wanted to bring up was
8 Number 13, and since this lady wasn't here to be able to
9 represent herself, it's fairly short, I would like to
10 just read this. This was addressed --

11 JUDGE MACE: Well, you know, I actually think
12 if we admit the exhibit you don't need to read it into
13 the record.

14 MR. HECKMAN: Great, let's just admit this
15 into the record.

16 JUDGE MACE: Well, if we admit it, and we'll
17 deal with that later.

18 MR. HECKMAN: Okay.

19 That's all I have.

20 JUDGE MACE: You did provide an Exhibit
21 Number 12 that I don't think you addressed, I wonder if
22 you intend to do that. It's the schedule, the Pennco
23 schedule.

24 MR. HECKMAN: Oh, yes, Pennco's schedule.

25 This schedule I put in, and it somewhat coincides with

0123

1 the letter from Mrs. Johannessen concerning the current
2 service that Pennco is doing right now. This is the web
3 site if you pull up the web site with Pennco. It's also
4 in the application I noticed. And if you look at the
5 timetable, it indicates specific times that Pennco
6 arrives at Seatac and departs from Seatac. You will
7 notice there is five arrival times and five departure
8 times. Being a door-to-door service certificate makes
9 me question whether it is truly door-to-door when
10 they're actually showing specific times that they depart
11 Seatac.

12 And, of course, in Mrs. Johannessen's letter,
13 she mentions that originally she was able to call and
14 tell them what time she needed for instance to be at the
15 airport, and they would come and pick her up, and they
16 would take her to the airport, and that was the
17 understanding of what a door-to-door service was. Now,
18 if you read her letter, she is told that there are
19 specific times that she must leave, and if you look at
20 the schedule on the web site, you can see why that's the
21 case. It's actually a scheduled time that leaves from
22 Seatac and arrives at Seatac, which would mean that they
23 would have to leave at specific times from their
24 original destination or their original leaving point in
25 order to do this. So this was -- this exhibit was more

0124

1 an enhancement to this other letter, showing that in
2 fact is it truly a door-to-door service.

3 That's all I have.

4 JUDGE MACE: All right, thank you. Now you
5 get to be cross-examined.

6 MR. HECKMAN: Okay.

7 JUDGE MACE: And, Mr. Harris, you can go
8 first.

9 MR. HARRIS: Let's see.

10 JUDGE MACE: You're not required to
11 cross-examine in a particular area.

12 MR. HARRIS: Yeah, I think a lot of the
13 things I will cover when I do my statement here. I'm
14 just making sure.

15 JUDGE MACE: Yeah, take your time to think
16 about what he said.

17

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

19 BY MR. HARRIS:

20 Q. Are you in a position, John, to disclose how
21 many people request being picked up or dropped off over
22 the course of a month at Kingston; do you know that
23 number?

24 A. I don't have the figures with me.

25 Q. Okay.

0125

1 JUDGE MACE: Do you have a document that has
2 those figures on it?

3 MR. HECKMAN: I do have ridership figures
4 dating back a number of years showing our riders between
5 two points.

6 JUDGE MACE: And do you have those, for
7 example, for the last calendar year?

8 MR. HECKMAN: Yes.

9 JUDGE MACE: And could you submit those to
10 us?

11 MR. HECKMAN: Yes.

12 JUDGE MACE: All right, why don't you submit
13 those as Exhibit 21, late filed, and make sure that you
14 send a copy to Mr. Harris and Mr. Thompson.

15 MR. THOMPSON: If I could just ask for a
16 clarification of what the Bench Request is.

17 JUDGE MACE: Sure.

18 MR. THOMPSON: I think it would be helpful to
19 have, and this is maybe what you're asking for,
20 ridership figures from each of the points that Olympic
21 has requested authority for that it already previously
22 was serving.

23 MR. HECKMAN: Yes.

24 MR. THOMPSON: I think that's the request.

25 JUDGE MACE: That certainly would be helpful.

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1 All right, and let's see, I guess I would like to have
2 you have those to us within ten days.

3 MR. HECKMAN: Okay.

4 JUDGE MACE: So today is the 11th, by the
5 21st.

6 BY MR. HARRIS:

7 Q. Would you also have access to the numbers
8 that reflect how many people you're taking into Seattle?

9 A. Yes.

10 Q. Not Seatac, but Seattle?

11 A. Yes.

12 JUDGE MACE: And you can make those a part of
13 that exhibit as well.

14 MR. HECKMAN: Because of our grant funding,
15 we're required to have all of this documentation.

16 MR. HARRIS: I think that does it for me.

17 JUDGE MACE: Okay, Mr. Thompson.

18

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

20 BY MR. THOMPSON:

21 Q. Let's see, Mr. Heckman, I just want to ask
22 you a few questions just to kind of fill in a little bit
23 on what you have already covered about your company's
24 operations and so forth. Let's see, you submitted an
25 exhibit concerning the vehicles that currently make up

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1 your fleet. Could you describe what facilities,
2 building facilities, you have?

3 A. We have a facility in downtown Port Angeles,
4 which is a large building with an indoor car wash and
5 fuel pump. And adjacent to that we have our office,
6 which is where our dispatch takes place. And so we have
7 a nice facility. Our bus stop, so to speak, is we have
8 an agreement with Clallam Transit where we pay them
9 monthly to use their transfer station here in Port
10 Angeles on the corner of Oak, in between Front and
11 Railroad Avenue on Oak Street, which has real nice, oh,
12 what do you call them, little kiosks where people can
13 sit in out of the weather.

14 And did you want me to describe the rest of
15 the stops or just our facilities here in Port Angeles?

16 Q. Well, is that -- what other facilities do you
17 have in Port Angeles?

18 A. Those are the only ones that are associated
19 with Olympic Bus Lines.

20 Q. Okay. No, I don't need to know about your
21 unregulated operations, I'm just asking about the
22 regulated service.

23 Do you have an equipment maintenance program?

24 A. We do have an equipment maintenance program.
25 All of our vehicles are serviced, and the records are

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1 kept both in our office and also at Perry's Tire and
2 Brake Service here in Port Angeles, which is on the
3 corner of First and Peabody Street. We have them do all
4 of our maintenance on our vehicles unless it happens to
5 be a warrantable item, which for the last -- since July
6 when we received our last two new buses, those have been
7 done at Port Angeles Ford because they were new Ford
8 vehicles.

9 Q. Okay. How many drivers do you currently
10 have?

11 A. I believe we have seven drivers.

12 Q. Do you have a driver hiring policy?

13 A. We do.

14 Q. Can you just describe it a little bit?

15 A. When we hire, we use numerous sources to look
16 for those people, including newspaper, local employment
17 agencies, and personal references, which have been the
18 best for us, existing employees have generally brought
19 us our best employees. First thing that, because we're
20 particularly associated with the Department of
21 Transportation and a federal grant, it is important that
22 they comply by an exemplary driving record. They're
23 required to get their driving manifest here in town.
24 Before we do anything else, they're also required to be
25 drug tested. All of our -- we are in strict adherence

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1 to a drug and alcohol testing policy, which is also a
2 requirement for our grant assistance. We look at their
3 past driving experience. We require them to have a
4 commercial drivers license, CDL, and if they don't have
5 one, we pay to have them go through the program to get
6 their CDL. We have a senior driver who assists in the
7 training of those people, and generally that includes
8 two things, driving along initially, not driving, with a
9 senior driver. It also includes driving without any
10 passengers to get used to what our vehicles are like,
11 because obviously a lot of people haven't driven
12 anything similar to what we have. And after they have
13 passed all their drug tests, all the various things they
14 need to do, their previous employers, we call all their
15 previous employers that we can get ahold of, make sure
16 that we have all good comments. Only at that point in
17 time if we feel comfortable will we allow them to get
18 behind the wheel with passengers, and only along with
19 our senior driver, and the senior driver assists until
20 he feels comfortable that that driver can do it on his
21 own.

22 Q. Okay. I want to discuss a little bit the
23 situation that you alluded to where the company, as I
24 understand it, was serving intermediate points between
25 Port Angeles and Seattle previously. And was your

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1 understanding that the company had authority for those
2 flag stops I think you referred to them?

3 A. It was. We felt all along that those were
4 ours, that they were official stops of ours when we
5 originally got our original tariff which we used to make
6 our own tariff from the previous owner. Those flag
7 stops were on that tariff, and we did not realize that
8 the flag stops also had to be listed on the actual
9 operating authority. I was shocked to find out that, in
10 fact, no, they weren't really part of it. And it was, I
11 don't remember who I talked to with Staff when she
12 pointed it out to me, but her comment was, gee whiz, I
13 don't know how it's gone and slipped through the cracks
14 all these years, but the two don't match, and so it's
15 time for us to clean this up was the comment.

16 Q. And so until how recently was Olympic
17 actually providing service to those stops, how long ago
18 has it been; are you still providing service on those
19 stops?

20 A. We have never been told that we could not do
21 that at this point, just that we have to clean it up,
22 and so we have continued to provide this during the
23 process of reapplying.

24 Q. I see. So you're currently providing the
25 service that you're seeking in this application I guess

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1 is one way to put it?

2 A. Yes.

3 Q. Okay. So I gather there won't be a need to
4 add additional vehicles?

5 A. That's correct, or drivers. There will be no
6 additional expense of any vehicles or drivers. You have
7 to stop at Kingston, otherwise you go in the water.

8 Q. I'm sorry, explain what you mean by that.

9 A. Well, since we take the route going across
10 Kingston to Edmonds on the ferry, it's a natural stop
11 because you have to stop, you've got to get on the
12 ferry, and that's the point at which we have had people
13 get on and off at Kingston.

14 Q. Where is the place you stop waiting to get on
15 the Washington State ferry at Kingston in relation to
16 where the Aqua Express ferry lands; are those fairly
17 near each other?

18 A. Yeah, they're within a very short walking
19 distance, probably not much bigger than the length of
20 this room.

21 Q. Well, would you anticipate that with the
22 initiation of that ferry service, I guess it's been
23 underway for some time now, a month now; is that right?

