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BEFORE THE WASHINGTON

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UTILITIES AND TRANSPORTATION COMMISSION

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5 In Re: Application TC-143691)
6 SPEEDISHUTTLE WASHINGTON, LLC,)
D/B/A SPEEDISHUTTLE SEATTLE,)
7)
For a Certificate of Public) Docket No. TC-143691
8 Convenience and Necessity to)
Operate Motor Vehicles in)
9 Furnishing Passenger and)
Express Service as an Auto)
10 Transportation Company)
11)

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BRIEF ADJUDICATIVE PROCEEDING - VOLUME I

13

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ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

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18 Taken at 1300 South Evergreen Drive Southwest

19 Olympia, Washington

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24 DATE TAKEN: January 12, 2015

25 REPORTED BY: Ryan Ziegler, RPR, CCR 3348

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1 OLYMPIA, WASHINGTON; JANUARY 12, 2015

2 1:32 P.M.

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4 JUDGE PEARSON: Let's be on the record.

5 This is Docket TC-143691, in re: the
6 Application of SpeediShuttle Washington, LLC, d/b/a
7 SpeediShuttle Seattle, for a certificate of public
8 convenience and necessity to operate motor vehicles in
9 furnishing passenger and express service as an auto
10 transportation company.

11 My name is Rayne Pearson. I'm the
12 Administrative Law Judge presiding over today's brief
13 adjudicative proceeding. Today is Monday, January 12th,
14 2015, and the time is approximately 1:32 p.m.

15 The purpose of today's proceeding is to hear
16 objections to the certificated bus application filed by
17 SpeediShuttle Seattle made by two existing certificated bus
18 companies, Shuttle Express, Inc., and Pacific Northwest
19 Transportation Services, Inc., d/b/a Capital Aeroporter
20 Shuttle.

21 I will take appearances and hear from each
22 party in just a moment, but I just want to provide a
23 general road map for today's proceedings before we get
24 started. As you all know, the Commission adopted new rules
25 effective September 21st, 2013, that allow existing auto

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1 transportation companies to object to an application for
2 new authority only if the company holds a certificate that
3 authorizes the same service and the company provides the
4 same service published in the application docket to the
5 Commission's satisfaction.

6 So those are the only two questions that we
7 will be addressing here today. The rule change left
8 fitness determinations solely up to the Commission, so if
9 the Commission wishes to address the company's fitness,
10 that matter would be heard at another date and time.

11 When I call on each party to testify, I will
12 swear any witnesses in with the oath of witness so that
13 anything you tell the Court will be under oath and can be
14 considered sworn testimony.

15 For the court reporter's benefit, please
16 speak slowly and clearly, and please be sure to use the
17 microphones on the table in front of you.

18 And once you're sworn in, you can present
19 your testimony and call witnesses, provided that the
20 Commission was notified about the witnesses in advance as
21 the rule requires, and you can also introduce any exhibits
22 that you have prefiled, and I will rule on the
23 admissibility of each of those.

24 So the applicant will go first today,
25 followed by Shuttle Express and then Capital Aeroporter,

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1 and my understanding is that Staff will not be presenting
2 any witnesses today. Is that correct?

3 MR. BEATTIE: Correct.

4 JUDGE PEARSON: Okay. But Staff may wish to
5 ask the parties clarifying or follow-up questions, and
6 that's fine.

7 So each of the parties will also have the
8 opportunity to ask questions of each other, and I will let
9 you know when it's your turn to do that.

10 And then, finally, I won't be making any
11 decisions today from the bench, but I will take everything
12 that's presented under advisement and issue an order within
13 ten days.

14 So let's begin by taking an appearance from
15 Commission Staff.

16 MR. BEATTIE: Thank you, Judge Pearson. My
17 name is Julian Beattie. I am an Assistant Attorney
18 General, and I am representing Commission Staff.

19 JUDGE PEARSON: Thank you.

20 And for SpeediShuttle?

21 MR. WILEY: Yes, Your Honor. David W. Wiley
22 with the law firm of Williams Kastner, 601 Union Street,
23 Seattle, Washington, 98101, appearing today on behalf of
24 the applicant with my colleague from the office, Daniel
25 Velloth.

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1 JUDGE PEARSON: Okay. Thank you.

2 And Shuttle Express?

3 MR. MARKS: We're representing ourself, Your
4 Honor.

5 JUDGE PEARSON: And can you state your --

6 MR. MARKS: Sure.

7 JUDGE PEARSON: -- name for the record?

8 MR. MARKS: My name's Wesley Marks. Address
9 is 800 Southwest 16th Street. I'm the accounting manager.
10 City is Renton, Washington, 98057. And beside me is Paul
11 Kajanoff, K-A-J-A-N-O-F-F, also at the same address, the
12 city, state, and ZIP.

13 JUDGE PEARSON: Thank you.

14 And from Capital Aeroporter?

15 MR. JOHN FRICKE: John Fricke, Capital
16 Aeroporter, 2745 29th Avenue Southwest, Tumwater,
17 Washington, 98512. Also representing is Mr. James Fricke.

18 JUDGE PEARSON: Okay. Thank you.

19 Mr. Wiley, you'll be going first today. Do
20 you have any witnesses, or will you just be making oral
21 argument?

22 MR. WILEY: No. I do have a witness and
23 possibly a second witness, both with the company, Your
24 Honor, and --

25 JUDGE PEARSON: Present here today?

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1 MR. WILEY: Yes. They are here today.

2 JUDGE PEARSON: Oh, okay.

3 MR. WILEY: Yes, and I would like to make a
4 statement just at the start to clarify the road map, if
5 that's possible.

6 JUDGE PEARSON: Sure.

7 MR. WILEY: Okay. Thank you for outlining
8 the road map. You certainly addressed the issues that I
9 wanted to in terms of what the revised rules require, what
10 the evidence will show.

11 The one important criterion to note at the
12 outset for the parties and Your Honor's benefit is that the
13 applicant does not intend to accomplish differentiation of
14 service, as the rule requires, by making an affirmative
15 showing under 480-30-140(3)(iv) -- that's lower case roman
16 numeral -- (c), through contravening statements from
17 previous users or witnesses to the objectors' service.

18 In other words, we are not intending to show
19 that we have dissimilar service by virtue of qualitative
20 service deficiencies on the part of the existing providers.

21 Because the applicant has not operated before
22 in this marketplace and has no direct contact with present
23 users of either Shuttle Express or Capital Aeroporter, it
24 is not here seeking to predicate entry into this market on
25 the basis of serious material failures by the objectors in

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1 providing service, nor is this how it establishes place in
2 its own marketplace.

3 As it said in its statement, the -- of the
4 applicant, it believes that entry by qualified and
5 experienced providers can have the effect of raising the
6 bar for all existing providers.

7 There's one qualification about the service
8 deficiency issue that we want to retain the right to
9 address, and that is a possible challenge by Shuttle
10 Express of the role that GO Airport Shuttle had in
11 encouraging SpeediShuttle to pursue this application.

12 We say that because we only know from its
13 December 29th filing that there may be a contravention or
14 potential contravention of the applicant's premise that GO
15 Shuttle's active encouragement to its entry into the
16 marketplace was one of the reasons it submitted its
17 application.

18 The other focal element of our presentation
19 today that you touched upon in your road map will be
20 available either by cross or -- cross-examination or legal
21 argument, and that is on the revised regulatory criteria
22 that were ushered in by the new rules promulgated by the
23 Commission in September of 2013.

24 And that is specifically the service to the
25 satisfaction of the Commission's standard, which for the

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1 first time, we don't have to rely on case law, doctrine, or
2 the statute.

3 We have a very specific rule that lists the
4 criteria that you consider, and we will do that also in
5 considering any actions of the objector, in the applicable
6 year prior to the filing of our application, suggesting or
7 implicating that current service levels are insufficient to
8 afford all members of the public the opportunity to receive
9 sufficiently available auto transportation service,
10 particularly in light of the demographic and specifically
11 Sea-Tac Airport employment trends included within our
12 exhibits.

13 So with those particular legal and
14 evidentiary criteria noted, we appreciate the time and
15 focus in what we view is going to be an important
16 opportunity for the traveling public, should this
17 application be granted. Thank you.

18 JUDGE PEARSON: Thank you.

19 And would you like to call your first
20 witness?

21 MR. WILEY: Yes. I would call Cecil Morton
22 to the stand, please. And --

23 MR. BEATTIE: Your Honor?

24 MR. WILEY: -- do we want --

25 JUDGE PEARSON: Yes?

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1 MR. BEATTIE: I'm sorry to interrupt, but
2 before we begin, I have a small evidentiary matter.

3 JUDGE PEARSON: Sure.

4 MR. BEATTIE: I brought with me copies of the
5 application and the tariffs and certificates from the
6 companies appearing today, and in the interests of a
7 complete record, I will be asking Your Honor to take
8 official notice of these documents.

9 To go into specifics, I have the applicant's
10 application, I have Shuttle Express Tariff No. 11, I have
11 Shuttle Express's Certificate C-975, I have Capital
12 Aeroporter's Tariff No. 4, Capital Aeroporter's Schedule
13 No. 72, and Capital Aeroporter's Certificate C-862.

14 JUDGE PEARSON: Thank you. I will take
15 official notice of each of those documents.

16 MR. BEATTIE: I will hand up a stack of these
17 documents.

18 JUDGE PEARSON: Thank you.

19 MR. BEATTIE: And, Judge Pearson, I brought
20 copies, additional copies, and I would ask any of the other
21 parties present whether anybody would benefit from an extra
22 copy --

23 MR. WILEY: Yes, please.

24 MR. BEATTIE: -- of any of these documents.
25 I will hand out copies to all of the parties.

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1 JUDGE PEARSON: Thank you, Mr. Beattie.

2 Now, Mr. Wiley, in your exhibit list that you
3 submitted, I didn't see that you planned to present any
4 witness testimony today. You didn't name anyone; however,
5 I assumed that Cecil Morton --

6 MR. WILEY: Yes. To sponsor his statement.

7 JUDGE PEARSON: Right.

8 MR. WILEY: And without being redundant, we
9 also want to walk -- I want him to walk through the
10 exhibits that we prefiled.

11 JUDGE PEARSON: Sure.

12 MR. MORTON: Where would you like me to sit?

13 JUDGE PEARSON: If you'd like to come up next
14 to Mr. Wiley, and if you could stand and raise your right
15 hand.

16

17 CECIL MORTON, witness herein, having been
18 first duly sworn on oath,
19 was examined and testified
20 as follows:

21

22 JUDGE PEARSON: Thank you. Could you please
23 state and spell your first and last name for the record?

24 THE WITNESS: My name is Cecil Morton.

25 JUDGE PEARSON: Can you spell your last name?

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1 THE WITNESS: M-O-R-T-O-N.

2 JUDGE PEARSON: Thank you.

3 Mr. Wiley, go ahead.

4 MR. WILEY: Yes. I don't think I've ever
5 been so close to a witness before, Your Honor.

6 DIRECT EXAMINATION OF MR. MORTON BY MR. WILEY

7 BY MR. WILEY:

8 Q. Could you provide your business address for the
9 record, please?

10 A. 1132 Bishop Street, Honolulu, Hawaii, Suite 2312.

11 Q. And by what company are you employed, and what's
12 your title, please, there?

13 A. I'm the owner and president of SpeediShuttle, LLC.

14 Q. And without restating all of your statement that
15 has been marked as SW-1 in this proceeding, could you tell
16 us a little bit of background on the company, how long
17 you've owned it, and what SpeediShuttle does?

18 A. I entered the Hawaiian market 15 years ago -- or
19 actually we're in our 15th year. Started in 1999 after
20 being in the transportation business for about seven years
21 prior, on I've been in the business just over 20-odd years.

22 Our service in Hawaii includes shared-ride shuttle
23 service, charter service, and black car service. 2014 was
24 a very successful year for us, as was every year from
25 inception when we started in '99. We served over

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1 1.2 million customers last year.

2 And we operate on four islands out of four
3 separate airports, two international airports. We focus on
4 travel companies from around the world that serve Hawaii as
5 a destination. If it's not -- you know, if it's not a
6 rental car, it's SpeediShuttle. At least, we hope so.

7 Is there anything else?

8 Q. And speaking specifically to this application, can
9 you tell us what prompted you to file for operating
10 authority for this -- from this Commission to operate
11 airport shuttle service?

12 A. I've been looking to expand to the mainland for a
13 number of years, and West Coast makes a whole lot of sense
14 for us since -- five-and-a-half-hour flight from Hawaii.

15 And I came to Seattle a couple years ago, and
16 looking at the marketplace, between Hawaiian Airlines that
17 flies here daily and back to Hawaii daily, to two islands,
18 and Alaska Air that flies every day to four islands, it
19 made this particular marketplace attractive to at least
20 start to investigate.

21 I, in fact, had spoken to the owner of Shuttle
22 Express about the business and I had been here prior on a
23 conference, and just recently, last year, was looking at
24 acquiring a second company here and decided that we would,
25 instead of acquiring companies, we would start from the

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1 get-go.

2 Q. And did any of your particular existing customers
3 encourage or ask you to consider obtaining authority in
4 2014?

5 A. Actually, there's been a number. More
6 specifically, though, GO Airport Shuttle, who we are a
7 member of for the State of Hawaii, had mentioned to us that
8 Shuttle Express was not interested and had given formal
9 notice to not provide service for what we would consider GO
10 as a wholesale travel company like the other travel
11 companies that we do business with, and that perked my
12 interest further.

13 Q. And when did you submit this application, just
14 generally?

15 A. You would have the document there, so we submitted
16 the document in October, I believe. October 11th.

17 MR. WILEY: Your Honor, at this time, I have
18 duplicate copies of all prefiled exhibits, if anybody would
19 like those.

20 Now we're going to walk through some of them.
21 If anybody needs one, I assume all the parties have them,
22 but I have extra copies in case anybody wants one.

23 Do you need one?

24 MR. JOHN FRICKE: We'll take an extra one.

25 MR. MARKS: We're good. Thank you.

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1 BY MR. WILEY:

2 Q. Mr. Morton, if we could just walk through and
3 identify -- provide any other foundation based on the
4 questions I ask you. Could you tell us what the exhibit
5 that's been marked SW-1 is, please?

6 A. It's a -- this is the statement that I had written
7 and submitted to you for this hearing.

8 Q. And it gives all the background information and
9 reasons for submitting the application from SpeediShuttle's
10 standpoint; is that correct?

11 A. Correct.

12 Q. Exhibits, the next in line are SW-2, A through R.

13 JUDGE PEARSON: Let's take these up one at a
14 time.

15 MR. WILEY: Oh, do you want to? Okay.

16 JUDGE PEARSON: Just to see if there are any
17 objections.

18 MR. WILEY: Okay.

19 JUDGE PEARSON: Does anyone have -- any of
20 the other parties have objections to the first exhibit,
21 which is Mr. Morton's statement?

22 (No response.)

23 JUDGE PEARSON: Okay. I will admit that. I
24 am going to mark it as Exhibit CM-1.

25

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1 BY MR. WILEY:

2 Q. Okay. Exhibits next in line, and let's speak to
3 them as a group. It's SW-2, A through R. Could you
4 identify what those are, please?

5 A. These are letters that our office received when we
6 reached out to each one of these clients of ours. We
7 didn't have a whole lot of time to reach out to every
8 single one of our clients since they are from around the
9 world and we were on a short time fuse to get this together
10 for the hearing.

11 But as you can see, these are companies that come
12 from the United States, they're online booking companies,
13 they're wholesale travel companies, they're from Australia.
14 Some are from Australia with American offices. We've got
15 Expedia, which is -- the hometown is here, of course.

16 Viator, which is a -- one of the largest online
17 travel companies in the world. We've got from China -- oh,
18 excuse me, Tokyo, which is just one of many of our Asian
19 clients. President of GO Group, which was the company that
20 I had mentioned previously.

21 The president of Gray Line Worldwide, who has
22 expressed interest in doing business with us here in
23 Seattle, and there's a whole bunch more. Orbitz. We've
24 been doing business with all these clients, including
25 Pleasant Holidays and Orbitz, for years.

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1 Q. So these are all letters from various
2 representatives of companies supporting your application
3 for auto transportation authority from this Commission; is
4 that correct?

5 A. Correct. It's a sampling of --

6 COURT REPORTER: A sampling of what?

7 THE WITNESS: Sampling of clients that have
8 expressed interest in doing business with us here.

9 MR. WILEY: Your Honor, I'd move for the
10 admission of Exhibit SW-2, or how do you want to call that?

11 JUDGE PEARSON: CM.

12 MR. WILEY: CM-2, A through R.

13 JUDGE PEARSON: And does any of the other
14 parties have objections?

15 MR. BEATTIE: No objection from Commission
16 Staff.

17 MR. MARKS: Shuttle Express would like to
18 object, Your Honor.

19 JUDGE PEARSON: On what grounds?

20 MR. MARKS: We feel that these documents
21 don't properly represent the public's needs for service.
22 Instead, they're independent companies, most of which
23 reside outside the State of Washington and don't fall under
24 the guidance of what the public need and necessity would be
25 by this -- this current scope.

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1 JUDGE PEARSON: Mr. Wiley, did you want to
2 address that?

3 MR. WILEY: Yes, Your Honor.

4 The evidence of need is not limited to
5 individual passengers, commercial users. It's -- evidence
6 of need is reflected by anybody who wants to use the
7 service for any regulated purpose.

8 JUDGE PEARSON: Thank you.

9 I'm going to go ahead and admit these into
10 evidence. I will, however, let you know that, you know, I
11 will consider them for what they are, which is identical
12 letters from numerous companies that were obviously
13 submitted as a template, and I don't feel that they have a
14 lot of probative value, necessarily, but I will go ahead
15 and admit them.

16 BY MR. WILEY:

17 Q. The exhibits next in line, maybe we could take as
18 a group. They should -- they will be CM-3, -4, and -5.
19 Can you identify those? They -- they're meant to be
20 demographic data, and -- I'll show you.

21 Demographic data and studies from the U.S. Census
22 Bureau and Port of Seattle, FAA.gov, on various enplanement
23 and deplanement and growth in the area. Is that what you
24 understand they are?

25 A. Yes. Yes. And basically, I summarized -- excuse

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1 me -- in paragraph 3 of CM-1, what these statistics mean to
2 us as an operator entering into a marketplace.

3 JUDGE PEARSON: Thank you.

4 Do any of the parties object to the admission
5 of what we will mark as CM-3, CM-4, or CM-5?

6 MR. BEATTIE: The Staff has no objection, but
7 if, Judge, you'd allow me to ask a question?

8 JUDGE PEARSON: Sure.

9 MR. BEATTIE: I'm just curious what
10 "enplanements" means.

11 THE WITNESS: Enplanements and deplanements
12 is the terminology in the airline business. When you and I
13 go on a plane and we take off, we were enplaning. We are
14 one enplanement. I am one enplanement, you are a second
15 enplanement, and a third, and so forth.

16 So these are a number of millions of air- --
17 of passengers that actually depart from this airport. Then
18 there's the opposite, which is deplanement, people that
19 return and get off an airplane.

20 And those statistics are very important in
21 analyzing the demands of passengers as it relates to ground
22 transportation, hotel rooms, the conventions, you know, all
23 the economics of a particular city marketplace.

24 MR. BEATTIE: Thank you.

25 MR. JOHN FRICKE: Your Honor, I also have a

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1 question regarding enplanement and deplanement.

2 JUDGE PEARSON: Go ahead.

3 MR. JOHN FRICKE: Does that also include
4 passengers transferring within the airport, not exiting the
5 airport or getting on at the airport?

