

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SHUTTLE EXPRESS, INC.,

Petitioner and Complainant,

v.

SPEEDISHUTTLE WASHINGTON, LLC

Respondent.

DOCKET NOS.

TC-143691

TC-160516

TC-161257

**REVISED, REDLINED RESPONSE/REBUTTAL TESTIMONY OF
PETITIONER/COMPLAINANT**

SHUTTLE EXPRESS, INC.

BY

PAUL KAJANOFF

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

1 **Q: Please state your full name and business address.**

2 A: Paul Kajanoff. 800 SW 16th Street, Renton, Washington 98057.

3 **Q: Are you the same Paul Kajanoff who filed direct testimony on December 21, 2016 in**
4 **these dockets?**

5 A: Yes. Except now we have another docket to address, based on the complaint Speedishuttle
6 filed against us late last year regarding our commission payments used to increase sales and
7 revenues and our use of independent contractors on single stop trips to reduce costs and
8 improve customer service.

9 **Q: What is the purpose of this testimony?**

10 A: To respond to the opening testimony of Staff and Speedishuttle in Docket No. TC-161257
11 and to rebut the responsive testimony of Staff and Speedishuttle in Docket Nos. TC-143691
12 and TC-160516.

13 **Q: Can you please summarize your views of the Staff and Speedishuttle testimony at a**
14 **high level?**

15 A: Yes. First and foremost neither Staff nor Speedishuttle effectively addresses how the entry
16 of Speedishuttle has split the share ride market in a way so that neither carrier can sustain
17 the intended scope and scale of their current operations for long, as both Mr. Wood and I
18 explained in our direct testimony. At least Speedishuttle tries, claiming that “economies of
19 scale” will allow it to turn a profit eventually. But Mr. Roemer’s direct testimony fails to
20 explain or backup the potential existence of any such scale economies in share ride. At his
21 deposition last week, he was questioned extensively about the supposed economies and was

1 unable to articulate any. Worse, he admitted that Speedishuttle has no plans or projections
2 for making the company profitable.

3 Staff's testimony does not even attempt to address how the two carriers can continue to
4 provide nearly ubiquitous share ride service in King County beyond the short term with
5 both companies currently losing money and no plans or prospects for a turn around.

6 On the question of Shuttle Express's commission payments for referral of passengers, Staff
7 conceded that is legal. And on the question of Shuttle Express's referral of some single
8 stop passengers to independent contractors, neither party addresses why a practice that was
9 investigated, known, and presumed to be legal in 2012-2013 has suddenly become illegal.

10 **Q: Does your testimony in December and now regarding "sustainability" address just to**
11 **the public interest issue of whether it is possible for two share ride operators serving**
12 **the same passenger demographic to both be able to continue to serve the King County**
13 **market in the long run?**

14 A: No, as I understand the public service laws, it goes well beyond that issue. For example,
15 we have complained that Speedishuttle's practices are "unreasonable, illegal, and unfair"
16 within the meaning of RCW 81.04.110, as well as not in the public interest. Further, we
17 have alleged that Speedishuttle's "pricing is "unreasonable, insufficient, unremunerative,
18 discriminatory, illegal, unfair, insufficient, and tending to oppress [Shuttle Express]," again
19 in violation of RCW 81.04.110. All of those terms in the statute are somewhat subjective
20 and open to interpretation. If—contrary to the great weight of testimony presented—both
21 Shuttle Express and Speedishuttle could eventually operate profitably in King County,
22 would the Commission find that Speedishuttle's operations are unfair, unreasonable,

1 discriminatory, illegal, insufficient or oppress as to Shuttle Express? It could, but it might
2 be less likely to do so. I am not a lawyer, but it seems to me that the broad powers given to
3 the Commission in RCW 81.04.110 may be why the law further provides in RCW
4 81.04.120 that a “complainant” is allowed to “introduce such evidence as he or she or it
5 may desire.” In my opinion, our facts and opinions on “sustainability” go to a number of
6 issues in this case, not only to the public interest, but also to the other factors we can prove
7 and that will support our complaint. And the fact that we have gone from profitability to
8 unprofitability in our share ride business in 2016, due largely to the entry of Speedishuttle,
9 in my opinion is a “changed condition” subject to rehearing under RCW 81.04.200. Of
10 course we were concerned about it in 2015, but now it is an established fact. Finally, the
11 Commission likely has a broad range of remedies that it could order. Again, in my opinion
12 sustainability is something the Commission should take into account in fashioning its
13 remedies.

