

**BC Ferry Commission
MEMORANDUM 24B**

To: Mr. Bill Cottick
Executive Vice President and
General Counsel
BC Ferries

Ms. Sandra Carroll
Assistant Deputy Minister
Transportation Planning and Policy
Government of British Columbia

From: Martin Crilly, Commissioner
Sheldon Stoilen, Deputy Commissioner

Date: November 30, 2008

Re: A Framework for Fuel Surcharges/Rebates For the Remainder of PT2

As a result of various recent analyses conducted by BC Ferries and the Ferry Commission it had become apparent that the mechanism provided by Memorandum 24A with its lag provision governing adjustments to fuel surcharges does not provide flexibility and timeliness to respond to rapid and dramatic changes in crude oil prices. Since the introduction of the fuel surcharges on August 1, 2008 crude oil prices have declined from the \$140/bbl range to the \$50/bbl range.

Accordingly on October 16, 2008, the Commission suspended the application of Memorandum 24A regarding fuel surcharges for 30 days (subsequently extended to November 30, 2008) to allow BC Ferries to implement immediate reductions in fuel surcharges given the dramatic and rapid decline in crude oil prices in recent weeks.

Furthermore, BC Ferries subsequently advised the Commission that it has implemented changes in its fuel hedging program that has resulted in very favourable contracts for fuel extending out to April 2009. Accordingly, on November 21, 2008 the Commission authorized BC Ferries to eliminate all remaining fuel surcharges within 30 days.

The purpose of this memorandum is to establish a revised process or framework that provides greater flexibility and timelessness in adjusting fuel surcharges for the balance of PT2, as follows.

1. Fuel Deferral Accounts

There will be continued use of separate fuel deferral accounts for each route group.

For clarity, a **debit** balance in a fuel deferral account means that fuel costs have been deferred, in that fuel already consumed is still to be paid for, e.g. by surcharges levied on future customers. A **credit** balance is the reverse, for instance as a result of surcharges already levied having more than paid for fuel consumed in the past, or for other reasons, and that surcharges will be therefore less than otherwise, or rebates given,

to future customers. For purposes of this memorandum references to fuel deferral account balances exclude unrealized gains or losses on fuel hedging contracts.

2. Set Price and Fluctuation Within Five Cents/Litre

There will be continued use of the set price for fuel included in the price caps established for PT2 to determine the amount of fuel costs to be charged to operations with a “band width” for fluctuations of up to 5 cents/litre to be shared equally between BC Ferries and fare payers. The fare payers’ share will be charged/credited to the fuel deferral accounts.

3. Fluctuation Beyond Five Cents/Litre

The cost of price fluctuations beyond the range of 5 cents/litre above or below the set price, calculated on a monthly basis, will be transferred to the fuel deferral accounts, except for the northern route group where, we understand, the Province of BC has agreed to take the price risk beyond the five cents/litre range.

4. Fuel Surcharge Caps

Within the rules set out in this memorandum, BC Ferries will have the ability to apply, adjust or remove fuel surcharges or rebates to a maximum percentage of the price cap level that will be in effect April 1 2009, called a fuel surcharge cap. These percentages will be: Major Routes 10%; Minor Routes 15% and Route Three 10%. The percentage for Northern routes is undetermined: BC Ferries must apply to the Commission before applying a fuel surcharge on the Northern routes.

5. Deferral Account Debit and Credit Balances: Two Percent Trigger

If the month end balance in a fuel deferral account for a route group is a debit balance which exceeds 2% of the annual pre-surcharge tariff revenue (“the 2% trigger”) for the route group, BCFS will adjust the fuel surcharge/rebate to eliminate the fuel deferral account balance, including the expected growth in the balance, over the following 12 months or the remaining period of PT2, if that is shorter.

If the month end balance in a fuel deferral account for a route group is a credit balance which exceeds the 2% trigger, BCFS will have a grace period of one quarter to reduce the credit balance below the 2% trigger. Failure to achieve this will result in the fuel surcharge cap being reduced to zero. For credit balances existing at December 31, 2008, BCFS will have until June 30th 2009 to reduce the credit balance below the 2% trigger.

6. Notice Period for Surcharge/Rebate Adjustments

BCFS must give at least 15 days public notice of any increase in fuel surcharges (or decrease in any fuel surcharge rebates). Any decrease of existing fuel surcharges or increase in any fuel surcharge rebates will not require any public notice.

7. Other

An application under section 42 of the Coastal Ferry Act will be required in respect of any increase in fuel surcharges above the fuel surcharge caps established hereunder.

Details of changes in fuel deferral account balances by route group will be provided to the Commission on a monthly basis.

Any fuel deferral account debit balances at the end of PT2 that exceed 1% of annual pre-surcharge tariff revenue by route group will not be carried over to PT3 unless there are extraordinary circumstances that warrant otherwise.

This memorandum supersedes Memorandum 24 and 24A.

• • •