6 THE WITNESS: Yes.

7 MR. JOHN FRICKE: Thank you.

8 JUDGE PEARSON: So any objections to these
9 three exhibits?

10 MR. BEATTIE: No objection.

11 JUDGE PEARSON: Okay. Then I will admit as
12 Exhibit CM-3, Sea-Tac International Airport Passenger,
13 Cargo, and Operations Summary, October 2014, and the U.S.
14 Census Bureau Profile of King County General Demographic
15 Characteristics 2000; as CM-4, U.S. Census Bureau Annual
16 Estimates of the Resident Population of Washington State
17 Counties, April 1, 2010, through July 1, 2013; and as
18 Exhibit CM-5, FAA.gov Commercial Service Airports
19 Identifying Enplanements, 2013.

20 BY MR. WILEY:

21 Q. Finally, Mr. Morton, you've identified
22 Exhibit SW-6, which would be CM-6, and that is information
23 about your proposed operating platform in Washington. Can
24 you please tell us what that is, and have you also brought
25 some demonstrative exhibits to show these in larger form?

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1 A. I have, if you wouldn't mind, Your Honor, just to
2 stand up and show everyone these in larger fashion.

3 JUDGE PEARSON: Sure.

4 A. Just makes it much easier for everyone.

5 MR. WILEY: Your Honor, I -- as we show
6 these, I intend to ask some questions about the operations
7 so that the record will be complete as to the aspects and
8 configuration thereof.

9 JUDGE PEARSON: Okay.

10 BY MR. WILEY:

11 Q. Mr. Morton, could you please identify what the
12 first slide is intended to show, please?

13 A. Well, one of the most important things --

14 JUDGE PEARSON: You'll need to speak into the
15 microphone.

16 THE WITNESS: Oh, okay.

17 A. We're customer-service centric. We believe in,
18 the experience starts when a passenger arrives at the
19 airport in a particular city and not in particular their --
20 the final destination, so upon the arrival, we have
21 receptive teams at all airports, and our plan is to do the
22 same here, where we will greet all prearranged guests with
23 a sign with their name on it, welcome them to Seattle, and
24 direct them to their baggage claim area, their carousel,
25 and then usher them to their shuttle that would be waiting

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1 for them.

2 We typically have a team, like on Oahu, for
3 example, we have 60 -- six, zero -- receptive teams. We
4 call them "hosts" and "ambassadors," and we like to create
5 a sense of place, where people know that when they're
6 arriving, in this case, to Seattle, they're coming to a
7 special place, something different than another city.

8 We'll do our best to hire multilingual receptive
9 teams so we can communicate with some of the people that
10 are from different countries, and here we're seeing there's
11 a lot of people coming from the Far East. Like we have in
12 Honolulu, as an example, Japanese speaking, as well as
13 Hispanic speaking -- Spanish speaking -- Spanish speaking,
14 excuse me.

15 BY MR. WILEY:

16 Q. Have you proposed or prepared another slide that
17 demonstrates that the -- the personnel infrastructure that
18 SpeediShuttle utilizes?

19 A. Like any transportation company, I would think
20 that -- or any company, for that matter, we want to make
21 sure that we have support for our clients.

22 You had mentioned what we had submitted, actually,
23 all these letters from different travel companies. They
24 like to do business with professional companies that have
25 an infrastructure that includes many facets of operating

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1 the business, so this organizational chart shows our
2 proposed structure of our operating platform, which
3 includes human resources, so when we hire, we hire with
4 specific guidelines.

5 We have alcohol and drug policies and procedures.
6 We have operating procedures. We have job descriptions.
7 We service all our vehicles in-house. So we keep the
8 standards of the safety of our fleet to the highest
9 standards possible, as specified by the manufacturer, and
10 so that would be the maintenance manager in the second row.

11 We have safety training, DOT training, to make
12 sure that we have the safest operating environment and
13 ongoing training in that area. Of course, dispatching and
14 reservations and -- and is -- it would be here, local. We
15 have a call center in Hawaii that's open 24/7 -- that's 24
16 hours a day, 7 days a week -- that would assist in all
17 reservations.

18 And then the last row that we see here, underneath
19 the general manager at the top, will be utility workers,
20 which are to keep our fleet clean. Every day, they're
21 cleaned inside and out. All the drivers, like in Hawaii,
22 are employees.

23 When -- and then customer service representatives
24 are the call center, and then technicians. Every one of
25 our technicians -- we only operate one type of vehicle, and

0026

1 that's Mercedes-Benz. We're the largest operator of
2 Mercedes-Benz passenger vehicles in America, and we've had
3 full support with the manufacturer to train, give us the
4 diagnostic machines to service, and we've really focused on
5 that, so that's what that is.

6 JUDGE PEARSON: I'm just going to stop you
7 right there, Mr. Morton. It seems to me that what you're
8 doing right now is making a case for the fitness of the
9 company, which is not what we're here to discuss today.
10 That's not even on the table at this point in time.

11 MR. WILEY: Your Honor, the reason we're
12 laying foundation on this is to be able to differentiate
13 service to show that we are not the same service as is
14 being offered by the objectors, so I understand that you
15 have concern about how fitness crosses over, but because
16 the rule focuses on same service and comparability and
17 differentiation, we want to at least get into the record
18 how we believe our service will serve as a basis for
19 differentiation with the objectors.

20 JUDGE PEARSON: If we could just get to that,
21 then, as quickly as possible.

22 BY MR. WILEY:

23 Q. So, if we could just walk through the other
24 aspects of the operating platform exhibits, Mr. Morton, and
25 then we can ask the objectors about some of the

0027

1 distinctions once we introduce into the record these
2 slides.

3 JUDGE PEARSON: Thank you.

4 A. Okay. So let's move these faster, if you could,
5 please.

6 So the next one just is to, without all the fluff,
7 one of the things that we do, as I mentioned earlier, is we
8 focus on people from around the world, travelers from
9 around the world, so it's every language that the
10 marketplace -- countries that the marketplace markets to,
11 so we just -- are just not focusing on the English-speaking
12 customers.

13 JUDGE PEARSON: So that poster board looks
14 different than what I have in front of me in the exhibit
15 that was offered.

16 THE WITNESS: Oh. The reason why that is --
17 we apologize for the error -- but the bottom three has to
18 do with our black car service, and that's unregulated
19 business, and our marketing department put that in in
20 error, so this just excludes the black car service and
21 includes our dispatch screens and our reservations screens.

22 So the top two show what a reservation screen
23 looks like, and they're color-coded for various efficient
24 ways of servicing clients from different -- two different
25 geographical destinations within the market.

0028

1 BY MR. WILEY:

2 Q. The next slide please, which would be four.

3 A. The next slide is the proposed King County
4 operations.

5 Q. Geographic area?

6 A. The geographical area that we will be serving, and
7 the next is -- again, it's maybe something that you don't
8 want us to talk about right now.

9 Q. Well, just identify it, please.

10 A. Yeah. It's what we do every day: Focus on
11 service, focus on making it easy for customers to do
12 business with us, and that's how we've grown over the
13 years.

14 The next one -- thank you -- is just talking
15 about, not only do we service people from everywhere around
16 the world that speak different languages and make it easy
17 for them to do business with us, but we transfer people who
18 need more assistance, and that's with lifts always
19 available.

20 And as I mentioned to you, we service everything
21 in-house. Our vehicles have interiors that are a little
22 upscale compared to the majority of the industry, and we
23 have SpeediShuttle TV, which is an orientation of the
24 marketplace. So when guests arrive, they see a program
25 that has to do with, in this case, it will be Seattle and

0029

1 the wonderful places to visit.

2 Q. And the last slide is?

3 A. And the last side is just, as I mentioned earlier,
4 it's our fleet. We only -- we believe in quality, and
5 everyone knows the star, knows that Mercedes-Benz is a
6 quality manufacturer.

7 And this particular model is a high-roof, so it's
8 comfortable to get into, comfortable to get out of, has
9 lots of cubic feet of luggage space, has a great sound
10 system. We actually incorporate complimentary WiFi in our
11 vehicles.

12 Q. But if I could interrupt you, when you say you
13 have your complimentary WiFi, is that for all of your
14 vehicles, and does that have any impact on service, for
15 instance, for people who don't have -- who come from
16 foreign countries?

17 A. We find that everyone who's coming from the Far
18 East, as well as Canada, because of the rate plans, it's
19 wonderful to have complimentary WiFi in the vehicles, so
20 after they've been flying for hours or half a day or
21 longer, they can, instead of using their local rate plan
22 and roaming charges, they would download all their e-mails
23 right from the shuttle on their way to their final
24 destination.

25 Q. Do you have any service guarantees in terms of how

0030

1 you propose to offer service in Washington?

2 A. Our service guarantee is standard in Hawaii, and
3 we will implement the same here, and that is that we
4 guarantee that we will depart the airport on your arrival
5 within 20 minutes from the time you have your bags and
6 you're ready to go and you've checked in with our receptive
7 team.

8 MR. WILEY: Thank you, Your Honor. I think
9 those are all the foundational questions I have on the
10 proposed exhibits. They're -- and we -- I guess we haven't
11 moved to admit S -- MC --

12 JUDGE PEARSON: CM.

13 MR. WILEY: CM -- CM-6, A through G.

14 I have one other issue before we tender.

15 JUDGE PEARSON: Do any of the other parties
16 have an objection to the admission of CM-6?

17 MR. BEATTIE: No objection from Commission
18 Staff.

19 MR. MARKS: Shuttle Express would like to
20 object. It all appears to be fitness and operational, not
21 to the scope of the service that's actually provided by the
22 applicant.

23 JUDGE PEARSON: And I agree. I'm going to
24 sustain that objection. I think that everything that I
25 needed to hear came in through Mr. Morton's testimony, so

0031

1 there's no need to put this PowerPoint into the record.

2 MR. WILEY: Well, how about the prefiled
3 exhibits, Your Honor? I'm fine with the PowerPoint not
4 going in, but the copies of the prefiled exhibits?

5 JUDGE PEARSON: Are you talking about --

6 MR. WILEY: Again, I'm concerned about --

7 JUDGE PEARSON: -- 1 through 5?

8 MR. WILEY: I'm concerned about laying
9 foundation on the comparability of same service, and I
10 believe these exhibits will go to show that, particularly
11 after cross-examination.

12 JUDGE PEARSON: I understand that, but I
13 think that that came in fine through Mr. Morton's
14 testimony. I don't think that the PowerPoint adds anything
15 to that.

16 MR. WILEY: Okay.

17 THE WITNESS: What's the PowerPoint?

18 MR. WILEY: PowerPoint are those.

19 THE WITNESS: But these are exhibits?

20 MR. WILEY: Those are copies of the --

21 THE WITNESS: So is this not -- are you
22 saying that this is not admitted?

23 JUDGE PEARSON: Correct, just that last
24 PowerPoint.

25 MR. WILEY: The last one?

0032

1 JUDGE PEARSON: No. The last set.

2 MR. WILEY: Okay.

3 JUDGE PEARSON: I'm saying the first five
4 exhibits, I admitted. CM-1 through -5, I admitted.

5 MR. WILEY: And you're saying that his
6 testimony will suffice in lieu of --

7 JUDGE PEARSON: Correct.

8 MR. WILEY: -- any examples?

9 JUDGE PEARSON: Correct.

10 MR. WILEY: That's your ruling; fine, Your
11 Honor.

12 One final question on housekeeping in terms
13 of the existing service or proposed service, I should say,
14 is we would ask that the application is a part of the
15 official record. If it is not --

16 JUDGE PEARSON: It is.

17 MR. WILEY: I want the tariff included in the
18 record for reference purposes as well, and there's one
19 other clarification on the tariff. On the cover page of
20 the original title page, the reference to "between points
21 in King County and waterfront terminals in Seattle," is in
22 error.

23 JUDGE PEARSON: Okay. Let me find that.

24 MR. WILEY: Yes. I --

25 JUDGE PEARSON: It's on page 1 of the tariff?

0033

1 MR. WILEY: Yes. I've got copies of it, Your
2 Honor, that I can pass out.

3 JUDGE PEARSON: Are these corrected copies?

4 MR. WILEY: Yes. It's a revised. They
5 haven't been filed with the Commission yet, but they are
6 corrected copies.

7 JUDGE PEARSON: So you're removing --

8 MR. WILEY: The reference --

9 JUDGE PEARSON: -- the reference to --

10 MR. WILEY: Yes.

11 JUDGE PEARSON: So the company's just looking
12 to provide service between points in King County and
13 Sea-Tac Airport?

14 MR. WILEY: Yes, as the docketed application
15 reflects, Your Honor.

16 JUDGE PEARSON: Okay.

17 MR. MARKS: Your Honor, if I may ask a
18 question of the applicant as well? Would that also include
19 removing the service to and from the piers column on the
20 pages inside the tariff? There's a column indicating,
21 beginning on your page 8, that says, "Piers column
22 indicates its services offered to or from Seattle
23 waterfront terminals to the selected ZIP code," and a
24 column with yes or no included there.

25 MR. WILEY: Yes.

0034

1 MR. MARKS: That would include --

2 JUDGE PEARSON: That is removed?

3 MR. MARKS: -- striking that as well?

4 MR. WILEY: Yes. That would be removed.

5 JUDGE PEARSON: Okay.

6 MR. WILEY: And our application is to serve
7 between Sea-Tac Airport and points in King County.

8 JUDGE PEARSON: Okay.

9 MR. MARKS: Thank you for the clarification.

10 MR. JOHN FRICKE: Your Honor, we also have a
11 question for the applicant.

12 JUDGE PEARSON: Is this going to be
13 cross-examination or --

14 MR. JOHN FRICKE: No. This --

15 JUDGE PEARSON: -- specifically related to
16 the tariff?

17 MR. JOHN FRICKE: This is specifically
18 related --

19 JUDGE PEARSON: Okay. Go ahead.

20 MR. JOHN FRICKE: -- to the replacement page.
21 It states for door-to-door and scheduled-service
22 operations --

23 MR. WILEY: Yeah. And as my letter clarified
24 in early December, this is door-to-door service only, so
25 that is deleted.

0035

1 MR. JOHN FRICKE: The replacement page you
2 handed out says --

3 MR. WILEY: I agree.

4 MR. JOHN FRICKE: -- "Scheduled service."

5 MR. WILEY: That's deleted.

6 JUDGE PEARSON: So we should strike that as
7 well?

8 MR. WILEY: Yes. Yes.

9 JUDGE PEARSON: Okay. So it's just
10 door-to-door service?

11 MR. WILEY: Yeah.

12 JUDGE PEARSON: Okay.

13 MR. BEATTIE: Additionally, Your Honor, on
14 original page 2 of the proposed tariff, rules and
15 regulations Section 1, Subsection 2A, there is a reference
16 to service between waterfront terminals and points in King
17 County. I presume the applicant will also --

18 MR. WILEY: Yes. That would be --

19 MR. BEATTIE: -- strike that?

20 MR. WILEY: -- removed, and we can refile
21 conforming pages if the application's granted.

22 JUDGE PEARSON: Okay. Thank you.

23 Do you have anything further for Mr. Morton,
24 Mr. Wiley, or can we move to cross-examination?

25 MR. WILEY: We can -- I tender him for cross

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1 right now, Your Honor.

2 JUDGE PEARSON: Okay. Mr. Beattie?

3 MR. BEATTIE: Thank you, Judge.

4 CROSS-EXAMINATION OF MR. MORTON BY MR. BEATTIE

5 BY MR. BEATTIE:

6 Q. Mr. Morton, on your proposed table of door-to-door
7 rates starting on proposed original page 8, continuing
8 through original page 10 -- excuse me, 11, I see asterisks
9 next to the rows for Enumclaw, North Bend, and UW campus,
10 as well as next to the row for Sea-Tac Airport. Can you
11 explain the asterisks?

12 A. I'm sorry. Could you repeat where you're
13 referring to?

14 Q. Starting with original page 8, it's the third row
15 in your table. There's an asterisk next to Sea-Tac
16 Airport.

17 MR. WILEY: Could you hand the witness --
18 we're not seeing that on the page.

19 MS. INGRAM: Third one down.

20 THE WITNESS: Oh, I see. I don't...

21 MR. WILEY: The chief financial officer of
22 the company is here as well, Your Honor, and it may be more
23 efficient to have the CFO, who filed the tariff, answer
24 these questions. Do you care?

25 JUDGE PEARSON: If you don't have the

0037

1 answer -- I mean, were you going to call him next anyway?

2 MR. WILEY: I was going to ask for some
3 questions on foundation of the tariff from him, yes,
4 because he designed the tariff. I think it might be more
5 efficient and effective use of our time to have him here.

6 JUDGE PEARSON: Okay. So --

7 MR. WILEY: To have him testify.

8 JUDGE PEARSON: -- can we reserve that
9 question, Mr. Beattie?

10 MR. BEATTIE: No problem.

11 JUDGE PEARSON: Do you have any other
12 questions? Any other questions for Mr. Morton?

13 MR. BEATTIE: One minute.

14 Commission Staff has no questions.

15 JUDGE PEARSON: Okay.

16 All right. Shuttle Express?

17 MR. MARKS: Just one question, Your Honor.

18 CROSS-EXAMINATION OF MR. MORTON BY MR. MARKS

19 BY MR. MARKS:

20 Q. Were you aware that Shuttle Express currently has
21 an active-filed UTC ticket agent agreement with The GO
22 Group?

23 A. I don't understand your question.

24 Q. Are you aware that the -- that Shuttle Express
25 currently has an existing contract with The GO Group, that

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1 will last until March 31st of 2015, currently on file?

2 A. I understand that you have an ongoing service
3 agreement, which is a holdover from the cancelation that
4 they received from you and they accepted.

5 Q. I'm sorry. This is a separate ticket agent
6 agreement that's -- I know the understanding from your
7 testimony is that Shuttle Express was no longer going to be
8 a franchisee of The GO Group. Are you aware that we have a
9 separate relationship as a wholesaler on behalf of The GO
10 Group with a ticket agent agreement on file with the UTC?

11 A. From our discussion this morning with the
12 president of GO Airport Shuttle and the vice president of
13 sales and marketing, there is -- there's two segments of
14 service that -- from Go's website, and Go's -- GO as a
15 company, that exist today.

16 The membership was canceled, but you are
17 servicing -- you have agreed to service the reservations
18 until March 31st, and that was entered into after the --
19 after our submission of our application in late October,
20 and I believe it was October 28th.

21 MR. WILEY: When you say, "it," are you
22 referring to our submission or the arrangement between GO
23 Shuttle and Shuttle Express?

24 THE WITNESS: The arrangement between GO
25 Airport Shuttle and GO -- and Shuttle Express was entered

0039

1 into after our application with the UTC in late October.

2 MR. MARKS: Your Honor, unfortunately, I
3 don't have a copy of it, but I do have our contract with GO
4 Airport Shuttle, which was submitted to the UTC with, I
5 believe, an effective date of April 1st, 2014, which
6 required 30 days' notice.

7 It was received by the UTC prior to that. I,
8 unfortunately, don't have the docket number available right
9 now, but I could get that for you as well. That shows that
10 that was in effect well in advance of that date.

11 JUDGE PEARSON: I believe you referenced that
12 in the documents --

13 MR. WILEY: Exhibits.

14 JUDGE PEARSON: -- that you filed.

15 MR. WILEY: Yeah. It's an exhibit, Your
16 Honor, they've already proposed be admitted.

17 THE WITNESS: I guess where I'm not clear is
18 that, if this is an exhibit that is suggesting that there's
19 an agreement between Shuttle Express and GO, is there a --
20 is there an exhibit that signifies the cancelation of the
21 agreement by Shuttle Express to GO, which is a confirmation
22 of what the president reiterated today, and is the
23 reason -- one of the reasons why we're here today?