14 **Q: Have the sustainability issues you and Mr. Wood identified in December last year**
15 **gone away?**

16 A: Not at all. In fact, based on a full calendar year of data from 2016 it is now clear that our
17 projection of eventual loses by Shuttle Express have already come to pass. So not only is
18 Speedishuttle losing money in share ride, so is Shuttle Express. Part of the reason is loss of
19 passenger volumes to Uber, but the biggest single cause is the entry of Speedishuttle two
20 years ago. The true economies of scale in share ride are not found and cannot be found in
21 shrinking the scale of an operation, as Mr. Marks will explain in his rebuttal testimony.
22 Economies of scale depend on growth or at least some stability at a reasonable volume.

1 Neither Speedishuttle nor Shuttle Express are currently experiencing growth and with the
2 direct competition neither has sufficient volume to be profitable. So the inevitable
3 consequence of having two companies try to serve the same area is either the economic
4 failure of one company or a dramatic shrinkage in the geographic scope of share ride from
5 today. Instead of the county-wide service the public has enjoyed for several decades, the
6 two companies would have to compete solely for the high-density areas—Seattle and
7 Bellevue hotels and cruise terminals—and perhaps just seasonally at that. We do not think
8 that result will serve the broad public interest.

9 **Q: So how will you answer the response testimony in TC-143691 and TC-160516?**

10 A: I will provide additional and updated data and also point out some of the fallacies in Mr.
11 Roemer's assertions.

12 **Q: What about the Staff's testimony?**

13 A: As is clear from Mr. Young's testimony and was confirmed in response to our data
14 requests, Staff did essentially no investigation or meaningful analysis of whether
15 Speedishuttle is competing fairly and whether or how the broad, long-term, public interest
16 will be served with Speedishuttle splitting the market as it has. I will largely leave Mr.
17 Young's testimony up to our counsel's cross at the hearing and briefing. Mr. Pratt's
18 testimony on TC-161257, to the extent it is factual, is largely based on undisputed facts. It
19 simply represents an unexplained change of legal position of the Staff that runs counter to
20 Docket TC-120323 and has not been adopted by the Commission. Again, that can mostly
21 be dealt with at the hearing and on briefing.

1 **Q: Please start with the question of whether Speedishuttle is providing the service it said**
2 **it would, consistent with its “business model” or “business plan”?**

3 A: Without getting hung up on the terminology that the lawyers are arguing about, Mr. Roemer
4 devotes dozens of pages to describing how Speedishuttle operates, using Mercedes vans,
5 offering TV, Wi-Fi, why they have no 20 minute “guarantee,” why they don’t greet every
6 passenger, and so on. Mr. Roemer appears to be taking as narrow as possible a view of the
7 issues in this case and attempting just to show that “Speedishuttle is providing the service
8 the Commission authorized it to provide consistent with the business model approved by the
9 Commission in Docket TC-143691,” to quote the Administrative Law Judge on a discovery
10 motion last fall. (September 27, 2016 hearing transcript at 183). Even given the intentionally
11 limited scope of the testimony, it is clear Speedishuttle has not fully kept up to its promises.

12 **Q: Is anything missing from Mr. Roemer’s testimony as well?**

13 A: Yes. There is absolutely no meaningful analysis of whether or how the new features have
14 affected Shuttle Express or the overall market or whether the public interest is being served
15 or will be served in the future. These issues go to the heart of whether the Speedishuttle
16 practices are or may be, “unreasonable, insufficient, unremunerative, discriminatory, illegal,
17 unfair, insufficient, and tending to oppress” Shuttle Express. But ignoring those issues fails
18 to address the elements of our complaint and the statute on which it is based—not to mention
19 overlooking whether the public interest is truly being served. Mr. Roemer slavishly recaps
20 the frills and accoutrements of the Speedishuttle service, but does not explain whether or
21 how those features did anything to serve even a single passenger that was not or might not
22 have been served by Shuttle Express for the last two years. The Commission, in its Order

1 04, found that because, “Shuttle Express does not offer multilingual customer service, either
2 on its website, by phone, or by way of personal greeters; there is an entire demographic of
3 travelers whose needs cannot be met by Shuttle Express’s existing service.” It is
4 understandable why Mr. Roemer wanted to avoid any discussion about serving previously
5 unserved passengers or demographics. It is not. For example, when asked in data requests
6 how many passengers of Speedishuttle have reserved travel on their Chinese, Japanese, and
7 Korean websites, the answer was exactly ZERO. The testimony to the same effect can be
8 found at pages 141-143 of Mr. Roemer’s deposition transcript.

