

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application TC-111446 of	)	DOCKET TC-111446
	)	(consolidated)
SHUTTLE EXPRESS, INC.	)	
	)	ORDER 02
For Extension of Authority under	)	
Certificate No. C-975, For a Certificate	)	
of Public Convenience and Necessity to	)	
Operate Motor Vehicles in Furnishing	)	
Passenger and Express Service as an	)	
Auto Transportation Company	)	
.....	)	
	)	
In re Application TC-111643 of	)	DOCKET TC-111643
	)	(consolidated)
EXCALIBUR LIMOUSINE LLC	)	
d/b/a SEATTLE GREEN LIMO	)	ORDER 02
	)	
For a Certificate of Public Convenience	)	
and Necessity to Operate Motor	)	
Vehicles in Furnishing Passenger and	)	
Express Service as an Auto	)	
Transportation Company	)	
.....	)	
	)	
In re Application TC-111619 of	)	DOCKET TC-111619
	)	(consolidated)
PACIFIC NORTHWEST	)	
TRANSPORTATION SERVICES,	)	ORDER 02
INC. d/b/a CAPITAL AEROPORTER;	)	
AIRPORT SHUTTLE	)	INITIAL ORDER GRANTING
	)	EXTENSION OF CERTIFICATE;
For Extension of Authority under	)	GRANTING MOTION TO
Certificate No. C-862, For a Certificate	)	WITHDRAW APPLICATION;
of Public Convenience and Necessity to	)	GRANTING EXTENSION OF
Operate Motor Vehicles in Furnishing	)	CERTIFICATE IN PART
Passenger and Express Service as an	)	
Auto Transportation Company	)	
.....	)	

*Synopsis: This is an Administrative Law Judge's Initial Order that is not effective unless approved by the Commission or allowed to become effective as described in the notice at the end of this order. This order grants Shuttle Express's application for an extension of authority, finding that the evidence of record demonstrates a public need for the requested authority, grants Excalibur Limousine's request for permission to withdraw its application, and grants in part Pacific Northwest Transportation Services' application for an extension of authority to the extent that the evidence of record demonstrates a public need for a portion of the extension sought and the extension does not conflict with the authority of another company already providing services to the satisfaction of the Commission.*

- 1 **NATURE OF PROCEEDING.** This proceeding involves applications submitted by three companies, all of whom are seeking to furnish passenger service to cruise ship terminals in Seattle. In Docket TC-111446, Shuttle Express, Inc. (Shuttle Express) filed with the Washington Utilities and Transportation Commission (Commission) an application to extend its authority under Certificate No. C-975 to include passenger service between points in King County and waterfront terminals in Seattle. In Docket TC-111619, Pacific Northwest Transportation Services, Inc. d/b/a Capital Aeroporter; Airport Shuttle (Capital Aeroporter), filed with the Commission an application to extend its Certificate No. C-862 to include passenger service between the Seattle-Tacoma International Airport and the Seattle Waterfront, and between points in Grays Harbor, Lewis, Mason, Thurston, Pierce and King counties and the Seattle waterfront via Seattle-Tacoma International Airport, and to remove a limitation preventing Capital Aeroporter from providing service to Elbe, Ashford, Longmire and Rainier. In Docket TC-111643, Excalibur Limousine LLC, d/b/a Seattle Green Limo (Excalibur) filed with the Commission an application for a Bus Certificate.<sup>1</sup> Excalibur's application requests authority to provide passenger service by reservation only between all hotels in King County and Piers 66 and 91 in Seattle, excluding hotels within the City of Tukwila and within a 3-mile radius of Seattle-Tacoma International Airport.

---

<sup>1</sup> A bus certificate is formally referred to in RCW 81.68 as a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in Furnishing Passenger and Express Service as an Auto Transportation Company.

2 **PROCEDURAL HISTORY.** Shuttle Express's application was filed on August 9  
2011. Notice of that application was published in the Commission's weekly Docket of  
August 19, 2011. Capital Aeroporter's application was filed on September 1, 2011.  
Notice of that application was published in the Commission's weekly Docket of  
September 12, 2011. Excalibur's application was filed on September 8, 2011. Notice  
of that application was published in the Commission's weekly Docket of September  
20, 2011.

