

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. D-079360 of)	DOCKET NO. TS-050294
)	
MOSQUITO FLEET, LLC d/b/a)	ORDER NO. 02
MOSQUITO FLEET)	
)	
For Authority to Transfer all Rights)	COMMISSION DECISION AND
Under Certificate No. BC-125,)	ORDER GRANTING TRANSFER
Standing in the Name of Pacific)	APPLICATION
Boat Enterprises, LLC, d/b/a)	
Mosquito Fleet, to Mosquito Fleet,)	
LLC)	
.....)	

SYNOPSIS. The Commission approves, subject to stated, administrative conditions, an application to transfer Certificate No. BC-125, in the name of Pacific Boat Enterprises, LLC, d/b/a Mosquito Fleet to Mosquito Fleet, LLC d/b/a Mosquito Fleet, but withholds reissuance of the certificate in the name of Mosquito Fleet, LLC d/b/a Mosquito Fleet until the conditions are met.

1 PROCEEDING. Docket No. TS-050294 is an application for authority to transfer all rights under Certificate No. BC-125, from Pacific Boat Enterprises, LLC, d/b/a Mosquito Fleet, to Mosquito Fleet, LLC, d/b/a Mosquito Fleet (Applicant-Transferee). The transfer of authority includes passenger, freight, and excursion service between Everett and Friday Harbor, with flag stops at Rosario and Roche Harbor.

2 **PARTY REPRESENTATIVES.** David W. Wiley, Williams, Kastner & Gibbs, Seattle, Washington represents Applicant-Transferee, Mosquito Fleet, LLC d/b/a Mosquito Fleet. Chris Swanson, Assistant Attorney General, Olympia, Washington, represents Commission Staff.

3 **PROCEDURAL BACKGROUND.** On February 23, 2005, Mosquito Fleet, LLC, d/b/a Mosquito Fleet, and Pacific Boat Enterprises, Inc., d/b/a Mosquito Fleet, filed a joint application for authority to transfer all rights under Certificate No. BC-125, in the name of Pacific Boat Enterprises, Inc., d/b/a Mosquito Fleet, (Pacific Boat) to Mosquito Fleet, LLC, d/b/a Mosquito Fleet, (Mosquito Fleet, LLC).

4 The Commission assigned the application number B-79360, and published notice of the application in the Commission's weekly docket of March 14, 2005. On April 13, 2005, Inlandboatmen's Union of the Pacific and the International Organization of Masters, Mates & Pilots, Pacific Maritime Region, United Inland Group (protestants) filed a protest, opposing the transfer.

5 On June 8, 2005, the Commission convened a prehearing conference before Administrative Law Judge Karen M. Caillé. At the outset of the prehearing conference, protestants expressed their intent to withdraw their protests to the application, and were excused from the remainder of the proceeding.

6 Staff represented that it had reviewed the application and was satisfied with the contents of the application. Staff recommended that the Commission grant the application, and reissue Certificate BC-125 in the name of Mosquito Fleet, LLC provided certain conditions are met, including the following. Mosquito Fleet, LLC must file a new tariff in its name, adopting Pacific Boat's tariff; Mosquito Fleet, LLC must submit proof of insurance in the new company name; and Pacific Boat must file a closing annual report with the Commission.

7 The parties waived the initial order via emails on June 21, and 22, 2005, so that
the matter could be submitted directly to the Commission for decision.

8 **COMMISSION DETERMINATION.** The Commission finds that the joint
application submitted by Pacific Boat and Mosquito Fleet, LLC supports a
determination that the transfer of Certificate No. BC-125 from Pacific Boat to
Mosquito Fleet, LLC is in the public interest, and that Mosquito Fleet, LLC is fit,
willing, and able to operate the service authorized under Certificate No. BC-125.
Before the Commission reissues Certificate BC-125 in the name of Mosquito
Fleet, LLC, applicant-transferee must file a new tariff in its name, adopting
Pacific Boat's tariff, and submit proof of insurance in the new company name. In
addition, Pacific Boat must file a closing annual report with the Commission.