9 **Q: Does Speedishuttle in fact provide all of the features of its proffered business model**
10 **that the Commission accepted in Order 04?**

11 A: No, it is clear they do not. They do use Mercedes vans, which incidentally cost at least
12 \$12,000 per vehicle more to operate per year than our Fords based on additional depreciation
13 and fuel type. They have installed Wi-Fi in all their vans, as we have now in all our vans.
14 But they have no idea if any passengers even use it. They have also installed TVs. Again,
15 they do not know if any passengers watch it. And they do have multilingual websites, so in
16 theory they offer that. But they admit they don’t actually provide multilingual bookings on
17 those websites, because not a single passenger has ever used them in almost two years of
18 operation. And finally, we know they have some greeters. But Mr. Roemer admitted in his
19 deposition that the promise that, “[e]ach Speedishuttle passenger will be assisted by a
20 personal greeter” is not met in actuality. *Compare*, Order 08 at 1 with Roemer Dep. at page
21 163. Speedishuttle has steadfastly refused to date to provide any hard and specific data on
22 greeters. Indeed just two days before this filing Speedishuttle served responses to our Data

1 Request Nos. 71 and 72 (attached as Exh. ____, PK-3) seeking specific empirical data that
2 would show if they have sufficient greeters to meet their promises to greet every incoming
3 passenger. They provided only objections and absolutely no data, even though Mr. Roemer
4 devoted over four pages of his testimony to trying to show that they are in fact greeting most
5 passengers. The data requested should not be hard to produce and it would go a long way
6 toward enabling the Commission to base its decision on empirical facts rather than on Mr.
7 Roemer's unsupported conclusory and self-serving statements and hairsplitting.

8 **Q: Is there anything else that Speedishuttle is not doing that it promised to do?**

9 A: Yes, we think there is. Speedishuttle promised to serve all of King County with door to door
10 share ride service. Shuttle Express made a strong case that Speedishuttle is "cream
11 skimming" and in reality is only meaningfully serving the most dense and lucrative portions
12 of the King County market. They promised to serve the entire county. But in reality they
13 are focused on the high volume profitable downtown core hotels and largely leave the low-
14 volume, high-cost suburban and rural areas to us. Mr. Roemer said almost nothing in his
15 response testimony about this failure to serve to the full extent of their authority. All he does
16 is argue about Speedishuttle's fare structure in an erroneous, misleading, and incomplete way
17 at pages 45-46. He could have provided some very telling and accurate data about the areas
18 Speedishuttle does and does not serve, when, and at what levels. We know now from Mr.
19 Roemer's deposition that Speedishuttle tracks all passengers and reservations by month, by
20 zip code. So the data is available, but Speedishuttle refuses to provide it, serving up only
21 conclusory and self-serving statements that run counter to what data we do have, which I
22 provided in December and have supplemented here.

1 **Q: What do you see as the implications of the data you do have?**

2 A: Not only does it show a failure to provide the service they promised to the Commission, it is
3 a reflection of the fact that without greater volumes and economies of scale, a share ride
4 service cannot profitably service such a large geographic area as King County. That is the
5 issue Shuttle Express faces now and it will likely lead to a termination of service to the higher
6 cost areas if Speedishuttle's certificate is not soon revoked. Again, Mr. Marks discusses how
7 critically important it is for Shuttle Express to maintain its volume in the dense areas year
8 around if it is to be able to continue to serve the suburbs and rural areas, especially in the
9 slow seasons. These issues go to the overall public interest governing this case as well as
10 whether Speedishuttle's fares and practices are fair, just, and reasonable or instead are unfair,
11 insufficient, discriminatory, and oppressive.

12 **Q: At page 47 of Mr. Roemer's testimony, he denies that Speedishuttle is responsible for**
13 **Shuttle Express's passenger losses and offers a graph showing only the historical data**
14 **for Shuttle Express and all ground transportation passengers. Is that a fair analysis?**

15 A: Not at all. There are new and growing options for ground transportation, including Uber and
16 light rail. The long term trends Mr. Roemer identifies are undeniable. They explain why
17 Speedishuttle is also losing passengers after their rapid start up growth. But regardless, to
18 truly understand what is happening in the share ride segment of the ground transportation
19 market that the Commission actually regulates, you need to look at the combined operations
20 of the principal two carriers, Shuttle Express and Speedishuttle.

21 **Q: Have you done that?**

1 A: Yes. I provided much broader and more representative data than Mr. Roemer in my direct
2 testimony, but it was stricken by the Commission in part in Order 16. It is ironic that having
3 sought to strike that data, Speedishuttle now takes Shuttle Express to task for not presenting
4 more complete data, but they do.