24 MR. MARKS: Again, just for clarification,
25 Your Honor, Shuttle Express ended its franchise agreement

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1 with The GO Group, but maintains its wholesale service
2 levels with The GO Group as evidenced by our existing
3 contract on file and still active with the UTC. We have
4 not received any cancelation request for that. It's still
5 active on file.

6 MR. WILEY: Your Honor, this is sounding like
7 testimony. I thought --

8 JUDGE PEARSON: We can --

9 MR. WILEY: -- we were cross- --

10 JUDGE PEARSON: We'll wait until we get to
11 that point. Do you have any more questions?

12 MR. MARKS: No. Thank you, Your Honor.

13 JUDGE PEARSON: Okay. Mr. Fricke?

14 MR. JOHN FRICKE: Yes.

15 CROSS-EXAMINATION OF MR. MORTON BY MR. FRICKE

16 BY MR. JOHN FRICKE:

17 Q. Mr. Morton, on your auto transportation authority
18 application, exhibit -- is it CM-1? "Question: Do other
19 auto transportation companies currently provide service
20 between any of the points or along any portion of the route
21 you propose to serve?" You answered, "Yes," and listed
22 Shuttle Express. Are you aware of any other companies?

23 MR. WILEY: Object to the form. I don't
24 understand the scope of the question because it's not
25 limited geographically. Are you saying between points that

0041

1 we applied for, Sea-Tac Airport and points in King County?

2 BY MR. JOHN FRICKE:

3 Q. Are you aware of any other companies currently
4 providing service between any of your points in which you
5 have applied to provide service?

6 A. No.

7 MR. WILEY: Other than Shuttle Express.

8 THE WITNESS: (Nods head.)

9 BY MR. JOHN FRICKE:

10 Q. Are you aware that Capital Aeroporter provides
11 service in -- within part of your applied service area?

12 A. South King County, I believe.

13 Q. Okay. And moving on to the next question, please
14 state how your proposed service is different from other
15 services already provided within your applied service area.

16 A. I believe I described our services in the exhibits
17 that aren't, I guess, what -- Your Honor, that you didn't
18 accept as an exhibit, and they're on the PowerPoint or the
19 presentation boards, and there are many variances between
20 what we offer as services and also in the way we operate
21 our business than the two companies that are here today.

22 MR. WILEY: Your Honor, I -- I'm only
23 concerned about that the record be clear that this
24 applicant is not an incumbent provider and does not
25 currently offer service in the area. The question sort of

0042

1 assumes that there is some incumbency to their service in
2 this area and there isn't, and we're not purporting to say
3 there is.

4 MR. JOHN FRICKE: I believe my question was:
5 Your proposed service you plan to offer in the service
6 area, how is it different than the current companies
7 operating within that service area?

8 MR. WILEY: And I think he answered that
9 question, specifically, and the record should reflect that
10 if it did say, "proposed."

11 JUDGE PEARSON: Are you talking about in his
12 testimony, he answered that?

13 MR. WILEY: Yes. In his answer to the
14 cross-examination question just now.

15 JUDGE PEARSON: Well, I would like to hear a
16 little bit more about how the service itself is different
17 from the existing service. Not just the vehicles and the
18 WiFi, but the actual service itself.

19 MR. WILEY: Well, the service -- there are
20 two services that we understand both objecting companies
21 operate, and that's scheduled service and nonscheduled
22 service. We don't offer and we're not applying for
23 scheduled service. We will pick you up when you want to be
24 picked up to go to your final destination, may it be the
25 airport or to your home or hotel.

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1 JUDGE PEARSON: So you're proposing to offer
2 door-to-door service?

3 THE WITNESS: If that's the terminology that
4 will differentiate, yes. Door-to-door. Your schedule is
5 our schedule, not our schedule is your schedule.

6 JUDGE PEARSON: Well, my understanding is
7 that both of these companies provide door-to-door service
8 in those areas. Is that correct, Mr. Fricke?

9 MR. JOHN FRICKE: It's -- that's my
10 understanding, yes.

11 JUDGE PEARSON: And Mr. Marks?

12 MR. MARKS: Yes. That's correct, Your Honor.

13 JUDGE PEARSON: So what we need is for you to
14 differentiate how your door-to-door service is different
15 from the door-to-door service that both of these companies
16 currently provide.

17 THE WITNESS: Well, in addition to
18 door-to-door service, they offer scheduled service, which
19 is different than door-to-door service.

20 JUDGE PEARSON: But they also offer
21 door-to-door service, which is the same as what you're
22 proposing to provide, and that's what we're focusing on,
23 not on their scheduled service, but on their door-to-door
24 service, your proposed door-to-door service: How are they
25 different?

0044

1 THE WITNESS: Well, we can only -- we can
2 only differentiate the difference by looking at what they
3 offer on their website, and Shuttle Express, as an example,
4 says that they will do their best to leave the airport 30
5 minutes from the time you arrive. Our -- and ours is 20
6 minutes from the time you have your bags and are ready to
7 go.

8 On the departure, they say 30 minutes,
9 within -- excuse me. I believe it's 20 minutes or 30
10 minutes. 30 minutes, I believe, from the time -- no. It's
11 a 20-minute window. That's what it was.

12 A 20-minute window for -- so if you're --
13 you're ready to go at 10:00 in the morning from your house,
14 you have to be ready and be ready to leave either 20
15 minutes before, is our interpretation, or 20 minutes after,
16 and ours is a shorter window than that.

17 JUDGE PEARSON: What is your window?

18 THE WITNESS: 15 minutes.

19 JUDGE PEARSON: Total?

20 THE WITNESS: Correct.

21 JUDGE PEARSON: And you interpret their
22 20-minute window to be a 40-minute window?

23 THE WITNESS: Correct.

24 JUDGE PEARSON: Mr. Marks?

25 MR. MARKS: That -- no, Your Honor. It's a

0045

1 20-minute window from the pickup time forward, so it's 20
2 minutes total.

3 JUDGE PEARSON: So that's 5 minutes different
4 from your pickup window. These are the kinds of things
5 that I want to hear about what differentiates you, so a
6 10-minute window at the airport and a 5-minute window at
7 their home.

8 THE WITNESS: So when you refer to
9 differentiation between service, fleet, customer service,
10 WiFi, other services, complimentary services are not -- do
11 not define the differentiation between two services?

12 JUDGE PEARSON: They are taken into
13 consideration, absolutely, along with numerous other
14 factors, though, so the more of those factors you can put
15 forth, the stronger case that you will be able to make.

16 Mr. Fricke, did you have any more questions?

17 MR. JOHN FRICKE: Yes.

18 BY MR. JOHN FRICKE:

19 Q. I had a question about your proposed service. In
20 your application, you list, again on CM-1, regarding the
21 fleet, you will offer five shuttles at the commencement of
22 service. If you have six customers that appear at the
23 airport at the same time and you offer service within 20
24 minutes of arrival, how do you plan to offer service within
25 20 minutes to the sixth customer?

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1 A. If we find that the demand is greater than our
2 capacity, we will acquire new equipment. We will not be
3 starting the business within days of obtaining our
4 authority. We will be reaching out to all our clientele
5 and we will adjust our in -- commencement fleet
6 accordingly.

7 JUDGE PEARSON: Mr. Wiley?

8 MR. WILEY: I have a few redirect based on
9 the cross, Your Honor.

10 JUDGE PEARSON: Well, if Mr. Fricke's
11 finished. Are you done?

12 MR. WILEY: I'm sorry.

13 MR. JOHN FRICKE: Just one moment.

14 We have no further questions, Your Honor.

15 JUDGE PEARSON: Mr. Wiley, you can redirect.

16 MR. WILEY: Yes, Your Honor. Just a few
17 questions.

18 REDIRECT EXAMINATION OF MR. MORTON BY MR. WILEY

19 BY MR. WILEY:

20 Q. Mr. Morton, you were asked by Mr. Marks about GO
21 Airport Shuttle and their circumstance as you understand it
22 currently based on your phone call this morning as well.
23 Did you also submit an appendix to your application that's
24 now part of this record that addresses the circumstances of
25 GO Airport Shuttle's relationship with Shuttle Express and

0047

1 its impact upon this application?

2 A. Yes.

3 Q. And for the record, could you identify what
4 Attachment A is to the application, please?

5 A. It's the auto transportation certificate support
6 statement by which it is completed by John McCarthy,
7 president of GO Airport Shuttle, and it described a need
8 for a service, and it outlines the notification of Shuttle
9 Express's wish to cancel the relationship with GO.

10 Q. You were also asked about -- by both Judge Pearson
11 and by one of the objecting providers, about distinguishing
12 your service from not being the same service under the
13 rule. I recognize that we haven't heard any presentation
14 yet on their service, but do you know if they -- if, for
15 instance, would you propose door-to-door service to hotels
16 in downtown Seattle?

17 A. Absolutely. Every hotel is a potential client,
18 and currently, there are many hotels that don't have
19 arrangements with ground transportation companies for
20 airport transfers from their location to Sea-Tac.

21 Q. And based on your review of the market, do you
22 understand that some hotels are not served on a
23 door-to-door as opposed to a scheduled-service basis?

24 A. Yes. There's a great number of them, actually,
25 and they're identified on Shuttle Express's website that

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1 are -- that are scheduled service only.

2 Q. And in terms of reservation, door-to-door service,
3 is there a distinction to be made about prearranged service
4 that you are proposing to limit yourself to and, shall we
5 say, walk-up service?

6 A. Well, the distinction between walk-up service, or
7 on-demand service, is what Shuttle Express operates at the
8 airport today under the concession agreement, which you and
9 I can arrive at the airport and decide what option we'd
10 like to take: maybe a taxi, black car -- excuse me, or
11 shuttle, or a rental car for that matter.

12 We will not have that service. We would only have
13 prearranged, so that's why we would have greeters in the
14 baggage claim greeting, at the baggage claim, prearranged
15 guests.

16 MR. WILEY: Thank you. Your Honor, I think
17 that's all I have of the witness at this time. As I
18 indicated, we have the chief financial officer of the
19 company here who can speak to the pricing and rate and
20 tariff issues. We can do that after we hear from the
21 existing providers or now, whatever you prefer.

22 JUDGE PEARSON: Let's go ahead and I'll have
23 you bring him up here now.

24 MR. WILEY: Okay.

25 MR. MARKS: Your Honor, can I ask additional

0049

1 questions of Mr. Morton before he leaves the stand?

2 JUDGE PEARSON: Sure.

3 MR. WILEY: Your Honor, I would object unless
4 it's limited to the redirect.

5 MR. MARKS: It's limited to the redirect you
6 just gave.

7 MR. WILEY: Okay.

8 RECROSS-EXAMINATION OF MR. MORTON BY MR. MARKS

9 BY MR. MARKS:

10 Q. So this Attachment A that Mr. Wiley just entered,
11 can you read the line -- it says it's -- I'll read it for
12 you. It says, "Explain why the current company is not
13 providing adequate service." Again, as of December 1st,
14 2014 -- and I'm quoting from your Appendix A here --
15 "Shuttle Express will no longer be a member of our
16 franchise operation operating at 66 airports," et cetera.

17 That says nothing about Shuttle Express's
18 wholesale agreement, simply their franchise operations,
19 correct?

20 A. They're one and the same. That's why I was a
21 little confused by your comments earlier. We are a GO
22 operator in the State of Hawaii. There's one agreement,
23 and one agreement is you're either with GO Airport Shuttle
24 or you're not.

25 And the agreement that you have now, which is a

0050

1 verbal agreement, is just a holdover because you have
2 chosen and elected to walk away from the agreement and you
3 are, as good businessmen, caring about the end users that
4 are in the system currently.

5 Q. All right. So I'd like to ask you: You
6 understand that in the State of Washington, there is a
7 requirement for a ticket agent agreement to be on file and
8 approved by the state's Utilities Transportation
9 Commission, separate from any franchise agreements that any
10 company may have?

11 MR. WILEY: Your Honor, he's -- I think he'd
12 rely on legal advice on that issue since they don't operate
13 currently, and the regulations will speak for themselves.

14 JUDGE PEARSON: Okay.

15 MR. WILEY: They will abide by all applicable
16 regulations if this application is granted.

17 JUDGE PEARSON: Okay.

18 MR. MARKS: And I had one additional
19 question.

20 BY MR. MARKS:

21 Q. Mr. -- I'm sorry. Cecil -- Mr. Morton; is that
22 correct?

23 MR. WILEY: Yes.

24 BY MR. MARKS:

25 Q. Sorry. Mr. Morton, you said that Shuttle Express

0051

1 doesn't appear to serve any of the hotels with door-to-door
2 service, correct? Based on your observation?

3 A. No. I didn't say that. I said that there are
4 certain hotels that you operate under scheduled service
5 that you don't appear to run door-to-door service, and it
6 wouldn't make sense to do that otherwise because you have a
7 vehicle going there.

8 Q. Sure. And, in fact, not to give testimony, but we
9 do. But I would indicate to you, are you aware that on the
10 Hudson reservation system, which I believe you also use in
11 Hawaii, that a user can enter a ZIP code and a street
12 address to get door-to-door service for any location
13 offered by that company?

14 A. It depends on how you configure it, of course.
15 You can configure it the way you wish, depending on how you
16 want to market your service. You can market service, as
17 you may do, for seat-in at a higher price than your
18 scheduled service.

19 So if I'm mistaken and you indeed offer
20 door-to-door to a destination that is on the schedule, it's
21 for a price that's far greater, so no one would actually
22 purchase that unless they --

23 Q. Or a price that was approved by the Commission
24 or -- and part of their rules, yes.

25 A. No. That's not what I said. What I said was that

0052

1 people are very savvy, and if --

2 Q. Sure.

3 A. -- you have a service offering scheduled service
4 at a hotel for one price and door-to-door for double the
5 price, they're not going to purchase the door-to-door, so
6 it's subterfuge. It's not real.

7 Q. But you're not aware that we do offer door-to-door
8 service to every hotel we offer scheduled service to as
9 well? We offer both services to those locations. You're
10 not aware of that?

11 MR. WILEY: Objection to the form, Your
12 Honor. This is testimony and not --

13 JUDGE PEARSON: Mr. Marks, you'll have an
14 opportunity --

15 MR. MARKS: Okay.

16 JUDGE PEARSON: -- to present that
17 information in your testimony.

18 MR. MARKS: Okay. Thank you.

19 JUDGE PEARSON: Okay?

20 MR. JOHN FRICKE: Your Honor, I also have
21 another question for Mr. Morton relating specifically to
22 the redirects, the Attachment A.

23 JUDGE PEARSON: Go ahead.

24

25

1 REXCROSS-EXAMINATION OF MR. MORTON BY MR. FRICKE
2 BY MR. JOHN FRICKE:

3 Q. Your statement was provided by Mr. John McCarthy
4 of the GO Airport Shuttle Group. Is -- would you consider
5 him an independent member of the public or a business in
6 which you have a -- another -- a ticketing agent which you
7 have a business agreement with?

8 A. I can't answer that question. I don't know the
9 difference between what you're asking.

10 Q. Is -- is the GO --

11 A. He's the president of GO Airport Shuttle, and
12 he -- he has the authority to enter into agreements with
13 companies like yours and like mine and refer business to
14 each other.

15 Q. Okay. So he represents another business in which
16 you do business with?

17 A. Correct.

18 MR. JOHN FRICKE: Okay. Thank you, Your
19 Honor. I have no other questions.

20 JUDGE PEARSON: Okay. Mr. Wiley?

21 MR. WILEY: Yes. I would call Mr. Roemer to
22 the stand, please, for brief foundation on the tariff.

23 JUDGE PEARSON: If you can please raise your
24 right hand, remain standing.

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1 JACK ROEMER, witness herein, having been
2 first duly sworn on oath,
3 was examined and testified
4 as follows:

5

6 JUDGE PEARSON: Thank you. Can you please
7 state and spell your last name for the record?

8 THE WITNESS: Jack Roemer, R-O-E-M-E-R.

9 JUDGE PEARSON: Thank you.

10 Go ahead, Mr. Wiley.

11 DIRECT EXAMINATION OF MR. ROEMER BY MR. WILEY

12 BY MR. WILEY:

13 Q. Yes. Mr. Roemer, could you provide your business
14 address and state your position with the applicant company?

15 A. 1132 Bishop Street, Suite 2312, Honolulu, Hawaii,
16 and I am the chief financial officer of SpeediShuttle, LLC.

17 Q. And in that capacity as the chief financial
18 officer, did you cause to be filed a proposed tariff for
19 use if this application is granted between regulated
20 service points in King County?

21 A. Yes, I did.

22 Q. And did you, in fact, authorize the revisions to
23 the tariff that we clarified on the record today to conform
24 to the docketed application?

25 A. Yes, I did, to eliminate the piers.

0055

1 Q. And would you please tell us upon what basis the
2 tariff rates that you propose were designed?

3 A. We have long history of how we determine the fares
4 for our service, and it takes into account three things:
5 time, mileage, and competition.

6 The competition that we take into account is,
7 contrary to what I think many people believe, is taxicab.
8 We want to price our service -- because it's a shared-ride
9 service and a taxicab is not, we want to price our
10 shared-ride service door-to-door, which is what a taxicab
11 is, competitively to taxicab.

12 So that when we priced it, those are the things we
13 looked at: What does a cab cost? How many miles is it?
14 And how long does it take?

15 Does that answer your question?

16 Q. Yes, it does. And do you have any experience in
17 your current marketplace, for instance, the Honolulu area,
18 in terms of time, distance, and competition that lend you
19 to think you have experience in terms of proposed pricing
20 in this market?

21 A. Yes, we do. Not withstanding that some
22 operational costs in Hawaii are substantially higher than
23 they are in the Seattle metro area, particularly fuel, time
24 and distance between Honolulu International Airport and the
25 Waikiki area, which is one of the largest single

0056

1 destinations in the State of Hawaii, is almost identical to
2 time and distance between Sea-Tac and downtown Seattle.

3 When we looked at those factors, we looked at cab
4 fare. Cab fare from Sea-Tac to downtown Seattle is
5 somewhere between 40 and \$50. Cab fare between Honolulu
6 International Airport and Waikiki is somewhere between 40
7 and \$50.

8 So when we started looking at the economics of the
9 service here, we arrived at the pricing in the proposed
10 tariff, which is, I think, about \$16 per person, to
11 downtown Seattle. I think our rate in Hawaii is \$15.48.
12 We believe it's competitive, and we know that it's a
13 profitable way to operate.

14 Q. And in proposing the tariff, did you happen to
15 look at any other tariffs on file using Sea-Tac Airport and
16 downtown Seattle for door-to-door service as comparisons,
17 and if so, what kind of conclusions did you come to?

18 A. The only door-to-door tariffs permitted, I think,
19 at this point, by the Commission are those of Shuttle
20 Express. For -- it gets very confusing, the way Shuttle
21 Express does it. It may well be that you can order
22 service, for example, to the Hyatt by putting in the
23 Hyatt's ZIP code rather than putting in the Hyatt as a
24 hotel -- or asking for the Hyatt by ZIP code rather than by
25 hotel.

