

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SHUTTLE EXPRESS, INC.,	DOCKET NOS.
Petitioner and Complainant,	TC-143691
v.	TC-160516
SPEEDISHUTTLE WASHINGTON, LLC	TC-161257
Respondent.	

**REVISED REDLINE RESPONSIVE AND REBUTTAL TESTIMONY OF
PETITIONER/COMPLAINANT**

SHUTTLE EXPRESS, INC.

BY

DON J. WOOD

May 8, 2017 ~~April 5, 2017~~

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Don J. Wood. My business address is 914 Stream Valley Trail, Alpharetta,
3 Georgia 30022.

4

5 **Q. ARE YOU THE SAME DON J. WOOD WHO PREFILED OPENING**
6 **TESTIMONY ON BEHALF OF SHUTTLE EXPRESS, INC. (“SHUTTLE**
7 **EXPRESS”) IN THIS PROCEEDING?**

8 A. Yes. My Revised Opening Testimony was prefiled on February 22, 2017.

9

10 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

11 A. I have been asked by Shuttle Express to respond to the opening testimony of Staff and
12 Speedishuttle in Docket No. TC-161257 and to rebut the responsive testimony of Staff
13 and Speedishuttle in Docket Nos. TC-143691 and TC-160516. I will be responding to
14 the testimony of Mr. David Pratt and Mr. Michael Young on behalf of WUTC Staff, and
15 Mr. H. Jack Roemer on behalf of Speedishuttle Washington, LLC.

16

17 ~~**Q. DO YOU HAVE ANY OBSERVATIONS THAT APPLY TO THE TESTIMONY**~~
18 ~~**AND PROPOSALS OF BOTH THE WUTC STAFF AND SPEEDISHUTTLE?**~~

1 ~~A. Yes. The proposals of both Staff and Speedishuttle¹ will have a direct impact on the~~
2 ~~interests of the public and the future availability of share ride services—including the~~
3 ~~people (residents and visitors) who rely on these services for their transportation needs,~~
4 ~~and the Washington businesses that rely on share ride services to transport their~~
5 ~~customers to and from transportation centers.~~

6 ~~————— The first and essential step to make sure the public’s interests are served is to~~
7 ~~ensure the availability of the service, throughout the target geographic area, at reasonable~~
8 ~~rates and quality. Depending on the economic factors applicable to a given market, it~~
9 ~~may be possible to achieve these objectives through competitive market forces, but it may~~
10 ~~also require the consistent application of a regulatory construct. The challenge for any~~
11 ~~regulator is to distinguish between those circumstances in which competitive market~~
12 ~~forces can be introduced and relied upon, and those circumstances in which the regulation~~
13 ~~of the service provider or providers in a market is necessary and appropriate.²~~

14 ~~————— Each approach has both advantages and limitations. With a pure regulatory~~
15 ~~approach, a single provider can be required to provide service throughout a geographic~~
16 ~~area, subject to pricing and quality constraints set by the regulator. This approach can~~
17 ~~ensure the availability of affordable service to all customers, including those who seek~~

¹Issues regarding the market and public interest impacts of the Commission’s decision in this proceeding are addressed directly by Mr. Young, Mr. Pratt, and Mr. Roemer.

²Such regulation may include necessary limits on the number of providers offering the same service in a given market.

1 ~~service in areas that are costly to serve.³ In this scenario, a provider may charge different~~
2 ~~rates for service in different areas, but in order to ensure affordability its rates for service~~
3 ~~in the highest cost areas may be lower than it would otherwise seek to charge in order to~~
4 ~~fully recover its costs to provide service to that area and provide a contribution to the~~
5 ~~recovery of fixed costs. In this example, the provider's rates for service to low cost areas~~
6 ~~would be set at an affordable level, but would be sufficiently high to permit the recovery~~
7 ~~of costs not recovered when serving the high cost area. Where economies of scale are~~
8 ~~available so that average total cost continues to decline beyond the total volume of~~
9 ~~service demanded (that is, the minimum efficient size of a provider is equal to, or larger~~
10 ~~than, the total size of the market), an approach based on the regulation of a single~~
11 ~~provider also results in a more efficient method of serving the market (resulting in lower~~
12 ~~total costs and lower rates for customers). In such a case, a single provider can serve the~~
13 ~~entire market at a lower total cost than two or more providers. This scenario has an~~
14 ~~additional implication: if prices are constrained by forces external to the market, a single~~
15 ~~provider (with its lower unit cost) may be able to remain viable and continue to provide~~
16 ~~service throughout the area, including high cost areas. If, however, unit costs are~~
17 ~~increased by the presence of a second provider, neither provider may be able to increase~~
18 ~~rates to a level sufficient to recover its costs. At a minimum, this will create a strong~~
19 ~~incentive for providers to avoid serving high cost areas and to focus only on the lowest~~

³For transportation services, this is likely to include service to or from areas of low population density or areas that are relatively distant from transportation hubs.