5 **Q: Do you wish to re-offer that as rebuttal, and if so, why?**

6 A: Yes, I do. First, Mr. Roemer uses incomplete and misleading data in his graph and testimony
7 on page 47 to support his assertion that Shuttle Express has not shown its decline in passenger
8 volumes is due largely to Speedishuttle, not to other factors. The more complete data that I
9 offered in December is a more accurate and probative portrayal of the market trends and
10 causes. Also, at page 39 of his testimony Mr. Roemer criticizes Mr. Marks for his alleged
11 failure to address “the overall market trend.” My stricken testimony and data went directly
12 to such trends as well as showing that Speedishuttle was the principle cause, which Mr.
13 Roemer expressly disputes in his testimony.

14 ~~Q: Please proceed.~~

15 ~~A: Thank you. The share ride and schedule service trips out of Sea Tac Airport have been on a~~
16 ~~pretty consistent annual decline since 2012 as shown in the table below:~~

17

1

TABLE 1
Annual Speedishuttle and Shuttle Express Trips
Out of Sea-Tac Airport

2012	2013	2014	2015	2016*
77,174	71,019	67,374	61,438	55,657
<i>-Change</i>	<i>(6,155)</i>	<i>(3,645)</i>	<i>(5,936)</i>	<i>(5,781)</i>
<i>% Change</i>	<i>-8%</i>	<i>-5%</i>	<i>-9%</i>	<i>-9%</i>

*Based on annualized totals through October 2016

2 **Q:—Why are you only showing outbound trips?**

3 A:—We had asked for more detailed statistical data on Speedishuttle’s trip and passenger counts
4 in Data Request No. 6. Speedishuttle objected to that request, and provided no useful data.
5 Based on Speedishuttle’s response testimony, we have renewed our request for data on
6 Speedishuttle trips, in a more narrow way targeted directly to Mr. Roemer’s response
7 testimony. But yet again, Speedishuttle still has objected, and refuses to provide the data,
8 even though Mr. Roemer admitted in his deposition that they track passengers on a monthly
9 basis. Copies of the objections to Data Request Nos. 59, 60, and 62 are attached as Exh.
10 ____, PK 4. The data above came from a public records request to the Port of Seattle
11 (“Port”). As of this writing, we have been unable to update it. Because Speedishuttle and
12 Shuttle Express both pay a concession fee to the Port each time they make a trip *from* the
13 airport carrying passengers, we report outbound trips. My understanding is that
14 Speedishuttle reports automatically, using transponders. In our experience, the trend in
15 trips from year to year or month to month are roughly the same for inbound (to the airport)
16 as for outbound.

17 **Q:—Could you break this down by carrier and by month?**

1 A: ~~Speedishuttle and Shuttle Express outbound trip totals by month are shown below:~~

2
3

TABLE 2

Month	Speedishuttle		Shuttle Express		Combined Trips	
	2015	2016	2015	2016	2015	2016
Jan	-	986	5,038	3,585	5,038	4,571
Feb	-	834	4,140	3,097	4,140	3,931
Mar	-	1,011	4,680	3,680	4,680	4,691
Apr	-	901	4,870	3,518	4,870	4,419
May	471	1,210	4,974	3,715	5,445	4,925
Jun	548	1,322	4,697	3,963	5,245	5,285
Jul	985	1,350	4,727	4,046	5,712	5,396
Aug	1,438	1,232	4,582	3,678	6,020	4,910
Sep	1,404	1,285	4,094	3,006	5,498	4,291
Oct	1,198	1,141	3,856	2,821	5,054	3,962
Nov	1,012	-	4,001	-	5,013	-
Dec	996	-	3,727	-	4,723	-
	8,052	11,272	53,386	35,109	61,438	46,381

4

5 Speedishuttle has shown a decline in its year-over-year monthly trip totals beginning in
 6 August of 2016 with a total of 1,438 trips compared to 1,285 in 2015; a decrease of 14
 7 percent. Indeed, the decline for Speedishuttle has continued as September and October
 8 decreased by eight and five percent respectively.

9 **Q: Has the entry of Speedishuttle into the share ride market increased the overall**
 10 **number of trips?**

11 A: Speedishuttle's entrance into the existing share ride market has done nothing to slow the
 12 longstanding decline in trips nor are there any signs of any new market that Speedishuttle

1 ~~claimed would be served by their unique business model. The only impact of Speedishuttle~~
2 ~~in the existing market place has been to dilute the economies of scale for both Shuttle Express~~
3 ~~and Speedishuttle.~~

4 **~~Q: Has Shuttle Express been unable to keep up with the demand for its door-to-door~~**
5 **~~services?~~**

6 ~~A: To date, no. Shuttle Express has shown it can successfully perform 77,000 outbound trips~~
7 ~~annually to the satisfaction of the commission with the infrastructure that existed in 2012 and~~
8 ~~would be able to do same for the estimated 55,000 trips for 2016. As losses mount, however,~~
9 ~~we will have to consider cutting back service to more costly areas.~~