0057

1 The way the tariffs are filed, yes, there's a
2 tariff for the ZIP code. It is conceptually a shared-ride
3 tariff, which means there's a high entry point and then an
4 additional passenger is very, very low. I don't know their
5 tariffs, so I'm not going to get into that, because then we
6 just --

7 Q. In terms of design, as you described theirs, can
8 you contrast that with yours?

9 A. Our tariffs to the downtown area are a seat-in
10 rate, per-person rate. This is for door-to-door service.
11 The only way that you can get a per-person rate with
12 Shuttle Express is on a route, a scheduled service. This
13 is identical to the way we operate in Hawaii, so it's not
14 like we're creating something we don't understand.

15 Q. Do you believe, at the present time, that your
16 proposed rate structure is fully compensatory?

17 A. Oh, absolutely. We would -- we wouldn't be here
18 if I didn't believe that.

19 Q. And do you know -- have you -- do you have any
20 knowledge as to whether the objectors in this proceeding
21 have sought to take advantage of the revised rules on rate
22 flexibility offered by the Commission?

23 A. Well, I know that they have filed revised tariffs
24 that allow them like 25 percent up or down flexibility in
25 their fares, if that's the question.

0058

1 Q. That's what I'm asking.

2 A. We don't have that in Hawaii, so.

3 MR. WILEY: Your Honor, I believe Mr. Beattie
4 has a question. I believe I'm through at this point, and I
5 move to admit the tariff as an -- as you've -- but as
6 you've knowledged, it's already --

7 JUDGE PEARSON: I've taken --

8 MR. WILEY: -- in the file.

9 JUDGE PEARSON: -- notice of it.

10 MR. WILEY: Yeah. Thank you.

11 JUDGE PEARSON: Yes.

12 And Mr. Beattie?

13 MR. BEATTIE: Thank you.

14 CROSS-EXAMINATION OF MR. ROEMER BY MR. BEATTIE

15 BY MR. BEATTIE:

16 Q. There appear to be some typographical errors in
17 your tariff. I want to confirm that that is the case. For
18 example, on original proposed page 8, there is an asterisk
19 next to Sea-Tac Airport. Can you tell me if that asterisk
20 signifies anything?

21 A. It signifies that -- it signifies that the source
22 that I downloaded the original ZIP code and area names from
23 had an asterisk there. It means absolutely nothing with
24 respect to the tariff.

25 MR. WILEY: And Mr. Beattie, just for the

0059

1 record, we -- you know, before this tariff is approved, we
2 will submit a corrected version for the tariff section to
3 review and approve. I absolutely commit on the record.

4 MR. BEATTIE: Thank you.

5 BY MR. BEATTIE:

6 Q. And would you give the same answer for Enumclaw
7 and North Bend?

8 A. Yes.

9 Q. They also have asterisks?

10 A. Yes.

11 Q. Next question: King County has within it a city
12 that goes by the name of Milton. You have proposed to
13 provide service to every other city in King County, but as
14 far as I understand, not to the City of Milton. I want to
15 confirm whether that's an omission that you intend to
16 correct or if you are intentionally omitting that city?

17 A. No. It is an unintentional omission. I do not
18 mean to exclude any city in King County, Washington, from
19 our service, and we will correct that as soon as -- every
20 -- have I missed the ZIP code, or is it just the name that
21 you're talking about?

22 Q. The ZIP code and the name.

23 A. It's our intention to provide service to every ZIP
24 code in King County.

25 (Discussion off the record.)

0060

1 MR. WILEY: Your Honor, I --

2 MR. BEATTIE: You want to put that on the
3 record?

4 MR. WILEY: We were discussing that Milton
5 also straddles into Pierce County, and that may be part of
6 the problem.

7 JUDGE PEARSON: Okay.

8 MR. BEATTIE: Yes. It's my understanding
9 that it straddles --

10 THE WITNESS: Okay. That --

11 MR. BEATTIE: -- both counties.

12 THE WITNESS: -- will be something of a
13 problem, because we'll do it by ZIP code, but then we'll
14 have to have a cutoff, because we won't be able to go
15 outside King County.

16 BY MR. BEATTIE:

17 Q. Final question: This has -- this issue has been
18 batted around a little bit, but I just want to get you on
19 the record confirming that all of your routes either
20 originate or terminate at Sea-Tac Airport and no route goes
21 outside King County?

22 A. I'm going to take this opportunity to clear up the
23 concept of "route." We are offering door-to-door service.
24 Under no circumstances are we proposing to offer anything
25 other than door-to-door service, so there are no routes.

0061

1 But you're absolutely right: We're proposing to
2 provide service only between points in King County and
3 Sea-Tac Airport.

4 Q. Thank you. And I actually have one final
5 question. You are proposing door-to-door service from
6 Sea-Tac Airport to North Bend. Can you confirm that that's
7 to the entire ZIP code containing North Bend?

8 A. As long as it's all King County, yes.

9 MR. BEATTIE: Thank you. No other questions.
10 Thank you.

11 JUDGE PEARSON: Thank you. Mr. Marks, do you
12 have any questions?

13 MR. MARKS: Yes, Your Honor.

14 CROSS-EXAMINATION OF MR. ROEMER BY MR. MARKS

15 BY MR. MARKS:

16 Q. Mr. Roemer, you were speaking of the rate
17 structure that you designed, and you were speaking of a
18 per-person rate that your service provides -- proposed
19 service would provide in the King County area, correct?

20 A. No. I spoke to a per-person rate that our service
21 would provide to and from the downtown Seattle area.

22 Q. Okay. So the --

23 A. That's all I said.

24 Q. So that's just to the downtown Seattle area, so
25 again --

0062

1 A. That's correct.

2 Q. -- the other rates would be similar to other
3 share-ride providers where they offer a higher first person
4 and then lower additional passengers after that?

5 A. That is correct, and that's what the -- that's
6 what the tariff says.

7 Q. Okay. Again, I -- with the flexible fares, you
8 could only -- actually, I'll withdraw that. Thank you.

9 JUDGE PEARSON: Mr. Fricke?

10 MR. JOHN FRICKE: Yes.

11 CROSS-EXAMINATION OF MR. ROEMER BY MR. JOHN FRICKE

12 BY MR. JOHN FRICKE:

13 Q. The fares listed in your proposed tariff, are
14 those fares for a different type of door-to-door service
15 currently offered within King County?

16 MR. WILEY: Objection. I don't understand
17 the question. "Different type" doesn't suggest to the --
18 us --

19 JUDGE PEARSON: Can you rephrase that?

20 MR. JOHN FRICKE: I can rephrase.

21 BY MR. JOHN FRICKE:

22 Q. Are they fares for a different type of service
23 within the proposed service area, compared to current
24 providers of door-to-door service in -- within that same
25 territory?

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1 MR. WILEY: Well, Your Honor, the question
2 assumes facts that aren't in evidence, which is, there is a
3 discerning and sophisticated knowledge of all -- we don't
4 have anything on the record about what the existing service
5 currently is, so that's such a broad question, I don't know
6 how the witness could answer it.

7 JUDGE PEARSON: Mr. Fricke, if you want to
8 just provide testimony about that when it's your turn, that
9 might be easier.

10 MR. JOHN FRICKE: No problem. Withdraw our
11 question.

12 JUDGE PEARSON: Do you have any additional
13 questions?

14 MR. JOHN FRICKE: No, Your Honor.

15 MR. WILEY: Nothing on redirect, Your Honor.

16 JUDGE PEARSON: At this point, before we move
17 on to Shuttle Express's testimony and evidence, I would
18 like to take a five-minute break, if that's long enough for
19 everyone. Okay. We will take a five-minute break, then,
20 be off the record.

21 (A break was taken from 2:49 p.m. to 2:57 p.m.)

22 JUDGE PEARSON: Let's be back on the record,
23 a little before 3 p.m.

24 And Mr. Marks, if you would like to proceed
25 with your testimony, if you want to stand and raise your

0064

1 right hand, I'll swear you in.

2

3 WESLEY MARKS, witness herein, having been
4 first duly sworn on oath,
5 was examined and testified
6 as follows:

7

8 JUDGE PEARSON: Okay. Thank you. Go ahead,
9 whenever you're ready.

10 MR. MARKS: Thank you, Your Honor.

11 DIRECT TESTIMONY OF MR. MARKS

12 MR. MARKS: Shuttle Express currently
13 operates under Washington Utilities Transportation
14 Commission Certificate No. C-975, which allows for our
15 current regulated passenger transportation authority.
16 There are several areas of our certificate which cover the
17 proposed service area requested by the applicant.

18 On the first page of our certificate, we
19 provide passenger service between the Seattle-Tacoma
20 International Airport, Boeing Field, Renton Airport, and
21 Paine Field, and points within the Seattle commercial zone
22 in King and Snohomish Counties, and excluding points in
23 King [sic] and Pierce Counties, which are described in the
24 certificate.

25 Additionally, we are certified --

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1 certificated to provide service between the Seattle-Tacoma
2 International Airport, Boeing Field, Renton Airport, and
3 Paine Field, and points within a 25-mile radius of these
4 airports, excluding points in Kitsap and Pierce Counties.

5 Additional authority in King County is
6 granted on page 2 of the certificate with authority
7 obtained by transfer from C-859 in the name of Suburban
8 Aeroporter, Incorporated; authority obtained by transfer
9 from C-858 in the name of Coombs, Orville J., and Diane J.;
10 and finally on page 3 with authority obtained by transfer
11 from C-819 in the name of Evergreen Trails, Incorporated.

12 Shuttle Express's current Tariff No. 11
13 describes flexible fare rates for our certificated King
14 County areas, as well as describing that our door-to-door
15 service to and from Sea-Tac Airport is unscheduled and
16 available 24 hours a day, daily.

17 Shuttle Express Tariff No. 11 has been
18 revised several times, with the most recent revision
19 becoming effective November 21st, 2014, in
20 Docket TC-143916.

21 That's all.

22 JUDGE PEARSON: Thank you.

23 So just for clarification, if you could turn
24 to SpeediShuttle's proposed tariff page 8 --

25 MR. MARKS: Yes.

0066

1 JUDGE PEARSON: -- and if you could just go
2 down the list and tell me, unless the answer is every
3 single ZIP code that they've proposed here, can you tell me
4 where exactly the service overlaps?

5 MR. MARKS: Sure. I believe it is every
6 single ZIP code. The tariff is a duplicate of our tariff
7 with parts removed. I can confirm that if you'd like, but
8 I believe it's almost entirely duplicated from our tariff.

9 JUDGE PEARSON: I would like to know that, if
10 it --

11 MR. MARKS: Sure. Let me take a moment here
12 and go through that for you.

13 JUDGE PEARSON: Sure.

14 MR. MARKS: For original page 8, every
15 ZIP code listed is an overlap of Shuttle Express's tariff
16 and area.

17 MR. WILEY: Your Honor, if we could have
18 clarification. When he says, "It's a duplicate," does he
19 mean the rate -- the tariff design? Does he mean the rate
20 level? Does -- what's he talking about when --

21 JUDGE PEARSON: My question was just whether
22 or not they provide door-to-door service there. I didn't
23 ask anything more specific than that, so simply: Do they
24 provide door-to-door service in --

25 MR. WILEY: To the territory?

0067

1 JUDGE PEARSON: -- the same area?

2 Correct.

3 MR. WILEY: Thank you.

4 MR. MARKS: Original page number 9 of
5 SpeediShuttle's tariff completely overlaps with Shuttle
6 Express's current service area as well, and original
7 page 10 of SpeediShuttle's tariff also duplicates all areas
8 served by Shuttle Express.

9 JUDGE PEARSON: Thank you.

10 MR. MARKS: And original page 11 also
11 duplicates areas served -- currently served by Shuttle
12 Express and our tariff, so yes, all of their ZIP codes are
13 areas that are -- would be overlapping to the Shuttle
14 Express service areas as currently tariffed.

15 JUDGE PEARSON: Thank you. And were you
16 finished with your testimony?

17 MR. MARKS: Yes.

18 JUDGE PEARSON: Okay.

19 Mr. Beattie, did you have any questions for
20 Mr. Marks?

21 CROSS-EXAMINATION OF MR. MARKS BY MR. BEATTIE

22 BY MR. BEATTIE:

23 Q. Mr. Marks, can you confirm that Shuttle Express
24 offers door-to-door service to all of the ZIP codes that
25 you just analyzed in response to the judge's questions?

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1 A. Yes, I can. I have personally set up and
2 configured our system so that all of the ZIP codes listed
3 in our current tariff on file with the UTC are able to be
4 booked for door-to-door service both via our cell center
5 and the website for the general public.

6 Q. Thank you. Mr. Marks, you state that your
7 door-to-door service to and from North Bend is coextensive
8 with that of the applicant. Is your company's North Bend
9 service limited in any way?

10 A. It is, and I would indicate that our original page
11 10 indicates the restrictions on our service because of the
12 25-air-mile restriction that our current certificate allows
13 us.

14 Those asterisks coincide with the names of the ZIP
15 code cities inside of our tariff, and the asterisks
16 indicate the additional information which was provided on
17 our original page 10. For North Bend, it -- as you
18 indicated, we have a restriction west of 468th Avenue
19 Southeast.

20 Q. If the applicant is proposing to provide service
21 to the entirety of the ZIP code 98045, do you know if that
22 proposed service is broader than what your company
23 provides?

24 A. It would overlap partially with our current
25 certificated area, which is why in our original opposition,

0069

1 we suggested a restriction restricting from our current
2 certificated area and allowing them to operate outside of
3 that range.

4 Q. Thank you. I would ask the same set of questions
5 about your Enumclaw service, which is the row in
6 SpeediShuttle's proposed tariff right above North Bend.
7 Does your company have any limitations on Enumclaw
8 door-to-door service?

9 A. Yes. Again, with the Enumclaw, ZIP code 98022, on
10 original page 10, we indicate our location notes as west of
11 284th Avenue Southeast. I apologize, but I can't pronounce
12 the rest of the names that are restricted, but there is a
13 restriction in place because of our 25-air-mile restriction
14 from the airports listed in our certificate.

15 Q. Well, then I would, again, ask: Is it your
16 understanding that SpeediShuttle is proposing service
17 that's broader than what Shuttle Express provides?

18 A. In that area because of our certificated service,
19 we provide service up to that line, and SpeediShuttle is
20 proposing to provide service in extension of that. Yes.

21 Q. Thank you. Does Shuttle Express provide free WiFi
22 to all of its customers?

23 A. We do not provide it to all of our customers in
24 every vehicle at this time, but we do have -- I believe the
25 count currently is ten vehicles with WiFi active on them

0070

1 for free for our guests to use.

2 Q. Are those services available in King County?

3 A. Yes. Those services are all available in King
4 County.

5 Q. Can you describe your company's booking process?

6 A. Absolutely. Our -- to not go into too many
7 details, we use the same system that both of the other
8 gentlemen here use. We use The Hudson Group reservation
9 system, which is what The GO Group, which has been
10 mentioned several times, has us use for receiving our
11 bookings.

12 It allows our guests to book on a mobile device,
13 over the phone with our call center agents, on the Internet
14 through our interactive website. And for door-to-door
15 service, it allows them to book both to individual
16 locations for door-to-door service, as well as to ZIP codes
17 and named addresses at the customer's request.

18 Q. For customers booking door-to-door service within
19 King County, does Shuttle Express provide any bilingual
20 services?

21 A. We do have several agents that speak multiple
22 languages. We also have several drivers that are
23 multilingual that we use for both our regulated, as well as
24 nonregulated services, for the public.

25 Q. Thank you.

0071

1 A. Yep.

2 MR. BEATTIE: Thank you, Your Honor. Staff
3 has no further questions.

4 JUDGE PEARSON: Okay. Mr. Wiley?

5 MR. WILEY: Yes, Your Honor. I need some
6 clarification, first of all, as to whether we're going to
7 have another witness from Shuttle Express or not. Is he
8 the sole witness?

9 MR. MARKS: The intent is to have one
10 additional witness, Mr. Kajanoff, to my left.

11 MR. WILEY: On what subject? Because I've
12 got a whole range of cross-examination questions on their
13 service, Your Honor, so I want to be efficient.

14 MR. MARKS: Sure. Mr. Kajanoff will be
15 speaking to the requirement of the Commission of service
16 being provided -- excuse me for one moment here -- to the
17 satisfaction of the Commission, and describing the service
18 that we provide currently, as well as the complaint record
19 of the company.

20 JUDGE PEARSON: And I want to remind you that
21 he can't hear right now --

22 MR. WILEY: Okay.

23 JUDGE PEARSON: -- so it'd probably be best
24 to direct your questions to Mr. Marks, and then if he needs
25 to confer, he could do that.

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1 MR. WILEY: Okay. Then I would intend to ask
2 all the questions I have of Shuttle Express right now.

3 JUDGE PEARSON: Okay.

4 MR. WILEY: Okay?

5 CROSS-EXAMINATION OF MR. MARKS BY MR. WILEY

6 BY MR. WILEY:

7 Q. Good afternoon, Mr. Marks. First of all, C-975,
8 which -- and I do have some concerns about some of your
9 exhibits, but let's just talk about the one that you're
10 offering right now or which the Commission has already
11 entered into the record, C-975.

12 Is it correct to say that not all geographic areas
13 of King County are covered by C-975?

14 A. Yes, that would be correct.

15 Q. So in that context, you do not provide the
16 identical, same geographic service, as that proposed by the
17 applicant; is that correct?

18 A. We provide the same service in part of the
19 geographic area requested by the applicant.

20 MR. WILEY: Okay. Your Honor, for the
21 purposes of a clear record, I'm going to ask that you
22 instruct the witness to answer yes or no and then follow up
23 with clarification, but I'd like a yes or no answer first.

24 JUDGE PEARSON: Mr. Marks, if you could give
25 a yes or no answer.

0073

1 MR. MARKS: Sure. And the question one more
2 time?

3 BY MR. WILEY:

4 Q. To paraphrase, my question to you is: Is it a
5 correct understanding that, geographically speaking,
6 Shuttle Express does not have a certificate that overlaps
7 completely with the applied-for territory by SpeediShuttle?

8 A. Yes, that's correct. Shuttle Express's
9 certificate does not completely overlap with what's been
10 applied for.

11 Q. Currently, how many operating units does Shuttle
12 Express have in the -- that it utilizes in King County?

13 A. Our entire fleet is utilized at some point in King
14 County. Our entire fleet, at this time -- and this is a
15 best guess number, I don't have the exact number in front
16 of me -- I believe is in excess of 107 units.

17 Q. And when you say, "107 units," are you speaking of
18 units that are dedicated to Shuttle Express, or are they
19 also units used by your nonregulated or limousine services
20 as well?

21 A. They are units used by both our charter
22 certificate as well as our regulated door-to-door
23 certificate, so they're dual use.

24 Q. Can you separate how many of those units are
25 dedicated for regulated auto transportation service?

0074

1 A. There are none of our units that I'm aware of that
2 are dedicated and earmarked specifically for that purpose,
3 although the majority of our units are used primarily for
4 that purpose.

5 Q. So you can't really answer my question exactly.
6 Are you saying that you interchange regulated and
7 unregulated vehicles on a daily or frequent basis?

8 A. Yes, we do.

9 Q. How many drivers does the company employ that are
10 employees?

11 A. Again, I do not have the exact number of drivers.
12 The last information I'm remembering off the top of -- and
13 please forgive me if this is wrong. My best guesstimate is
14 approximately 170 drivers at my last count.

15 Q. And again, those are all employees of the company;
16 is that correct?

17 A. Yes. All employees of Shuttle Express,
18 Incorporated.

19 Q. We had some testimony earlier this afternoon about
20 hotels and how someone books on the website. First of all,
21 on the website, do you have Japanese, Chinese, and/or
22 Korean language indicated on your website?