1 ~~cost customers to serve. Ultimately, even after abandoning high cost areas neither~~
2 ~~provider may be able to recover its costs and may be required to exit the market.~~

3 ~~————— In contrast, if the economic characteristics of a market permit multiple providers~~
4 ~~to operate efficiently (that is, economies of scale are limited and the total size of the~~
5 ~~market is sufficient to permit multiple providers to operate at a minimum efficient size),~~
6 ~~and market prices permit all efficient providers to recover their costs, a competition-~~
7 ~~based approach can provide benefits to customers. In such a scenario, market forces~~
8 ~~would encourage lower prices and higher quality service. The primary challenge to such~~
9 ~~an approach, particularly in a geographic market in which costs vary significantly, is to~~
10 ~~ensure that providers continue to provide service in high cost areas, even though they~~
11 ~~face a strong incentive to serve only the most profitable routes. For this reason, some~~
12 ~~level of regulatory oversight remains necessary, even when competitive market forces are~~
13 ~~being relied upon to constrain prices.~~

14 ~~————— A hybrid approach is also possible. In such a scenario, a regulator can authorize a~~
15 ~~provider to serve the target geographic market, and may require that provider to serve~~
16 ~~throughout the area (including high cost areas) at reasonable rates and subject to~~
17 ~~standards for service quality. Granting a certificate to a second provider to serve the~~
18 ~~same geographic area would then be conditioned on one of the following: (1) a~~
19 ~~conclusion by the regulator that the market can sustain more than one provider (because~~
20 ~~economies of scale are found to be limited, and because external constraints will permit~~
21 ~~the prices charged by each provider to recover its costs), or (2) a conclusion by the~~

1 ~~regulator that the second provider will not provide the same service as the incumbent, but~~
2 ~~will instead provide a service that either meets the needs of an unserved market segment~~
3 ~~or represents an enhancement that will expand the size of the total market. If these~~
4 ~~conditions are met, the entry of a second provider can provide benefits to customers~~
5 ~~while ensuring that service is available throughout the area (including in high cost areas)~~
6 ~~and allowing each provider to recover its costs. Such a result would be in the public~~
7 ~~interest.~~

8
9 **Q. ARE YOUR OBSERVATIONS ABOVE CONSISTENT WITH YOUR**
10 **UNDERSTANDING OF WASHINGTON STATUTES AND REGULATIONS?**

11 A. Yes. While it is not my intention to offer a legal interpretation of any statute or
12 regulation in my testimony, the hybrid approach described above is consistent with my
13 understanding to the requirements in Washington regarding auto transportation services.
14 The entry of a second provider into a territory already served by a certificate holder is
15 limited to a scenario in which the companies will not be providing the same service. If,
16 however, the second provider operates based on an entirely different business model that
17 provides service to unserved market segments or introduces enhancements that expand
18 the overall market, the entry of the second provider may be in the public interest.

19
20 **Q. WHY IS THIS DISCUSSION RELEVANT TO A CONSIDERATION OF**
21 **WHETHER THE SERVICE THAT SPEEDISHUTTLE CURRENTLY**

1 **PROVIDES IS CONSISTENT OR INCONSISTENT WITH THE BUSINESS**
2 **MODEL APPROVED BY THE COMMISSION?**

3 A. It is relevant – and I believe important – because it provides essential context to an
4 evaluation of whether Speedishuttle’s actual operations are consistent with its proposed
5 business plan and the commitments made at the time of its application. The examination
6 of individual facts in isolation fails to provide the basis for a conclusion. For example,
7 Did Speedishuttle purchase Mercedes vans for use in Washington? Yes, it appears that
8 they did. Did Speedishuttle implement the “multilingual business model” described in its
9 application and supporting testimony? Available evidence suggests that they did not. Did
10 Mr. Morton’s testimony that Speedishuttle “will not have” walk-up, on-demand service
11 prove to be accurate? No, it did not. Does Speedishuttle greet every passenger arriving
12 at SeaTac and escort them first to baggage claim and then to their van, as Mr. Morton
13 also testified? No.

14 The problem, of course, is that – individually and without context – these
15 questions and answers are of limited utility. Without context, it is at best unclear how to
16 treat an applicant that has met some commitments but not others. But within the context
17 of a decision that Speedishuttle’s application should be granted – *not* because the
18 Commission concluded that the market would support multiple providers offering the
19 same service, but because it relied on Speedishuttle’s assertion that it would implement
20 “an entirely different business model that appeals to and serves a certain subset of the

1 market”⁴ – the importance of Speedishuttle’s actions, and their impact on the interests of
2 the public, can be evaluated in a meaningful way.

3
4 **~~Q. WHAT ARE THE SALIENT CHARACTERISTICS OF THE MARKET AT~~**
5 **~~ISSUE?~~**

6 ~~A. As noted in my Opening Testimony, Shuttle Express provides door-to-door share ride~~
7 ~~service using Seattle Tacoma International Airport (“SeaTac”) as its primary hub. This~~
8 ~~share ride service is provided on a scheduled (prearranged) and walk-up basis.⁵~~

9 ~~—————The geographic characteristics of this market are directly relevant. Consistent~~
10 ~~with the terms of its Certificate of Public Convenience and Necessity (“CPCN”) granted~~
11 ~~by this Commission, Shuttle Express provides share ride service to all requesting~~
12 ~~customers across a very large geographic area. Specifically, Shuttle Express provides~~
13 ~~service to addresses within 25 miles of SeaTac, Paine Field, Renton Airfield, and Boeing~~
14 ~~Field. This represents nearly all of King County,⁶ and consists of many areas with low~~
15 ~~population density and long distances to major roadways.~~

16 ~~—————It is important to consider the scope of this geographic market. King County~~
17 ~~encompasses 2,307 square miles, which is 50% larger than the state of Rhode Island~~

⁴ Order 04, ¶32.

⁵ Shuttle Express also provides scheduled service between SeaTac and certain other locations, such as hotels, schools, and other transportation hubs.

⁶ Pursuant to the terms of its CPCN, there are a limited number of areas within King County that Shuttle Express is not certificated to serve.