3 On September 16, 2011, Shuttle Express filed a protest to Capital Aeroporter's  
application in Docket TC-111619. Shuttle Express objected that it already provides  
satisfactory service along the routes in Capital Aeroporter's application and,  
therefore, there is no public need for the proposed duplicative service.

4 On October 26, 2011, the Commission consolidated Dockets TC-111446 and TC-  
111643 pursuant to WAC 480-30-131(1) since the applicants in these dockets were  
seeking overlapping authority that no carrier currently provides and the applications  
were filed within 30 days of each other.

5 The Commission convened a prehearing conference in Dockets TC-111446, TC-  
111643, and TC-111619 at Olympia, Washington, on November 22, 2011, before  
Administrative Law Judge Martin Lovinger.<sup>2</sup>

6 In Order 01 on November 30, 2011, the Commission consolidated Docket TC-111619  
with Dockets TC-111446 and TC-111643 and scheduled an evidentiary hearing on  
Monday, January 30, 2012.

7 On Friday, January 27, 2012, Excalibur requested a continuance in order to obtain the  
services of a lawyer. Two parties objected to a continuance, one indicating that a  
continuance would pose significant prejudice. Under WAC 480-07-385, the  
Commission will grant a request for a continuance if it is made in a timely fashion, if  
there is good cause, and if the continuance will not prejudice any party or the  
Commission. In this case the request was not timely, and two of the other parties

---

<sup>2</sup> The prehearing conference also included Docket TC-111306, but the applicant in that docket  
chose not to have its application consolidated with the other three dockets and is not addressed in  
this Order.

objected to a continuance. In addition, Excalibur did not state a good cause. There were 60 days of notice provided by Order 01 that the hearing was scheduled to begin on January 30, 2012. A party cannot wait until the day before the hearing to ask for a continuance to seek legal counsel.

8 The Commission held an evidentiary hearing to address the applications in the three consolidated dockets on January 30, 2012, at the Commission's office in Olympia, Washington. Shortly before the hearing began, Excalibur requested to withdraw its application. The Commission took up Excalibur's request at the beginning of the hearing. No party objected to the request, and the Commission granted it.

9 **APPEARANCES.** Brooks E. Harlow, McLean, Virginia, represents Shuttle Express. James Fricke, Olympia, Washington, represents Capital Aeroporter, pro se. Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington, represents Commission Staff.<sup>3</sup>

### **LEGAL STANDARDS**

10 The statute governing these applications for extension of existing certificates is RCW 81.68.040. The specific rules for applying RCW 81.68.040 are set forth in WAC 480-30.

11 The Commission must address three basic questions with respect to each of the extension requests made in the two applications still pending.

- 1. Does the public convenience and necessity require the proposed service?**<sup>4</sup> Pursuant to WAC 480-30-126(2), the Commission must determine that a public need exists for the proposed service before granting an application for an extension of authority. The applicant must support its

---

<sup>3</sup> In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

<sup>4</sup> RCW 81.68.040 and WAC 480-30-126(2).

application with independent witnesses who actually require the service or are knowledgeable about the need for service in the territory in which the applicant seeks authority.<sup>5</sup> The Commission will not accept as support an applicant's own statements that its proposed service is needed by the public.<sup>6</sup> The Commission has historically disregarded such testimony and viewed it as self-serving.<sup>7</sup> Furthermore, for an applicant to establish a prima facie case for public need the evidence presented by the applicant must relate to a period of time within one year of the application.<sup>8</sup>

- 2. Is the applicant able and willing to provide the proposed service?** The Commission evaluates the application for the knowledge, experience, and resources required to provide the service, as well as the fitness and willingness of the applicant to comply with state law and regulation.<sup>9</sup> In order to demonstrate both financial and operational fitness, an application must contain, among other things, a listing of assets and liabilities, a ridership and revenue forecast for the first year of operation, a pro forma balance sheet and income statement for the first year of operation and a list of equipment to be used in providing the proposed service.<sup>10</sup>

---

<sup>5</sup>WAC 480-30-136(3)(g)(ii).