23 A. I don't believe we do at this time.

24 Q. So if you were a customer arriving from or
25 planning to arrive in Seattle from Korea or China, for

0075

1 instance, and you didn't speak English, you couldn't access
2 your website without a translation; isn't that correct?

3 A. I believe that's correct, yes.

4 Q. Now, if I were going to -- I were planning --
5 hypothetically speaking, if I were coming into Sea-Tac and
6 was going -- the day before, I was making a reservation for
7 use of Shuttle Express's service, and I was arriving at 2
8 p.m. at Sea-Tac and I wanted to go to the Hyatt hotel, how
9 would the website accommodate that reservation?

10 A. I'm sorry. If you were arriving today?

11 Q. At 2:00 -- no. It's the day before.

12 A. Okay.

13 Q. I'm arriving 2 p.m. the next day. I'm utilizing
14 Shuttle Express's website, and I want to go to the downtown
15 Hyatt, one of the two downtown Hyatts.

16 A. Sure.

17 Q. How would I -- what would happen? Walk me through
18 that.

19 A. Sure. There are several ways you could book it.
20 If it's one of our scheduled-service hotels, you could
21 select that location from a drop-down list of hotels that
22 we service. It would indicate next to it that that's the
23 scheduled service, if that was the service you desired.

24 You could also enter the ZIP code and address of
25 the hotel, which would allow you to book the door-to-door

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1 service, and --

2 Q. What if you didn't know that, and all you knew was
3 you were going to the Hyatt hotel? From out of town, you
4 don't know the ZIP code. Would you not then get directed
5 to the scheduled service?

6 A. If you knew the name of the hotel and the city it
7 was in and -- yes, at that point, you would also be given
8 the address so you could search by ZIP code as well.

9 Q. But that's not my question. My question is: You
10 don't know -- you don't have the ZIP code, you don't know
11 the ZIP code, you're going to the Hyatt hotel. Would that
12 not, as you make that reservation, direct you to the
13 scheduled service you have?

14 A. Yes, it would, but it would not preclude you from
15 using door-to-door service for that location as well.

16 Q. That wasn't my question. My question was how you
17 were directed, and I think you've answered that yes, you
18 would be directed to the scheduled service.

19 A. You actually wouldn't be directed anywhere. If
20 the guest was searching for that location, they would see
21 that there's a scheduled-service option for it.

22 Q. And in my hypothetical, all we knew was that I was
23 going to the Hyatt hotel in downtown Seattle. I don't know
24 a ZIP code. My question was: Would I be directed to the
25 scheduled service: yes or no?

0077

1 A. If there was scheduled service offered for it, it
2 would be one of the options, yes. You would be offered
3 that if it was scheduled service.

4 Q. And don't -- downtown hotels, don't most of them
5 on Shuttle Express have scheduled service?

6 A. I don't know that I would qualify "most of them."
7 We have a significant number, I believe it's 24 hotels
8 downtown, that have scheduled service currently.

9 Q. You didn't mention what kind of equipment you use.
10 Do you have high-ceiling Mercedes vans?

11 A. No, we don't. Because of our location in the
12 Sea-Tac Airport, we do have a height restriction that
13 door-to-door vehicles in and out of Sea-Tac Airport are
14 required to meet.

15 We use Ford E-350 vans. Our fleet renews itself,
16 I believe, every five years through a rotating maintenance
17 schedule. Again, all of our van maintenance is done in --
18 in-house as well.

19 Q. Again, that wasn't my question. If you could
20 listen to the question and not answer what you want to
21 answer first.

22 A. Sure.

23 Q. Okay? Are Mercedes vans -- I've seen a number of
24 Mercedes vans in the Sea-Tac garage. Are you saying they
25 can't access the Sea-Tac garage?

0078

1 A. I'm not aware of any Mercedes vans in the Sea-Tac
2 garage.

3 Q. Oh, that -- so you're saying you're not aware that
4 any seat -- Mercedes vans, either high-ceiling or
5 low-ceiling Mercedes vans access Sea-Tac Airport?

6 A. I'm not aware. I don't personally go to Sea-Tac
7 Airport very often.

8 Q. So you're talking about the garage and not Sea-Tac
9 Airport itself, correct, by your testimony?

10 A. I'm speaking of our location that was given by --

11 Q. Inside the garage?

12 A. -- Sea-Tac Airport at -- yes.

13 Q. And you don't know an answer to my question
14 whether Mercedes-Benz, like Capital Aeroporter has some
15 Mercedes-Benz, whether they access Sea-Tac Airport or not?

16 A. They access Sea-Tac Airport, but not at the same
17 location.

18 Q. Well, that location is only available to Shuttle
19 Express, is it not, in terms of door-to-door airport
20 shuttle service?

21 A. It is currently one of our locations.

22 Q. That's not my question. My question is: For
23 current airport shuttle providers, isn't it true that only
24 you have the franchise within the Sea-Tac garage?

25 A. I'm not aware of the agreement with the Sea-Tac

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1 Airport as far as any restrictions on other operators using
2 that spot.

3 Q. It's not exclusive to you?

4 A. I'm not aware of whether it is or is not.

5 Q. Why wouldn't you be aware, as the president of the
6 company?

7 JUDGE PEARSON: How is this relevant,
8 Mr. Wiley?

9 MR. MARKS: I'm not the president of the
10 company, so --

11 MR. WILEY: Well, because he's saying that --
12 he's implying that there's no access by Mercedes vehicles
13 at Sea-Tac Airport.

14 JUDGE PEARSON: I think he's saying he
15 doesn't know.

16 MR. WILEY: Okay.

17 JUDGE PEARSON: That's what I'm hearing.

18 MR. WILEY: Okay.

19 MR. MARKS: Just for clarification,
20 Mr. Wiley, I'm the accounting manager. I'm not the
21 president of the company.

22 BY MR. WILEY:

23 Q. Thank you for that, and will Mr. Ka- -- I can't --

24 A. Kajanoff.

25 Q. May -- may know that, is that correct?

0080

1 A. He may. I'm not aware.

2 Q. But as accounting manager, you know nothing
3 about -- specific about the exclusivity of the Sea-Tac
4 Airport agreement with Shuttle Express?

5 A. I do not know.

6 Q. Did your company support the Commission's rule
7 revisions to entry and rate flexibility in 2013 that are
8 now adopted by law?

9 A. I am not aware of our place in that. I believe
10 from some of the statements that have been submitted that
11 we were a part of that decision-making process. I was not
12 involved in any management or decision or UTC role at that
13 point in time, so I cannot speak to that.

14 Q. So your answer is, "I don't know"?

15 A. My answer is I do not know.

16 Q. Will the president know?

17 A. He may. I can't speak to his testimony.

18 Q. Well, were you aware of Order No. 1 that was
19 issued in this matter, which referred to comments filed by
20 your company in support of, for instance, the streamline
21 application process?

22 A. I am aware of Order 1, yes.

23 Q. Yes. And that indicated that your company
24 supported the streamline application process, did it not?

25 A. I can look at it. I believe it says that we are

0081

1 involved in that. I don't remember if it said we supported
2 it or not.

3 MR. WILEY: I think the order speaks for
4 itself, Your Honor. I -- I don't have any further
5 questions on Order No. 1's content at this point.

6 JUDGE PEARSON: Okay.

7 BY MR. WILEY:

8 Q. Has your company taken advantage of the rule
9 revision in 2013 to the extent that you have filed for
10 flare -- fare flexibility in operating regulated auto
11 transportation services?

12 A. Yes, we have.

13 Q. Has your company ever been cited for violation of
14 the Commission's laws and rules?

15 A. I am not aware of the answer to that. Not while
16 I've been in this position.

17 Q. Well, why don't we clarify for the record: How
18 long have you been in this position?

19 A. Approximately two years.

20 Q. So you're not aware of any decision by this
21 Commission finding Shuttle Express in violation of the
22 Commission's laws and rules?

23 A. I have not been involved in any hearings with the
24 Commission other than a protest in a previous case as --
25 and some fare filings and tariff revisions.

0082

1 Q. Mr. Marks, you've got to try to answer the
2 question. We're making a record here. I asked if you were
3 aware of any decision that the Commission has issued
4 finding Shuttle Express in violation of Commission law and
5 rules: yes or no?

6 A. I know there was a case revolving independent
7 contractors that we were involved with. I believe that was
8 settled and Shuttle Express changed its practices at the
9 request of the Commission. I don't see how that's relevant
10 to the service that we operate as door-to-door service,
11 though.

12 MR. WILEY: Your Honor, do you want me to
13 answer that question, if he's going to pose an argument to
14 me?

15 JUDGE PEARSON: Just go ahead with your next
16 question.

17 MR. WILEY: With my next question?

18 JUDGE PEARSON: Are you not finished with
19 this question?

20 MR. WILEY: No. He asked me a question. I
21 wanted to --

22 JUDGE PEARSON: You don't have to answer it
23 unless you want to.

24 MR. WILEY: Okay.

25

0083

1 BY MR. WILEY:

2 Q. So let's go back over the year prior to the filing
3 of this application and your existing service, Mr. Marks.
4 Did Shuttle Express, to your knowledge -- you said you've
5 been there for two years. Did Shuttle Express ask for a
6 waiver of rules involving airport regulation -- regulated
7 airport service?

8 A. We asked for a waiver of the rules requiring an
9 employee driver be involved in regulated service, I believe
10 it was.

11 Q. Are you saying that the rules involving leasing
12 drivers didn't involve regulated service?

13 A. No. I believe we asked for a waiver of that rule
14 temporarily to provide what was called, "rescue service,"
15 at that time.

16 Q. And why did you ask for that waiver, please?

17 A. I wasn't involved in asking of that waiver.
18 Mr. Kajanoff was, however, and he could speak directly to
19 that for you.

20 Q. Well, let me hand out an order that I would like
21 to be marked as an exhibit. Maybe I can ask you about that
22 after you look at the order.

23 A. Again, I was not involved in that case in any way,
24 shape, or form. I can't formally answer any questions as
25 to what its content is. Just, I can read --

0084

1 Q. You can read the order, though, can't you?

2 A. I can read the order, sir.

3 Q. I'll give you a chance to read that, Mr. Marks.

4 MR. WILEY: If we want to take a five-minute
5 break, Your Honor, it might be more productive to do that,
6 or do you -- it's up to you.

7 JUDGE PEARSON: I'll just wait and give him a
8 chance to read it. It should only take a couple minutes.
9 These questions may be better addressed to Mr. Kajanoff,
10 but I'm not sure how we will accomplish that. If I can
11 swear him in, and then Mr. Marks can write it down --

12 MR. WILEY: Sort of try to whisper or --

13 JUDGE PEARSON: -- for him. He'd have to
14 write it down, I believe.

15 MR. MARKS: Or be really loud to him, if it
16 would be okay.

17 JUDGE PEARSON: I'm fine with that. Should
18 I -- do you want to continue asking Mr. Marks the
19 questions? Do you think he's potentially not the best
20 witness --

21 MR. WILEY: I think that's --

22 JUDGE PEARSON: -- for these questions?

23 MR. WILEY: My problem is, Your Honor, I
24 don't -- it sounds like he isn't, potentially, the best
25 witness.

0085

1 JUDGE PEARSON: Okay. So perhaps what we
2 should do is swear in Mr. Kajanoff --

3 MR. WILEY: Okay.

4 JUDGE PEARSON: -- let him give his
5 testimony, and --

6 MR. WILEY: Okay.

7 JUDGE PEARSON: -- then we will figure out a
8 way to --

9 MR. WILEY: Yeah.

10 JUDGE PEARSON: -- relay between the two of
11 them to get the rest of your questions answered.

12 MR. WILEY: Thank you, Your Honor.

13 JUDGE PEARSON: So Mr. Marks, if you could
14 communicate to him to --

15 MR. KAJANOFF: You can ask me the question
16 to -- can you write down what the question is?

17 MR. MARKS: Yeah. I'll write down the
18 questions when they come up --

19 JUDGE PEARSON: So I just need him to stand.
20 I'm going to swear you in.

21

22 PAUL KAJANOFF, witness herein, having been
23 first duly sworn on oath,
24 was examined and testified
25 as follows:

0086

1 JUDGE PEARSON: So I'd like Mr. Kajanoff to
2 go ahead and give his testimony --

3 MR. MARKS: Okay.

4 JUDGE PEARSON: -- and then potentially some
5 of Mr. Wiley's questions will be answered during that, or
6 he may have more questions, but if we can do that first and
7 then we'll resume the questioning.

8 MR. MARKS: All right.

9 JUDGE PEARSON: Mr. Kajanoff -- well, if you
10 could ask him to state his first and last name and spell
11 his last name, and then he can proceed to his testimony.

12 THE WITNESS: Paul Kajanoff, K-A-J-A-N-O-F-F,
13 president of Shuttle Express.

14 JUDGE PEARSON: Go ahead.

15 DIRECT TESTIMONY BY PAUL KAJANOFF

16 MR. KAJANOFF: I'd like to make a few general
17 statements about Shuttle Express. We strongly believe our
18 service is adequate, it's safe, and our customers are
19 satisfied. Based on what I've been given, from what I've
20 written, I don't believe there's any evidence proving the
21 contrary.

22 We serve over 300,000 passengers a year on
23 door-to-door. We've been in business 27 years. We have
24 had one complaint with the UTC. The UTC upheld us in that
25 one complaint.

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1 The key point here is we still serve the GO
2 membership through a wholesale contract. The fact that we
3 are not a franchisee of The GO Group has nothing to do with
4 the reservations that we handle upon their behalf.

5 We have over 80 vans. 90 percent of them are
6 propane. We operate 27 -- or excuse me, 24 day -- 24 hours
7 a day, 7 days a week, 365. We have never turned away
8 door-to-door business for inability to have a vehicle
9 available.

10 Our fleet is well maintained, it is
11 comfortable, and we do make a conscious decision to support
12 U.S. manufacturers in our vehicles.

13 We invest heavily in the web presence. We
14 have a firm to analyze those behaviors every month. We try
15 to do everything possible to be a customer-centric company.

16 And lastly, it's very important, and we can
17 provide if need be the exact details, we have provided well
18 over 600 reservations through The GO Group after
19 December 1st, 2014, so we have not stopped servicing The GO
20 Group, and it's a critical point.

21 JUDGE PEARSON: Okay. Mr. Marks, which of
22 you will be offering the exhibits that you prefiled today?

23 MR. MARKS: I can offer those, Your Honor.
24 Exhibits, if they remain the same as they were in the
25 original filing, would be SE-1 through SE-14, and I believe

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1 that these are all statements from guests. There is one
2 duplicate, I believe. Mr. David Willard sent two separate
3 statements in: one was an original e-mail; the second was
4 on a form that was provided to him.

5 But these are a hotel concierge, individual
6 passengers that travel the service, and a travel arranger
7 who books on behalf of the Microsoft Corporation, and
8 Exhibits SE-1 through SE-14 are all statements on those
9 grounds.

10 JUDGE PEARSON: Do any --

11 MR. WILEY: Yes, I have.

12 JUDGE PEARSON: Mr. Wiley?

13 MR. WILEY: SE-2 and SE-3 and SE-13 appear to
14 the applicant to describe service between Pierce County and
15 Sea-Tac Airport. For instance, Lake Tapps is Pierce
16 County. SE-13, which says 1 but is 13, it describes
17 somebody on Beach Drive in Tacoma, so I don't think those
18 are relevant to this application.

19 Let's look at -- and SE-13, the 3 was cut
20 off. It's after SE-12 with -- from the gentleman from
21 Auburn, so I believe those aren't relevant to the
22 geographic testimony.

23 JUDGE PEARSON: So I see SE-13 in Tacoma.

24 What are the other --

25 MR. WILEY: SE-2 and -3. They appear to be

0089

1 Lake Tapps, which on the website for Pierce County, is
2 Pierce County.

3 MR. MARKS: Your Honor, if I may?

4 JUDGE PEARSON: Sure.

5 MR. MARKS: We specifically asked these
6 individuals about their service from King County, and
7 indicated as the first question below in all -- I'm
8 sorry -- in SE-2 and SE-13, and by proxy because SE-2 and
9 the item after SE-2, they're both from the identical
10 individual.

11 We asked the question, "Have we -- have you
12 used our door-to-door service in King County, Washington,
13 specifically?" And both times, the individual marked yes
14 for the King County service. We requested their home
15 address. Their work address may be in King County and
16 that's where the service was provided them.

17 MR. WILEY: Your Honor, the form doesn't
18 indicate if that service began and ended in King County or
19 just had one origin or destination point in King County, so
20 I don't know that what Mr. Marks is indicating is at all
21 true. You can't tell from the exhibit.

22 JUDGE PEARSON: Well, I don't want to spend
23 too much time on this. I'm going to go ahead and admit
24 them. I will consider them as a whole, in totality of
25 satisfied customers who are submitting their opinions about

0090

1 the company. I'm not going to give particular weight more
2 so to one than any other or even, you know, to them in
3 their entirety as a group.

4 MR. WILEY: Yeah. Your Honor, SE-7 appears
5 to address -- from what we can tell, address service that's
6 not covered by this application. It appears to be two-way
7 charters with four-hour minimums. I don't -- charter is
8 not relevant to this application. We just note that --

9 JUDGE PEARSON: Okay.

10 MR. WILEY: You --

11 JUDGE PEARSON: I'll exclude that one.

12 You're correct. She's referring to two-way charters --

13 MR. WILEY: Right.

14 JUDGE PEARSON: -- and then their service
15 with respect to two-way charters.

16 MR. WILEY: And we also have a similar
17 problem that we addressed earlier about SE-14. It's from a
18 witness whose office is in King County, but we know nothing
19 about door-to-door service from that statement. I would
20 just indicate that on the record.

21 JUDGE PEARSON: Because he's talking about
22 ride-share on Thanksgiving --

23 MR. WILEY: Yes.

24 JUDGE PEARSON: -- to get home?

25 MR. WILEY: Yes. We don't know where it's

0091

1 going. SE-12 has a similar problem in -- but also hearsay.
2 It appears to refer to families, "Mom and sister used this
3 service, blah, blah," bottom of SE-12. That sounds like
4 hearsay to me.

5 JUDGE PEARSON: Well, I will exclude -- what
6 I will be marking as WM, the series will be WM, not SE. I
7 will exclude what is currently marked as SE-7, but I will
8 admit the rest, because, again, I think that the -- they
9 have somewhat limited probative value, but they do have
10 probative value.

11 MR. WILEY: And, Your Honor, I assume that
12 your ruling is akin to what you ruled on our support
13 statements, in that same --

14 JUDGE PEARSON: Correct.

15 MR. WILEY: Thank you.

16 Was -- I'm trying to pronounce Mr. --

17 JUDGE PEARSON: Mr. Kajanoff?

18 MR. MARKS: Kajanoff.

19 JUDGE PEARSON: Kaj- --

20 MR. WILEY: Kajanoff?

21 MR. MARKS: Kajanoff.

22 MR. WILEY: What -- has his testimony
23 complete -- been completed, then, on all of the existing
24 service issues that he wanted to address?

25 MR. MARKS: Yes.

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1 MR. WILEY: Okay.

2 MR. MARKS: He's completed his statement.

3 MR. WILEY: Okay. Mr. Kajanoff -- and
4 Mr. Marks, you're going to have to help with the -- by the
5 way, were you aware that, for hearing-impaired people, you
6 can -- the hearing notices refer to the fact that you can
7 seek that assistance at UTC hearings?