1 ~~(1,544 square miles) and only slightly smaller than the state of Delaware (2,488 square~~
2 ~~miles). The challenges of serving such a large area, and particularly the less dense and~~
3 ~~more remote portions of the area, have a direct bearing on a determination of the public~~
4 ~~interest. If the regulatory objective is to ensure that share ride service is available to~~
5 ~~customers throughout the geographic areas currently served (and not restricted to the least~~
6 ~~expensive areas to serve), and to ensure that this service is available throughout the year~~
7 ~~(and not restricted to the most profitable seasons), it is essential to consider the impact of~~
8 ~~Speedishuttle's operations—"as implemented" as opposed to "as promised"—on the long~~
9 ~~term availability of share ride services in the target market.~~

10 External constraints on prices also represent an important characteristic of the
11 share ride market at issue. When seeking transportation services, customers in this area
12 can choose from other kinds of transportation providers, including but not limited to
13 taxis, limousine services, transportation network companies (such as Uber and Lyft), or
14 public transportation. Depending on the prices of fuel and parking, potential customers
15 may also elect to simply drive themselves. Collectively, these alternatives provide a
16 constraint to the level of prices that a share ride provider can charge.

17
18 **Q. WITHIN THIS CONTEXT, CAN YOU RECAP THE FACTS OF THE CASE**
19 **BASED ON CURRENTLY-AVAILABLE INFORMATION?**

20 A. Yes. Shuttle Express was granted a CPCN by the Commission to provide share ride
21 services in a large geographic area. Throughout the decades of its operation, it has

1 provided affordable, safe, and reliable service to those who wanted a share ride option to
2 meet their transportation needs (this includes the people who needed transportation to or
3 from a transportation hub, and those business that rely on a share ride service to deliver
4 their customers). When doing so, Shuttle Express has provided service on routes with
5 relatively low unit costs (routes that are relatively short and/or have a high density of
6 passengers), and it has also provided service on routes with high unit costs (those that are
7 much longer in length and/or have a low passenger density). Shuttle Express has a higher
8 tariffed rate to serve the higher-cost routes, but relies on the mix of high- and low-cost
9 passengers to recover its total costs of doing business in this market. It is also important
10 to note that Shuttle Express has offered and provided service on high- and low-cost routes
11 throughout the year, and has not limited its service to peak seasons in which high
12 passenger volumes are expected.

13 Throughout the time of its operation in Washington, the presence of other
14 transportation services has limited the total demand for share ride services and the rates
15 that Shuttle Express could charge.

16 In 2015, after receiving evidence (including the sworn testimony of Speedishuttle
17 witnesses), the Commission elected to grant Speedishuttle a CPCN. When doing so, the
18 Commission did not address the question of whether the market at issue could sustain a
19 second share ride provider offering the same service as Shuttle Express. Instead, the
20 Commission concluded that “Speedishuttle does not propose to offer the same service

1 Shuttle Express provides,”⁷ but instead would be implementing “an entirely different
2 business model.”⁸ It appears this entirely different business model was not expected to
3 overlap materially with that of Shuttle Express, but instead would be targeted to “an
4 entire demographic of travelers whose needs cannot be met by Shuttle Express’s existing
5 service.”⁹ Almost immediately after receiving its certificate, Speedishuttle began to offer
6 the same walk-up, on-demand share ride service offered by Shuttle Express (at least for
7 the routes characterized by low unit costs).

8
9 **Q. WHAT HAS BEEN THE RESULT OF SPEEDISHUTTLE’S ENTRY INTO THE**
10 **SHARE RIDE MARKET IN WASHINGTON?**

11 A. While the parties continue to disagree, often rather strenuously, on issues related to what
12 Speedishuttle did nor did not promise, and whether the business plan described to the
13 Commission in the application proceeding was implemented, both Shuttle Express and
14 Speedishuttle agree on a number of important issues.

15 First, both providers agree, based on their reporting to the Port of Seattle, that the
16 size of the market for share ride services has not increased because of Speedishuttle’s
17 entry, but in fact has continued to decrease.

⁷ Order 04, ¶17.

⁸ Id., ¶32.

⁹ Id., ¶20. The Commission specifically concluded that, on this basis, “Speedishuttle’s proposed service is not the same service Shuttle Express currently provides.”

1 Second, there is agreement that Speedishuttle’s business model, which is based on
2 more costly equipment and higher labor costs, makes it the higher cost provider of share
3 ride services in the market.

4 Third, where there remains some quibbling regarding peripheral points, there is
5 agreement that the service offered by Speedishuttle differs in important ways from
6 Speedishuttle’s initial description of its business plan (a description that was relied upon
7 by the Commission when granting a certificate).

8 Fourth, both Shuttle Express and Speedishuttle also agree that the market for
9 share ride services in Washington – a market that the Commission never concluded could
10 support multiple providers offering the same service – is now occupied by two providers
11 that are unable to recover their costs and are both losing money. This places the future
12 availability of share ride services in jeopardy.

13 Simply based on these uncontested facts, it is reasonable to conclude that the
14 Commission’s expectations when granting Speedishuttle’s application have not been met,
15 and some remedy is now appropriate (and essential) to protect the availability of share
16 ride services in this market.