FINDINGS OF FACT

9 (1) The Washington Utilities and Transportation Commission is an agency of
the State of Washington, vested by statute with authority to regulate rates,
rules, regulations, practices, and accounts of public service companies,
including commercial ferries.

10 (2) On February 23, 2005, Mosquito Fleet, LLC, d/b/a Mosquito Fleet, and
Pacific Boat Enterprises, Inc. d/b/a Mosquito Fleet, filed a joint application
for authority to transfer all rights under Certificate No. BC-125, in the
name of Pacific Boat Enterprises, Inc., d/b/a Mosquito Fleet, to Mosquito
Fleet, LLC, d/b/a Mosquito Fleet.

- 11 (3) On April 13, 2005, Inlandboatmen's Union of the Pacific and the International Organization of Masters, Mates & Pilots, Pacific Maritime Region, United Inland Group (protestants) filed a protest, opposing the transfer.
- 12 (4) On June 8, 2005, protestants Inlandboatmen's Union of the Pacific and the International Organization of Masters, Mates & Pilots, Pacific Maritime Region, United Inland Group filed to withdraw their protests in this docket.
- 13 (5) The unopposed joint application for transfer supports a finding that Mosquito Fleet, LLC, d/b/a Mosquito Fleet is fit, willing, and able to operate the service authorized under Certificate No. BC-125, and the transfer of Certificate No. BC-125 from Pacific Boat to Mosquito Fleet, LLC is in the public interest.
- 14 (6) WAC 480-51-080(2) and WAC 480-149-110(9) requires an operator of a commercial ferry to prepare, publish, file, and reissue tariffs in accordance with Commission requirements.
- 15 (7) WAC 480-51-070 requires an operator of a commercial ferry to provide the Commission evidence of insurance in the name of the operator, prior to the Commission issuing a certificate.
- 16 (8) WAC 480-51-100(3) requires a closing statement to be filed with the Commission when a certificate is transferred from one operator to another operator.

CONCLUSIONS OF LAW

- 17 (1) The Washington Utilities and Transportation Commission has jurisdiction
over the subject matter of, and parties to, this proceeding. *Title 81 RCW.*
- 18 (2) The transfer of Certificate of Public Convenience and Necessity No. BC-
125 to Mosquito Fleet, LLC, d/b/a Mosquito Fleet, is in the public interest,
and meets the public convenience and necessity.
- 19 (3) Mosquito Fleet, LLC must comply with WAC 480-51-080(2), WAC 480-
149-110(9), and WAC 480-51-070 prior to issuance of the certificate in the
name of Mosquito Fleet, LLC by the Commission.
- 20 (4) Pacific Boat must comply with WAC 480-51-100(3) prior to issuance of the
certificate in the name of Mosquito Fleet, LLC by the Commission.

ORDER

THE COMMISSION ORDERS:

- 21 (1) The application to transfer commercial ferry Certificate No. BC-125 from
Pacific Boat Enterprises, LLC, d/b/a Mosquito Fleet, to Mosquito Fleet,
LLC, d/b/a Mosquito Fleet is granted subject to conditions.
- 22 (2) Certificate BC-125 will not be reissued in the name of Mosquito Fleet,
LLC, d/b/a Mosquito Fleet until Mosquito Fleet, LLC files with the
Commission a tariff adoption notice or a new tariff at the same rates and
service levels as the existing tariff, and proof of insurance in the name of
Mosquito Fleet, LLC, d/b/a Mosquito Fleet. In addition, Pacific Boat
Enterprises, LLC, d/b/a Mosquito Fleet must file with the Commission a

closing annual report of activities 2005 to date. WAC 480-51-080(2),
WAC480-149-110(9), WAC 480-51-070, WAC 480-51-100(3).

- 23 (3) The request to withdraw the protests of the Inlandboatmen's Union of the Pacific and the International Organization of Masters, Mates & Pilots, Pacific Maritime Region, United Inland Group is granted and Protestants are dismissed from this proceeding.

DATED at Olympia, Washington, and effective this 6th day of July, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.