<sup>6</sup>WAC 480-30-136(3)(g)(i).

<sup>7</sup>In re Application of SeaTac Shuttle, LLC, d/b/a SeaTac Shuttle, For a Certificate of Public Convenience and Necessity to Operate Motor Vehicles in Furnishing Passenger and Express Service as an Auto Transportation Company, Docket TC-030489, Order No. 02, (September 8, 2003), at 21 and In re Application of Sharyn Pearson & Linda Zepp d/b/a Centralia-SeaTac Airport Express, for an extension of their Certificate No. C-993 to Operate Motor Vehicles in Furnishing Passenger and Express Service as an Auto Transportation Company, Hearing No. D-76533, Order M.V.C. No. 2057, (June 24, 1994), at 4.

<sup>8</sup>*Id.*, at 4.

<sup>9</sup> WAC 480-30-126(1).

<sup>10</sup> WAC 480-30-096(3).

- 3. Does an existing auto transportation company operating in the territory at issue provide or have the ability and willingness to provide the same service to the satisfaction of the Commission?**<sup>11</sup> If an applicant requests an extension of authority for a territory already served by another certificate holder, the applicant must show that the existing transportation company or companies will not provide service in that territory to the satisfaction of the Commission. Failure to meet the real needs of travelers is a sufficient basis for finding that a carrier has failed to provide service to the Commission's satisfaction under RCW 81.68.040.<sup>12</sup> The requirement that the existing carrier meet the real needs of passengers in its service territory has been interpreted as providing convenient, direct, and timely service to travelers.<sup>13</sup>

### ANALYSIS

#### **Shuttle Express's request to provide on demand passenger service between all points in King County and the Seattle Waterfront.**

##### A. Public Need for Proposed Service

- <sup>12</sup> Shuttle Express proposes that it be permitted to offer on demand door-to-door service by reservation only between King County locations – other than Seattle and Sea-Tac Airport – and the Seattle Waterfront cruise terminals. Currently Shuttle Express has authority to provide service between points in much of King County and Sea-Tac Airport. It also has authority to provide transportation between Sea-Tac Airport and the Seattle Waterfront. But it does not have the authority to transport King County

---

<sup>11</sup> RCW 81.68.040 and WAC 480-30-126(5).

<sup>12</sup>In re Application of CWA, Inc., d/b/a Central Washington Airporter, For a Certificate of Public Convenience and Necessity (hereinafter referred to as CWA Final Order), Docket TC-021402, Final Order, (April 14, 2003), at 9.

<sup>13</sup>*Id.*, at 8.

residents directly to the cruise terminals or directly to most King County locations from the cruise terminals.<sup>14</sup>

- 13 Shuttle Express presented three witnesses who described various aspects of the current need for passenger service between a number of locations in King County and the Seattle waterfront. Raquel Wheeler, director of sales and marketing for the Red Lion Hotel in Bellevue testified that the Red Lion serves the Seattle cruise business and works with guests who need ground transportation to and from the cruise terminals. She testified that she supports Shuttle Express's application because it would be a beneficial service to offer her guests. The only ground transportation now available is provided by taxis and limousines.<sup>15</sup>
- 14 David Gudgel, sales and operations director at Europe Express, testified that he was familiar with ground transportation at Pier 66 and with ground transportation needs of King County residents and visitors, from many years of managing experience with Holland America Line, Gray Line of Alaska, Gray Line of Seattle, and Shore to Sea Services. He stated that there is significant pressure from traffic at Pier 66, which has, in his experience, one of the smallest transportation areas for a cruise terminal, and accordingly, there is a need for a service that gets people to the pier efficiently with a small transportation footprint. He felt that is what Shuttle Express delivers.<sup>16</sup>
- 15 Norman Groesbeck holds a number of positions of responsibility for ground transportation operations for cruise passengers. He is assistant operations manager for TMS Gateway, pier supervisor for Royal Caribbean at Terminal 91, pier supervisor for Norwegian at Pier 66, and bus lot director for Carnival at Terminal 91. In those capacities he is very familiar with ground transportation needs at the cruise terminals. He testified that he is frequently asked if any of the busses there are going to places other than the airport. He is also asked specifically if there is any transportation to different locations in King County, particularly, Bellevue, Redmond, Issaquah, Shoreline, Renton and south King County. In all these cases he indicates that the busses are only going to the airport and that the only suggestion he can make for available transportation is by taxi. He sees a need for shuttle service ground