17
18 **Q. SHUTTLE EXPRESS HAS MADE THE PRICING OF SPEEDISHUTTLE’S**
19 **SERVICE AN ISSUE IN THIS PROCEEDING. ARE THE PRICING AND**
20 **SUSTAINABILITY ISSUES INTERRELATED?**

1 A. ~~Yes, these issues are inextricable intertwined. If the market at issue can support only a~~
2 ~~single provider of share ride services, then the long run public interest is directly~~
3 ~~impacted by whether the higher cost or lower cost provider ultimately survives. Based~~
4 ~~on its clear business plan to compete directly with Shuttle Express, rather than~~
5 ~~implementing its “entirely different business model” targeted to “an entire demographic~~
6 ~~of travelers whose needs cannot be met by Shuttle Express’s existing service,”~~
7 ~~Speedishuttle’s only real path to long term viability is to eliminate Shuttle Express from~~
8 ~~the market. One opportunity for doing so is to price its service below variable cost in~~
9 ~~order to gain market share and make Shuttle Express’s financial position untenable.~~
10 ~~Once Shuttle Express is eliminated, Speedishuttle would be able to raise fares and~~
11 ~~selectively operate its routes in order to achieve profitability. Such an outcome would~~
12 ~~not be in the public interest.~~

13 ~~The survival of either provider is not a given, however. It is possible that both~~
14 ~~providers will be weakened financially to the point that they will both be required to~~
15 ~~either exit the market outright or to limit service to only the lowest cost routes.~~

16 ~~————— As described above, I believe that the essential first step to make sure the public’s~~
17 ~~interests are served is to ensure the availability of the service, throughout the targeted~~
18 ~~geographic area, at reasonable rates and quality. Shuttle Express’s proposed remedy – to~~
19 ~~limit Speedishuttle’s operation to the “entire demographic of travelers” that the~~
20 ~~Commission stated in Order 04 that Shuttle Express could not serve – will allow this~~
21 ~~essential first step to be made.~~

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Q. HOW IS THE REMAINDER OF YOUR TESTIMONY IMPACTED BY THESE UNDERLYING ISSUES?

A. In the following sections of my testimony, I will respond directly to the testimony of Mr. Young, Mr. Pratt, and Mr. Roemer. I will consider the assertions and proposals made by each of these witnesses in the context of a Washington share ride market that is decreasing in overall size, in which the services offered by the new entrant are substantially the same as those of the incumbent, and in which neither provider is able to recover its costs.

Response to Mr. Young

Q. AT PAGE 3 OF HIS TESTIMONY, MR. YOUNG CONCLUDES THAT “SPEEDISHUTTLE’S COMPETITION WITH SHUTTLE EXPRESS IS A WELCOME – AND LAWFUL – DEVELOPMENT.” DO YOU AGREE?

A. No. As an initial matter, neither Mr. Young nor I are qualified to determine whether Speedishuttle’s operation represents a “lawful” development. We can, however, examine whether it should be considered a “welcome” development by a regulator.

Mr. Young does not explain what he intends the term “welcome development” to mean. For the purposes of this discussion, I am defining a “welcome” development as one that serves the public interest. In this context, it is reasonable to further define the public interest as one in which affordable and reliable share ride services remain

1 available to the passengers and business that rely on them, including service to/from
2 locations that are costly to serve, throughout the year.

3 When reaching his conclusion that Speedishuttle’s operations should be
4 considered a welcome development, Mr. Young did not perform any “investigation,
5 research, or analysis of the auto transportation service that Speedishuttle is actually
6 offering or providing to the public in Washington”¹⁰ or any “investigation, research, or
7 analysis of the demographic of auto transportation service passengers that Speedishuttle
8 may be targeting or actually serving in Washington.”¹¹ In short, Staff does not know
9 whether Speedishuttle has operated pursuant to the “entirely different business model”
10 described by Speedishuttle in support of its application, nor does it know whether
11 Speedishuttle has provided service to any customer belonging to a “demographic of
12 travelers whose needs cannot be met by Shuttle Express’s existing service.”

13 Rather than basing his conclusion on any facts related to Speedishuttle’s
14 operations (promised or actual), Mr. Young asserts (p. 3) that at the time of
15 Speedishuttle’s application “Staff assumed that Speedishuttle would compete directly
16 with Shuttle Express. Staff did not assume that Speedishuttle would limit itself to a
17 unique ‘business model’.” Such an assertion appears to be directly at odds with the
18 language of the Commission’s orders, in which the Commission concludes that
19 “Speedishuttle does not propose to offer the same service Shuttle Express provides,” and

¹⁰ Staff Response to Shuttle Express Request No. 9.

¹¹ Staff Response to Shuttle Express Request No. 10.

1 goes on to explain in detail why it believed that Speedishuttle would be offering service
2 to a different demographic of customers.

3 Of course, neither Mr. Young nor I can speak for the Commission. The point here
4 is that if the Commission based its decision to grant Speedishuttle a CPCN based on the
5 various ways in which Speedishuttle's service would not be the same as the service
6 offered by Shuttle Express (an assumption that I believe is fully supported by the
7 language of the Commission's orders), Staff has conducted no analysis – and Mr. Young
8 offers no evidence – to support a conclusion that Speedishuttle's actual operations should
9 represent a “welcome development” or have been consistent with the public interest.

10
11 **Q. MR. YOUNG ALSO ADDRESSES THE ISSUE OF PREDATORY AND “BELOW**
12 **COST” PRICING.” DOES HIS ANALYSIS SUPPORT HIS CONCLUSIONS?**

13 A. No. At p. 4, Mr. Young states “Staff is satisfied that, so long as Speedishuttle is
14 operating at or below the maximum fares set forth in its filed tariff, the company is not
15 engaged in ‘below cost’ or ‘predatory’ service.” Here, Mr. Young's testimony is difficult
16 to reconcile with either economic principles or common sense. An examination of
17 whether Speedishuttle is charging prices “at or below the maximum fares” in its tariff can
18 address the question of whether the prices are *too high*, but provides no information
19 whatsoever regarding the question of whether the prices are *too low*. Unfortunately, this
20 is the only place in his testimony where Mr. Young addresses this issue; as a result, Staff
21 has offered no relevant information regarding this question. And again, Staff did no

1 investigation or analysis of the prices actually charged by Speedishuttle nor the impact of
2 those prices on the financial condition or prospects of either carrier, as Staff admitted in
3 response to Shuttle Express Data Request No. 11.