10 **Q: At page 48 Mr. Roemer starts talking about Speedishuttle's ongoing below cost**
11 **pricing. Do you see any flaws in his analysis?**

12 A: Most definitely. Mr. Roemer focuses solely on variable cost as the basis for the fairness of
13 Speedishuttle fares. Any discussion of fixed or variable cost is irrelevant in the context of
14 auto transportation authority. The UTC guidelines require all expenses, whether fixed or
15 variable, be included in any tariff proposal to determine if fares are fair, just, and reasonable.
16 Ironically, Speedishuttle did include all costs, variable and fixed, in the pro forma income
17 statement it submitted with their initial application, although the pro forma badly
18 misrepresented reality, as we now know.

19 **Q: Despite Mr. Roemer's irrelevant analysis, what is the outcome?**

20 A: At page 49 and elsewhere, Mr. Roemer admits that Speedishuttle fares do not cover all its
21 costs. Indeed, at lines 11-13 he notes the very problem that is a key reason for Shuttle
22 Express's petition and complaint: "Speedishuttle would have to recoup all of its costs

1 including costs unrelated to transportation from the passengers on that trip, at a prohibitively
2 expensive price.” On this point, we are in agreement with Speedishuttle. Because of
3 competition from unregulated ground transportation services, neither Shuttle Express nor
4 Speedishuttle can stem their current losses with fare increases. The public will not pay more,
5 as Mr. Roemer details further at pages 51-52. A fare increase would lead to less overall
6 revenues, not more.

7
8 **Q: What about Speedishuttle’s “plan to grow its business in Washington”?**

9 A: At page 50-51 Mr. Roemer explains the intent to grow the business and make adjustments to
10 their assumptions based on actual operations. This is yet again more evidence that the
11 Speedishuttle business model is not sustainable in this market, particularly with two carriers
12 providing nearly the exact same service—accoutrements aside. Speedishuttle presented a
13 pro forma with their initial application showing \$1,349,760 of revenue for a twelve month
14 period based on utilizing only five vehicles. Per Speedishuttle provided information, the
15 actual revenue generated in their first 12 months of operations required not five, but 18,
16 vehicles to produce over \$300,000 less in revenue than was shown on their pro forma.
17 Clearly, the revenue was significantly less than anticipated, yet Speedishuttle required more
18 than three times as many vehicles to produce less revenue than forecast. That means their
19 costs were substantially higher as well. In addition to more than three times as much vehicle
20 depreciation cost, Speedishuttle likely would have faced three times the driver cost, plus
21 substantially higher operating costs to run so many more vans.

22
23 **Q: What else does the growth in projected vehicles show?**

1 A: Together with the knowledge we have today that Speedishuttle needs not five but 18 vehicles
2 to serve even fewer passengers than they projected, their pro forma is another illustration of
3 the fallacy of Mr. Roemer's assertion that "economies of scale" will eventually lead
4 Speedishuttle to profitability. More than tripling Speedishuttle's vehicle capacity did not
5 increase its projected profits. Instead, it lead to a huge loss in the real world, serving fewer
6 passengers, and at much greater costs, than they represented. Indeed, tripling the capacity
7 did not even increase the gross revenues of the company.

8 **Q: What is the first problem you noted with Mr. Roemer's financial analysis?**

9 A: At page 52, lines 10-12, Mr. Roemer defined "profit" as revenues less variable costs. But in
10 reality, no carrier can operate indefinitely at an overall loss based on merely covering
11 "variable" costs. And since Speedishuttle has no plans or prospects of making a profit by
12 growing its volume, Mr. Roemer cannot deny that overall it will operate indefinitely based
13 on fares and practices that are below cost.

14 **Q: Are you saying Speedishuttle can't project a profit by growing passenger volume?**

15 A: Yes. The pro forma and growth from five to 18 vans shows that in the share ride market
16 growing volume also grows costs. You need to grow the volume per trip in order for the
17 increased revenue to outpace the increased costs. Shuttle Express and Speedishuttle cannot
18 do that in the current environment. Both carriers are each losing volume and that is
19 decreasing the number of passengers per trip. Again, Mr. Marks discusses the operational
20 challenges in his rebuttal. At his deposition, Mr. Roemer could not articulate any specific or
21 quantifiable plan to increase Speedishuttle's passenger volume. He said they were trying,

1 but after two years, Speedishuttle has not just plateaued, it is declining the same way as
2 Shuttle Express.