---

<sup>14</sup> Exhibit JR-4 and Rowley, II Tr. 115:15-21.

<sup>15</sup> Wheeler, II Tr. 53:14-56:1.

<sup>16</sup> Gudgel, II Tr. 59:23-62:24.

transportation to King County to alleviate the taxicab jam at Pier 66 and decrease the traffic at Terminal 91.<sup>17</sup>

#### B. Ability to Provide the Proposed Service

- 16 Shuttle Express provided 3 witnesses to address the ability, willingness and fitness to provide the passenger service sought in its application.
- 17 Raquel Wheeler from Bellevue Red Lion testified that she supported Shuttle Express's application because it has the stability to offer the service successfully and be a partner to the area hotels with affordable and consistent service.<sup>18</sup>
- 18 David Gudgel, based on his many years of experience in the cruise and travel industries, indicated he had great familiarity with Shuttle Express and its management. He testified that Shuttle Express has great infrastructure; a good level of service and rates; the ability to meet the need for this proposed service; a family friendly approach; familiarity with the piers; sufficient equipment to avoid long transfer delays; and established locations at the piers.<sup>19</sup>
- 19 John Rowley, President of Shuttle Express, provided extensive testimony on Shuttle Express's record of safety, efficiency, service, professionalism, expansion, profitability, healthy net worth, and 22 years of growth. Shuttle Express offered this evidence to demonstrate its readiness, willingness, and ability to fulfill the requirements of the passenger service it is applying to provide.<sup>20</sup>
- 20 Commission Staff also presented one witness, David Gomez, Deputy Assistant Director for the Commission. He testified that after listening to the testimony in the hearing in these matters and reviewing the Commission's history of Shuttle Express, he had no concerns about granting Shuttle Express's requested extension of authority.<sup>21</sup>

---

<sup>17</sup> Groesbeck, II Tr. 75:5-89:25.

<sup>18</sup> Wheeler, II Tr. 56:12-14.

<sup>19</sup> Gudgel, II T. 61:3-63:21.

<sup>20</sup> Rowley, II Tr. 104:14-136-19.

<sup>21</sup> Gomez, III Tr. 209:16-20.



## C. Existing Auto Transportation Company

21 There was no testimony or evidence that any other existing auto transportation company is providing or is currently authorized by the Commission to provide the service for which Shuttle Express is seeking an extension of its certificate.

22 **COMMISSION DECISION.** The Commission finds that Shuttle Express has provided substantial testimony from three witnesses that there is a public need for the shuttle service they propose to provide to and from cruise terminal to points in King County outside the city of Seattle. It has also provided extensive evidence from three witnesses on Shuttle Express's ability to provide this service. Finally, the Commission finds that no other existing auto transportation company is providing or is currently authorized by the Commission to provide this service. The Commission concludes that Shuttle Express' application should be granted.