8 JUDGE PEARSON: And they did at the end of
9 the day on Friday.

10 MR. WILEY: Oh, okay.

11 JUDGE PEARSON: So this was the best that we
12 could do.

13 MR. WILEY: Okay. I understand, then, Your
14 Honor.

15 CROSS-EXAMINATION OF MR. KAJANOFF BY MR. WILEY

16 BY MR. WILEY:

17 Q. Mr. Kajanoff, you said that one -- that a
18 complaint was upheld by the Commission. Can you elaborate
19 on what you mean by that, please?

20 MR. MARKS: If I may answer that on his
21 behalf?

22 MR. WILEY: Okay. I think we need to
23 indicate on the record when he's giving -- when the one
24 witness is giving the other witness an answer, so
25 Mr. Marks --

0093

1 JUDGE PEARSON: I agree. Just identify
2 yourself before you start speaking.

3 MR. MARKS: Absolutely. This is Wesley.
4 Mr. Kajanoff handed me a document here. This is Washington
5 UTC Complaint 122153, and highlighted on this complaint
6 from Sheri Hoyt of the UTC is a disposition of company
7 upheld. That is the complaint that Mr. Kajanoff spoke to.

8 MR. WILEY: So I take it that from his
9 testimony, Mr. Kajanoff is referring to the customer
10 protection or business practices section upholding a
11 consumer complaint that may have been not a public record
12 document, but an inquiry to the Commission Staff?

13 MR. MARKS: Yes. This is referring to a
14 complaint that was filed through the complaint process as a
15 customer complaint, yes.

16 MR. WILEY: So it's Mr. Kajanoff's testimony
17 that in 27 years, the company has only one -- received a
18 single complaint from either the -- from a passenger or
19 from the Commission Staff itself; is that correct?

20 MR. MARKS: In 27 years, Shuttle Express has
21 received one customer complaint that's listed on the UTC
22 website. That's what he was speaking to.

23 MR. WILEY: How about other complaints?
24 Those that are more serious that reach the attention of the
25 WUTC enforcement staff as represented by the Washington

0094

1 Attorney General's Office?

2 MR. MARKS: Just give me one moment to relay
3 that.

4 MR. KAJANOFF: Not service complaints.

5 MR. MARKS: So we would like some
6 clarification. Are you request -- are you asking about
7 complaints related to the service provided or to
8 non-service complaints?

9 MR. WILEY: Your Honor, I don't understand
10 that distinction at all.

11 JUDGE PEARSON: Well, I would like you to
12 just tell us what you're getting at. Are you asking about
13 a penalty assessment or a formal complaint? Because the
14 penalty assessment doesn't involve the Attorney General's
15 Office, but it's still a formal enforcement action that the
16 Commission brings. And so --

17 MR. WILEY: That is --

18 JUDGE PEARSON: -- if you're going to ask a
19 question about the AG's office, he's going to say no, and
20 then you're going to have to go down this other road to get
21 to the penalty assessment, so if you can cut to the chase.

22 MR. WILEY: Yeah.

23 BY MR. WILEY:

24 Q. Any enforcement actions brought by the Commission
25 Staff against the regulated operations of the objector

0095

1 Shuttle Express?

2 A. So we had, last year or early this year -- sorry,
3 can't recall, but there is official record of it -- two
4 instances. One, the license plates were not being properly
5 illuminated on our vans. We were notified by the UTC of
6 the issue. We immediately fixed the issue.

7 Second issue was mud flaps had to be at a certain
8 level on the rear axle and they were not, and we
9 immediately fixed that issue, so we -- as soon as
10 something's brought to our attention that we have done
11 unintentionally, we fix it immediately, so those are the
12 two issues that I'm aware of.

13 Q. So you're not aware of any enforcement action
14 brought by the Commission Staff that found Shuttle Express
15 in violation of the Commission's laws and rules that
16 involved a violation of a consent order and also payment of
17 a substantial penalty; is that correct?

18 MR. MARKS: Let me write all that down.
19 Please give me one moment.

20 A. So there's a case involving the use of independent
21 contractors on rescue service as we were defining "rescue
22 service." It was a contention on -- between Shuttle
23 Express and the Commission on that definition. Could --
24 the Commission ruled against Shuttle Express, and we were
25 fined \$60,000, which we paid \$60,000 this year related to

0096

1 that case.

2 MR. WILEY: So, Your Honor, again, I'm having
3 the same problem with this witness that I had with the
4 other Shuttle Express witness. It's very important for the
5 purposes of making a record that a yes or no answer be
6 provided and then explanation is acceptable.

7 So the answer to my question is yes, he is
8 aware of an enforcement action --

9 JUDGE PEARSON: Correct.

10 MR. WILEY: -- I believe.

11 JUDGE PEARSON: I gathered that.

12 MR. WILEY: Okay. If you would instruct the
13 witness to answer yes or no to the question, at least
14 initially.

15 JUDGE PEARSON: If Mr. Marks can just let him
16 know that. It's difficult relaying back and forth, but
17 Mr. Marks, if you can just make a note that he first needs
18 to say yes or no and then can follow up with any additional
19 information.

20 BY MR. WILEY:

21 Q. With respect to that, I'll call it regulatory
22 enforcement episode, could you please provide additional
23 information as to what the company was doing and what the
24 Commission found the company was doing to be in violation
25 of law?

0097

1 MR. MARKS: I'm sorry. Could you repeat the
2 start of that question one more time?

3 MR. WILEY: Could I have the reporter read
4 that back?

5 (Question was read back.)

6 A. So specifically what was happening would be the
7 use of an independent contractor, and an independent
8 contractor for Shuttle Express drives either an SUV or a
9 limo or town car. It's an upgraded luxury service.

10 We had, on occasion, used those types of vehicles
11 to pick up guests on a door-to-door route, and you may not
12 have a multi-stop situation with those vehicles because
13 they're independent contractors, not employees.

14 From a practical standpoint, we never had a
15 complaint, because most people like getting picked up in a
16 luxury vehicle. To the letter of the law, Shuttle Express
17 was not following the letter of the law, and that was the
18 basis for the fine.

19 Our argument was it's in the public's best
20 interest, and that may or may not be true. The reality is,
21 is the very straight legal definition of "independent
22 contractor," we violated that. We paid our fine, and we
23 don't do it today.

24 BY MR. WILEY:

25 Q. And, in fact, Shuttle Express was found by the

0098

1 Commission to have violated that law from a period from
2 2002 through 2013; is that not correct?

3 A. That's exactly what the UTC document states, so if
4 you're quoting that verbatim from public record, that's
5 correct.

6 Q. I'm not quoting it at all. I'm asking you whether
7 the --

8 A. Is that what the question is being asked? That
9 was in the ruling.

10 JUDGE PEARSON: Yes.

11 BY MR. WILEY:

12 Q. So your answer is yes, you were found to have
13 violated the Commission's leasing regulation from 2002
14 through 2013?

15 MR. WILEY: I believe he answered yes to
16 that, Your Honor, if the translations are what I'm --

17 JUDGE PEARSON: That's what I heard.

18 MR. WILEY: Is he -- I don't understand if
19 he's still going to answer or if he's done.

20 JUDGE PEARSON: Mr. Marks, we're ready to
21 move on to the next question if are you.

22 MR. MARKS: Okay.

23 BY MR. WILEY:

24 Q. Mr. Kajanoff, could you explain --

25 A. Yes.

0099

1 Q. I thought he was done.

2 A. I'm sorry.

3 Q. Now, he apparently is --

4 JUDGE PEARSON: He's saying it's -- well, he
5 can't hear. You need to be a little more patient.

6 MR. WILEY: Okay. Sorry. I'm trying to make
7 a record.

8 MR. MARKS: He wants to respond to the -- to
9 your question, verify that he said yes to that.

10 MR. KAJANOFF: Is that the question?

11 MR. MARKS: Yes. They -- you already said
12 yes to that, so we're going to move on past that.

13 MR. KAJANOFF: Do you want me to -- do you
14 want me to respond to that question?

15 JUDGE PEARSON: It's okay. Your answer was
16 yes.

17 MR. KAJANOFF: All right.

18 MR. WILEY: Your Honor, I'm sorry. I'm
19 having some difficulty tracking, so if you want to direct
20 me, I'm fine.

21 JUDGE PEARSON: Okay.

22 BY MR. WILEY:

23 Q. Could you explain, Mr. Kajanoff, why Shuttle
24 Express needed a variance from Commission rules to utilize
25 owner-operators in two -- in late 2013?

0100

1 A. Yes. It was to prove the point where we felt it
2 was in the public's best interest.

3 Q. So you -- is it your testimony that you make a
4 determination, not the Commission, as to whether compliance
5 with regulations are in the public's best interest?

6 A. We asked for a waiver for the existing law that
7 was in place, is really the exact -- to the case itself,
8 that's what we asked for, an exemption, and I believe it
9 was for a 15-day period.

10 Q. It was 30 days.

11 A. Maybe 29 days. I think it was 29 days we used it.

12 MR. WILEY: Your Honor, I'd like to repeat my
13 question. He didn't answer it at all by his answer. I
14 think he understands the question. It was, "Who makes the
15 determination," is what my question was directed to, the
16 company or the Commission, as to whether regulatory
17 provisions will be complied with.

18 JUDGE PEARSON: Mr. Marks, if you could
19 phrase it to him that way.

20 A. UTC decides that, not us.

21 BY MR. WILEY:

22 Q. And the UTC decided you'd violated the
23 regulations, did it not?

24 A. The UTC determined that we were in violation of
25 using independent contractors --

0101

1 Q. Which --

2 A. -- yes.

3 Q. -- violated the leasing regulation, correct?

4 MR. MARKS: Just for clarity, Mr. Wiley,
5 you're speaking of the regulation that requires an employee
6 to be the operator of a vehicle? That's the leasing
7 regulation --

8 MR. WILEY: That's correct.

9 MR. MARKS: -- you're speaking to? Okay.

10 A. Yes. So if the question is, did we get fined for
11 using --

12 BY MR. WILEY:

13 Q. That's not the question.

14 A. -- non-employee drivers --

15 JUDGE PEARSON: He can't hear you.

16 MR. KAJANOFF: This is not the question? I'm
17 sorry. I think I'm going in circles here.

18 JUDGE PEARSON: It's okay. Let's move on to
19 the next question.

20 BY MR. WILEY:

21 Q. My question previously asked, and I'd like an
22 answer to: Can you explain the reason Shuttle Express
23 needed to seek a variance from the Commission's rules in
24 November of 2013 to utilize owner-operators?

25 A. Shuttle Express asked for the variance because of

0102

1 the ruling.

2 Q. Well, the Commission --

3 A. It was --

4 Q. The Commission hadn't ruled in December 2013 or
5 November of '13? 2013?

6 JUDGE PEARSON: I believe it did.

7 MR. WILEY: No. It ruled, Your Honor --

8 JUDGE PEARSON: November 1, 2013.

9 MR. WILEY: -- in April 2014. The exemption
10 was granted in December of 2013. The Commission's order on
11 the enforcement action did not come out until April of
12 2014.

13 And while we're at it, Your Honor, I'd ask
14 that you take judicial notice of Order 04 in Docket
15 TC-120323, which is the Commission's final order in that
16 matter.

17 JUDGE PEARSON: What was the order in that
18 docket that was entered on November 1st, 2013? It says,
19 "At that point in time --

20 MR. WILEY: I think that was --

21 JUDGE PEARSON: -- "the Commission" --

22 MR. WILEY: -- the initial --

23 JUDGE PEARSON: -- "found the company in
24 violation" --

25 MR. WILEY: Yeah. That -- that was the

0103

1 initial order, Your Honor, I believe, from the
2 Administrative Law Judge fining \$125,000 fine, which was
3 appealed.

4 JUDGE PEARSON: Okay.

5 MR. WILEY: So I believe my question before
6 the interchange was: What was the need that the company
7 felt to seek a waiver from the object- --

8 JUDGE PEARSON: Right.

9 MR. WILEY: -- from the regulation?

10 JUDGE PEARSON: And his answer had to do
11 with, because of the findings, so let me rephrase that
12 question.

13 What business need led to the company's
14 decision to employ contract drivers?

15 MR. WILEY: Thank you.

16 JUDGE PEARSON: Violations aside, why did the
17 company have to do that?

18 MR. KAJANOFF: The business need was based
19 upon the decision for an -- let me rephrase that.

20 Ownership felt strongly that this was a
21 public service, as was stated in the original case, and
22 sought an exemption because they felt it was in the be- --
23 the best interest of the public to provide the service
24 differently, call it "rescue service." There was no
25 business need to do so.

0104

1 MR. WILEY: So --

2 JUDGE PEARSON: So let me just ask another
3 question.

4 MR. WILEY: Sure.

5 JUDGE PEARSON: So --

6 MR. KAJANOFF: It's a statement. There's no
7 business need.

8 JUDGE PEARSON: So you -- it would appear to
9 me that you didn't have enough vehicles to serve the -- to
10 meet the needs of the customers, and that's why you brought
11 in extra vehicles and drivers. If that's not the reason, I
12 don't understand what the reason would be. The -- it seems
13 to me the demand exceeded the supply that you had.

14 MR. KAJANOFF: It might appear -- it might
15 appear that way, but that is not the case. We had more
16 than enough vehicles available to meet any business need at
17 that time.

18 JUDGE PEARSON: So then what was the reason?
19 Just nicer cars?

20 MR. MARKS: Let me write that down for him.

21 MR. KAJANOFF: Yes. That is correct.

22 JUDGE PEARSON: Just --

23 MR. KAJANOFF: There was -- there was --

24 JUDGE PEARSON: -- nicer vehicles?

25 MR. KAJANOFF: I want to make it very clear:

0105

1 Our vehicles and drivers were available to do those runs.
2 This was about upgrades and a policy decision, once again,
3 that's reflective of pushing back on the order that was
4 given, but doing so legally.

5 That's why I filed for it. We have not filed
6 since that point. It was a one-time urging upon our
7 counsel to do so. We don't employ -- we don't subscribe to
8 that theory any longer.

9 MR. WILEY: Your Honor, I would ask that you
10 take official notice also, then, of the file in Docket
11 No. TC-132141, which I've handed out the order on. My
12 understanding, and I was not involved in that case, is one
13 of the reasons they sought the exemption was to relieve
14 pressure on demand, that they needed to fill additional
15 demand during peak holiday season.

16 It sounds like the witness has said that's
17 not the case, but I would -- I'd like the file, at least,
18 to be offered to see if that, in fact, was the reason given
19 at the time.

20 JUDGE PEARSON: And I will take official
21 notice of that, and that was my understanding as well. I
22 was at the open meeting when the company requested that
23 exemption, and my understanding was that there was more
24 business than the company could tackle during the holiday
25 season, so I would like an answer to that question, either

0106

1 from Mr. Marks or Mr. Kajanoff.

2 MR. KAJANOFF: I'll refer to my earlier
3 answer. This was on the urging of counsel, not necessarily
4 views of Shuttle Express.

5 JUDGE PEARSON: That doesn't answer the
6 question.

7 Mr. Marks, do you know the answer to the
8 question?

9 MR. MARKS: I will --

10 JUDGE PEARSON: Or can you speak to whether
11 or not the company sought this exemption -- and
12 specifically during the holiday period -- due to increased
13 demand and a better ability to meet that demand? That was
14 my understanding.

15 MR. MARKS: It is always our intent to
16 provide a better experience for all of the guests that we
17 service. My understanding of the intent of requesting the
18 waiver was to give us the flexibility to offer additional
19 other services that were outside of the current scope of
20 regulation, but which the waiver allowed, by using
21 independent operators to pick up more than one passenger on
22 a multi-stop trip, which is currently a regulated service.

23 JUDGE PEARSON: But you're -- so you're
24 denying that it had anything to do with the company's
25 ability to --

0107

1 MR. MARKS: The intent may have been there
2 partially, but without that waiver, we continue to operate
3 satisfactorily with the public, so it's not a "without the
4 waiver, we cannot operate satisfactorily."

5 JUDGE PEARSON: So what you're saying is in,
6 say, the holiday season that just passed, December 2014,
7 you did not have this waiver in place, you did not use this
8 contract service, and you were able to meet the needs of
9 your customers?

10 MR. MARKS: Yes. That's exactly right.

11 MR. WILEY: But, Mr. Marks, within the year
12 prior to the filing of the application, you, in fact, did
13 have to supplement your service, initially without
14 Commission authorization, then with a waiver for 30 days,
15 to provide additional, quote/unquote, rescue service.

16 MR. MARKS: We did -- my understanding with
17 this is, yes, we did supplement our service, both with and
18 with- -- and prior to the waiver.

19 MR. WILEY: And, in fact, you had been
20 providing that rescue service in violation of Commission
21 leasing regulations for years before you formally sought
22 the waiver; isn't that correct?

23 MR. MARKS: I can only --

24 MR. WILEY: That's a question for you.

25 MR. MARKS: I can only reference the

0108

1 documents, and I would -- I believe I would go with that,
2 yes.

3 MR. WILEY: Okay. And speaking of those
4 documents, looking at Order 01 that I had handed out before
5 we took a brief break for you to review it, I call your
6 attention to the Commission's majority opinion in Sections
7 8, 10, and specifically Section 11, and I would like you to
8 look at Section 11 on pages 3 and 4 with reference to the
9 recent questions in mind.

10 MR. MARKS: (Reviews document.) Do you have
11 a --

12 MR. WILEY: Okay. With Section 11 and the
13 last section of Section 10 in mind, I'm asking you the
14 following: Is it correct that the Commission, in granting
15 the waiver to you to allow you to supplement your existing
16 service with rescue service, did so weighing the goals of
17 the Commission's rule revision in 2013?

18 MR. MARKS: The rules regarding entry of
19 another provider into the market?

20 MR. WILEY: To modify entry to allow more
21 entrants.

22 MR. MARKS: Okay. So the question is: Did
23 they take that into consideration?

24 MR. WILEY: Yes. Does Section 11, in your
25 view, reflect the Commission granting a waiver in part

0109

1 because of their recent action in loosening entry into the
2 auto transportation market: yes or no?

3 MR. MARKS: Yes, I believe it does.

4 MR. WILEY: And further, in Section 11, did
5 they say that one of the reasons they were granting the
6 waiver was to allow and be responsive to competitive or
7 customer demand pressures: yes or no?

8 MR. MARKS: Yes. It says to ease competitive
9 pressures.

10 MR. WILEY: And thus, in your view, was the
11 Commission recognizing the need to alleviate service --
12 potential service problems by granting a waiver so that you
13 could serve peak holiday demand?

14 MR. MARKS: This appears to be consistent
15 with that, yes.

16 MR. WILEY: Thank you. How many -- going --
17 and, Your Honor, I -- I believe I move to -- you've taken
18 official notice of Order No. 4 --

19 JUDGE PEARSON: Yes.

20 MR. WILEY: -- and we -- I would move to
21 admit Order No. 1, if I haven't moved already.

22 JUDGE PEARSON: I will take official notice
23 of that as well.

24 MR. WILEY: Thank you.

25 Couple more questions, Mr. Marks. You -- how

0110

1 many -- do your -- how many -- do your -- you have 107
2 units, you've testified. You aren't sure how many are
3 dedicated to regulated service. Does your average Ford
4 Econoline van accommodate 11 or 12 passengers, plus the
5 driver?

6 MR. MARKS: Our current vehicles, I believe
7 they're 10 passenger, plus the driver. I'm not 100 percent
8 on that. I know we have several vehicles that have
9 different passenger seating configurations as well.