3 **Q: At pages 52 and 53 Mr. Roemer discusses selected Shuttle Express tariffs and suggests**
4 **that Shuttle Express may be pricing predatorily. How do you respond to that?**

5 A: First, Shuttle Express was making a profit overall until Speedishuttle came into the market.
6 As Mr. Roemer admits, the prices can't really be raised much or people won't use the service.
7 To complain that Shuttle Express's prices are below cost when it was Speedishuttle that
8 caused Shuttle Express's dramatic decline in gross revenues is the height of arrogance.
9 Second, Mr. Roemer misconstrues the full nature of Shuttle Express's complaint. It is not
10 just limited to prices, but also takes into account how Speedishuttle entered the market on
11 the promise of serving the whole county, on serving an unserved demographic, on growing
12 the overall market, and on operating profitably, among other things. Speedishuttle has done
13 none of those things that it led the Commission to believe it would do.

14 **Q: Can you please address pricing manipulation a bit more?**

15 A: Yes. Pricing can be manipulated to encourage more activity in one area and less in another.
16 Speedishuttle refused to provide sufficient detail to analyze their volume by zip code which
17 would enable the Commission to see where their operations are concentrated. As with most
18 of our data requests that were intended to obtain hard data and not just self-serving
19 conclusions, they refused to provide the information. Despite their unwillingness to provide
20 sufficient data, review of their initial pro forma, tariff and 2015 annual report does makes it
21 clear Speedishuttle's intent focuses on high volume zip codes within the Seattle downtown
22 core. Their pro forma showed \$1,349,760 of revenue based on 84,360 seats sold which is

1 exactly \$16.00 per seat and we believe this number has direct correlation to the most common
2 fare in their tariff for high volume zip codes, which is \$15.99. Ten zip codes within the Seattle
3 downtown core are priced between \$15.99 and \$21.99 per seat; an average of \$18.71 per
4 seat. Speedishuttle's annual report in 2015 showed \$754,449 in revenue based on 41,037
5 passengers or \$18.38 per seat which is very close to the \$18.71 average for the downtown
6 core. Additionally, the remaining 77 zip codes of their tariff have an average fare of \$25.38
7 based on 2.5 passengers per reservation. This means any meaningful work performed overall
8 in these zip codes would increase the revenue per passenger significantly, which is not what
9 Speedishuttle reported.

10 **Q: Without data from Speedishuttle, can you nevertheless draw any broader conclusions**
11 **about how Speedishuttle is using its fare structure to steer its service to more lucrative**
12 **areas and discourage, or not serve at all, other areas?**

13 A: Yes. We were able to take Shuttle Express data and generate a revenue comparison based
14 on the Speedishuttle tariff. Applying Shuttle Express data from January through August
15 2016, the Speedishuttle revenue exceeded Shuttle Express share ride revenue by 8.18%. At
16 first glance, this could be interpreted as Shuttle Express having lower fares and Speedishuttle
17 having higher fares. However, there are significant differences at a zip code level to promote
18 certain areas and discourage others. For example, there are 10 zip codes in the downtown
19 Seattle core that account for 44 percent of Shuttle Express revenue during the eight month
20 period. So applying the Speedishuttle tariff to our passenger data, Speedishuttle fares are
21 7.88 percent less than Shuttle Express fares. This also means the fares for the remaining zip
22 codes are 17.07 percent higher than Shuttle Express. It is clear from this proxy data and the

1 tariff itself that Speedishuttle set predatory fares in the most lucrative and highly populated
2 areas that are in the closest proximity to the airport in effort to gain market share. And,
3 Speedishuttle set fares higher in less desirable and or distant areas to avoid providing that
4 service. Further evidence of this cream skimming pricing strategy by Speedishuttle can be
5 found in Mr. Roemer's deposition transcript. At page 18, lines 9 – 16, Mr. Roemer discussed
6 how he was contacted by the officers and directors of the GO Group regarding interest in the
7 Seattle market (Mr. Rowley and Mr. Ustik). We know from our own experience that GO
8 Group reservations are heavy weighted to the 10 zip codes where Speedishuttle fares are 7.88
9 percent less than Shuttle Express.

10 **Q: While you dispute Mr. Roemer's claim that Shuttle Express prices "predatorily," you**
11 **seem to be saying that Shuttle Express is losing money now on share ride service. Is**
12 **that correct?**

13 A: Yes, and this is some of the updated data I mentioned earlier. Speedishuttle entered the
14 share ride market in late spring of 2015. Their entry quickly impacted our ridership and
15 hurt our financials. But, despite Mr. Roemer's insinuations that somehow our prices are
16 "predatory," we did not lose money in share ride in 2015. But after a full year of direct
17 competition from Speedishuttle in 2016, we ended the year at a loss on share ride. In 2015,
18 tariff-related work resulted in a profit (revenue less all expenses) of \$53,000. But in 2016
19 we lost \$362,000; a decrease of \$415,000 year over year. These amounts are based on
20 allocations between tariff and non-tariff revenue and expense and the same allocation
21 methodology was applied to both years.