**Capital Aeroporter's request to provide closed door passenger service between Seattle-Tacoma International Airport and the Seattle Waterfront Cruise Terminals, to provide passenger service between points in Grays Harbor, Lewis, Mason, Thurston, Pierce and King Counties and the Seattle Waterfront via the Sea-Tac Airport, and to remove a current limitation in its UTC Certificate C-862 which excludes service between the Sea-Tac Airport and Elbe, Ashford, Longmire, and Mt. Rainier.**

## A. Public Need for Proposed Service

23 Capital Aeroporter proposes that it be given authority to provide three additional services: (1) nonstop shuttle service Friday through Tuesday between Sea-Tac Airport and the Seattle Waterfront with seven runs from the airport to the cruise terminals leaving every half hour from 11:00 a.m. through 2:00 p.m. and six runs from the cruise terminal leaving every half hour from 8:00 a.m. through 10:30 a.m.;<sup>22</sup> (2) passenger service by reservation only between points in Grays Harbor, Lewis, Mason, Thurston, Pierce, and King Counties and the Seattle Waterfront cruise terminals via Sea-Tac Airport,<sup>23</sup> which might involve changing vehicles at the airport in order to

---

<sup>22</sup> Exhibit JF-1, Schedule No.1.

<sup>23</sup> Exhibit JF-1.

use smaller vehicles to more distant points in the various counties and then consolidate riders in a larger vehicle for transportation between Sea-Tac Airport and the cruise terminals;<sup>24</sup> and (3) removal of a limitation in its current certificate excluding service between Sea-Tac Airport and Elbe, Ashford, Longmire and Mt. Rainier.

- 24 Capital Aeroporter offered the testimony of two witnesses to demonstrate a need for Capital Aeroporter to provide passenger service between Sea-Tac Airport and the Seattle Waterfront, only one of which can be considered for that purpose.<sup>25</sup> Tonia Fletcher, a ground transportation supervisor at the Port of Seattle for the past five years, testified that some cruise ship customers who arrive at Sea-Tac Airport with a cruise terminal as a destination will end up at the south end of the airport at Door 00, when they really need to be on the third floor of the parking garage where Shuttle Express and other ground transportation is available. When those passengers without vouchers arrive at Door 00, they are directed to the third floor of the parking garage to obtain other ground transportation to the cruise terminals. This distance is somewhat less than a quarter mile, but may be an eight-minute walk. She testified that she would support alternative transportation to what is now available from the south end of Sea-Tac Airport to the Seattle Waterfront. Ms. Fletcher did not know the number of people who mistakenly go to Door 00 rather than to the third floor of the parking garage, but said it was more than ten per day.
- 25 She testified on cross-examination by Commission Staff that the number of cruise ship passengers coming through the Sea-Tac Airport averaged between 750 and 1,000 per day on cruise days. She also testified on cross-examination by Shuttle Express that the Port of Seattle assigns ground transportation operators to the locations from which they operate.<sup>26</sup>
- 26 Capital Aeroporter provided one witness to testify to the public need for granting its request for authority to provide passenger service between points in Grays Harbor,

---

<sup>24</sup> Fricke, II Tr. 165:11-20.

<sup>25</sup> Pursuant to WAC 480-30-136(g)(1), the testimony of John Fricke, Vice-President of Operations and Operations Manager for Capital Aeroporter, will not be considered in determining whether a need exists for the proposed service.

<sup>26</sup> Fletcher, II Tr. 141:13-154:20.

Lewis, Mason, Thurston, Pierce, and selected locations in King Counties and the Seattle Waterfront cruise terminals via Sea-Tac Airport. Irene Emmens is the owner of Global Express/Capital Travel, a travel agency with 45 years of business experience. She testified that her business sells a lot of cruises to Alaska to clients in Thurston, Mason, Lewis, and Grays Harbor Counties and it is always a problem transporting her clients to their destinations because parking is such a problem at the piers. She has been familiar with the services of Capital Aeroporter for over 40 years and is absolutely certain that this proposed service would be welcomed by her clients, especially the elderly, because they do not want to drive in Seattle.<sup>27</sup>

27 No witness testified regarding the public need for service between Pierce County and the Seattle Waterfront cruise terminals or for Capital Aeroporter's proposed service from points in King County to the cruise terminals via Sea-Tac Airport.