4
5 **Q. MR. YOUNG GOES ON (P. 3) TO CONCLUDE THAT “THE COMMISSION**
6 **SHOULD MAINTAIN THE STATUS QUO.” IS THIS A FEASIBLE**
7 **RECOMMENDATION?**

8 A. No. This recommendation underscores the fundamental disconnect between the Staff’s
9 analysis and the current market reality. The market for share ride services in Washington
10 today is characterized by declining overall demand and the presence of two providers
11 offering substantially the same service, neither of which is able to recover its costs of
12 providing that service. The Commission cannot, simply through an act of will or an
13 order, “maintain the status quo.” In order to protect the availability of affordable and
14 reliable share ride services to and from locations throughout the target geographic area
15 (and at all times of the year), affirmative action is required.

16
17 *Response to Mr. Pratt*

18 **Q. WHAT IS THE STATED PURPOSE OF MR. PRATT’S TESTIMONY?**

19 A. Mr. Pratt states that the purpose of his testimony is to describe Staff’s investigation into
20 Speedishuttle’s allegation in Docket TC-161257 that Shuttle Express “unlawfully used
21 independent contractors.”

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Q. SPEEDISHUTTLE ALSO ASSERTED IN ITS COMPLAINT THAT SHUTTLE EXPRESS “PAID UNLAWFUL REBATES OR COMMISSIONS.” DID STAFF INVESTIGATE THIS CLAIM?

A. No. Mr. Pratt’s testimony is limited to a description of Staff’s investigation into the “independent contractor” claim.¹² In response to Shuttle Express Request No. 4, Staff responds that it “researched the [unlawful rebates or commissions] allegation in the complaint” and that “it is Staff’s opinion no violations occurred.” This claim should now be considered a non-issue in this proceeding.

Q. PLEASE DESCRIBE YOUR UNDERSTANDING OF THE CIRCUMSTANCES THAT GIVE RISE TO SPEEDISHUTTLE’S “INDEPENDENT CONTRACTOR” CLAIM.

A. It is my understanding that these circumstances may occur when a customer calls Shuttle Express to book share ride service. Because Shuttle Express meets its commitment to provide service to customers throughout its certificated area – including those customers who may be located in places far away from their destination or in places with low passenger density – it sometimes faces the prospect of providing transportation service to

¹² As I will address in the next section of my testimony, Mr. Roemer likewise fails to provide evidence in support of Speedishuttle’s “unlawful rebates or commissions” claim that Shuttle Express engaged in any unlawful conduct.

1 a single customer over a given route. Often, dispatching a multi-passenger van is not the
2 most economic means of transporting a single passenger. In these circumstances, Shuttle
3 Express offers the passenger the opportunity to receive an “upgrade” to limousine service
4 for the price of a share ride service.

5
6 **Q. TO BE CLEAR, DID THE TRIPS INVESTIGATED BY STAFF INVOLVE**
7 **SHARE RIDE OR MULTI-STOP SERVICE?**

8 A. No. It is my understanding that the trips at issue were all single-passenger, single-stop
9 trips. The passenger paid for a share ride service, and received direct, door-to-door
10 limousine service (a service that would have cost more if initially requested) for the share
11 ride price.

12
13 **Q. DOES MR. PRATT ASSERT THAT, BASED ON STAFF’S INVESTIGATION,**
14 **ANY OF THESE CUSTOMERS FAILED TO HAVE THEIR**
15 **TRANSPORTATION NEEDS MET?**

16 A. No.

17
18 **Q. DOES MR. PRATT ASSERT THAT, BASED ON STAFF’S INVESTIGATION,**
19 **ANY OF THESE CUSTOMERS EVER PAID MORE THAN THE APPLICABLE**
20 **FARE FOR SHARE RIDE SERVICE?**

1 A. No. The only difference appears to be that, instead of being the single passenger in a
2 multi-passenger van, these customers were the single passenger in a limousine.

3
4 **Q. DOES MR. PRATT SUGGEST THAT STAFF RECEIVED COMPLAINTS FROM**
5 **ANY OF THE PASSENGERS WHO WERE UPGRADED TO LIMOUSINE**
6 **SERVICE BY SHUTTLE EXPRESS?**

7 A. No.

8
9 **Q. IT SEEMS REASONABLE TO CONCLUDE THAT A FREE UPGRADE TO**
10 **LIMOUSINE SERVICE, FOR THE PRICE OF SHARE RIDE SERVICE,**
11 **WOULD REPRESENT A POSITIVE EXPERIENCE FOR CUSTOMERS. WHAT**
12 **DOES MR. PRATT IDENTIFY AS THE NEGATIVE FACTORS THAT HE**
13 **BELIEVES OUTWEIGH THE POSITIVE IMPACT ON THE CUSTOMER?**

14 A. He identifies three factors that he believes represent a negative for the customer.

15 First, he notes (pp. 4-5) that it is Shuttle Express, and not the customer, that
16 initiates the change. This is certainly true; if a customer could initiate the change – by
17 booking and paying for share ride service, then upgrading themselves to limousine
18 service – they would almost certainly do so for every trip. Shuttle Express does initiate
19 the change, but as Mr. Kajanoff explains in his testimony, the company first contacts the
20 customer to offer the change. Not surprisingly, customers are happy to accept Shuttle
21 Express’s offer of an upgrade, and do not turn it down.

