

Bond Case Briefs

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Courtney v. Washington Utilities and Transportation Commission

Court of Appeals of Washington, Division 3 - April 3, 2018 - P.3d - 2018 WL 1599632

Owners of businesses located in town at northwest end of lake sought judicial review of declaratory order issued by Washington Utilities and Transportation Commission (WUTC) stating that owners were required to obtain public convenience and necessity (PCN) certificate before operating any of their proposed ferry services.

The Superior Court affirmed. Owners appealed.

The Court of Appeals held that:

- Phrase “for the public use” in statute, prohibiting the operation of commercial ferry for the public use over regular route unless the WUTC issued certificate declaring that PCN required such operation, extended to subset of the public;
- Any viable ferry service that was proposed by owners would sufficiently impact current holder of PCN certificate for operating commercial ferry service on lake, and thus the public, such that owners were required to obtain PCN certificate before operating their proposed ferry services;
- WUTC did not act arbitrarily or capriciously by refusing to apply surface transportation exemptions to commercial ferry operators; and
- Proposed ferry service, which sought to use chartering arrangement to establish and maintain ferry service between town and various other points on lake, was not private charter service, and thus was “public use” within meaning of statute.