28 Capital Aeroporter also offered no testimony in support of a public need to remove the current limitation in its certificate excluding service between the Sea-Tac Airport and Elbe, Ashford, Longmire and Mt. Rainier.<sup>28</sup> Penny Ingram from Commission Staff testified that the auto transportation company that was serving these four locations ceased service on December 29, 2008, according to an order from the Commission that canceled the certificate.<sup>29</sup>

#### B. Ability to Provide the Proposed Service

29 Tonia Fletcher testified to Capital Aeroporter's ability to provide the proposed service. She testified that Capital Aeroporter provides excellent service at the airport, that it upholds its schedule and that it ensures that passengers get in and out safely.<sup>30</sup>

30 John Fricke, Vice-President of Operations and Operations Manager for Capital Aeroporter, also testified in support of Capital Aeroporter's ability to provide its proposed service extensions. Mr. Fricke provided testimony on Capital Aeroporter's safety management, fuel efficiency, service, professionalism, fleet improvements,

---

<sup>27</sup> Emmens, II Tr. 139:3-18.

<sup>28</sup> See Exhibits JF-1 and JF-2.

<sup>29</sup> Ingram, III Tr. 207:18-208:13.

<sup>30</sup> Fletcher, II Tr. 144:23-145:4.

customer feedback, and prime location of its customer service counter next to Door 00 in order to meet the burden of proving its readiness, willingness, and ability to meet the requirements of the passenger service they are seeking to offer. He also testified that Capital Aeroporter has the financial stability to accommodate the need for new vehicles, including additional larger vehicles as demand increases in order to provide adequate, effective and efficient service.<sup>31</sup>

31 On cross-examination of Mr. Fricke, Shuttle Express elicited testimony about the Financial Statement in Capital Aeroporter's application to the Commission with regard to Capital Aeroporter's ability to expand its capacity to serve the substantial increase in passengers in the cruise business. Mr. Fricke testified that Capital Aeroporter was current on all its financial obligations, but agreed that in 2010 it had failed to timely pay its regulatory fee to the Commission and that it requested mitigation based on financial hardship. On re-direct, Mr. Fricke stated that Capital Aeroporter was affected adversely by the decline in this industry due to the recession.<sup>32</sup>

32 David Gomez testified as a witness for Commission Staff that Capital Aeroporter had no history of complaints filed by consumers with the Commission.<sup>33</sup> He also testified that no evidence from the hearing in this matter or from the regulatory history of Capital Aeroporter gave him concerns about its ability, willingness or fitness to provide the service extension it proposes.<sup>34</sup>

### C. Existing Auto Transportation Company

33 Shuttle Express currently has authority to provide passenger service between Sea-Tac Airport and the cruise ship terminals at Piers 66 and 91, which Capital Aeroporter also proposes to offer. To demonstrate that Shuttle Express is not providing that service to the satisfaction of the Commission, Capital Aeroporter called John Rowley as a witness and elicited testimony about Shuttle Express's most recent rate schedule between Sea-Tac Airport and downtown Seattle. This schedule lists a number of

---

<sup>31</sup> Fricke, II Tr. 155:21-163:2.

<sup>32</sup> Fricke, II Tr. 169:3-177:3.

<sup>33</sup> Gomez, II Tr. 191:7-22.

<sup>34</sup> Gomez, II Tr. 209:21-210:5.

scheduled stops at hotels and describes the stops at Pier 66 and Pier 91 as being Flag Stops only.<sup>35</sup> Mr. Rowley agreed that Shuttle Express's scheduled service is not nonstop and that not all of the service between Sea-Tac Airport and the piers is nonstop.<sup>36</sup>

34 On cross-examination, by Shuttle Express, Mr. Rowley testified that during cruise season when a cruise ship is in port, approximately 95% of the scheduled trips between Sea-Tac Airport and the Seattle Waterfront are nonstop with the exception of those that run toward the end of the day.<sup>37</sup>

35 There was no testimony or evidence that any other existing auto transportation company is providing or is currently authorized by the Commission to provide service between Grays Harbor, Lewis, Mason, Thurston, Pierce and King Counties and the Seattle Waterfront via the Sea-Tac Airport or to provide shuttle service between the Sea-Tac Airport and Elbe, Ashford, Longmire, and Mt. Rainier.