24 A. Mm-hm.

25 Q. Have you noticed any of your ridership using

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1 that, getting off at Kingston say and using the Aqua
2 Express ferry?

3 A. No, we have not.

4 Q. Have you marketed your service in that way to
5 provide a link?

6 A. I have not marketed it. I didn't feel like
7 at this point with the two of us looking for that
8 territory that it was prudent to market that yet.

9 Q. Okay. I'm going to say what I think your
10 objection is to Mr. Pennco's or Mr., well, Pennco's
11 application, and you tell me if I'm right or not. Part
12 of what they're asking for, Pennco that is, is
13 additional authority in the Seattle-Tacoma area to
14 hotels and cruise terminals; is that a concern to
15 Olympic?

16 A. Very much so. Our passengers who are looking
17 to go to downtown Seattle are a very large market of
18 ours, and so by adding an additional scheduled daily
19 service that's going to go to the -- end up in exactly
20 the same place, we feel that will take our -- take some
21 of our passengers away and will be detrimental to us
22 trying to build this market, which we have been not only
23 trying to build ourselves but also with the assistance
24 of the grants that we have received.

25 Q. Okay. But currently don't you serve some of

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1 the same locations in Seattle, hospitals and Seatac and
2 other sorts of transportation hubs in Seattle?

3 A. Are you asking do we have a similar service
4 to what Pennco already has, if you're asking that, it's
5 yes, but theirs is a door-to-door service.

6 Q. Okay.

7 A. Not a scheduled daily service like we have.
8 We see those as two different styles of customer. And
9 what he's asking now is not only to have his
10 door-to-door service that's serving that market but also
11 adding a daily scheduled service to that market, which
12 we already have.

13 Q. Okay. Do you have a concern about a
14 door-to-door service from Pennco that serves hotels and
15 cruise terminals in Seattle?

16 A. I do not have a concern of that unless that
17 door-to-door service is acting as a scheduled service,
18 which was my concern with the schedule that I was
19 showing from their web site.

20 MR. THOMPSON: I think that might be all,
21 that's all the questions I have for you, thanks.

22 JUDGE MACE: Anything else?

23 MR. HECKMAN: Probably, but I can't think of
24 anything else right now.

25 JUDGE MACE: All right, then thanks very

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1 much, good presentation.

2 MR. HECKMAN: Thank you.

3 JUDGE MACE: I need to swear you in, please
4 raise your right hand.

5 (Witness Kevin Harris was sworn.)

6 JUDGE MACE: You already know the routine.

7 MR. HARRIS: I got it.

8 JUDGE MACE: Please introduce yourself, and
9 then go ahead with your statement.

10 Oh, I'm very sorry, we need to deal with the
11 exhibits. I need to ask if there is any objection to
12 the admission of your Exhibit 1 through 13, any
13 objection?

14 MR. HARRIS: Yes.

15 JUDGE MACE: Okay, Mr. Harris.

16 MR. HARRIS: I would like to object to the
17 letter.

18 JUDGE MACE: Which number is that?

19 MR. HARRIS: Number 9.

20 JUDGE MACE: And can you tell me the basis
21 for your objection.

22 MR. HARRIS: Well, it seems pretty summary,
23 and there is no documentation to substantiate the
24 comments that are made here. It was not addressed to
25 Mr. Heckman or his company. So it almost -- I mean

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1 without Mr. Sells here saying that this, in fact, I
2 received this letter or I created this letter and
3 without me somehow or another providing it or testifying
4 to it, I don't see how it can be admitted. It seems
5 like, you know, unsubstantiated.

6 JUDGE MACE: Anything else, anyone to join in
7 that objection?

8 MR. THOMPSON: I think that's generally
9 correct. I mean it seems like it is offered, it's
10 hearsay, it's offered for proof of the matters asserted
11 in the letter, and it's true that the writer of the
12 letter, Mr. Sells, is not here to face cross-examination
13 on it. Although certainly this is an administrative
14 hearing, and there's no absolute prohibition on hearsay
15 evidence. So maybe it's just a matter of weight, but I
16 think there -- but I think it's a legitimate objection
17 that it's hearsay.

18 JUDGE MACE: Your response, Mr. Heckman.
19 You're following the argument, right?

20 MR. HECKMAN: I am.

21 JUDGE MACE: He's objecting to this letter
22 that is from Mr. Sells to Mr. Harris.

23 MR. HECKMAN: Would I be able to ask
24 Mr. Harris if he had received that letter from
25 Mr. Sells?

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1 JUDGE MACE: Well, what you can do is when
2 Mr. Harris is up on the stand or, well, giving his
3 testimony and then you get a chance to cross-examine
4 him, you can ask him about this document.

5 MR. HECKMAN: Okay.

6 JUDGE MACE: But for right now I am going to
7 deny its admission. I will admit all the other Exhibits
8 1 through 13, but I'm going to deny this -- oh, did you
9 have another --

10 MR. HARRIS: One more thing --

11 JUDGE MACE: I'm sorry, go ahead.

12 MR. HARRIS: -- that I would like at least
13 throw out there.

14 JUDGE MACE: Go ahead.

15 MR. HARRIS: As I look at Exhibit Number 8, I
16 have searched through to find the references to Pennco,
17 who is the applicant here, and unless I am mistaken,
18 both references say that there was something but it has
19 been satisfied, and so I don't see the relevance then of
20 this.

21 JUDGE MACE: I'm sorry, which exhibit number
22 is that?

23 MR. HARRIS: This is Number 8, the newspaper
24 article.

25 JUDGE MACE: Okay.

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1 MR. HARRIS: And I should have marked them
2 when I saw them. Let me see if I can just find them
3 here real quickly. Pennco Transportation on the one
4 with the -- it's the third -- second page with Nelson
5 Ludlow's picture on the left, and in that column there
6 it says, in the first paragraph there in the second
7 column, a lien was filed, that tax lien was released in
8 February.

9 JUDGE MACE: You're going really fast, the
10 reporter can't take down what you're saying, and I'm not
11 really sure -- it's the first paragraph --

12 MR. HARRIS: In the second --

13 JUDGE MACE: -- in the second column.

14 MR. HARRIS: Under Pennco Transportation.

15 JUDGE MACE: Under Pennco Transportation,
16 okay, I don't even see Pennco Transportation.

17 MR. HARRIS: It's a heading on page --

18 MR. HECKMAN: It's on page 3 it looks like.

19 MR. HARRIS: Oh, on page 3, I'm sorry, I
20 apologize.

21 JUDGE MACE: It's the column that starts,
22 continued from page C 1?

23 MR. HARRIS: Yes, that's correct, and so then
24 under -- in the second column under Pennco
25 Transportation heading --

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1 JUDGE MACE: Oh, I see it. It's actually the
2 third column on the page.

3 MR. HARRIS: Oh, you're right.

4 JUDGE MACE: Okay, I'm sorry, I didn't
5 understand what --

6 MR. HARRIS: No, you were accurate.

7 JUDGE MACE: Okay, go ahead.

8 MR. HARRIS: So it references Pennco, but it
9 says that the negative item that's been referenced has
10 been satisfied. So again, in terms of relevance to
11 Pennco and the applicant here, the rest is just other
12 general comments about me. But in terms of again the
13 specifics of what's being presented here, it seems to me
14 that this is a whole lot of unnecessary and really
15 probably maybe not appropriate just to state that there
16 was an obligation that had been satisfied. So I would
17 also request that the article not be allowed.

18 JUDGE MACE: Mr. Thompson, do you want to
19 weigh in on this one?

20 MR. THOMPSON: Well, I don't think there's a
21 hearsay objection here, because it is a newspaper
22 article, and I guess the objection is relevance. I
23 don't think it's entirely irrelevant. Certainly there's
24 something about Pennco Transportation in particular, and
25 I don't think Mr. Harris's other business ventures are

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1 necessarily irrelevant either, though the Commission may
2 decide they're not entitled to as much weight as the
3 regulated enterprise, so.

4 JUDGE MACE: Mr. Heckman.

5 MR. HECKMAN: I guess I'm going hand in hand
6 with that dialogue, in fact that it is showing that
7 there was an IRS lien. Even though it had been
8 satisfied, the fact that there had been a lien was
9 showing that there had been something that had happened
10 that should have been taken care of beforehand unless
11 there was some type of a financial difficulty involved.
12 And even though this was only one portion showing here
13 for Pennco, I think that it also relates to a lot of the
14 other issues from the other companies and him
15 personally. They kind of tie together showing that
16 there's a trend within the business for numerous liens,
17 and for those reasons I think that they are relevant.

18 JUDGE MACE: Well, I think that the newspaper
19 article stands in a slightly different place than this
20 letter, because it's written by an attorney whose client
21 has an interest in this proceeding, and the newspaper
22 article was hopefully fact checked, and so, you know,
23 has some perhaps measurable greater degree of
24 reliability, and there is a mention of Pennco in the
25 article. I don't know how much weight the Commission

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1 can really give anything that's not related to Pennco,
2 that's something that has to be considered and that you
3 may address in your briefs that follow this hearing, but
4 I am going to admit this.

5 So having said that, I have denied admission
6 to Exhibit 9, but I have admitted all the other Exhibits
7 1 through 13.

8 And I believe that now we go back to where I
9 swore Mr. Harris in. It's about an hour, do you want to
10 take a break before we begin or go --

11 MR. HARRIS: Go through.

12 JUDGE MACE: Mr. Heckman.

13 MR. HECKMAN: We may have to come back to
14 this, but I know we were supposed to also bring up the
15 portion about that one objection we had on the notice of
16 acceptance of amendments that I had talked about. Does
17 that need to be addressed later, or was I supposed to
18 address it during my testimony? Remember, we had the
19 objection that Mr. Harris and I hadn't come to the
20 proper wording of, and based on the wording that it is
21 here in the amendments that I objected to. I apologize.

