



BRITISH COLUMBIA
FERRY COMMISSION

ORDER
NUMBER: 11-01
(non-confidential version)

P.O. Box 1497, Comox, B.C. V9M 8A2
Telephone (250) 339 2714

<http://www.bcferrycommission.com>
info@bcferrycommission.com

IN THE MATTER OF
Section 45.1 of the Coastal Ferry Act, S.B.C. 2003, c. 14
And Regulation of Competitive Advantage
Respecting BCFS' Drop Trailer Services on Its Major Routes

BEFORE: Martin Crilly, Commissioner, on February 7, 2011

D E T E R M I N A T I O N

WHEREAS:

- A. The commissioner determined in Commission Memorandum 37 dated July 19 2010 that drop trailer service offered on the major routes of British Columbia Ferry Services Inc (BCFS) is a competitive service as defined by the Coastal Ferry Act;
- B. BCFS made submissions on August 31 2010 providing information on its drop trailer services and setting forth arguments on the issues of the cost of providing such services and the potential for unfair competitive advantage;
- C. The commissioner retained the firm of PricewaterhouseCoopers to assist in the review of BCFS' submissions, and met with BCFS representatives to obtain and review supporting information and documentation;
- D. On September 30 2010 the commissioner invited comments on BCFS' submission of August 31 2010, and received comments from stakeholders and the public;
- E. On November 15 2010 the commissioner issued Order 10-01 releasing further information about BCFS' drop trailer services, with reasons for the release;
- F. Seaspan Coastal Intermodal Company (SCIC), a stakeholder and competitor to BCFS in the carriage of drop trailers, made submissions on November 26, 2010;
- G. BCFS made reply submissions on December 8 2010;
- H. Seaspan made a further submission in response to BCFS' reply submission on December 15 2010;
- I. The commissioner has duly considered the evidence and the submissions of BCFS, the

stakeholders and the public;

J. The commissioner has made the following determinations:

(i) For costs indirectly attributable to the drop trailer service, it is appropriate to apply a “route overhead charge” to the costs of drop trailer service to recognize the provision of terminal and deck space, and marine transport. This charge is in addition to the costs that BCFS considers to be appropriate as presented in its submissions;

(ii) When the “route overhead charge” is taken into account, BCFS is pricing drop trailer service on its major routes below the sum comprised of its direct costs and an appropriate proportion of indirect costs associated with the service;

(iii) BCFS has an unfair competitive advantage arising from two factors: its exemption from income tax, and its operation under a regulatory framework designed to allow it to meet the cost of providing its contracted capacity, plus a return to equity, through price caps set before the start of each performance term;

(iv) Having found that BCFS is pricing below cost, and also that BCFS has unfair competitive advantages, the commissioner is required to regulate BCFS drop trailer services on its major routes and will do so by establishing a minimum tariff as provided under s. 45.1(2)(b); and

K. The commissioner has calculated the amount that he considers would be charged as an average tariff per vessel-foot (being a lane foot onboard a vessel occupied by drop trailers and their hostler units) to recover the direct costs and an appropriate proportion of the indirect costs, were none of the factors in s. 45.1(1) present.

NOW THEREFORE pursuant to s. 45.1 of the Coastal Ferry Act the commissioner orders, with reasons to follow, that:

1. The drop trailer **minimum allowed average tariff** (MAAT) shall be set at \$X.XX (*see note 1 overleaf*) per vessel-foot for fiscal 2012, and shall be changed for each subsequent fiscal year by a consumer price index adjustment equal to the sum of the 12 monthly increases/decreases of the last calendar year over corresponding months of the previous year, divided by 12.
2. Fuel surcharges and rebates applied to other traffic types carried by BCFS on the major routes shall apply in the same proportion to the drop trailer minimum tariff.
3. Beginning with service provided during the first quarter of fiscal 2012, BCFS shall report quarterly to the commissioner within 60 days of the end of each quarter: (a) the quarterly total revenue from its drop trailer tariff on the major routes and (b) the number of vessel-feet occupied (lane feet occupied by drop trailers and their hostler units).
4. BCFS shall ensure that the amount (a) divided by (b), being the average revenue per vessel-foot for the quarter, shall not be less than the **MAAT** as defined above.
5. When the drop trailer volume exceeds a rate of Y.YY (*see note 1 overleaf*) million vessel-feet per year, or at the discretion of the commissioner, the minimum tariff shall

be re-set in light of experience with actual costs and drop trailer traffic volumes. For this purpose the commissioner has archived the electronic workbook files which he used to calculate unit prices and revenues based on data from fiscal 2010.

DATED in Comox, in the Province of British Columbia, this 7th day of February, 2011.

BY ORDER

A handwritten signature in black ink, appearing to read 'M Crilly', written over a horizontal line.

Martin Crilly
British Columbia Ferries Commissioner

***Note 1:** The commissioner is withholding the data marked X.XX and Y.YY from publication in this non-confidential version of Order 1101 on the basis that disclosure of the data would cause a real and substantial possibility of future harm to the financial or economic interests of BCFS.*