36 **COMMISSION DECISION.** The Commission should grant the Capital Aeroporter the additional authority it requests to provide service between points in Grays Harbor, Lewis, Mason, and Thurston Counties and the Seattle Waterfront cruise terminals via Sea-Tac Airport. The testimony of Irene Emmens demonstrates a public need for that service, which would benefit cruise passengers who live in those counties and reduce traffic at the cruise terminals. The Commission finds that Capital Aeroporter now provides service between these counties and the Sea-Tac Airport<sup>38</sup> and is able, willing and financially fit to extend that service the additional distance to the cruise terminals as this proposed service would require. No other auto transportation company is authorized to provide that service.

37 The remainder of Capital Aeroporter's application should be denied. There is no evidence in the record of any need for the service it proposed between Pierce and selected locations in King Counties and the cruise terminals via Sea-Tac Airport. Similarly, Capital Aeroporter has not presented evidence in this proceeding of

---

<sup>35</sup> JR-4, TIME SCHEDULE NO. 12.

<sup>36</sup> Rowley, II Tr. 185:4-186:14.

<sup>37</sup> Rowley, II Tr. 187:8-14.

<sup>38</sup> Exhibit JF-2.

residential or business travelers who prefer not to drive themselves between Sea-Tac Airport and Elbe, Ashford, Longmire and Mt. Rainier. The only reference to this service in the record is the testimony of Penny Ingram that the auto transportation company that was serving these four locations ceased service on December 29, 2008, without explanation, which may or may not have been due to insufficient need for such a service. Based on this record, the Commission finds that Capital Aeroporter has not established a public need for these services.

38 Nor does the record support extending Capital Aeroporter's authority to providing service between Sea-Tac Airport and the Seattle waterfront. Shuttle Express is already providing that service, and Capital Aeroporter failed to provide sufficient evidence to demonstrate that Shuttle Express' service is not satisfactory.

39 Capital Aeroporter nevertheless attempted to distinguish its proposed service as being between Door 00 at the airport, where it currently drops off and picks up passengers, and the third level of the parking garage where Shuttle Express operates. This is a distinction without a difference based on the record. Capital Aeroporter provided testimony of customer confusion at the airport over where cruise passengers needed to catch their shuttle to the waterfront, but that testimony does not support a public need for service from Door 00 as opposed to the third floor of the parking garage. Even if such a need existed, there is no evidence that the Port of Seattle, which controls Sea-Tac Airport, would grant Capital Aeroporter the right to provide that service from that location. To the contrary, there was evidence that Shuttle Express used to provide service to Door 00 until the Port required the company to move to its current location. In the absence of evidence that service will be permitted by the owner and manager of that specific location, The Commission, therefore, will deny Capital Aeroporter's application to the extent that it seeks to provide this service.

### **FINDINGS OF FACT**

40 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the Commission now makes and enters the following summary findings of fact, incorporating by reference pertinent portions of the preceding detailed findings:

- 41 (1) On August 9, 2011, Shuttle Express, Inc. d/b/a Shuttle Express filed an application with the Commission requesting an extension of its authority under Certificate No. C-975.
- 42 (2) On September 1, 2011, Pacific Northwest Transportation Services, Inc. d/b/a Capital Aeroporter; Airport Shuttle (Capital Aeroporter) filed an application with the Commission requesting three extensions of its authority under Certificate No. C-862.
- 43 (3) On September 8, 2011, Excalibur Limousine d/b/a Seattle Green Limo filed an application for a certificate of public convenience and necessity.
- 44 (4) On September 16, 2011, Shuttle Express filed a protest to Capital Aeroporter's application.
- 45 (5) On January 30, 2012, Excalibur Limousine d/b/a Seattle Green Limo requested, and was granted permission, to withdraw its application.
- 46 (6) Shuttle Express demonstrated a public need for its proposed on-demand door-to-door service by reservation only between King County locations – other than Seattle and Sea-Tac Airport – and the Seattle Waterfront cruise terminals.
- 47 (7) Shuttle Express is able and willing to provide its proposed on-demand door-to-door service by reservation only between King County locations – other than Seattle and Sea-Tac Airport – and the Seattle Waterfront cruise terminals.
- 48 (8) There is no existing auto transportation company that provides the on-demand door-to-door service by reservation only between King County locations – other than Seattle and Sea-Tac Airport – and the Seattle Waterfront cruise terminals that Shuttle Express proposes to provide.
- 49 (9) Capital Aeroporter demonstrated a public need for its proposed service from Thurston, Mason, Lewis and Grays Harbor Counties to the Seattle Waterfront cruise terminals via the Sea-Tac Airport.