22 JUDGE MACE: Well, you know, you have already
23 stated that you object to the removal of the
24 restriction. He has to show, it seems to me, that he
25 can provide service in accordance with the removal of

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1 the restriction. I mean he has to support the
2 application, and you have to show that the existing
3 services are adequate or that you will provide that
4 service. And I'm, this is really a stream of
5 consciousness effort to try to understand what has to be
6 done here. What did you have in mind in terms of
7 addressing this?

8 MR. HECKMAN: I had in mind that as it sits
9 right now, I would object to this wording. I wish that,
10 Kevin and I had probably just overlooked at this point
11 because of all the other things, I wish that we had come
12 up with wording, and we sort of did, that would make it
13 acceptable to both of us.

14 JUDGE MACE: You know, you still have an
15 opportunity to do that. This case isn't over.

16 MR. HECKMAN: Because this is a separate --
17 this is a separate authority than what he is applying
18 for.

19 JUDGE MACE: Well, it's part of the
20 application, and you can address it in briefs with
21 regard to the proof that has come in about the
22 applications, or you can continue to negotiate and
23 submit to me what negotiated resolution you have come to
24 as part of the post hearing process.

25 MR. HECKMAN: I see.

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1 JUDGE MACE: Does that resolve that for you?

2 MR. HECKMAN: Yes.

3 JUDGE MACE: Mr. Thompson.

4 MR. THOMPSON: It might be helpful to the
5 record to have Mr. Heckman explain why he wishes to keep
6 that restriction. The restriction is contained in
7 Mr. Harris's authority, but maybe if you could -- if I
8 could just ask the witness to explain why he feels that
9 that restriction on Pennco's authority is important to
10 Olympic.

11 JUDGE MACE: Certainly.

12 MR. HECKMAN: There have been times, the
13 reason that this was added originally was because there
14 were times specifically at Seatac Airport where Pennco's
15 buses would come in shortly before our buses arrived on
16 its scheduled service and would solicit our passengers.
17 And those -- since it was there a half hour earlier,
18 those passengers would get on the Pennco bus, but they
19 had -- even though they had reservations for our bus,
20 and those passengers would be -- would go with Pennco.
21 And this was actually added by the previous owner of our
22 -- before I bought the company, Mr. Glen Larson, who had
23 gone through a similar hearing process to get this added
24 to eliminate the possibility of that happening. And it
25 seemed somewhat reasonable, because it's only a one hour

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1 reservation in advance that they have to have.

2 Mr. Harris's contention was, and I thought it
3 was reasonable in talking with him, is that since we
4 only have three runs a day, there are times when there's
5 a considerable amount of time between when -- between
6 our departures from the airport, and there's been
7 occasions when a passenger was there who would like to
8 get home who had no reservation on either bus. And
9 their bus happens to be there, and they have to deny
10 that passenger, they tell them you have to sit and wait
11 for three hours, or call in a reservation and I have to
12 wait for you for an hour so to speak. So Kevin, you
13 know, asked me about this, we discussed this, we have
14 actually had him call me one time when there was a
15 passenger there who wanted to come home, and I says,
16 take him home, go ahead, take care of that customer, we
17 would rather have the customer taken care of.

18 And that's why we wanted to word it this way
19 where as long as they call us first in an instance like
20 that where the driver has some responsibility to
21 recognize our authority, then we're okay with it,
22 because it's in the interest of the public to do that.
23 What we don't want to have happen, however, is drivers
24 using predatory practices of trying to take customers of
25 ours just haphazardly, and that's where Kevin and I have

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1 tried to come up with this wording, as long as you get
2 permission first basically, we may or may not allow you
3 to take that customer depending on how soon we will be
4 there.

5 JUDGE MACE: Thank you. Well, it sounds like
6 something that you two may be able to work out.

7 MR. HECKMAN: I believe so.

8 JUDGE MACE: All right, I think now we can
9 have you go ahead, Mr. Harris.

10

11 Whereupon,

12

 KEVIN HARRIS,

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

15

16 MR. HARRIS: My name is Kevin Harris, I live
17 at Port Townsend, Washington. I'm the President of
18 Pennco Transportation, Inc. Before I begin explaining
19 why I believe the Commission should grant the authority
20 that we have asked for, I would like to say that I have
21 been very involved in the local community for the seven
22 years that I have lived here. I have served as the
23 President of the Jefferson County Historical Society and
24 on the board for a number of years. I served on the
25 board of Centrum, which is an arts and education

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1 association well known throughout the state of
2 Washington. I started a bank, Mariner Bank, located in
3 Port Townsend, Washington, which has grown. It was the
4 fastest bank to get a charter from the State of
5 Washington in the state's entire history. That
6 institution has made many, many loans to many deserving
7 small business people, created a number of
8 opportunities. I served on the board of the Jefferson
9 County Economic Development Council and on the executive
10 committee until just recently. I am the President of
11 MACROsystems, which is a software development company
12 specializing in database, Internet driven database
13 applications. Our primary market is the federal
14 government. I have been in the software industry for
15 ten years now.

16 I believe I have, after approximately two
17 years of being in the transportation industry, I believe
18 I have gotten a good feel for the current state of
19 transportation on the Peninsula, the needs currently,
20 and the potential for what could be in the future. This
21 is my first experience with a company that is --
22 everything is pretty much overseen by a state agency, so
23 one of the biggest challenges for me is as a business
24 person trying to run the business in the way that I see
25 -- in the way that, you know, I think is more common in

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1 business where you respond to market demand, and you
2 respond in different ways as the need arises, whereas
3 here that's just the first piece, the second piece is
4 getting that approved.

5 So I have spent the last, solidly the last 18
6 months looking at the transportation industry on the
7 Peninsula, looking at the services that Pennco provides,
8 and trying to determine where both need to go in the
9 future. We, as you can probably imagine, of all the
10 ways to get to Seattle which we currently serve, so we
11 already compete with Olympic Bus Lines in that way, but
12 of all the ways to get to Seattle or to Seatac Airport
13 from the Olympic Peninsula, Pennco has the most
14 difficult business model. We pick people up at their
15 doors on demand and take them to their destination. The
16 logistics of pulling that off for the last eight years
17 now, you can imagine. Take someone out of work, you
18 have multiple things to deal with, you have changing
19 schedules, you have things come up, accident on 101,
20 it's all much easier when you have a fixed route. We
21 have two airlines serving the community now in the
22 middle of a hot war. My most recent newspaper ad that I
23 saw priced getting from here to Seattle at Seatac on one
24 of those airlines for \$29. We have again two airlines,
25 we have Olympic Bus Lines, we have ourselves.

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1 Pennco has 35 employees, we have almost 40
2 vehicles, we are the largest private public
3 transportation company on the Peninsula, we book
4 millions of miles of shared transportation services each
5 and every year. We have a full shop with most of our
6 equipment is Ford. We have a Ford certified mechanic
7 with 20 years experience as our shop foreman, and he has
8 a full time assistant. We are the largest -- let me
9 restate this. We are the second largest provider of
10 medical transportation services on the Peninsula. The
11 largest provider, Paratransit Services of Bremerton
12 Washington, is also the broker for the State of
13 Washington, so they are the company that distributes the
14 rides for all of the DSHS recipients to the
15 subcontractors in the community. Pennco is the largest.

16 We have all of our drivers are trained in
17 CPR, emergency medical training they receive. They have
18 -- our training program for our drivers has been
19 certified by Paratransit Services and approved by the
20 State of Washington. We conduct trainings for other
21 drivers in fact under that program on the Peninsula.
22 The quantity of people that we deliver under the types
23 of services that those two nice gentlemen came in and
24 testified earlier today referenced, which is going from
25 the Peninsula to a doctor's appointment, you will see

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1 referenced in our financials which Jack copied for you
2 there on attachment 11 I guess or whatever it is, item
3 11. On the first page under ordinary income expense,
4 income, if you drop down, let's see, Jefferson Transit,
5 miscellaneous income, and then Paratransit, so \$250,000
6 worth of medical transportation services we delivered
7 during April of '03 and March of '04, which far exceeds
8 what Olympic Bus Lines does. So I want to say again, we
9 already compete with Olympic Bus Lines across all of
10 these lines of business. We already serve the Seattle
11 market. We're just looking for a more efficient better
12 way to do what we already do, something that benefits
13 us, that benefits the community as well.

14 Before we proposed this direct express
15 connection between the ferry terminals, we met with
16 staff at both Jefferson Transit and Clallam Transit.
17 There is a federal law that says that all transit
18 organizations that receive public funding are under
19 obligation to find ways to work with other
20 transportation agencies and entities to maximize the
21 government's return on their money. We met with both
22 Jefferson and Clallam Transit again, identifying this
23 need to serve the market that we have laid out in terms
24 of the commuters and in terms of creating from this base
25 of getting the commuters in place and then that allowing

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1 the infrastructure for this direct round link between
2 the two terminals to go in place, creating then a base
3 for travel and tourism to grow from that point forward.
4 We had the active support of both transit agencies. I
5 asked both transit agencies because of the costs
6 involved in bringing the new route on as important as we
7 felt it was to consider partnering with us in some type
8 of a shared expense, shared benefit program. Both
9 transit agencies were receptive to the idea.

10 Our feeling from the very beginning has been
11 putting this in place works for the Olympic Peninsula.
12 When you read the letters that I have provided in my
13 handout from the chamber of commerces, the economic
14 development councils, the other people that live in this
15 area and have experienced what it's like to get around,
16 and they know what the travel and tourism market is
17 like, when you read their letters, you will see that
18 there is a solid basis for putting this link in place.
19 Both Jefferson and Clallam Transit at the staff level
20 agreed.

21 Clallam Transit asked at their board meeting,
22 this is going back almost a year ago now, for support so
23 that they could join this pilot that we had proposed to
24 them. Olympic Bus Lines went into that meeting claiming
25 to have the authority to serve the market, threatened to

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1 sue anyone who even considered supporting Pennco in this
2 application, explained to all the public and the
3 commissioners that our request for shared funding and
4 getting the transit authorities to team with us to do
5 this was inappropriate, and that Olympic did not need
6 funding to continue to provide the services.

