



BRITISH COLUMBIA
FERRY COMMISSION

ORDER
NUMBER: 12-01

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IN THE MATTER OF
Section 43 (2) of the *Coastal Ferry Act*, S.B.C. 2003, c. 14
And
Variation of Service on Route 30

BEFORE: Sheldon Stoilen, Deputy BC Ferries Commissioner

O R D E R

WHEREAS:

- A. By letter dated December 29, 2011 BC Ferries advised that on December 20, 2011, the vessel Coastal Inspiration experienced a 'hard landing' at the Duke Point Terminal. The single berth at Duke Point Terminal has been damaged in this accident to the extent that it cannot be used until it is repaired, and such repairs will take several months;
- B. In response, BC Ferries has implemented a service recovery plan which will see BC Ferries altering Route 30 to operate between Tsawwassen and Departure Bay rather than Tsawwassen and Duke Point. Their intent is to maintain all of the regularly published sailing times on both Routes 2 and 30. Essentially, other than the change in terminal from Duke Point to Departure Bay, core service levels will be met;
- C. In accordance with BC Ferries service recovery plan they have contacted officials of the Ministry of Transportation and Infrastructure seeking confirmation that the round trips between Tsawwassen and Departure Bay can be considered to be equivalent to Route 30 and should not be construed as a Temporary Service Disruption with its associated time limitations under the Coastal Ferry Services Contract;
- D. The officials of the Ministry of Transportation and Infrastructure have responded that, given the length of the closure of the Duke Point Terminal, this matter should be dealt with by an application to the commissioner under section 43 of the Coastal Ferry Act;

E. BC Ferries has accordingly applied to vary Route 30 service in accordance with their service recovery plan for a period of up to six months. BC Ferries maintains that Route 30 core service levels are and will continue to be provided albeit that the Central Vancouver Island Terminal will be at Departure Bay, a few kilometers from Duke Point.

F. Section 43 provides that:

(1) A ferry operator must not, except as permitted by the applicable Coastal Ferry Services Contract, reduce service on a designated ferry route below the core ferry services required for that designated ferry route unless the ferry operator first obtains the authorization of the commissioner.

(2) A ferry operator that wishes to reduce service on a designated ferry route below the core ferry services required for that designated ferry route must make application to the commissioner for the authorization required by subsection (1) and must, in that application, justify the requested reduction.

(3) The commissioner may authorize a reduction in service under subsection (1) if the commissioner is of the opinion that the reduction is for a temporary period and is for an extraordinary situation.

(4) If the commissioner agrees to authorize a reduction in service on a designated ferry route, the ferry operator may reduce service on that designated ferry route in the manner, for the period and in accordance with the terms and conditions specified by the commissioner, but not otherwise.

NOW THEREFORE the Deputy BC Ferries Commissioner orders as follows:

The variation of service on Route 30 as described in BC Ferries application attached hereto is deemed to be a reduction of service for purposes of Section 43. In view of the extraordinary situation and the temporary period of closure of the Duke Point Terminal the reduction of service is authorized for a period up to six months from the date of this order subject to the following conditions:

(a) The core service levels or number of sailings stipulated in the Coastal Ferry Services Contract for Route 30 shall be maintained during the temporary period of closure of the Duke Point Terminal.

(b) By January 31, 2012 BC Ferries shall provide the following information to the Commission and to the Ministry of Transportation and Infrastructure:

- Measures taken and the plan regarding ongoing communication updates to the public.
- Measures taken to handle ferry marshalling at Departure Bay.
- Communications that have been made to various levels of government.

- Measures taken regarding the handling of commercial traffic.
- Any measures taken or planned regarding any fare concessions.
- Details of revenue and cost implications.
- Estimated timeline and cost for the repairs.
- Details of any other mitigation strategies.

(c) BC Ferries shall provide monthly progress reports to the Commission and to the Ministry of Transportation and Infrastructure regarding the repairs to the Duke Point Terminal.

DATED at Bowen Island, in the Province of British Columbia, this 4th day of January 2012.

BY ORDER

A handwritten signature in black ink, appearing to read "S. T. Spiller". The signature is written in a cursive style with a large, sweeping "S" and "P".

Deputy BC Ferries
Commissioner

December 29, 2011

Gord Macatee
BC Ferry Commission
RPO Box Hillside
Box 35119
Victoria BC, V8T 5G2

Dear Mr. Macatee:

As you are aware, on December 20, 2011, the Coastal Inspiration experienced a 'hard landing' at our Duke Point Terminal. The single berth at Duke Point Terminal has been damaged in this accident to the extent that it cannot be used until it is repaired, and such repairs will take several months. In response, we have implemented a service recovery plan which will see us altering Route 30 to operate between Tsawwassen and Departure Bay rather than Tsawwassen and Duke Point. Our intent is to maintain all of the regularly published sailing times on both Routes 2 and 30. Essentially, other than the change in terminus from Duke Point to Departure Bay, core service levels will be met.

In view of our service recovery plan, we have contacted officials of the Ministry of Transportation and Infrastructure seeking confirmation that the round trips between Tsawwassen and Departure Bay can be considered to be equivalent to Route 30 (and should not be construed as a Temporary Service Disruption with its associated time limitations) under the Coastal Ferry Services Contract. The officials have responded suggesting that, given the length of the closure, they feel that it would be better to deal with this through an application to the Commissioner under section 43 of the Coastal Ferry Act. Section 43 is provided below:

No reduction of service without authorization

43 (1) A ferry operator must not, except as permitted by the applicable Coastal Ferry Services Contract, reduce service on a designated ferry route below the core ferry services required for that designated ferry route unless the ferry operator first obtains the authorization of the commissioner.

(2) A ferry operator that wishes to reduce service on a designated ferry route below the core ferry services required for that designated ferry route must make application to the commissioner for the authorization required by subsection (1) and must, in that application, justify the requested reduction.

(3) The commissioner may authorize a reduction in service under subsection (1) if the commissioner is of the opinion that the reduction is for a temporary period and is for an extraordinary situation.

(4) If the commissioner agrees to authorize a reduction in service on a designated ferry route, the ferry operator may reduce service on that designated ferry route in the manner, for the period and in accordance with the terms and conditions specified by the commissioner, but not otherwise.

Gord Macatee
December 29, 2011
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Accordingly, please accept this as our application under Section 43 of the Coastal Ferry Act to vary the Route 30 service in accordance with our service recovery plan for a period of up to six months.

While BC Ferries is of the view that Route 30 core service levels are and will continue to be fundamentally provided (albeit that the Central Vancouver Island Terminus will be at Departure Bay, a few kilometers from Duke Point), we submit this application out of an abundance of caution, to ensure that BC Ferries remains in full compliance with contractual and legal requirements during the service recovery period.

Thank you in advance for your consideration, and we look forward to your favourable response.

Yours truly,

A handwritten signature in black ink, appearing to be 'R. Clarke', written over a horizontal line.

Robert P. Clarke, CGA
Executive Vice President & Chief Financial Officer