- 50 (10) Capital Aeroporter is able and willing to provide shuttle service between Thurston, Mason, Lewis, and Grays Harbor Counties and the Seattle Waterfront via the Sea-Tac Airport.
- 51 (11) No existing auto transportation company provides the shuttle service between Thurston, Mason, Lewis, and Grays Harbor Counties and the Seattle Waterfront via the Sea-Tac Airport that Capital Aeroporter proposes to provide.
- 52 (12) Capital Aeroporter did not demonstrate a public need for service between Pierce and portions of King Counties and the Seattle Waterfront cruise terminals via the Sea-Tac Airport that Capital Aeroporter proposes to provide.
- 53 (13) Capital Aeroporter did not demonstrate a public need for the shuttle service between Elbe, Ashford, Longmire, and Mt. Rainier and the Sea-Tac Airport that Capital Aeroporter proposes to provide.
- 54 (14) Shuttle Express is authorized to provide and provides auto transportation service between Sea-Tac Airport and the Seattle waterfront to the satisfaction of the Commission.
- 55 (15) Capital Aeroporter did not distinguish its proposed service between Sea-Tac Airport and the Seattle waterfront from the service that Shuttle Express currently provides.

### **CONCLUSIONS OF LAW**

- 56 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law incorporating by reference pertinent portions of the preceding detailed conclusions:
- 57 (1) The Washington Utilities and Transportation Commission has jurisdiction over the parties to and the subject matter of this application.



- 58 (2) Extending the authority of Shuttle Express to provide on-demand door-to-door service by reservation only between King County locations – other than Seattle and Sea-Tac Airport – and the Seattle Waterfront cruise terminals is consistent with the public convenience and necessity.
- 59 (3) Extending the authority of Capital Aeroporter to provide its proposed service between Thurston, Mason, Lewis, and Grays Harbor Counties and the cruise terminals via the Sea-Tac Airport is consistent with the public convenience and necessity.
- 60 (4) Extending the authority of Capital Aeroporter to provide its proposed service between Pierce and portions of King Counties and the cruise terminals via the Sea-Tac Airport is not consistent with the public convenience and necessity.
- 61 (5) Extending the authority of Capital Aeroporter to provide its proposed service between Elbe, Ashford, Longmire, and Mt. Rainier and Sea-Tac Airport is not consistent with the public convenience and necessity.
- 62 (6) Extending the authority of Capital Aeroporter to provide its proposed service between Sea-Tac Airport and the Seattle Waterfront is not consistent with the public convenience and necessity.

### **ORDER**

#### **THE COMMISSION ORDERS:**

- 63 (1) The application of Shuttle Express, Inc. d/b/a Shuttle Express is granted.
- 64 (2) The application of Pacific Northwest Transportation Services, Inc. d/b/a Capital Aeroporter; Airport Shuttle (Capital Aeroporter) is granted in part and denied in part as follows:
- 65 (a) Capital Aeroporter is granted an extension of authority to operate as an auto transportation company in providing service between Thurston, Mason, Lewis, and Grays Harbor Counties and the cruise terminals on the Seattle Waterfront via Sea-Tac Airport.

- 66 (b) All other requests for extension of Capital Aeroporter's authority in its application are denied.
- (3) The application of Excalibur Limousine d/b/a Seattle Green Limo is withdrawn.

Dated at Olympia, Washington, and effective March 8, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARTIN LOVINGER  
Administrative Law Judge

**NOTICE TO THE PARTIES**

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and four (4) copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, Washington 98504-7250