7 So I want to bring that up, because in -- and
8 it was mentioned again today with this note on item 3,
9 will you agree, Jack said he felt confident we would be
10 looking for some amount of grant assistance or
11 something, and they have all the infrastructure in place
12 not to require it. But I bring that up because what I
13 feel is really missing is the fact that Pennco
14 Transportation, with 35 employees and 40 vehicles, is
15 the largest privately owned public transportation
16 company on the Peninsula, is the only large public
17 transportation entity that has received no federal,
18 state, or local assistance of any kind. Olympic Bus
19 Lines has received by Mr. Heckman's submission close to
20 \$250,000 within the last 12 months to assist them.
21 Pennco has received nothing. So Mr. Heckman's comments
22 about Pennco, saying could there be other sources that
23 could see the value of putting this ground link into
24 place, and in their own mind, in their own budgets,
25 should they choose to support that, we would like to say

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1 here it is, go forth, I see no harm in that. Because
2 Olympic does receive hundreds of thousands of dollars
3 for the same thing, so how can that be a negative for us
4 to say we're going to look and see if there's anything
5 out there.

6 I do not believe that the investment that the
7 State of Washington has made in Olympic's equipment is
8 being utilized as well as it could be. The investment
9 that he mentions, the considerable investment that both
10 his company and the State have made, benefits not only
11 the people that he has going to Seattle, but it also
12 benefits his customers that are going on to Seatac. So
13 he is -- he has received federal funding, and if you
14 look at it competitively, he is receiving additional
15 assistance which enables him to compete more
16 aggressively against us in the Seatac marketplace, which
17 I don't think was the intention of the grant. Because
18 it says in the document he provided, to help improve the
19 transportation options to Seattle. But since they use
20 the same vehicles for everything, what really happens,
21 since the bulk of their business is to Seatac, is it
22 makes it easier, less expensive for them to compete
23 against us to get people to Seatac since we don't have
24 any free vehicles.

25 The market that we intend to serve is a

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1 different market than the market that both Pennco and
2 Olympic Bus Lines are currently serving. I will be
3 eager to see the actual numbers from Jack, and I
4 appreciate your willingness to share them, in terms of
5 how many people actually get picked up and dropped off
6 in Kingston. But based on my recollection of a previous
7 conversation with Jack, it's not a huge number of
8 people, so I don't believe that requiring Olympic to be
9 closed door at the Kingston terminal will have any
10 significant impact on business. I will be eager to see
11 those numbers, but I just, based on our earlier
12 conversations, I don't think there's a huge number of
13 people getting dropped off there right now. And also he
14 mentioned that the ferry has been operating for a few
15 months now, and they haven't noticed any significant
16 difference yet. So I state again, the market that we
17 are attempting to access through our application is a
18 different market than currently being served by either
19 Pennco or Olympic Bus Lines.

20 In the document with the heading number 20 on
21 it, it was prepared by the Chamber, presented to me by
22 the Chamber of Commerce of Port Townsend, and it was
23 from a study that was done in 1999 with information
24 provided by the Washington State Department of
25 Transportation, which was the basis of Mr. Caldwell's

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1 comments, stating that there were some 1,600 people
2 commuting out of the area in Jefferson and 7,
3 approximately 7, excuse me, 1,000 people, approximately
4 70% of them going to the greater Seattle area. And then
5 he also referenced that there were even more coming out
6 of the Clallam area as commuters. Well, there is
7 evidence that there is a significant and growing
8 population of people who choose to live on the Peninsula
9 but still have to go back to Seattle on a regular basis
10 to work, maintain client relationships, go to doctors
11 appointments, things like that. 700 people out of the
12 Jefferson County area doing that every day, they're
13 obviously not on Olympic Bus Lines. Our first, I forgot
14 his name.

15 JUDGE MACE: Mr. Farmer.

16 MR. HARRIS: Mr. Farmer said that, you know,
17 that there just weren't that many people with him on the
18 bus, so obviously those 700 people aren't riding on
19 Olympic, and they're not riding with us, so we want to
20 get them. We want to get them because shared
21 transportation makes sense. It makes sense to find out
22 if there are gaps in the community's transportation
23 plan, alternatives and plans. And if there are gaps and
24 if it makes sense, to get them resolved. I believe we
25 can do that. I believe that we can through partnerships

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1 with the ferries and with open dialogue with both the
2 ferries and here and Port Angeles, and we have opened
3 dialogue with the foot ferry in Kingston, we have began
4 dialogue with hotels in Seattle, we have opened dialogue
5 with local chambers. I believe that working together we
6 can leverage the commuter market, we can pull those
7 people onto the regularly scheduled service, set up the
8 infrastructure, and then from that other very positive
9 things can happen in terms of travel and transportation
10 on the Peninsula.

11 One of the questions that Mr. Heckman brought
12 up was our financials and how can we operate a service
13 if we lost \$350,000 last year. So let me just say
14 nobody wants to lose any money, and we certainly don't
15 want to lose any more 350's, I can tell you that. Why
16 does it happen? Well, it happens because we are in the
17 middle of a fare war. We are from our recollection,
18 again let me just finish this thought, we've got two
19 airlines battling it out here. Two years ago there was
20 just one, now there's two, \$29 round trip you can fly to
21 Seattle. Well, that's great if you're a young person or
22 if you're a professional. But what about all the
23 seniors. 65% of our customers are senior citizens, they
24 need to be picked up. They can't just cruise over and
25 get to the airport and get on that little plane. So I

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1 started off by telling you that we have, of all the
2 transportation companies, the only one that has received
3 no federal, state, or local assistance. Even the
4 airlines have their fees at the port waived by the port,
5 they pay nothing. So in all the ways to get to Seattle
6 and Seatac, we have the most difficult business model,
7 but we have done it for seven years now.

8 We see an opportunity which will allow us to
9 better serve the market, to reduce our overall cost of
10 doing business. Again, we already send a ton of people
11 to Seattle every single day, so we're not asking for the
12 Seattle market for the first time. We just want a
13 different way to get there, a more efficient way to get
14 there, a way to better serve the community, and a way
15 that saves us money. We believe that that commuter
16 market is ready to be accessed. We believe through
17 partnerships, of which we have laid the groundwork, we
18 can reach those people just as the Aqua Express has been
19 able to reach their commuter numbers early on. I can't
20 remember who said it, I think it must have been Tim,
21 said he went to a presentation and they hit their
22 numbers kind of almost like break even the first month.
23 That's not by accident, they did that by partnering with
24 other organizations. We did the same thing, we have
25 established the relationships, there is a willingness to

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1 work together to bring that market, it benefits the Aqua
2 Express if we can make it easy for commuters from
3 Clallam and Jefferson to get out, that benefits them.
4 It benefits people who own businesses in our area to
5 make it really easy for people from Seattle to get here.
6 Serving on the boards of organizations like Centrum,
7 which does blues festivals, jazz festivals, art shows,
8 on and on and on, I can tell you every year we have had
9 to walk through how do we make it easy for people to get
10 out here. This would be the way for that to happen.

11 So how would we fund it? Well, allowing us
12 to put the run in place would allow us to shift a fair
13 amount of the business that we drive around now to a
14 much shorter run. Rather than having to focus and spend
15 to get people from here and drive them all the way
16 through Kitsap, all the way back around through Federal
17 Way and on and on and on to Seattle, all we have to do
18 is get them from Port Angeles to Kingston. It's
19 shorter, faster, less gas, less fuel. It would actually
20 not only save us a lot of money, it would save the State
21 of Washington a lot of money.

22 As I mentioned earlier, we are the second
23 largest provider of medical transportation services on
24 the Olympic Peninsula. As such, we are paid indirectly
25 by the Department of Social and Health Services. The

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1 Department of Social and Health Services pays us on
2 average between \$125 and \$150 round trip to take someone
3 let's say for a kid in dialysis treatment from the
4 Peninsula to Seattle. We have people that do that twice
5 a week. Our calculations show that since most of those
6 hospitals have shuttles that can run downtown or to your
7 hotel, et cetera, our calculations show that we could
8 reduce the costs of delivering those medical
9 transportation services from the \$125 to \$150 range down
10 to \$50 round trip. The cost of our shuttle, the costs
11 of the ferry and back, less than \$50.

12 And you may not be aware of this, but
13 reducing the cost on those programs is one of the
14 highest priorities for the State of Washington. They
15 spend a ton of money delivering those services. This
16 service would immediately go to the bottom line there.
17 And I believe we would have not only the people who have
18 their transportation to their doctors and hospitals and
19 stuff paid for by the State, but I think it would
20 benefit the other people.

21 I hate to say this, Jack, but some of your
22 customers, just like some of our customers, we also do
23 private medical transportation as well, but we were
24 doing medical transportation, we've been doing it for a
25 long, long time, and people want to spend as little as

0158

1 possible on stuff like that. So what we propose will be
2 significantly less expensive than what Olympic is
3 offering to get round trip to Seattle for your doctor's
4 appointment, it will be significantly faster to get down
5 there, and ultimately there will be a greater adoption
6 of the service. So again, we believe that in terms of
7 the medical piece, it's definitely the right call to
8 allow the service to go into play.

9 In terms of the commuter market, that is a
10 market that is not being accessed by Olympic or Pennco
11 at this point. We have put into place the partnerships
12 necessary to access that market, and neither our service
13 nor Olympic's service can do it. There needs to be more
14 runs in place for that to happen. So again, this is not
15 taking anything away from Olympic, this is another
16 market.