10 MR. WILEY: Do you know what luggage cubic
11 capacity you have in those 10-passenger vehicles?

12 MR. MARKS: I do not personally, no.

13 MR. WILEY: Does Mr. Kajanoff know?

14 MR. MARKS: I can ask. I don't believe he
15 does, though.

16 MR. WILEY: Okay. That's fine if he knows.

17 MR. MARKS: Mr. Kajanoff indicates he does
18 not know the answer to that either.

19 MR. WILEY: In answer to Her Honor's
20 question, you said that you do not have free WiFi in all of
21 your vehicles, you have them in about 10 out of 170. How
22 recently was that free WiFi service instituted in those 10
23 vehicles, please?

24 MR. MARKS: We have 10 out of about 107.

25 MR. WILEY: 107. Excuse me.

0111

1 MR. MARKS: The free WiFi was a program that
2 was initiated last year and has been continually added
3 throughout the year, throughout the past calendar year.

4 MR. WILEY: So you started with one in the
5 past calendar year and then you incrementally added up to
6 ten at the present time. Is that your testimony?

7 MR. MARKS: We started with a batch of five,
8 I believe, not one. Four or five, and have added to our
9 fleet as we've brought new vehicles on line.

10 MR. WILEY: And so do you have to bring a new
11 vehicle on line before you can make WiFi available?

12 MR. MARKS: No. We have to bring the WiFi
13 units online.

14 MR. WILEY: And thus far, you've brought ten
15 of those units on line?

16 MR. MARKS: Ten WiFi units that I'm aware of,
17 yes.

18 MR. WILEY: Can you tell me -- you indicated
19 that you had several agents and some drivers who are
20 bilingual. How many drivers or agents speak Chinese,
21 Korean, or Japanese of those?

22 MR. MARKS: I don't have that information at
23 this meeting.

24 MR. WILEY: Do you have any idea of how many
25 that is?

0113

1 MR. WILEY: Okay. So the answer is, you
2 normally don't provide it, except when you pay a fee to
3 receive it; is that correct?

4 MR. MARKS: Yes, or when it's requested.

5 MR. WILEY: Okay. And under what
6 circumstances would that request be granted?

7 MR. MARKS: It would be granted every time.
8 The request -- the payment would be based on a customer
9 service decision.

10 MR. WILEY: Okay. And by customer -- it
11 would be based on a customer service decision means the
12 company has the discretion to apply an additional charge or
13 not; is that correct?

14 MR. MARKS: For that additional service, yes.

15 MR. WILEY: For the airport greeting?

16 MR. MARKS: That's not part of the regulated
17 door-to-door service as described by the UTC.

18 MR. WILEY: Well, that's not my question, and
19 I don't necessarily agree with that --

20 MR. MARKS: Sure.

21 MR. WILEY: -- under the revised rules. I'm
22 just asking you whether the company makes the internal
23 discretionary decision whether to apply the charge for
24 airport greeting or not?

25 MR. MARKS: It is always applied. The

0114

1 discount is at the company discretion to discount the
2 charge away.

3 MR. WILEY: I think I answered -- then that
4 was yes, and there's always a charge for it. Is that what
5 you're saying?

6 MR. MARKS: Yes. There is -- there's --

7 MR. WILEY: Okay.

8 MR. MARKS: -- always a charge when that
9 service is requested.

10 MR. WILEY: Thank you.

11 Do you have any TV service inside your
12 vehicles comparable to the SpeediShuttle TV service that
13 was described by the applicant?

14 MR. MARKS: No, but we do provide TV service
15 at Sea-Tac Airport.

16 MR. WILEY: But not in the -- my, again -- I
17 know you want to answer, but for the purposes of a record,
18 I asked whether it was in the units or not, and the answer
19 is no.

20 MR. MARKS: Well, I indicated no, Mr. Wiley.

21 MR. WILEY: Okay. Thank you.

22 If I could check my notes, Your Honor,
23 because of the back and forth, there was a...

24 Mr. Kajanoff mentioned -- made some aside
25 about the U.S. manufacturers and Ford. Would you

0115

1 acknowledge that Mercedes-Benz has manufacturing plants in
2 the southeast, specifically Alabama and other locations?

3 MR. MARKS: I would acknowledge that they do
4 manufacture some --

5 MR. WILEY: Thank you.

6 MR. MARKS: -- vehicles in the U.S., yes.

7 MR. WILEY: Thank you.

8 If I could just check my notes, Your Honor,
9 and ask my client, and I'll tell you if I have any more
10 questions.

11 JUDGE PEARSON: Okay.

12 MR. WILEY: I believe that's all for
13 Mr. Kajanoff, and if Mr. Marks is going to ask -- testify
14 to anything else, I obviously want to reserve the right to
15 ask him.

16 JUDGE PEARSON: Thank you.

17 Mr. Marks, do you have anything additional
18 that you want to add?

19 MR. KAJANOFF: I have one thing. The most
20 important aspect to the consumer, I believe, other than
21 safety and getting to your destination, is -- door-to-door
22 share-ride, it's an efficiency model, and it's value based,
23 and it is also based on the amount of customers and
24 density.

25 I would ask the Commission to look very

0116

1 closely at the density piece, because the more players you
2 bring into an area, the less is available for a share-ride
3 operator, and then the share-ride operator needs to raise
4 their rates, because the rates are based on density and the
5 ability to carry multiple passengers.

6 So I do believe it's very much in the public
7 interest to limit how many operators are in a given area.

8 JUDGE PEARSON: Mr. Wiley?

9 MR. WILEY: Yes, Your Honor. I would say in
10 response to that that I believe the Commission's rule
11 adoption order is very specific about issues like that, and
12 I would urge the Administrative Law Judge and all the
13 parties to review that, because the Commission takes a very
14 painstaking look at that argument, which is a more
15 traditional model argument by protestants, and finds to the
16 contrary in the auto transportation field.

17 JUDGE PEARSON: Thank you. Okay.

18 Mr. Marks, if you're finished?

19 MR. MARKS: Nothing further. Thank you.

20 JUDGE PEARSON: And I'd like to take just a
21 very short break before we begin with you, so let's go off
22 the record just for about three minutes. We'll come back
23 and finish up.

24 (A break was taken from 4:12 p.m. to 4:17 p.m.)

25 JUDGE PEARSON: We'll go back on the record.

0117

1 It's approximately 4:17 p.m., and Mr. Fricke, Capital
2 Aeroporter, will now have the opportunity to present
3 testimony and evidence, and if you will be testifying
4 first, I'll ask you to -- okay. James Fricke --

5 MR. JOHN FRICKE: We're going to ask James
6 Fricke to testify first.

7 JUDGE PEARSON: So Mr. James Fricke, if you
8 could please stand and raise your right hand, I will swear
9 you in.

10

11 JAMES FRICKE, witness herein, having been
12 first duly sworn on oath,
13 was examined and testified
14 as follows:

15

16 JUDGE PEARSON: If you could just state your
17 name for the record and spell your last name.

18 THE WITNESS: My name is James -- referred
19 mostly to Jim -- Fricke, F-R-I-C-K-E. I am president and
20 CEO of Pacific Northwest Transportation Services Inc.,
21 d/b/a Capital Aeroporter, so.

22 JUDGE PEARSON: Thank you. You can go ahead
23 with your testimony.

24

DIRECT TESTIMONY OF JAMES FRICKE

25

MR. JAMES FRICKE: By way of background, our

0118

1 certificate was -- which is C-862, was issued initially in
2 1972, has had revisions since that point or extensions
3 since that point.

4 This is the beginning of the 43rd year of our
5 business, and as it relates to this application, under our
6 certificate, I believe it -- which -- I guess we don't have
7 an exhibit -- Exhibit No.?

8 JUDGE PEARSON: Oh. You asked me to take
9 notice of your certificate. Is that what you're referring
10 to?

11 MR. JAMES FRICKE: Yeah. Yes. Well, I guess
12 that was already entered anyway.

13 JUDGE PEARSON: Yes.

14 MR. JAMES FRICKE: I believe it is 2 --

15 MR. WILEY: Do you want to look at your
16 certificate, Mr. Fricke?

17 MR. JAMES FRICKE: -- 2A and B, portions of
18 that, refer to authority that we have from cities in
19 King County, so our interest in this application is in
20 relation to those cities that we have provided service for
21 a number of years in King County.

22 And as I said, they're outlined in 2A and B,
23 which specifically include Federal Way, Tukwila, Kent,
24 Pacific, Algona, Auburn, and we -- as I say, we've provided
25 service to this for a number of years.

0119

1 Our company has a -- what -- how do we want
2 to deal with the exhibits, I guess, that I want to relate
3 to?

4 JUDGE PEARSON: Whenever you --

5 MR. JAMES FRICKE: Prefile?

6 JUDGE PEARSON: -- want to refer to them, you
7 can offer them at that point.

8 MR. JAMES FRICKE: Okay. We have -- we
9 neglected to file the equipment list with the original. We
10 do have a copy of that equipment list today, if we could
11 offer that as an exhibit to show the equipment that we
12 have. We have operating equipment of 15 vans.

13 JUDGE PEARSON: Did you provide copies for
14 all of the parties? Do you have --

15 MR. JAMES FRICKE: We have --

16 JUDGE PEARSON: -- those? Okay.

17 And, Mr. Wiley, are you okay with --

18 MR. WILEY: I'd like to see it first, Your
19 Honor.

20 JUDGE PEARSON: Absolutely.

21 And I guess to -- I just want to ask a
22 question briefly, if -- and John, if you want to be
23 thinking about this while he's talking, if you could go
24 through the company's proposed tariff and tell me exactly
25 which areas overlap with Capital Aeroporter's, it just

0120

1 makes my job easier.

2 MR. JAMES FRICKE: Did you want me to
3 continue?

4 JUDGE PEARSON: Mr. Wiley, have you had a
5 chance to look at that?

6 MR. WILEY: Yes, I have, Your Honor.

7 JUDGE PEARSON: And are you okay with that?

8 MR. WILEY: I do have a couple questions on,
9 for instance, why a trailer would be relevant. I mean, I
10 don't want it to --

11 JUDGE PEARSON: I'm just guessing it's an
12 exhaustive list of all of their --

13 MR. WILEY: Yeah. I think you're --

14 JUDGE PEARSON: -- equipment that they own.

15 MR. WILEY: -- right.

16 MR. JAMES FRICKE: Well, I can answer the
17 question. The trailer, as provided in our certificate, as
18 a matter of fact, allows for 15 seats in a van that has,
19 when it has 15 seats in it, requires the luggage to be
20 carried outside of the van itself, in this case, a trailer,
21 which happens only occasionally.

22 JUDGE PEARSON: Mr. Wiley?

23 MR. WILEY: Just let me ask -- I don't
24 believe I have any objection. I'm just checking on that,
25 Your Honor. No objection, Your Honor.

0121

1 What are we marking that as, by the way?

2 JUDGE PEARSON: We will mark that as JF-6.

3 MR. WILEY: Okay.

4 MR. JAMES FRICKE: Okay. So we have 14 vans
5 and one minibus, which has a capacity of 20 to 24. The
6 vans are split between Chevy vans and Mercedes vans, and
7 the Mercedes vans are probably the preferred. We also have
8 a couple of the new Ford transit vans that were just made
9 available into the market here recently.

10 The Mercedes vans are 11-passenger capacity,
11 but I say, "capacity," because, most of the time, we don't
12 carry that many because, when you fill the van up, the back
13 row of seats, which is four, and the seats are a little bit
14 crowded, and also as you reach capacity, the baggage space
15 in a Mercedes is less than it is in other vans.

16 So we provide both online and telephone
17 reservations. The online is through a website, as well as
18 reservations system that's operated by the Hudson company,
19 and we make reservations daily and the -- on that. About
20 half the customers make their own reservations online.

21 And then each -- about midmorning, in terms
22 of "to the airport for the following morning" operations,
23 John and the dispatchers review the reservations for all
24 the runs to determine whether or not additional vans need
25 to be added onto the run, and then they are specifically

0122

1 timed out, and we call back and confirm all reservations
2 and any adjustment in time.

3 And when the schedule is set up in the final
4 form, then we operate within a 10-minute window of pickup
5 on people at whatever locations they want within the --
6 those cities. And again, you will see that, in our
7 certificate, we are limited to specific cities as it
8 relates to King County.

9 JUDGE PEARSON: Does that conclude your
10 testimony?

11 MR. JAMES FRICKE: Well, unless he's got
12 questions he wants to direct for me.

13 MR. WILEY: I've got a couple.

14 JUDGE PEARSON: Go ahead, Mr. Wiley.

15 CROSS-EXAMINATION OF MR. JAMES FRICKE BY MR. WILEY

16 BY MR. WILEY:

17 Q. Yes. Mr. Fricke, is it correct, based on your
18 last statement, that you do not hold authority from this
19 Commission to serve any unincorporated areas in King
20 County?

21 A. That's true.

22 Q. How -- by your testimony, I believe the furthest
23 north point you go in King County is Tuk- -- is it Tukwila?

24 A. Yes.

25 Q. So if I were a passenger that was seeking

0123

1 door-to-door reservation airport shuttle service from
2 Sea-Tac Airport to Bellevue, to downtown Seattle, to
3 Kirkland and those locations, you couldn't serve me,
4 correct?

5 A. Not under our Certificate 862.

6 Q. Yeah. And you're talking -- so, and that's what
7 we're talking about here, that's in conflict, correct --

8 A. Yes.

9 Q. -- to Certificate 862?

10 A. Yes.

11 Q. Of your pieces of equipment, which you listed as
12 15 vans, how many of those are assigned to scheduled
13 service and how many are assigned to door-to-door service?

14 A. Well, all of our vans are used for door-to-door
15 service.

16 Q. Are they all used for scheduled service as well?

17 A. We schedule our door-to-door service.

18 Q. That's not my question. I'm talking about how the
19 Commission distinguishes service, which is scheduled and
20 door-to-door, and I'm -- and I'm asking you: Is it correct
21 that all of your units could be used for scheduled service,
22 and all of your units could be used for door-to-door
23 service?

24 A. If we are relating to the definitions in the rules
25 by the Commission, it's all door-to-door service under that

0124

1 certificate. Any other service that we would provide would
2 be under our charter certificate.

3 Q. So are you saying that you provide no regulated
4 scheduled service under your certificate?

5 A. No regulated -- let me think about the question.

6 JUDGE PEARSON: Well, Mr. Fricke, you do have
7 service leaving from various hotels within Olympia, right?
8 At certain times of the day, people can go down to the
9 hotel and catch the Aeroporter there and go to the airport?

10 MR. JAMES FRICKE: With specifically the King
11 County, it's just door-to-door service.

12 JUDGE PEARSON: Okay.

13 MR. WILEY: That wasn't my question, though,
14 Your Honor. It was whether they -- they can --

15 JUDGE PEARSON: Right.

16 MR. WILEY: -- interchange all of their
17 equipment for either service --

18 JUDGE PEARSON: Right.

19 MR. WILEY: -- and I think the answer is yes.

20 JUDGE PEARSON: Yes. Because you do have
21 scheduled routes from the Olympia area, I know that, and so
22 what he's asking is: Would you use those vehicles for
23 either/or, either for those routes from the hotels up to
24 the airport or for the door-to-door service in King County?
25 The vehicles are interchangeable; you don't have --

0125

1 THE WITNESS: Yes.

2 JUDGE PEARSON: -- designated vehicles for
3 one or the other?

4 THE WITNESS: Right.

5 JUDGE PEARSON: Okay.

6 MR. WILEY: Thank you. That's all I have,
7 based on his testimony.

8 JUDGE PEARSON: Mr. Beattie?

9 CROSS-EXAMINATION OF MR. JAMES FRICKE BY MR. BEATTIE
10 BY MR. BEATTIE:

11 Q. Do you operate door-to-door service, by
12 reservation only, to and from Sea-Tac Airport and the
13 points in King County which you mentioned, 365 days a year?

14 A. Well, yes, but we will accept passenger, space
15 available, that don't -- that aren't necessarily
16 pre-reserved. And 366 days on leap years.

17 Q. So what I'm getting at is the other -- the
18 applicant and Shuttle Express all at least purport to offer
19 service 24/7, 365 days a year. Do you -- does Capital
20 Aeroporter also purport to offer that service?

21 A. We do, because in addition to the specific
22 scheduled door-to-door service, we also offer, under C-862,
23 direct van service to the customer or nonstop service to
24 the -- or as an extra scheduled service to the customer
25 based on their time schedule.

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1 Q. Is service available 24 hours a day? Door-to-door
2 service in King County?

3 A. I guess specifically not 24 hours a day in the
4 sense that I think you're asking the question. It is
5 available if a direct van is booked.

6 Q. Okay. Thank you.

7 You mentioned that you provide door-to-door
8 service between Sea-Tac Airport and Federal Way, Kent,
9 Tukwila, Auburn, Algona, and Pacific. I also see in your
10 tariff that you provide service to and from the airport and
11 the City of SeaTac. Can you comment on --

12 A. Oh, yes.

13 Q. -- on that?

14 A. Yes. That would be within the City of SeaTac, and
15 I guess one could argue whether that's regulated or not
16 once it --

17 MR. WILEY: Not.

18 A. -- would be solely within one city.

19 BY MR. BEATTIE:

20 Q. What proportion of your customer base derives from
21 reservations made in the King County cities which your
22 company serves?

23 A. I personally can't answer that question. John may
24 be able to.

25 MR. WILEY: Your Honor, can we have a little

0127

1 clarification of who's giving what testimony on what
2 issues? I'm a little confused. I assume it's only on the
3 equipment and the certificate that he's giving testimony
4 on. Is there going to be other testimony?

5 JUDGE PEARSON: I mean, yes. I think that
6 John Fricke's going to be providing other testimony.

7 MR. WILEY: Because I have some additional
8 questions, but I'll hold them for Mr. John Fricke.

9 JUDGE PEARSON: Okay.

10 MR. BEATTIE: Well, in the interest of time,
11 can the witness answer my question?

12 JUDGE PEARSON: Sure.

13 BY MR. BEATTIE:

14 Q. I'll ask it -- what I'm interested in learning is
15 what proportion of your business, whether in terms of
16 revenue or preferably customer accounts, comes from the
17 King County locations which you serve.

18 A. I don't know the exact answer to that question.
19 It's a relatively small percentage of our business, but we
20 have equipment and space to respond to anything that is
21 requested on the part of our customers.

22 What I can say is that 3/4th of our business is
23 Lacey, Olympia, Tumwater, totally outside of King County,
24 and probably 15 percent is out of the -- Pierce County, so
25 it leaves a relatively small percent in these cities.

0128

1 Q. Can you provide any estimate?

2 A. I don't know.

3 Q. Well, can your counterpart answer?

4 A. I don't know the answer.

5 JUDGE PEARSON: I'll need to swear him in.

6 Do you want to just wait, and you can ask him after he --

7 MR. BEATTIE: I'll wait. I didn't realize he
8 wasn't sworn in yet. I apologize.

9 JUDGE PEARSON: Do you have any further
10 questions --

11 MR. BEATTIE: I'll wait --

12 JUDGE PEARSON: -- for this witness?

13 MR. BEATTIE: -- until the other witness is
14 sworn in.

15 REDIRECT TESTIMONY OF MR. JAMES FRICKE

16 MR. JAMES FRICKE: One other point about
17 equipment I neglected to say is that, two years ago, we
18 added WiFi to all of our vehicles.