1 Second, Mr. Pratt expresses concern with the way that credit card charges are
2 handled. He correctly notes that when Shuttle Express upgrades a single passenger to
3 limousine service, it does not refund the original charge for share ride services and then
4 initiate a second charge for the limousine service. Instead, Shuttle Express accepts the
5 initial charge to the customer as payment for the transportation service provided, and at
6 its own expense incurs the cost to provide the limousine service. Mr. Pratt does not
7 explain why a process of generating multiple charges and credits would be beneficial to
8 the customer.

9 Third, Mr. Pratt expresses concern (p. 6) regarding passenger safety. Mr. Pratt
10 does not provide any examples of specific customer safety issues that have arisen with
11 Shuttle Express' upgraded passengers, and he acknowledges that the limousine drivers
12 used by Shuttle Express are "licensed by the Department of Licensing." He offers no
13 evidence for a conclusion that the Department of Licensing does not adequately ensure
14 the safety of limousine passengers.

15
16 **Q. HAS SHUTTLE EXPRESS PREVIOUSLY ENGAGED IN DISCUSSIONS WITH**
17 **STAFF REGARDING SERVING SINGLE PASSENGERS WITH LIMOUSINE**
18 **SERVICE?**

19 A. Yes. As Mr. Kajanoff explains, Shuttle Express discussed both multi-stop and single-
20 stop trips with Staff in Docket TC-120323. At that time, Staff's stated concern was
21 limited to multi-stop scenarios, and Staff's enforcement penalties in that proceeding were

1 limited to multi-stop scenarios. As Mr. Kajanoff explains, Staff at that time represented
2 to him that “single stop trips were legal and not an issue in the investigation.”

3 In order for a regulatory construct to be effective, it is important that the regulator
4 act in a way that is consistent and logical. In this way, regulated companies understand
5 what is expected and required, and can act accordingly. In this case, it appears that Staff
6 now takes issue with Shuttle Express’ actions to provide an upgrade to limousine service
7 for single stop, single passenger trips, even though the same scenario was not a cause for
8 concern in a previous proceeding. In Docket TC-120323, Staff was fully aware of
9 approximately 6,000 single stop trips, but did not include those trips in its enforcement
10 action against Shuttle Express. Nor did the Commission take any action in its orders,
11 although those orders acknowledged the existence of the single stop trips.

12
13 **Q. IS THE PUBLIC INTEREST SERVED BY ALLOWING SHUTTLE EXPRESS TO**
14 **UPGRADE SINGLE PASSENGERS TO LIMOUSINE SERVICE?**

15 A. Absolutely. Customers receive a higher value service than what they pay for, and there is
16 no evidence that safety is compromised in any way. Instead of being the single passenger
17 in a multi-passenger van, the customer is a single passenger in a limousine. Otherwise,
18 they are still receiving transportation between the locations requested.

19 Allowing Shuttle Express to continue to provide service in this way has an
20 additional public interest benefit that should not be overlooked. Mr. Pratt points out (p.
21 5) that Shuttle Express makes a “business decision” to switch a single passenger to

1 limousine service, and does so “to reduce costs.” His observation is correct: Shuttle
2 Express opts to carry single passengers in this way in order to make the service feasible.
3 When providing this kind of upgrade, Shuttle Express incurs a cost that is higher than the
4 fare paid by the customer (it loses money), but it incurs a cost than is lower than it would
5 incur by dispatching a multi-passenger van to carry the single passenger (it loses less
6 money that it would have otherwise). Doing so makes it possible to provide timely
7 transportation service to customers in high cost areas, as well as service during the slow
8 seasons.

9 Rather than being the subject of an enforcement action, Shuttle Express should be
10 commended for its actions in this regard. A share ride provider could avoid providing
11 service to single passengers (by requiring the customer to wait an extended amount of
12 time in hopes of adding an additional passenger to the trip, for example), but Shuttle
13 Express, at least, does not do so. Instead, Shuttle Express willingly loses money in order
14 to provide a timely, high-quality transportation service to the customer.¹³

15
16 *Response to Mr. Roemer*

17 **Q. DO YOU HAVE ANY OVERALL OBSERVATIONS ABOUT MR. ROEMER’S**
18 **TESTIMONY?**

¹³ It is reasonable to expect that Speedishuttle also receives a proportional number of requests for single passenger service. The salient question is how – or if – these requests are being met by the company.

1 A. Yes. It is difficult to respond to many of Mr. Roemer’s assertions, because his testimony
2 is either inconsistent or contradictory. For example, in his prefiled testimony (pp. 48-49),
3 he asserts that Speedishuttle’s fares and profitability should be evaluated based on what
4 he refers to as the company’s “average variable cost”: “if you use average variable cost,
5 which we believe is required for any evaluation of the fairness of our fares, you would
6 need to recover revenue for the trip which exceeds the cost of making just the trip for
7 which you received fares.” He then goes on (p. 49) to provide examples of the kinds of
8 costs that he believes should, and should not, be included in a measure of “average
9 variable cost.” Mr. Roemer then goes on (p. 52) to reach specific conclusions regarding
10 Speedishuttle’s profitability to date based on this measure, and reports the results of
11 comparing Speedishuttle’s “revenue to variable costs.”

12 Having gone to some effort in his prefiled testimony to define the measure of cost
13 that he believes is “required for any evaluation” of Speedishuttle’s fares and profitability,
14 providing examples of the costs that would be included in his proposed category, and
15 describing the results of comparing Speedishuttle’s revenues to his proposed measure of
16 cost, Mr. Roemer completely changes course in his deposition testimony. There, he
17 considers (pp. 107-108) an exercise of comparing revenues and average variable cost –
18 what he previously advocated as “required for any evaluation of the fairness of our fares”
19 – to be a “sort of silly profitability that we don't use in our own business.” Having
20 reported a conclusion in his prefiled testimony (p. 52) that Speedishuttle’s revenues have
21 been “very close” to covering average variable cost, Mr. Roemer claims in his deposition

1 (p. 108) that Speedishuttle does not know the level of its average variable cost. He states
2 unequivocally that Speedishuttle's revenues do not cover its average variable cost, but
3 provides no basis for this conclusion (since he now asserts that the level of
4 Speedishuttle's average variable costs is unknown).