17 I have spent the last year and a half as well
18 actively involved in travel and tourism on the Peninsula
19 and in Canada. You may recall that it was about five
20 months ago when there was no flu vaccines available in
21 the area. Because of Pennco's long running medical
22 transportation services business and the tours and
23 connections that we had established with Victoria, we
24 began the flu shot tours. And I want to just state for
25 the record that the comment I heard over and over and

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1 over again as we took people to Canada to get shots that
2 weren't available here, many of whom were seniors and we
3 did it at a deeply discounted rate, the comment we heard
4 over and over again was that it's very difficult for
5 people to get to Seattle from here if you don't like to
6 drive. Seniors apparently don't want to be out driving
7 late at night, but they have to go to Seattle. So being
8 able to put something like this in place would allow
9 them to get down to a stop, and then the rest of that is
10 going to be handled by a professional.

11 Serving the markets as we have laid them out,
12 beginning in Port Angeles, a stop in Sequim, a stop
13 somewhere in Jefferson County which is yet to be
14 determined, there is a -- we need to work through that
15 with Jefferson Transit but a stop in Jefferson County, a
16 stop in rural Kitsap, that was a recommendation by
17 Jefferson Transit as well because where we are cruising
18 there right down to the ferry terminal is not served by
19 Kitsap Transit, so Jefferson Transit actually suggested
20 that we make a stop there. That would keep commuters
21 from having to drive all the way down and park down by
22 the ferry terminal. So if we stop somewhere by
23 Hansville, if you know that area at all, there's an
24 Albertson's store, lots of space there, and then the
25 final destination right down to the ferry terminal. We

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1 believe that that route as laid out will be very
2 successful and will grow significantly over the coming
3 24 months, will become the basis for travel and tourism
4 growth of the Olympic Peninsula as people from Seattle
5 realize they can come right over, get around easily, get
6 back, and continue on again.

7 Let me make sure I have addressed all of
8 Jack's items.

9 JUDGE MACE: Actually, I would like to ask a
10 question if I might.

11

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

13 BY JUDGE MACE:

14 Q. I'm looking through your application
15 materials, you talked about having I thought 40
16 vehicles; was I mistaken in that?

17 A. I said what?

18 Q. 40 vehicles.

19 A. Yes.

20 Q. In the attachment that's part of your
21 application, it shows -- it doesn't show 40 vehicles.
22 It says Pennco vehicle inventory, and I count 14. Just
23 if you could explain the discrepancy between what's in
24 your application, please.

25 A. Yes, we also have Peninsula Charters and

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1 Excursions, which is an LLC which is owned by Pennco
2 Transportation and when we do tours and charters and
3 events and things like that. So there are a number of
4 vehicles that we control but that aren't directly
5 associated with this application.

6 JUDGE MACE: Is that it?

7 MR. HARRIS: That's it.

8 JUDGE MACE: Thank you.

9 Mr. Heckman, you get to ask some questions.

10

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

12 BY MR. HECKMAN:

13 Q. Kevin, you mentioned that your existing
14 service picks up on-demand customers; is that correct?

15 A. Yes.

16 Q. So if a customer were to call and say he
17 wanted to catch a 4:00 a.m. flight and had to be to the
18 airport by 3:00 in the morning, are you saying that you
19 could provide that service to have that customer there
20 by 3:00 in the morning?

21 A. Yes, we can.

22 Q. In referring to your schedule that's listed
23 on your web site and in the application, it shows that
24 people arrive at the airport at 6:00 a.m., 8:00 a.m.,
25 noon, 3:00 p.m., and 6:00 p.m., how could they get there

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1 for a 4:00 a.m. flight based on that schedule?

2 A. Well, we do not -- so through Pennco
3 Transportation and its wholly owned subsidiary,
4 Peninsula Charters, we kind of choose how we want to
5 serve the market locally. If someone wants to go to
6 Seatac at an hour that we feel there are not enough
7 people that we can pick up kind of in the same window of
8 time to make that run justifiable, we will offer to them
9 a charter. So that pricing structure is different, but
10 it allows us to serve those off periods. As you can
11 imagine, maybe you can't because you have scheduled
12 service, but it doesn't make sense to take one person to
13 Seatac on just whatever, 2:00 in the morning, whatever,
14 no. So in order to make that work, we have to try to
15 get people in the same kind of time frame, that's how
16 door-to-door pickup and delivery works. So again, off
17 hours we would recommend that they take our charter
18 service, in which case they would go in their own
19 private car to the airport. If they want to travel in
20 kind of more of the time frame where other people would
21 also be calling in and saying that they want to go, then
22 we would recommend that they go on one of the Pennco
23 buses.

24 Q. So then Pennco itself, not the LLC but Pennco
25 itself, isn't a true on demand, 24 hour, door-to-door

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1 service; is that correct?

2 A. We provide through the two business entities
3 the full gamut of what you just described, on demand, 24
4 hours a day from here to either Seattle or Seatac. We
5 do that for Jefferson Transit. We are their primary
6 subcontractor for their job opportunity express program
7 where they take people who are returning to the work
8 force, and Jefferson Transit drivers are not working in
9 the off hours, so we take their people all around 24
10 hours a day. We provide that service as described there
11 through our private charters. But what we have chosen
12 to do is use the entities that we have to serve the
13 market, but to try to do it in a way that makes the most
14 sense for us financially. So if someone said, can you
15 get me for \$98 to Seatac, it's just me, can you get me
16 to Seatac at 4:00 in the morning, we would say no, we
17 would say we can't do that. If you want to go later in
18 the day with other people who will be traveling as well,
19 yes. But if you want to go at that time, we've got to
20 do a private charter.

21 Q. So as per your certificate that you have,
22 your WUTC certificate states that there will be a
23 door-to-door service, do you actually or can you
24 actually do on demand, 24 hour a day service that will
25 take care of those people under your certificate?

0164

1 A. Yes.

2 Q. Under Pennco, not the LLC, but under Pennco
3 and the certificate that you have?

4 A. Can we, yes, we can.

5 (Discussion off the record.)

6 BY MR. HECKMAN:

7 Q. Can you describe for me what studies or
8 surveys have been done showing that there is an
9 additional need for service between Port Angeles and
10 downtown Seattle?

11 A. We conducted through numerous interviews with
12 people that live in the area in-person interviews, an
13 evaluation to determine whether or not there was market
14 demand. We talked to the staff and management of the
15 transit agencies and other entities involved in
16 employment, creating expanded business opportunities,
17 and travel and tourism on the Peninsula to determine
18 whether or not there was demand that was not being
19 satisfied. So over the course of about three months
20 specifically and as we went into preparing the
21 application and prior to that over the course of a year,
22 really of accumulating information, we were able to
23 determine that there was unmet demand.

24 Q. Do you have any statistically valid studies
25 or surveys that would indicate and show this?

0165

1 A. Well --

2 Q. Or is it just gut feeling?

3 A. I have provided for you as Attachment 20 a
4 document prepared, delivered to me by the manager of the
5 Port Townsend Chamber of Commerce, a document which he
6 described today and talked about, which he said was
7 based on research done by the Department of
8 Transportation where they placed a camera on the Hood
9 Canal Bridge and were able to gather these numbers back
10 in 1999. In a separate conversation he explained to me
11 that over the period of time that they conducted this
12 study, they just took photos of everyone's license who
13 crossed the bridge, and if they got more than two or
14 three occurrences within their time frame, they
15 contacted the people directly and asked them why they
16 were driving off of the Peninsula. And based on those
17 responses, they created this report here. So I would
18 say that to answer your question this document here
19 which Tim talked about gives those numbers.

20 Q. This document appears to me to show people
21 that move back and forth between the two areas, but
22 specifically what I was asking, were there any
23 statistically valid surveys or studies done that would
24 support the need for your exact service that you're
25 providing at the rates and the times that you are

0166

1 proposing?

2 A. I interviewed people that commute off of the
3 island, I spoke with and questioned business owners,
4 people that hire, people that are looking for employees,
5 the staff and management of the agencies that are
6 responsible for job growth and opportunity and business
7 development, so I accumulated that info through personal
8 interview over the period of about a year and three
9 months, so three very specific months leading into our
10 actual application. But as a board member on the EDC
11 and active in the chamber and a part of all those
12 organizations I mentioned, I began to gather this data
13 much earlier than that. So over the course of about a
14 year and a quarter I put it together.

15 JUDGE MACE: Do you have that collated
16 somehow that you could provide to us?

17 MR. HARRIS: I don't have this percentage,
18 that percentage, that percentage. I have the feedback
19 from the people of, you know, what do you think, what's
20 missing, are our needs being satisfied here, is there
21 something that could be done better. Those types of
22 conversations with those individuals led me down this
23 road.

24 JUDGE MACE: But you don't have, I don't want
25 to put words in your mouth, but you're looking for a

0167

1 document that shows the numbers, and you don't have
2 that?

3 MR. HARRIS: Right, I don't have that.

4 JUDGE MACE: Okay.

5 BY MR. HECKMAN:

6 Q. The Exhibit 11 financial statement shows that
7 the company in that 12 month period lost over \$340,000
8 under its current authority. How do you intend to fund
9 your new proposed service?

10 A. Well, we have now all of the equipment,
11 drivers, infrastructure, we have reservationists, we
12 have insurance, we have repair facilities, we have all
13 of the infrastructure needed to deliver the services
14 currently, so we don't have to acquire anything new to
15 be able to deliver the services. And we from our
16 calculations, since a significant portion of our
17 business is already transportation to Seattle, we will
18 actually reduce our costs, we have already reduced our
19 net operating loss for this year, but our costs will go
20 down even more dramatically because it will be much
21 faster and a much shorter period that we have to drive
22 to get our customers to Seattle. Right now we go all
23 the way around to get them to Seattle, this will save
24 fuel, wear and tear on the vehicles, driver hours, so
25 actually this is part of us getting our costs down.

0168

1 Q. Where is the money coming from to subsidize
2 the current losses?

3 A. That's been from me.

4 Q. You personally?

5 A. Yes.

6 Q. So in essence, you're saying that the
7 door-to-door service because of the cost of a
8 door-to-door service is so expensive that by turning it
9 into a scheduled service you can make a profit?

10 A. No, I said that we are taking people now, a
11 significant number of people to Seattle already. We
12 want to take them a different way. We want to take them
13 a shorter way.