19 JUDGE PEARSON: Okay. Thank you.

20 And John Fricke, if you would stand and raise
21 your right hand.

22

23 JOHN FRICKE, witness herein, having been
24 first duly sworn on oath,
25 was examined and testified

0129

1 as follows:

2

3 JUDGE PEARSON: Okay. Thank you. And you may
4 proceed whenever you're ready. And if you -- are you going
5 to offer these other --

6 MR. JOHN FRICKE: Yes. I'd like to --

7 JUDGE PEARSON: -- exhibits?

8 MR. JOHN FRICKE: -- offer all the exhibits
9 in the notice.

10 JUDGE PEARSON: Okay.

11 Mr. Wiley, do you have any objections to --

12 MR. WILEY: Yes. I do have an objection to
13 Exhibit 2 and 3, specifically, Your Honor, which I
14 believe is -- and the -- my objections are on hearsay and
15 relevance grounds. They have nothing to do, facially, with
16 the scope, either the regulatory or geographic scope of
17 this application.

18 JUDGE PEARSON: I'm going to sustain that
19 objection. You know, I see that it's a letter to the
20 legislature --

21 MR. JOHN FRICKE: No, Your Honor. This
22 actually was a letter we requested by a Dr. Ray Mundy, a
23 transportation expert, specifically to speak to the issue
24 of how the public could be harmed.

25 JUDGE PEARSON: Okay. I've read the letter.

0130

1 I understand what you're saying now. I thought it was
2 addressed to the Washington state legislature, because
3 that's what it says at the top, so I didn't understand that
4 you had commissioned it specifically for this proceeding.
5 I thought it was a general -- is that what you understood,
6 Mr. Wiley?

7 MR. WILEY: Your Honor, I still have the same
8 objections, though: relevance and foundation. It doesn't
9 have anything to do from the text of the letter with the
10 geographic scope or the regulatory structure in this state.

11 For instance, if you go to par- -- to
12 paragraph 4 on page 2 of Exhibit CA-2, talks about, in
13 areas where there's no restriction on operating authority
14 for the shared-ride van industry; however, the typical
15 resort -- result has been airport curbside confusion as
16 multiple vans attempt to provide service.

17 Well, that's not the situation in Washington.
18 We have regulation. That's why we're here. This is
19 hearsay, it lacks foundation, and it's irrelevant.

20 JUDGE PEARSON: Mr. Fricke, did you want to
21 respond to that?

22 MR. JOHN FRICKE: Yes, Your Honor. It is --
23 I'm trying to find the -- I'm trying to find the WAC that
24 I'm referring to here. Sorry. One moment.

25 MR. WILEY: While he's looking for that, Your

0131

1 Honor, if I might add that the Commission itself appeared
2 to refute this argument, this generalized argument, at page
3 15 of its general Order R-572 specifically in responding to
4 Capital Aeroporter's arguments expressed at the hearing and
5 written comments on this issue in terms of how it weighs
6 the benefits and risks of competition when considering a
7 new service.

8 I think this letter is completely contrary,
9 even in context, if it was submitted to these rules, which
10 I'm saying it isn't, it's not clear, and I think it should
11 be denied admission on that basis as well.

12 JUDGE PEARSON: And I tend to agree with you.
13 I'm going to let Mr. Fricke make his argument.

14 MR. JOHN FRICKE: Yeah, Your Honor. I don't
15 have the specific WAC that I'm referring to, but it is
16 about giving the objecting company the ability to provide
17 statements from independent witness referring to how the
18 applicant and the services provided within a -- the area
19 that we preserve -- that we provide, allow an additional
20 company within the same area could be harmful to the
21 public, harmful to the public's interest.

22 JUDGE PEARSON: Okay. I think Mr. Wiley's
23 point is correct, though. This doesn't speak specifically
24 about this case or the territories that are at issue here.
25 It's a much more generalized letter about the industry, and

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1 talks about door-to-door service in more general terms and
2 doesn't speak specifically to this case.

3 So I am going to sustain the objection, and I
4 will not admit exhibits marked CA-2 or CA-3 into the
5 record.

6 Do you have objections to the other --

7 MR. WILEY: One more, Your Honor, CA-4. This
8 does not indicate any destination or origination point
9 whatsoever on its face. I'll stand to be corrected by a
10 party, but I don't see -- you know, this could be --

11 MR. JOHN FRICKE: It specifically --

12 MR. WILEY: -- completely Thurston County --

13 MR. JOHN FRICKE: This is --

14 MR. WILEY: -- to Sea-Tac.

15 MR. JOHN FRICKE: -- service from Sea-Tac.

16 It was for a customer in -- to King County where they came
17 in, and they use us frequently. It's just a customer
18 service --

19 JUDGE PEARSON: Feedback?

20 MR. JOHN FRICKE: -- feedback.

21 JUDGE PEARSON: Okay.

22 MR. WILEY: How do I know that from the
23 exhibit, Your Honor?

24 JUDGE PEARSON: I'm going to allow it because
25 I've been liberal with both your clients and the other

0133

1 party's statements from -- the support statements, and
2 again, I will give it the weight that I feel it deserves.

3 So I will admit what we will mark as JF-1,
4 which is the statement from Stacy Mattson, and then I don't
5 want to take these out of numerical order, because I
6 already marked one as 6, so I'll admit J- -- JF-4, the
7 statement from Crystal Flaten, and JF-5, the statement from
8 Rita McCaffrey.

9 And you can proceed whenever you're ready,
10 Mr. Fricke.

11 MR. JOHN FRICKE: Thank you, Your Honor.

12 DIRECT TESTIMONY OF JOHN FRICKE

13 So Capital Aeroporter provides service,
14 again, relating -- would you like -- would you like me to
15 cross reference to the applicant's fares? Proposed fares
16 in their application?

17 JUDGE PEARSON: That would be very helpful.

18 MR. JOHN FRICKE: Okay. There would be
19 overlap in service to -- within the cities Federal Way,
20 ZIP code 98003; Kent, 98032; Tuk- --

21 JUDGE PEARSON: What about Kent, 98031?

22 MR. JOHN FRICKE: Yeah. Yeah. I'm just
23 going --

24 JUDGE PEARSON: Okay.

25 MR. JOHN FRICKE: -- down the list. Oh,

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1 actually, I should go down the applicant's list. So like I
2 said, Kent, 98032; Tukwila, 98188 --

3 JUDGE PEARSON: Mm-hmm.

4 MR. JOHN FRICKE: -- Auburn, Algona, 98001;
5 Kent, 98030, 98031; Tukwila, 98168; Tukwila, 98178; Auburn,
6 98002; Pacific, 98047; Kent, 98042; and Auburn, 98092; and
7 Kent, 98092. And --

8 JUDGE PEARSON: I don't see the -- what page
9 are those on the -- on the applicant's list? I didn't see
10 the second two. I only see one Tukwila entry for them as
11 well.

12 MR. JOHN FRICKE: Oh, okay.

13 JUDGE PEARSON: Which would be the 98188,
14 unless I'm missing it, which --

15 MR. JOHN FRICKE: No. I guess that's not on
16 the applicant's list. I'm sorry.

17 JUDGE PEARSON: And I think that --

18 MR. JOHN FRICKE: And this was --

19 JUDGE PEARSON: -- they don't have that last
20 Kent or Auburn.

21 MR. JOHN FRICKE: Then as well as
22 Federal Way, 98023.

23 JUDGE PEARSON: And what page is that on of
24 their --

25 MR. JOHN FRICKE: It was on --

0135

1 JUDGE PEARSON: I see. Okay. It's on
2 page -- bottom of page 9?

3 MR. JOHN FRICKE: Right.

4 JUDGE PEARSON: Okay.

5 MR. JOHN FRICKE: So yes, Capital Aeroporter
6 operates a door-to-door service between Sea-Tac Airport and
7 all of the previously listed cities' ZIP codes, overlapping
8 with the applicant there that I just listed.

9 We hold the authority to operate it and
10 provide service to the request of the general public for
11 door-to-door service. We provide a convenient, safe
12 service. We have a safety committee that constantly
13 reviews any service issues. Management frequently reviews
14 any service issues whenever they arise, and they are
15 handled in an appropriate manner.

16 We also offer, as Mr. James Fricke stated, a
17 direct van, nonstop door-to-door service between all of
18 those points previously listed here in King County and the
19 Seattle-Tacoma Airport as well.

20 I think I'd like to go on to Exhibit JF-1.

21 JUDGE PEARSON: Okay.

22 MR. JOHN FRICKE: This exhibit was submitted
23 by Stacy Mattson, manager of airport landside operations at
24 Sea-Tac Airport, where she specifically states -- would you
25 like me to read it aloud or --

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1 MR. WILEY: Objection, Your Honor. The
2 exhibit speaks for itself.

3 JUDGE PEARSON: Yeah. It does speak for
4 itself.

5 MR. JOHN FRICKE: All right. No problem.

6 Then exhibit JF-4, this is a customer who's
7 used our services numerous times and just basically
8 commending Capital Aeroporter, you know, that she's very
9 thankful that we always have a staff counter at the Sea-Tac
10 Airport, where many other shuttle companies sometimes lack
11 the staffing to provide that extra customer service to
12 greet customers when they arrive at night, but we always
13 have a staff member there, seven days a week.

14 And Exhibit JF-5, another customer
15 specifically -- specifically stated, from Federal Way,
16 98003, thanking us for the great experience that we
17 provide: on time, comfortable, affordable, friendly
18 service.

19 MR. WILEY: Objection, Your Honor. I also
20 have a copy that has a redacted line on it. I'm wondering
21 if there's any other version without the redaction?

22 JUDGE PEARSON: That's -- that looks like
23 it's the customer's address that they were trying to keep
24 private.

25 MR. WILEY: Okay. I'm going to object if

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1 he's going to summarize or characterize it any further.

2 JUDGE PEARSON: I think he's done.

3 MR. JOHN FRICKE: Yeah. I have nothing else
4 further with the exhibits. I guess that's all my testimony
5 right now.

6 JUDGE PEARSON: Okay. Mr. Wiley?

7 MR. WILEY: Yes. Hopefully just a few, Your
8 Honor.

9 CROSS-EXAMINATION OF MR. JOHN FRICKE BY MR. WILEY

10 BY MR. WILEY:

11 Q. First of all, Mr. Fricke, does your company have
12 foreign language websites for potential users coming in
13 from out of the country?

14 A. No, we don't.

15 Q. Do you have TVs in your vehicles?

16 A. No, we do not.

17 Q. Do you have airport greeters?

18 A. At our customer service counter.

19 Q. But that's not my question. My question is
20 whether you meet disembarking passengers from planes,
21 directing them from the gate area to your vehicles.

22 A. No, we don't. However, greeters at the gate areas
23 are not allowed at Seattle-Tacoma International Airport.

24 Q. I'm talking about outside the security where
25 greeters are allowed immediately when you deplane --

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1 A. I'm sorry.

2 Q. -- from the TSA area.

3 A. I misunderstood. I thought you said the gate.

4 Q. Disembarking from the gates outside the TSA
5 restricted areas.

6 A. No, we do not.

7 Q. Mr. Beattie asked you about what percent -- or
8 asked your father what percentage of your passengers
9 originate in -- at Sea-Tac Airport or are destined from
10 within King County, and I was wondering if you could -- he
11 didn't seem to know. Can you elaborate any more
12 specifically on that?

13 A. Yeah. That would be about -- approximately
14 10 percent of our passengers.

15 Q. So then you agree with his characterization that
16 about 75 percent of your business is Lacey, Olympia,
17 Tumwater; 15 percent is Pierce County; and 10 percent is
18 King County?

19 A. I would agree that the 75 percent includes
20 Olympia, Lacey, Tumwater, and Lewis, Grays Harbor, Mason
21 County incorporated with that.

22 Q. So we'll say Thurston County south, for the
23 record?

24 A. Right. Correct.

25 Q. And is that based on revenues or passengers,

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1 please?

2 A. That's based on passengers.

3 Q. And based on revenues, I assume, since it's going
4 shorter distances, in King County would be even less --

5 A. Yes.

6 Q. -- than 10 percent?

7 A. Yeah. It's probably about 5 percent of revenues.

8 Q. Thank you. And you -- I asked your father about
9 certificate -- your certificate. What's the --

10 A. 862.

11 Q. I'm looking for it right now. What's the number?

12 A. 862.

13 Q. 862. Is it true, in characterizing your service
14 in -- between Sea-Tac in King County in your view as well,
15 that you can serve no point north or east of Tukwila,
16 meaning the furthest north you go is Tukwila?

17 A. Correct.

18 Q. And you can't serve any unincorporated areas in
19 King County?

20 A. That's correct.

21 Q. And thus, if I were a door-to-door,
22 reservation-only customer who lived in any unincorporated
23 area, including those in south King County, you couldn't
24 serve me from the airport, correct?

25 A. Correct.

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1 MR. WILEY: Thank you. No further questions,
2 Your Honor.

3 JUDGE PEARSON: Mr. Beattie?

4 CROSS-EXAMINATION OF MR. JOHN FRICKE BY MR. BEATTIE
5 BY MR. BEATTIE:

6 Q. I have just one question. Can you confirm that in
7 the recent past, you have, I'll use the word "actively"
8 provided door-to-door service between Sea-Tac Airport and
9 Federal Way, Kent, Tukwila, Auburn, Algona, and Pacific?

10 A. Yes, that's correct.

11 MR. BEATTIE: Thank you. I have no other
12 questions.

13 JUDGE PEARSON: Okay.

14 MR. WILEY: Very good.

15 JUDGE PEARSON: Thank you. Do you have
16 anything to clarify?

17 MR. JOHN FRICKE: (Shakes head.)

18 JUDGE PEARSON: Okay. Mr. Wiley, did you
19 want to make a closing statement?

20 MR. WILEY: I would be happy to, Your Honor,
21 just briefly.

22 I think the record in this matter is quite
23 clear that neither of the existing providers provide the
24 same service as applied for by SpeediShuttle, and in
25 addition, that the rule, specifically WAC 480-30-140,

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1 points precisely to the need to grant an application like
2 this because the public convenience and necessity has not
3 been fully served, as witnessed by the testimony on the
4 violations by Shuttle Express, which is the largest single
5 provider in King County and the only objector in this
6 proceeding who has substantially similar authority.

7 In view of this application, I urge you to
8 consider the differences that this record includes, which
9 involves operational differences, pricing differences,
10 market features, and other characteristics, essential
11 characteristics of the proposed service.

12 The same service factors that are listed in
13 Subsection 2 of the rule also are relevant to your
14 analysis, and they show that there is no identical
15 overlapping certificate in this matter. The type, means,
16 and method proposed by SpeediShuttle are different in many
17 degrees from that proposed -- than that offered by the
18 existing providers.

19 The existing providers, under Subsection 2C
20 of the rule, have not reasonably served the market, as
21 witnessed by the orders that you have taken official notice
22 of finding not only a violation of rules that was ongoing
23 for more than a decade by Shuttle Express, but a need to
24 augment service, initially illegally, and then with a very
25 limited waiver under a dissenting opinion by the chair of

0142

1 this Commission about granting the waiver.

2 This company is also going to operate, again,
3 in different territory, with different character, focused
4 exclusively on reservation-only, door-to-door service, so I
5 urge you to find that neither of the providers are
6 providing or could provide the same service as that
7 proposed by the applicant, and I've listed the factors upon
8 which you should review whether there is the same service.

9 I also urge you to find that the service that
10 they have demonstrated as providing is not and could not be
11 to the satisfaction of the Commission, because it hasn't
12 fulfilled all customer needs, and because it has,
13 particularly in the case of Shuttle Express, shown an
14 inability to comply with Commission regulations, which
15 views -- and the Commission found that the actions were
16 unfit, evidence of unfitness on Shuttle Express's part,
17 which in and of themselves, implicate problems in the
18 existing service level.

19 This company has proven that it proposes
20 innovative and unique services in filling a niche and has
21 demonstrated that it has the resources and capabilities and
22 operational skills to provide that service to Washington
23 customers.

24 Finally, we urge you, as I have earlier, to
25 return again to the Commission's general rule order in

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1 September of 2013 in which it acknowledged many of the
2 conflicting claims that existing incumbent providers offer
3 in the record.

4 I would submit that the Commission
5 understood, in enacting that rule. It was very clearly
6 that the rules have changed, that competition in this field
7 is not only performed by other authorized providers, but by
8 Uber, by taxis, but self-hauling -- what we call
9 self-hauling, which means driving your own vehicle -- by
10 all sorts of proprietary service from hotels and parking
11 garages and everything in Sea-Tac that all enter into the
12 complexity of the analysis of existing competition, which
13 the Commission, in granting the incumbent providers rate
14 flexibility, wanted in exchange for that rate flexibility.

15 This applicant has put together a classic
16 case of what the Commission was looking for in its policy
17 statement, opening competition to more providers in this
18 field. As the applicant has said, it has experienced that
19 competition in its home market under public utilities
20 commission regulation by the State of Hawaii. It has found
21 that not only has the pie increased, but the bar has been
22 raised to improve competition.

23 And finally, I urge you to look at the
24 factors of population growth, density, and other objective
25 criteria that the Commission lists in WAC 480-30-140(d)

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1 that clearly indicate that the public convenience and
2 necessity require grant of another qualified provider in
3 this fast-growing, densely-populated marketplace.

4 Thank you, Your Honor.

5 JUDGE PEARSON: Thank you.

6 Mr. Marks, do you have anything further?

7 MR. KAJANOFF: I believe Shuttle Express has
8 represented an ability to resolve any issues with the
9 Commission, even though there's been disagreement. We've
10 resolved them. We've worked through them, and, yes, that
11 one case was brought up, but there was resolution.

12 And the biggest concern I have here is the
13 focus on the service we've provided and continue to provide
14 over 300,000 passengers a year, and there has been no
15 situation where we cannot meet the need that's currently
16 out there or foreseen projections.

17 JUDGE PEARSON: Thank you.

18 Mr. Fricke?

19 MR. JOHN FRICKE: Yes. I believe Capital
20 Aeroporter has shown that we do operate within our
21 regulated areas of between King County and Sea-Tac Airport
22 that we hold authority to provide and provide the same
23 service offered by the applicant.

24 We made a reasonable effort to expand and
25 improve our services over the years, over the last 42

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1 years. Capital Aeroporter provides the service that is
2 safe, timely, direct, frequent, expeditious, courteous, and
3 respectful in meeting all of our advertised door-to-door
4 service offerings to the public.

5 And furthermore, the applicant has provided
6 no statements from members of the general public within the
7 State of Washington, only business partners in an economic
8 interest to enter the marketplace in King County, and
9 there's not been shown the convenience or necessity by the
10 general public for such a service.

11 And we ask the Commission to consider that in
12 whether they grant or do not grant the application for the
13 service.

14 JUDGE PEARSON: Thank you.

15 Mr. Beattie?

16 MR. BEATTIE: No comments from Staff. Thank
17 you.

18 JUDGE PEARSON: Okay. Thank you.

19 Okay. Well, if that's everything, then, like
20 I said, I'll be issuing an order within the next ten days,
21 and we are adjourned.

22 MR. WILEY: Thank you.

23 JUDGE PEARSON: Thank you.

24 (Proceedings concluded at 5:00 p.m.)

25 * * * * *

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C E R T I F I C A T E

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3 STATE OF WASHINGTON

4 COUNTY OF KING

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6 I, Ryan Ziegler, a Certified Shorthand Reporter in
7 and for the State of Washington, do hereby certify that the
8 foregoing transcript is true and accurate to the best of my
9 knowledge, skill, and ability.

10

11

IN WITNESS WHEREOF, I have hereunto set my hand
and seal this January 13, 2015.

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RYAN ZIEGLER, RPR, CCR

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