5
6 **Q. WHAT CAN YOU CONCLUDE ABOUT MR. ROEMER'S VIEWS ON THIS**
7 **IMPORTANT ISSUE?**

8 A. Based on his testimony, it is possible to conclude that he either believes a measure of
9 average variable cost to be "required for any evaluation" of Speedishuttle's fares and
10 profitability, or to be a "sort of silly" test that he does not advocate; that he either knows
11 what kinds of costs should be included in a measure of average variable cost, or he
12 doesn't; and that he has either conducted an analysis of how Speedishuttle's revenues
13 compare to its average variable cost, or that he does not know level of Speedishuttle's
14 average variable cost and could not conduct such an analysis.

15 With diametrically opposing sides of the issue both covered by Mr. Roemer's
16 testimony, it is difficult to know exactly what to rebut here. Mr. Roemer does make one
17 point consistently clear: he believes that Speedishuttle's revenues do not cover its average
18 variable costs. By definition, if revenues do not cover variable costs, then they likewise
19 do not cover total costs. As a result, we know that Speedishuttle's Washington
20 operations are not profitable.

21

1 **Q. IS THIS CONCLUSION SIGNIFICANT?**

2 A. Yes. As addressed in the first section of my testimony, this is an important area of
3 agreement among the parties: the market for ride share services in the target geographic
4 area in Washington is occupied by two providers, both of which are losing money.

5
6 **Q. DOES MR. ROEMER CORRECTLY DESCRIBE ANOTHER IMPORTANT**
7 **CHARACTERISTIC OF THE MARKET FOR RIDE SHARE SERVICE**
8 **SERVICES IN THIS SECTION OF HIS TESTIMONY?**

9 A. Yes. Earlier in my testimony, I also noted that outside constraints limit the prices that
10 can be charged for ride share services. At pp. 51-52, he correctly points out that “we are
11 in the highly competitive airport transportation industry and there are numerous options
12 available to riders ... If we raise prices too high, we lose passengers to another service.”
13 I agree. The prices that both Shuttle Express and Speedishuttle can charge are limited by
14 external forces, particularly for the lower-cost routes.

15
16 **Q. MR. ROEMER ALSO ADDRESSES ISSUES ASSOCIATED WITH ECONOMIES**
17 **OF SCALE. IS HIS TESTIMONY CONSISTENT ON THIS ISSUE?**

18 A. No. This is another area in which his prefiled testimony and his deposition testimony are
19 contradictory and somewhat confusing.

20 For example, Mr. Roemer addresses the term “natural monopoly” in both his
21 prefiled testimony and deposition. In his prefiled testimony (p. 43), he is certain that he

1 correctly understands the meaning of the term and provides a definition (albeit an
2 incorrect one): “a natural monopoly is one in which there are high barrier costs to market
3 entry so that once an existing provider is in place it makes little economic sense to try and
4 compete.” He is also certain that I do not have the required understanding: “Mr. Wood
5 does not understand the meaning of natural monopoly.”

6 Yet in his deposition, Mr. Roemer once again changes his position. When asked
7 to define the term “natural monopoly” as he uses it in his testimony, he responded “I
8 don’t know what that means,” and later states “I’m not an expert on monopolies, and
9 apparently Mr. Wood is.” Mr. Roemer was also unable to describe any characteristics of
10 a natural monopoly in his deposition testimony, beyond his reference to “high barriers to
11 market entry.”

12
13 **Q. IS MR. ROEMER CORRECT TO FOCUS ON “HIGH BARRIERS TO MARKET**
14 **ENTRY” IN ORDER TO DEFINE A NATURAL MONOPOLY?**

15 A. No. A given market represents a natural monopoly when a single provider can meet the
16 market’s total demand for a lower total cost than the total cost that would be incurred by
17 two or more providers; that is, the average total cost declines over the market’s entire
18 range of demand. Put another way, a natural monopoly exists when the minimum
19 efficient size of a provider is equal to or greater than the size of the total market.

20 In a sense, Mr. Roemer’s focus on a high barrier to entry as a secondary (but not a
21 defining characteristic) has some relevance. If prices are constrained by external forces

1 (as Mr. Roemer and I both agree is the case with share ride services in Washington), then
2 a new entrant would face a high economic barrier to entry: in order to be viable long
3 term, the new entrant would have to completely displace the incumbent provider, so that
4 it (the new entrant) could achieve the economies of scale necessary to be viable in the
5 long run. Until it is able to do so, the new entrant would be unable to recover its costs,
6 creating a kind of barrier to entry.
7

8 **Q. MR. ROEMER GOES ON TO ASSERT (P. 44) THAT “MR. WOOD DOES NOT**
9 **FULLY GRASP THE ECONOMIES OF SCALE.” DO YOU AGREE?**

10 A. No. A proper understanding and treatment of scale economies is central to the resolution
11 of the issues in this case, but this is another issue where Mr. Roemer’s testimony is all
12 over the map. At p. 52 of his prefiled testimony, Mr. Roemer correctly notes that
13 profitability is “an issue of economies of scale.” If I understand his prefiled testimony
14 here, I agree: He correctly notes that outside forces constrain the prices for share ride
15 services, and that in order to be profitable (and financially viable over the long run), a
16 provider must achieve economies of scale, thereby reducing its unit costs.