1 **Q: What about Mr. Roemer’s critique of your testimony in relation to GAAP, or**
2 **Generally Accepted Accounting principles at page 54?**

3 A: Yet again, Mr. Roemer criticizes the quality of the data we used when it was
4 Speedishuttle’s refusal to fully respond to our data requests that forced us to use less than
5 ideal data. My analysis was based on what we had: Speedishuttle’s pro forma and a 17
6 month financial statement that Speedishuttle provided informally and subject to a strict
7 non-disclosure agreement. Notably, although we are contractually bound not to disclose
8 the financial data, Mr. Roemer himself selectively disclosed much of it in his testimony.
9 We complained about the misleading nature of the financial statement and asked for better
10 data, but that was refused by Speedishuttle. As Exhibit ____, PK-5, shows, way back in
11 December we asked for: 1) year-end 2015 and then year to date 2016; 2) quarterly; 3) five
12 months from 5/1/15 ending 9/30/15 plus twelve months from 10/1/15 ending 9/30/16; 4)
13 “something consistent with GAAP”; OR 5) a monthly spreadsheet. As our counsel noted
14 then, Speedishuttle’s business “is so seasonal, the presentation you provided on Monday is
15 very misleading and not truly representative.” We know now from Mr. Roemer’s
16 deposition last week that Speedishuttle does prepare monthly financial statements in the
17 ordinary course of business, but it has steadfastly refuse to provide them, instead choosing
18 to present only a misleading 17 month statement—while criticizing Shuttle Express for
19 using it.

20 **Q: Have you made any more recent or targeted requests for financial statements of**
21 **Speedishuttle other than the one Mr. Roemer provided you and then criticized you for**
22 **using?**

1 A: Yes. Attached as Exhibit ____, PK-6, are our Data Request Nos. 78 and 79, including the
2 Speedishuttle objections. Incredibly, Speedishuttle objects that their monthly financial
3 statements—which they generate already in the ordinary course of business—“[do] not assist
4 the Commission in determining whether Speedishuttle’s costs exceed its fares.” As a CPA I
5 cannot think of anything that would be more indicative of whether Speedishuttle is making
6 or losing money based on its actual fares charged and its actual costs incurred. More to the
7 point, they would seem to be precisely what the ALJ ordered way back in September last
8 year: “SpeediShuttle must provide financial documents that demonstrate the costs of
9 providing service in Washington, and the revenues generated from that service from May
10 2015 to the most recent date available.” (Transcript at 190-91). Monthly financial statements
11 would show exactly that, and from the time period that the Judge ordered, that is May 2015
12 to the most recent date available.

13 **Q: Please explain in more detail why the financial statement Speedishuttle gave you**
14 **under non-disclosure is misleading.**

15 A: Financial statements need to be presented in a format applicable to the intended purpose and
16 fairly so the user is in a position to make informed decisions based on unbiased information.
17 In my opinion the appropriate format in this case is to present revenue and expenses relative
18 to UTC rate filings. And, the periods presented need to reflect some basis for comparison.
19 As I noted earlier, Shuttle Express requested monthly data so that we could compare month
20 over month changes between May and September, however Speedishuttle refused to provide
21 monthly detail. Instead, Speedishuttle intentionally bifurcated their 17 months of financial
22 performance to present a false narrative of their true position. Using the five most profitable

1 months for an annualized forecast would be the equivalent of Disney using only the summer
2 months to estimate annual visitors to their theme park. Given Mr. Roemer's comments about
3 ignoring fixed costs in the calculation of profit, I would question his ability to understand
4 and/or apply any GAAP principles.

5 **Q: What about Mr. Roemer's claims at page 55 that Speedishuttle trips have not**
6 **declined?**

7 A: As with several other requests for hard data to test vague, broad, and subjective claims,
8 Shuttle Express has repeatedly requested monthly passenger data. Speedishuttle has, to date,
9 refused to provide any specific data. But available public data suggests his claims are likely
10 false or misleading. For instance, the Port of Seattle provides trip information as submitted
11 by service providers or charged to a service provider. In August 2015, Speedishuttle reported
12 1,438 trips compared to 1,232 in August 2016. That is 206 less trips representing a decline
13 of 14 percent. September showed a decline of 119 trips or 8 percent and October showed a
14 decline of 57 trips or 5 percent. Absent some real and honest data from Speedishuttle, either
15 Mr. Roemer is lying in his testimony or Speedishuttle is underreporting trips to the Port of
16 Seattle.