14 Q. On a scheduled service instead of your
15 door-to-door service?

16 A. In that respect yes, because we want to
17 dovetail the people that we're taking to Seattle now on
18 a door-to-door basis, and we want to consolidate them in
19 with other people who can use the service as well so
20 that we can, you know, reach profitability on that run.
21 So yeah, you know, it's not for our Seatac people
22 instead of driving around, but for our Seattle market,
23 yes, we want to consolidate those together.

24 Q. So would it be reasonable to say that by
25 establishing your new scheduled service, you would be

0169

1 competing directly with an already existing scheduled
2 service that we have in place right now?

3 A. I don't think so, because I think that we
4 already are competing directly with the service that
5 Olympic provides. We take people to Seattle, you take
6 people to Seattle, there's many ways to get to Seattle,
7 so I think we're already competing.

8 Q. Wouldn't you say that there's a different
9 clientele for somebody who has to be picked up at the
10 door for instance than for somebody who's looking for a
11 less expensive option as bus lines offer, as a customer
12 that possibly by you lowering your fares down on your
13 scheduled service, it would suddenly be adding new
14 passengers that you didn't have under your Pennco
15 door-to-door service?

16 A. Well, as I said earlier, I believe that the
17 primary market, the commuter market, which I again have
18 provided some detail here on, I don't believe that that
19 market is being accessed by either Pennco or Olympic Bus
20 Lines, and that's the market that we are initially
21 targeting to establish the route, just as Aqua Express
22 initially targeted the commuter market to establish
23 their ferry route. And so we're going to work to do the
24 same thing, to make it easy for those regular commuters
25 to get to and from Seattle. So no, I don't believe you

0170

1 have accessed that market, and we haven't either. It's
2 there, and we want to serve it.

3 Q. When I asked your witness, Mr. Caldwell,
4 whether he felt under the current proposed rate
5 structure that you had whether that would work at
6 approximately \$35 a day for a customer to commute back
7 and forth to Seattle, his comment was that he thought
8 that was too expensive and would not work. What's your
9 feeling on that?

10 A. I don't think that that's exactly what he
11 said. I think that was paraphrased. I think a more
12 accurate paraphrase is that he said cost and scheduling
13 were the two primary issues to make it work. And when
14 I, after you questioned him, I asked him whether or not
15 if there were ways for regular commuters to not pay as
16 much, discount book or some other thing, whether or not
17 he felt that would have an impact on how many people
18 would adopt, and he said yes, he felt cost and
19 scheduling were the two primary things. So, you know,
20 there's a difference between someone who uses something
21 once in a while and someone who uses it every single
22 day, day in and day out, and so our goal is to meet the
23 market need. If we need to adjust here or adjust there
24 so that we can pull that commuter base out, then we're
25 going to do it, we're going to work with the transit

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1 agencies and we're going to put in place a
2 transportation alternative that makes sense, is
3 affordable, and is adopted by the community.

4 Q. Do you have any idea of where in your study
5 what dollar amount for a regular passenger who is
6 commuting to and from say Clallam County to Port Angeles
7 would be willing to pay?

8 A. Well, when we submitted our application, we
9 submitted some pricing, suggested pricing, with the
10 application. We would hope that if granted the
11 authority, we would have the opportunity from the
12 Commission to work through what our final pricing is
13 going to be. There are a number of things that could
14 positively impact our final pricing. For an example, we
15 had some very positive feedback from the transit
16 authorities until your organization derailed that. I
17 believe that there -- I believe that we will be able to
18 come to the market with a program, a commuter program,
19 that makes sense and that will be adopted by the, you
20 know, thousand plus users on the Peninsula of regular
21 trips over to Seattle.

22 So in terms of do I have the final numbers,
23 no, I can't give you right now today final numbers on
24 how some kind of a frequent commuter program would be
25 priced. But through working with the other transit

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1 organizations in the area, I'm confident that that would
2 happen, and it would be fairly priced, and hopefully the
3 Commission will be able to give us the go ahead and get
4 those last little details worked out. The signal that
5 we're looking for, again, once that happens, we can nail
6 that down. But again, we can't, with the other transit
7 organizations, we can't move forward because your
8 organization stepped in and improperly claimed that you
9 had the authority to serve the market, and so then those
10 organizations all backed off and said, well, we can't
11 talk to you until that's resolved. So I think we have
12 to resolve this first, and then if it looks in fact like
13 Pennco will be able to serve the market, we can go back
14 to our partners and finish that little piece.

15 JUDGE MACE: I don't want to foreclose your
16 further cross-examination, but we have been at this for
17 two hours now, and I think we do need to take a recess.

18 MR. HECKMAN: Okay.

19 JUDGE MACE: Let's take ten minutes.

20 (Recess taken.)

21 JUDGE MACE: Go ahead, Mr. Heckman.

22 BY MR. HECKMAN:

23 Q. Kevin, referring back to your financial
24 statement, you had talked about the medical services to
25 Paratransit in the amount of 200 and some odd thousand

0173

1 dollars previous year, it's actually \$254,878. Is it
2 true that you recently got rid of or lost the
3 Paratransit contract?

4 A. No, the contract expires in about six months.

5 Q. Are you currently providing service for
6 Paratransit?

7 A. We have provided services for Paratransit for
8 the last eight years. However, last month we raised our
9 rates, and currently the amount of business that we're
10 doing with Paratransit is quite a bit less in terms of
11 under the terms of the DSHS program we still do quite a
12 bit of private pay medical transportation. But yeah, we
13 have raised our rates. The cost for delivering those
14 services has gone up tremendously, the insurance rates
15 have gone up tremendously.

16 You may have read in the paper that
17 Paratransit itself is changing the way they deliver the
18 services here in the Port Angeles market directly, so
19 they have a contract with Jefferson Transit and Clallam
20 Transit to provide the services to them directly, and
21 they're not picking up beginning the next contract cycle
22 for the door-to-door any more, they're going to make
23 everyone go to a scheduled point and take them.

24 So yeah, we raised our rates significantly,
25 and we feel that it will average out over the course of

0174

1 the year, but this was the first, really the first rate
2 increase we have implemented with Paratransit in three
3 years.

4 Q. Kevin, you mentioned that the grant award
5 that would be received specified Seattle as the primary
6 destination, have you read our actual grant that we
7 applied for?

8 A. No, I just was commenting on the document you
9 gave me, because that was what I thought it said.

10 Q. The document you received was actually the
11 award paper, but it is not the actual grant that was
12 applied for. And just for the record, the grant
13 includes Seatac Airport, and in the grant process they
14 used I'm assuming on that document Seattle just for
15 generalities of the Seattle market.

16 A. Okay.

17 Q. But that is part of our grant and is part of
18 what we put in our grant.

19 A. Okay.

20 Q. Just to clarify that.

21 A. So all I can comment on is what you delivered
22 here, and that's what it said, so.

23 Q. Now, Kevin, you had mentioned that we
24 currently, and I admitted there was not a huge number of
25 people going between here and Kingston, which I concur,

0175

1 so that means I would assume that the main market that
2 you're looking for isn't to go between here and
3 Kingston, it's inevitably going between here and
4 downtown Seattle?

5 A. That's correct.

6 Q. So right now currently Olympic Bus Lines is
7 carrying people on a scheduled basis between here and
8 downtown Seattle. Your next statement was how can it be
9 that you would have a different market than ours since
10 we are doing a scheduled run between here and downtown
11 Seattle and you will be doing a scheduled run if granted
12 the authority between here and downtown Seattle, why do
13 you see those in two separate markets in which you would
14 not be taking customers of ours?

15 A. Because I don't think you have any customers
16 right now anyway that are going and getting off in
17 Kingston and going somewhere.

18 Q. I was referring to Seattle, not Kingston.
19 I'm talking about the market between here and Seattle,
20 how is it that you would not be taking customers of ours
21 that would be going between here and downtown Seattle?

22 A. Well, we already serve the Seattle market.
23 We already, and we have for years, taken people from
24 here to Seattle. We just want to do it in a more
25 faster, efficient, less expensive way, so we already

0176

1 compete with you for those same people.

2 Q. But that's within a scheduled service, which
3 we already provide. You're competing with us in a
4 customer who needs a different service, one who needs to
5 be picked up at their home at a specific time, not at a
6 scheduled time but at a specific time, someone that has
7 to go complete door-to-door, not scheduled. So how can
8 you say that once you enter the scheduled market that
9 you won't be competing for a scheduled customer versus a
10 door-to-door customer?

11 A. Because I think that just like every other
12 thing that you might want to acquire, whether it's a car
13 or you want to fly somewhere, there's choices. And if I
14 want a car, you get the Nissan or Honda or the Acura.
15 If people want to go from the Peninsula to Seattle,
16 there's several options, it's not just us or just you,
17 there's several options. We believe that that route
18 from here to the Kingston foot ferry is being
19 underserved, it's the commuter market is being served,
20 served at all, and there are significant numbers of
21 commuters which we have provided a substantiation for
22 and oral testimony to, we believe those people can be
23 pulled out of their cars, introduced to shared
24 transportation, taken to the Kingston terminal, and sent
25 on.

0177

1 So yeah, the ultimate destination of those
2 people is probably going to be Seattle, but that doesn't
3 really I think affect us that much. We don't get paid
4 for when they get on the ferry or whatever happens after
5 that. I mean specifically we're getting people from the
6 Peninsula down to the ferry terminal there. And I don't
7 think that -- I just don't believe that the way that you
8 have your route set up is a way that's conducive to
9 pulling the commuters out of their cars and onto shared
10 transportation. So I think another way of getting
11 people around there, the way that we have proposed will
12 do that. So again, I don't think you have those people
13 now, we don't have them, we want to get them, and then
14 naturally there will be other people that will jump on,
15 but our primary goal is the commuters.

16 Q. So you believe that under your current
17 pricing structure that you're proposing at \$25 round
18 trip with a \$10.50 ferry fare for a total of \$35 plus
19 per trip will have a significant commuter market?

