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Ferry Commissioner rejects BC's *Coastal Ferry Act* principles

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'We can find no other examples where the primary responsibility of the regulator is to put the interests of a monopoly operator before those of the public.'

This key sentence is buried deep within the BC Ferry Commission's report on the *Coastal Ferry Act*, but its meaning is unmistakable: the regulatory principles set out in the government's legislation are unworkable.

Commissioner Gordon Macatee and Deputy Commissioner Sheldon Stoilen, in their 87-page report presented to Minister of Transportation and Infrastructure Blair Lekstrom on January 24, have stated clearly that the *Act's* 'price cap' fare-setting procedure has led to a 'tipping point' where increasing ferry fares have reduced traffic, damaged the communities served, and can no longer sustain the corporation.

The terms of reference of the 'Review of the Coastal Ferry Act', mandated by last year's *Bill 14*, were to review the *Act* 'as it relates to the regulation of ferry operators'. *Bill 14* had the stated objective of seeking to balance the interests of ferry users with the financial sustainability of BC Ferries Services Inc (BCFS), the operator created by the *Coastal Ferry Act*.

Range of the Review

The Commissioners go well beyond recommending fundamental changes to the *Coastal Ferry Act*. They focus on the affordability of past, present, and future fare increases, resulting in a recommendation that the government commit to limiting future fare increases to the rate of inflation, anticipated to be around 2%. The Province, they say, 'should consider an increase in subsidies, together with other initiatives'.

They then go on to comment on the need for a long term 'vision' for ferry service needs, the return of cross-subsidization between the major, northern and minor route groups, the use of the reservation system to optimize traffic forecasting and vessel utilization, the end of the 'user pay'

principle, a more extensive review of capital expenditure plans, extension of fuel cost deferral accounts, a greater role for the Ferry Commission in planning and route strategy, and more options for dealing with 'extraordinary situations'.

The Commissioners have not, however, recommended that the Ferries be returned to operation by a Crown Corporation. Instead, their recommendations lead to increased government subsidies and stronger regulation of the existing 'private' government-owned corporation.

Legislative Changes

In the Report, the Commissioners recommend that the *Coastal Ferry Act* principles be simplified and changed, as follows:

[1] The primary responsibility of the Commissioner should be to protect the interests of ferry users and the taxpayer. The term 'ferry user' should be interpreted broadly to include ferry customers, their families, ferry dependent communities and businesses that depend on ferry services to be affordable and reliable.

[2] The secondary responsibility of the Commissioner is to protect the ongoing financial sustainability of the ferry operator by encouraging the ferry operator to: operate efficiently; take a commercial approach; be innovative; and minimize its operating expenses.

[3] The Commissioner should also have the authority to determine the respective interests of the ferry users, the taxpayers and the ferry operator and how best to balance those interests.

[4] The principle of elimination of cross-subsidization from the major routes to other routes should be removed from the *Act*. Future price caps should be set at one level for all routes or all route groups as may be established by the Commissioner.

[5] The principle of a greater reliance on a user-pay system should be removed from the *Act*.

These recommendations clearly redress the balance in

favour of management to serve ferry users, and, given the broad definition of 'user', make the Commission responsible for the 'public interest'.

Capital Planning

The Commissioners are quite clear on the point that fares have risen too much, but they do not recommend a rollback. They start from their evaluation that fare revenues now essentially cover operating costs, but not capital costs or interest on borrowings. This leads to a focus on long-term capital plans, which currently anticipate some \$2.5 billion in spending over the next 12 years (while BCFS has already reached its borrowing limits).

There isn't any vision, they say, either for the future of the coast or the future of the ferry service. This leads to a 'like for like' policy; when one ship reaches the end of its useful life, it is planned to replace it with a new ship of the same type, performance, and capacity. No advantage is taken of the opportunity to consider alternatives for serving the users or the communities. They recommend a much stronger role for the Commission in capital planning:

[6] The Province should work collaboratively with BC Ferries to develop a long-term vision of coastal ferry services in BC. A draft discussion paper should go out for public consultation. The resulting vision should be formally adopted by the Province and provide the basis for the long-term capital plan of the ferry operator. Ideally the vision would be in place before major capital decisions are made regarding PT4 (Performance Term 4, 2016 to 2020).

Recommendations [7] and [8] specifically say that the Commissioner should have authority to approve long-term capital plans and major capital investments.

Route Options

The Commissioners also seek more involvement in possible changes in the service, through changes in scheduling and possibly fare differentials. Recommendations [9] and [10] would give the Commissioner authority to approve specific changes in service levels, including additional services.

Fare Increases Should Equal Cost of Living Increases

The Commissioners suggest that the Province should increase subsidies to cut fare increases, and also take responsibility for fuel price increases and hedging:

[11] The Province should consider an increase in subsidies together with other initiatives to hold price cap increases to the rate of inflation for the balance of

Performance Term 3 (PT3).

In fact, the report suggests that confidence in the ferry system would be much improved by a government commitment to maintain increases at this level for the remainder of PT3 and PT4, seven years.

Recommendations [12] and [13] suggest that the Commissioner should be able to explicitly authorize fuel cost deferral strategies, and that the Province should absorb part of the cost.

Local Government Could Provide Subsidies, Too

Recommendation [14] suggests that local governments could subsidize local ferry routes, with assurance that such subsidies would be used only for those routes.

Reservations

One of the more original suggestions made by the Commissioners was that the reservation system be 'turned upside down' and extended to more routes. The idea is that reservations be free (as they are now on Route N^o9) provided they were made one or two days ahead. Ferry users who arrived without reservations would be charged extra.

This would enable BCFS to estimate traffic further in advance, better match vessels and crews to demand, and reduce the number of vehicles experiencing multi-sailing waits.

The Commissioners warned that this would require substantial improvements to the reservation and ticketing systems, but would enable much better load forecasting, which they identified as a weak point. Recommendation [15] suggests upgrading BCFS' traffic forecasting, reservation and point of sale systems.

Commissioners' Options

Recommendations [16] and [17] would give the Commissioner more options in setting final price cap decisions, including changes to service levels and reconsidering upcoming capital projects. The Commissioner should also have more options in dealing with 'extraordinary situations'.

Financial Sustainability

Recommendations [18], [19], and [20] would empower the Commissioner to set the required rate of return on equity (rather than have it fixed by the *Act*). It would also provide for local governments to establish a surcharge on local routes to pay for tourism promotion. Finally, it would provide specifically for the raising of ancillary revenue by BCFS.

Strengthen Commissioner and Advisory Roles

The Report recommends a stronger oversight role for the Commissioners, and recognition of the role of Advisory Committees. Recommendations [21], [22], [23], and [24] would give the Commissioner authority to order BCFS to prepare plans, review policies, undertake a public consultation, or make information public. The Commissioner could approve or reject a plan as submitted, but could not put forward his own plan. He should also be able to carry out performance audits.

Advisory Committees, currently reporting to BCFS, would come under the Commissioner, and would include representatives from a range of ferry users, including local government.

Finally, Some Housekeeping

Recommendations [25] through [31] deal with inconsistencies and wording problems with the original *Act*. They include provisions for a report recommending updates to the *Act* be submitted annually, and for a necessary increase to the Commissioners' budget. ✍