17 **Q: What about Mr. Roemer's efforts to minimize Speedishuttle's ongoing losses by**
18 **including taxes, such as at page 55?**

19 A: Mr. Roemer claims I neglected to include Federal Income Tax in my analysis of
20 Speedishuttle financials. Again, Mr. Roemer fails to understand financial presentation
21 applicable to the intended audience. Federal Income Tax is not an expense, nor is allowed
22 in the calculation to support fares under UTC guidelines. Note that Speedishuttle did not list

1 Federal Income Tax in their initial pro forma. And of course the tax savings is purely
2 hypothetical and of no use to a company that has never paid any taxes and is on a trajectory
3 to lose money until it goes out of business altogether. The costs that the UTC uses are real
4 and some lender or investor has to cover them. The IRS is not sending any money to
5 Speedishuttle to help them cover their losses.

6 **Q: Do you have any more comments on Mr. Roemer's critique starting at page 55 of your**
7 **best efforts to do an analysis given misleading financial statements they provided you?**

8 A: Yes. Mr. Roemer claims I incorrectly portrayed the true amount of loss per revenue per
9 dollar. Given the delay in Speedishuttle providing financial information, I estimated loss of
10 \$0.39. My testimony clearly identifies the \$0.39 as an estimate and I never claimed it to be
11 an actual loss per revenue dollar. Mr. Roemer presents Speedishuttle actual losses per
12 revenue dollar at \$0.55 for the first twelve months and \$0.14 for the subsequent five months.
13 Again, Speedishuttle attempts to mislead the reader by reducing the true loss by presenting
14 these amounts net of Federal Income Tax. The correct presentation per UTC guidelines is to
15 ignore tax and therefore actual loss, as provided by Speedishuttle, for the first twelve months
16 the loss is \$1.02 and \$0.26 for the subsequent five months. Bear in mind, that the five months
17 is the high summer season and omits the other seven months when most carriers lose money,
18 due to reduced travel. Nevertheless, I estimated a loss of \$0.39 and the actual loss for the 17
19 months presented was \$0.66 per dollar of revenue. Mr. Roemer is correct; I materially
20 **underestimated** the magnitude of Speedishuttle losses by \$0.27 or 69 percent. This is not a

1 favorable variance to Speedishuttle. And thus it further supports our position that
2 Speedishuttle entered the market using unfair, unremunerative, and insufficient pricing.

3 **Q: Is Mr. Roemer correct at page 55 when he claims the fixed costs between the 12 and 5**
4 **months periods remain relatively the same?**

5 A: No. The actual data provided by Speedishuttle shows the average monthly fixed costs
6 increased by [CONFIDENTIAL, SUBJECT TO NDA] percent for the 5 month period
7 compared to the 12 month period. And at page 56, lines 1 – 8, Mr. Roemer validates my
8 point that actual losses are much higher than my original estimate and that the variance is
9 material. Mr. Roemer states Speedishuttle lost \$702,000 on \$1,988,000 of revenue and that
10 the loss includes Federal Income Tax; excluding Federal Income Tax, the loss is \$1,305,000.
11 Again, I materially underestimated the magnitude of Speedishuttle losses.

12 **Q: Finally, I'd like to ask you if you discussed your provision of service using**
13 **independent contractors for "single stop" trips with the Commission Staff?**

14 A: Yes. The company's owner, Jimmy Sherrell, and I met in person in Olympia with Staff
15 members Gene Eckhardt and Penny Ingram in connection with their investigation in Docket
16 TC-120323. We had substantial discussion on both our (then) multiple stops AND (current)
17 single stop trips. They both agreed that single stops trips were legal and not an issue in the
18 investigation. It was thus my understanding that this is why they only held a hearing and
19 issued a penalty based on multi-stop trips and ignored over 6,000 single stop trips. The only
20 discussion they had with us on the single stops was whether we were calling people and
21 asking if they would like to change their transportation to the limo division, which we do.

1 Mr. Eckhardt and Ms. Ingram did not ask us if we cancelled the passengers' card payment
2 for the share ride and then re-charged their credit card for the limo service. We do not do
3 that, as we charge the passenger the same amount for the limo as we would have anyway for
4 a share ride trip. Issuing a credit and debit on the same phone call makes no sense, incurs
5 bank fees, creates a risk of an overcharge or undercharge if one of the transactions does not
6 go through, and would be a great inconvenience for the customer.

7

8 **Q: Does this conclude your testimony?**

9 A: Yes, it does.