Ferry Commissioner rejects BC’s Coastal Ferry Act principles

Patrick Brown

‘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
count 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 Nº9)
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.