20 JUDGE MACE: Well, you know, again, I don't
21 want to foreclose your cross-examination, but you have
22 really already asked him that question, and it's not
23 helpful for us to go over that territory several times.

24 MR. HECKMAN: Yeah, it's just mind boggling
25 is all, okay.

0178

1 BY MR. HECKMAN:

2 Q. Kevin, you had mentioned that due to the low
3 air fares that there's more competition for business
4 between the various carriers in town. Do you feel that
5 those low air fares have affected your current business
6 and your proposed business that's going to be, if
7 granted?

8 A. I feel that there are a number of people who
9 would take a \$29 flight to the Seattle area who, if that
10 weren't available and if it weren't in my opinion being
11 subsidized, they would probably travel with either you
12 or us. I believe that, based on the comments of the
13 Horizon manager when he spoke to the chamber January a
14 year ago when he said that Horizon was losing more than
15 \$1 Million a year and got tired of doing it because the
16 fees went up at Seatac and it was going to be \$3 Million
17 a year and he said we're leaving, well, how is it that
18 Horizon was pricing it at \$179 and now it's \$49 or \$29.
19 So my feeling is that those airlines are either losing
20 money to compete to deliver the services and/or being
21 subsidized, and at some point that's going to stop,
22 either one of them will make it or they'll both quit or
23 whatever, and we will recapture some of those people.
24 But yes, I mean obviously if you can get to Seattle for
25 \$29 and if you're mobile enough to do it and you don't

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1 mind being in a jet prop plane, not all of us are
2 willing to do that, but if you don't mind those things,
3 then yeah, there are a certain number of people that are
4 going to do it. I would say you have probably tried the
5 service yourself.

6 Q. Several times.

7 Would you say that those low rates and those
8 low fares through those airlines were a cause of some of
9 the losses that were incurred the previous year?

10 A. Absolutely. I believe that, number one, for
11 us to deliver the service we deliver, it takes a lot
12 more of everything to pick up people at their homes, to
13 get them to their destination, so just inherently we
14 have a much more difficult business model. But yes, all
15 of those little things can add up. So yeah, if one
16 competitor gets to receive the grant funds and they get
17 to buy two brand new vehicles and we have to do that out
18 of our own pocket, yeah, we're less competitive. If
19 another competitor receives assistance from the State or
20 federal government and they don't have to pay landing
21 fees or whatever it is and are somehow subsidized and
22 they can do a \$29 fare, yeah, that makes us less
23 competitive.

24 Q. Just for information, I'm on the and have
25 been on the Airport Advisory Board, and since Horizon

0180

1 left, which was, you know, a year ago February, and the
2 new airlines took over, the number of travelers is down
3 over 50% even at the lower fares, just so you know,
4 Horizon brought twice as many people through the sky.

5 A. Wow.

6 MR. HECKMAN: Anyway, that's all I have, I'm
7 sorry.

8 JUDGE MACE: Okay, thank you.

9 Mr. Thompson.

10

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

12 BY MR. THOMPSON:

13 Q. Mr. Harris, just for a little bit of
14 clarification, one of the things you're proposing is to
15 add motels and cruise terminals as an additional --

16 A. I believe we already have hotels; is that
17 correct? I thought it was.

18 Q. Well, for whatever reason, that's not what I
19 wrote down, well, cruise terminals in any case.

20 A. Cruise terminals, yes.

21 Q. That's an adjunct to your existing --

22 A. That's correct.

23 Q. -- door-to-door service?

24 A. That's correct.

25 Q. And when you're talking about a service, a

0181

1 new service, scheduled service to downtown Seattle,
2 you're really talking about a scheduled service to
3 Kingston to bring passengers to the Aqua Express
4 terminal, right?

5 A. That is correct.

6 Q. Okay. Is it going to be necessary for you to
7 add additional vehicles to serve that?

8 A. I don't believe so. We have quite a few
9 vehicles, and we have laid it out trying to utilize the
10 vehicles that we already have, so I think we'll be fine.

11 Q. Is that going to result in a reduction of
12 your existing door-to-door service?

13 A. No.

14 Q. Well, explain for me how that's possible; are
15 they not fully utilized presently?

16 A. Well, the vehicles that we want to use are
17 larger vehicles, and they are currently under the
18 inventory of the charter company, so those vehicles have
19 been primarily used in the summer and for group
20 charters, so they're used at like 20%, so we're going to
21 take those larger vehicles and deploy them on this run.

22 Q. Okay.

23 A. Does that make sense?

24 Q. Would the proposed additional service have
25 any additional costs associated with it?

0182

1 A. To who?

2 Q. To Pennco.

3 A. Well, we have adequate drivers, we have
4 adequate vehicles, the vehicles that we have are all
5 insured and we're already paying the insurance on them.
6 I mean sure, there's going to be some things that, you
7 know, a little bit more here, but there's things that
8 are less. Like for an example, we take a significant
9 number of people, as I shared with you earlier, to
10 Seattle for various reasons. If we can move them from
11 the current way that we deliver that service, which is
12 where we have to drive them all the way around, plus we
13 have to pick them up at their house and drive the
14 Seattle people all the way around, if we can move them
15 over to this new service, we don't have to pick them up
16 at their house, all we have to do is go from Port
17 Angeles to Kingston, so we save the fuel, we save the
18 driver's time. So little loss here, little gain here,
19 but overall it will be less expensive for us to deliver
20 those services than do it the way we're doing it today.

21 Q. One thing I wanted to ask you, you were
22 talking about the DSHS contract service, is that --
23 that's separate from your regulated service, isn't it?

24 A. Correct.

25 Q. In other words, it's not DSHS doesn't

0183

1 reimburse your tariffed rates, you have a different --

2 A. Well, it's -- yeah. When you say tariffed,
3 you mean regulated by the WUTC. Now I know that the
4 broker is regulated by the WUTC. How it works, I don't
5 know. I know that they are regulated, we are regulated,
6 our rates are not, so.

7 Q. Okay. I just had a question about Exhibit
8 11, which Mr. Heckman actually submitted, profit and
9 loss statement for Pennco. And just again for
10 clarification, is this -- this includes regulated as
11 well as unregulated revenues, doesn't it?

12 A. That's correct.

13 Q. Is there anywhere on here where you would be
14 able to come up with a sort of a bottom line for
15 regulated services?

16 A. You know, all of that documentation is in the
17 Commission's hands, because we applied for a rate
18 increase, and the WUTC approved a 54% rate increase for
19 us because of -- and all that stuff was broken out
20 because you had to break it all out with blah, blah,
21 blah. Because again of what's going on in the
22 marketplace currently with the airlines battling it out,
23 we opted not to take advantage of that, but the
24 Commission found that we were entitled to a significant
25 rate increase, so all of that stuff is in the

0184

1 Commission.

2 Q. Okay. I guess in fairness, sort of some pro
3 forma things about fitness that we ask, and I think you
4 probably do, but do you have a driver hiring policy?

5 A. Yes, we do.

6 Q. And can you just describe it just as
7 concisely as possible?

8 A. Yes. We either through advertisement,
9 through personal recommendation, referrals from
10 customers, sometimes customers themselves who travel a
11 lot, we are constantly looking for drivers. The number
12 one thing we're looking for is safety, so you can not
13 have had any infraction in the last three years of any
14 kind to become a driver. The process that you go by is
15 you fill out an application. We tell people before they
16 come to fill out the application that they can just run
17 down to the DMV and print out that transcript and bring
18 it with them. They have to have a medical fitness exam.
19 We hire on a, not interim, but a probationary period.
20 So after we train them, many of the same things that
21 Jack pointed out where they're going out with another
22 driver for a while and seeing what it's like, and then,
23 you know, they get tested on that. We have the drivers
24 follow secretly behind them, you know, all of that kind
25 of stuff. But once -- oh, and the drug testing, which

0185

1 was required as part of our medical transportation
2 services contract for the people that do that work, but
3 we just have everyone tested, we do random testing as
4 well. But once you get on board, we don't require that
5 the drivers have a commercial license, but we reward for
6 the commercial license. So we reimburse them for the
7 costs of taking the steps necessary to get that, they
8 get an immediate significant pay increase if they get
9 their commercial license. Again, all of our drivers we
10 send them through the CPR and train them on how to use
11 the lift and all the things that are associated with
12 delivering the medical transportation piece as well. So
13 that's about it.

14 We have many drivers that have been with us
15 for six or more years. Many of our drivers as mentioned
16 at one of our breaks, I have a terrible driving record,
17 I could never drive for us, and I talk to these guys and
18 they have never had a traffic infraction. I just -- I
19 can't believe it, you know, how is that possible. So,
20 you know, anyway, we have very good drivers, very
21 talented, they work very hard. We were part, I think
22 Olympic was as well, of this movement to improve the
23 safety on the corridor right here, so Pennco was there
24 as part of that team with the Department of
25 Transportation and with the State Patrol and many other

0186

1 trucking companies and other transportation entities on
2 the Peninsula from the very beginning helping put that
3 in place. We advertise for the State Patrol on all of
4 our vehicles encouraging people to slow down, just a
5 number of things, we're very, very safety conscious.

6 Q. I'm switching around here from different
7 topic to different topic, but I want to return to -- I
8 think it's a good idea to probably give you an
9 opportunity to respond to some of the issues that have
10 been raised about your own personal financial situation.
11 And part of that was brought up by the newspaper article
12 as part of the record and as well I think by your answer
13 to one of Mr. Heckman's questions that you personally
14 funded or subsidized the loss of the company over the
15 prior year. Could you just sort of in your own -- on
16 your own terms explain your financial situation?

17 A. Well, I would say that at this point in my
18 life, my financial situation is stable. It's been
19 better, it's been worse, but stable now. I have several
20 businesses that I operate. Some of them are profitable,
21 others are in some kind of a transition state.