17 But after correctly noting that unit costs *decrease as volume increases* (the
18 positive impact of scale economies), Mr. Roemer completely fails to recognize that unit
19 costs will *increase as volume decreases* (the unavoidable negative impact of those same
20 scale economies). At p. 44, Mr. Roemer suggests that a provider of share ride services
21 can “adapt” to a reduction in demand through a “simple reduction of fleet size.” Such a

1 suggestion ignores the inescapable fact that – because of the scale economies that he
2 previously recognized – the provider’s unit costs will increase as the scale of its
3 operations is reduced.

4
5 **Q. IS THERE ANOTHER REASON WHY MR. ROEMER’S “SIMPLE REDUCTION**
6 **OF FLEET SIZE” STRATEGY WOULD BE INEFFECTIVE FOR SHARE RIDE**
7 **SERVICES?**

8 A. Yes. At p. 52, he describes Speedishuttle’s operating strategy: “In this industry, we have
9 a certain number of vehicles capable of making a certain number of trips per day. The
10 goal is to have enough customers to fill those vans to the reasonable capacity as much of
11 the time as possible.” This statement is consistent with my understanding of the industry,
12 but it omits an essential constraint: because (as Mr. Roemer correctly points out) “there
13 are numerous options available to riders,” share ride services must be operated in a way
14 that makes the service appealing to customers. This includes minimizing wait times.

15 Applying Mr. Roemer’s incomplete statement of operating strategy, Speedishuttle
16 could “fill” its vans departing from a given location by delaying the departure long
17 enough for additional passengers to arrive.¹⁴ Of course, a potential customer’s perception
18 of the value of share ride service will decrease as wait times increase, until the perceived
19 value of the service no longer makes it attractive.

¹⁴ Depending on the density and length of the route, the necessary delay might be minutes, hours, or days; but in theory if a van waits long enough it can eventually be filled with passengers.

1 Mr. Roemer’s “simple reduction of fleet size” falls victim to this reality. A van
2 can only be at one location at a time. If it is engaged on a given route, it cannot
3 simultaneously be waiting at an airport to pick up passengers. If a provider is serving
4 customers throughout its certificated geographic area, reducing the number of vans in
5 service in response to a decrease in demand will increase wait times. Increased wait
6 times will make the service less attractive to passengers, resulting in further loss of
7 customers. In the end, what Mr. Roemer disparagingly refers to (p. 44) as my “doomsday
8 scenario” is the inevitable result of the scale economies the he fully recognizes elsewhere
9 in his testimony.

10
11 ~~Q. — WOULD IT BE IN THE PUBLIC INTEREST FOR THE COMMISSION TO~~
12 ~~SIMPLY ALLOW BOTH COMPANIES TO KEEP LOSING MONEY UNTIL~~
13 ~~ONE OF THEM EXITS THE MARKET VOLUNTARILY?~~

14 ~~A. — No, for several reasons. First, the two providers are not likely to fully exit the market, at~~
15 ~~least initially. Instead, they will reduce their service to high cost areas first in an effort to~~
16 ~~reduce costs to level that is at or below revenues. This is likely to mean reducing or~~
17 ~~eliminating service to suburban and rural areas and focusing solely on dense areas like~~
18 ~~downtown Seattle (and maybe Bellevue). Speedishuttle may have already engaged in~~
19 ~~such a strategy. Second, both providers will reduce service even more broadly by cutting~~
20 ~~service during low volume periods. This could include nights and weekends, slow times~~
21 ~~of weekdays, and slow seasons, like the wintertime (according to Mr. Roemer,~~

1 ~~Speedishuttle has already engaged in this strategy). These actions will be harmful to the~~
2 ~~public because transportation options will be reduced or eliminated. When service is no~~
3 ~~longer ubiquitous, the public may cease to rely on share ride services at all, or use them~~
4 ~~enough to make it profitable for a single company to operate in the target geographic~~
5 ~~market.~~

6
7 ~~Q. IGNORING WHETHER IT COULD LEGALLY DO SO, WOULD IT BE IN THE~~
8 ~~PUBLIC INTEREST FOR THE COMMISSION TO CURTAIL OR CANCEL THE~~
9 ~~SHUTTLE EXPRESS AUTHORITY AND LET SPEEDISHUTTLE TRY TO~~
10 ~~SURVIVE AND GROW TO PROFITABILITY?~~

11 ~~A. No. That would put the public interest at greater risk. Speedishuttle has been clear that~~
12 ~~its service is more costly to provide. Such a strategy may work in Hawaii, where most of~~
13 ~~the passengers may be well-to-do tourists or residents who don't have their own~~
14 ~~automobiles on the islands, but it is not likely to work well in King County. At the end of~~
15 ~~the day, if the higher cost provider is the survivor, it will either have to charge higher~~
16 ~~fares—if the external constraints on fare permit such an increase—or implement~~
17 ~~additional restrictions of the geographic and seasonal availability of the service.~~

18
19 ~~Q. WOULD THE SAME BE TRUE FOR SHUTTLE EXPRESS?~~

20 ~~A. No. Shuttle Express still has the majority of the passengers. It still serves the outlying~~
21 ~~areas of the geographic market. It has built up goodwill and brand familiarity throughout~~

1 ~~the populace in King County and with many non-resident travelers. It has a track record~~
2 ~~of operating profitably for many years (and did so until recently when Speedishuttle~~
3 ~~entered the market). And most importantly, it is the acknowledged lower-cost provider.~~
4 ~~It stands a much better chance of continuing to serve the public throughout the county in~~
5 ~~both the short and long term as the sole provider than would Speedishuttle.~~

6

7 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

8 A. Yes.