22 For an example, the front page on this
23 newspaper article shows a historic building that I am
24 restoring in downtown Port Townsend built in 1885.
25 Unique because it's one of the few buildings in the

0187

1 state that the foundation is actually built out on the
2 beach as a last waterfront warehouse in Port Townsend.
3 We spent a lot of money on that building. I felt it was
4 worth saving, but if you have ever remodeled a house or
5 anything like that, you know what can happen once you
6 get in there. So we got in there, we have worked
7 through some of the unexpected things. We decided to,
8 about midway through the process, sell part of the
9 building as condos, the upper floors, and so those
10 condos have been listed, and, you know, we're moving
11 forward with that. So, you know, while I spent a lot of
12 money on the building, within the next few months or so
13 the condos will be sold, and that will get better.

14 In terms of the software business, we're
15 doing fine there. In terms of Pennco, you see what's
16 happened with Pennco. Again, I started the conversation
17 off today by saying that of all the ways to get to
18 Seattle or Seatac, we have the most difficult business.
19 but we pulled it off for seven years. Even now with the
20 extreme competition that we have going on, we're
21 managing. I have been able to fill in where necessary
22 during this time to keep the business moving forward.

23 I believe that if we're allowed, as most
24 businesses are, to evaluate our business, evaluate the
25 market, then we will be able to make adjustments in ways

0188

1 that don't unfairly penalize others but at the same time
2 doesn't give them an exclusive right to lock everything
3 down, a we don't want to do it but we don't want you to
4 do it either kind of a mentality. I think that Pennco
5 can move into profitability. As I mentioned to you
6 before, the WUTC approved a 54% rate increase for us.
7 We are supposed to get by law be able to recover our
8 costs and make a reasonable profit. Because of what's
9 going on in the marketplace right now with the
10 competition with the airports and things, we could not
11 do that, we could not adjust our rates. So yeah, I
12 don't want this to continue on any more in terms of a
13 loss, but is it at the end for us? No, I will continue
14 to support Pennco moving forward. But, you know, we
15 need to be able to adjust in the things that we do so we
16 can continue to deliver great service and become a
17 valuable and needed asset in the transportation pool.

18 (Discussion off the record.)

19 JUDGE MACE: Mr. Thompson, anything more?

20 MR. THOMPSON: Yeah.

21 BY MR. THOMPSON:

22 Q. Just a question about the vehicle inventory
23 that you have as part of your application, I think you
24 said earlier that some of the vehicles that will be used
25 for the proposed service would come from the charter

0189

1 business; is that right?

2 A. (Nodding head.)

3 Q. Are those included on the vehicle inventory
4 that you included as part of your application?

5 A. At the time when I submitted the application,
6 I was in conversation with the transit agency in
7 Jefferson County, I was under the impression that we
8 would be able to work together to access different
9 vehicles than we have currently. But again, when
10 Mr. Heckman's company, his dad went in and told everyone
11 that they had the exclusive right to the territory and
12 they would sue everyone if they supported us, the
13 transit agency said, you guys got to work that out, we
14 can't get involved so -- until that's resolved. So when
15 I submitted that, I believed we would be able to work
16 with Jefferson Transit to come up with some different
17 vehicles. I am currently operating under the assumption
18 though that we're going to use these other vehicles that
19 I have mentioned that aren't reflected in here but which
20 we are not utilizing as well as we could, so that's why.

21 Q. Could you supplement with that additional
22 information about those other vehicles?

23 A. Sure, yeah.

24 JUDGE MACE: Why don't you make that Exhibit

25 22.

0190

1 MR. HARRIS: Okay.

2 JUDGE MACE: And that too needs to be
3 provided by --

4 MR. HARRIS: Ten days.

5 JUDGE MACE: Yeah, whatever the date was I
6 said, oh, it was the 21st I think.

7 MR. HARRIS: So just the basic vehicle ID
8 number, what are you looking for, capacity?

9 MR. THOMPSON: I think probably just in the
10 format that you already have in your application.

11 MR. HARRIS: Okay.

12 MR. THOMPSON: I think that's all I have,
13 thank you.

14 JUDGE MACE: All right, anything else,
15 Mr. Harris?

16 MR. HARRIS: Give me just one moment.

17 Will we be commenting on the admissibility of
18 my exhibits?

19 JUDGE MACE: I will address that.

20 MR. HARRIS: Later?

21 JUDGE MACE: Yes.

22 MR. HARRIS: Okay.

23 No, I think that's it.

24 JUDGE MACE: All right, any objection to the
25 admission of proposed Exhibits 16 through 20?

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1 MR. THOMPSON: Well, if these are intended --
2 I gather these are intended as support for the proposed
3 service.

4 MR. HARRIS: That's correct.

5 MR. THOMPSON: And, well, ordinarily the
6 requirement is that the witness be here in person under
7 oath to provide that, and I really think this would be
8 an objection for Mr. Heckman to raise. Potentially, as
9 Judge Mace mentioned earlier, it might just be a matter
10 of the Commission giving it less weight than it
11 otherwise would.

12 I just raise the issue, I don't really --

13 JUDGE MACE: Yeah, I don't have a problem
14 with admitting them. You do need to realize that the
15 best evidence is a live witness who comes to support the
16 application, and it's not -- you know, we have, for
17 example, Mr. Heckman would not have had an opportunity
18 to cross-examine any of these people, so I'm admitting
19 them for whatever weight that can be given, but you need
20 to realize that that may not be very much weight.

21 MR. HARRIS: Okay.

22 JUDGE MACE: Relative to, for example,
23 Mr. Caldwell's testimony.

24 MR. HARRIS: Okay.

25 JUDGE MACE: All right, so admit Exhibits 16

0192

1 through 20 with the understanding that there may be very
2 little weight actually accorded the letters.

3 MR. THOMPSON: Just on that point, I believe
4 Mr. Heckman had a letter.

5 JUDGE MACE: Yes, and that same applies to
6 him, I think his Exhibit 13 was a similar letter. And
7 again, it's the same thing, live testimony is best, and
8 we can probably only give very limited weight to a
9 letter.

10 MR. HECKMAN: I understand.

11 JUDGE MACE: And because Exhibits 21 and 22
12 are in the nature of Bench Requests, they will be
13 admitted as Bench Requests are. If either of you, that
14 is to say, well, if any of you notice that there's some
15 problem with either of those exhibits when they come in
16 and are served on you, please let me know. Otherwise
17 they will be admitted.

18 We usually get a transcript within two weeks,
19 and I have scheduled simultaneous post hearing briefs
20 for April 11th. If there's any problem with that date,
21 I would like to hear now from you so that we can adjust
22 the date if we need to.

23 MR. HARRIS: Could you hear from us on
24 Monday?

25 JUDGE MACE: Could I hear from you on Monday?

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1 MR. HARRIS: If April 11th is okay.

2 JUDGE MACE: Surely, yes, but I need to hear
3 from you.

4 MR. HARRIS: Okay.

5 JUDGE MACE: You need to probably call.

6 MR. HARRIS: Okay.

7 JUDGE MACE: Don't fax, that doesn't seem to
8 work.

9 MR. HARRIS: No more faxing.
10 If it would be okay, Your Honor, we can just
11 proceed with the 11th unless I call you on Monday, that
12 would give me a chance to make sure.

13 JUDGE MACE: If anything, you're saying it
14 would be later than the 11th?

15 MR. HARRIS: Yes, maybe by a week or
16 something.

17 JUDGE MACE: All right.

18 Do you have any problem with that?

19 MR. HECKMAN: Can we go ahead and just make
20 it a week later? I can't remember the date, but I've
21 got a vacation with my family planned for Oregon during
22 spring break, and I can't remember what the exact date
23 is.

24 JUDGE MACE: Let's be off the record.

25 (Discussion off the record.)

0194

1 JUDGE MACE: We have agreed that we will file
2 simultaneous briefs on April the 18th.

3 Is there anything else?

4 MR. THOMPSON: No.

5 MR. HECKMAN: Just a question out of
6 ignorance, when you say submit simultaneous briefs, does
7 that mean I have to have them to you by that time?

8 JUDGE MACE: Correct.

9 MR. HECKMAN: Okay.

10 JUDGE MACE: They have to be at the
11 Commission on the 18th.

12 MR. HECKMAN: On the 18th.

13 JUDGE MACE: However you do that.

14 MR. HARRIS: But we don't have to show up?

15 JUDGE MACE: No, no, don't show up. I mean
16 it's not that I don't want to engage with you any
17 further, but I just want your brief on the 18th.

18 MR. THOMPSON: And I would just say while
19 we're talking about it that I would be happy to discuss
20 with both of you what a brief should include.

21 MR. HECKMAN: That would be great.

22 MR. THOMPSON: It doesn't include new
23 evidence, it's supposed to be your own summary of the
24 evidence.

25 MR. HECKMAN: So after reading the summary

0195

1 that she has, after reading all the minutes or whatever
2 you call them --

3 JUDGE MACE: Well, one of the main things
4 that you have to do is you have to look at the statutory
5 provision. I think it's 81.68.040, it's a provision you
6 have to look at, because you have to meet the
7 requirements for proof in that provision. And so I'm
8 looking in your brief for you to show me how you meet
9 those proofs and how the other guy doesn't.

10 MR. HARRIS: Okay.

11 JUDGE MACE: And it doesn't have to be
12 lengthy and in fact can not be more than 60 pages as I
13 recall, though I wouldn't think that you would be
14 writing that many pages. So it doesn't have to be
15 lengthy, but you have to show how you have met the
16 burden of proof.

17 MR. HARRIS: But you will give us the
18 transcript so I would have it, and then we would write
19 after that?

20 JUDGE MACE: Let's be off the record.

21 (Discussion off the record.)

22 JUDGE MACE: We have fielded some questions
23 about getting the transcript, and it looks like you're
24 all in agreement that the briefs will be filed,
25 post-hearing briefs, on the 18th. And we have given

0196

1 some instruction about what should be in a brief and how
2 long, what the limit on length is.

3 Is there anything else?

4 Thank you very much, the record is closed.

5 (Hearing adjourned at 3:15 p.m.)

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