



OFFICE OF THE  
BRITISH COLUMBIA  
FERRIES COMMISSIONER

ORDER NUMBER: 17-03

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## IN THE MATTER OF

Section 55(1) of the *Coastal Ferry Act*, and  
Capital Expenditures to Provide Mid-Coast Ferry Service  
Proposed by British Columbia Ferry Services Inc.

**BEFORE:** Gordon Macatee, BC Ferries Commissioner  
Sheldon Stoilen, BC Ferries Deputy Commissioner  
(the “commissioners”)

## DECLARATION

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### WHEREAS:

- A. On March 8, 2017, British Columbia Ferry Services Inc. (“BC Ferries”) submitted an application (the “Application”) under section 55(1) of the *Coastal Ferry Act* (the “Act”) proposing the procurement of a used vessel and the necessary vessel and terminal modifications and/or upgrades (the “Project”) to provide ferry service on Route 28 and Route 10 (the “Mid-Coast Service”);
- B. Section 55(1) of the Act governs the commissioners’ consideration of capital deployment and expenditures of ferry operators in connection with a designated ferry route or terminal; as follows:

“55(1) Subject to subsections (2) to (5), before deploying capital assets on, or incurring capital expenditures in connection with, a designated ferry route or terminal, the ferry operator may apply to the commissioner and the commissioner must, within one month after the application, declare whether the capital assets proposed to be deployed on, or the capital expenditures proposed to be incurred in connection with, the designated ferry route or terminal are reasonably required”;

- C. By Order 17-02 dated March 2, 2017, the commissioners defined a major capital expenditure for which a ferry operator must seek approval under section 55 (2) of the Act to include any capital expenditure which exceeds \$50 million for a new vessel or \$25 million for terminal upgrades;
- D. As the capital expenditures for the vessel and terminal components of the Project fall below the threshold levels set by Order 17-02, the commissioners have accepted BC Ferries’ submission of its Application under section 55(1) of the Act;
- E. Section 55(1) is applicable to routes and terminals designated under the Coastal Ferry Services Contract;
- F. In March 2017, BC Ferries and the Ministry of Transportation and Infrastructure executed an amendment to the Coastal Ferry Services Contract to include Route 28 as a designated ferry route;
- G. By its Application BC Ferries is seeking the commissioners’ declaration that the proposed capital expenditures to provide the Mid-Coast Service are reasonably required;
- H. The Board of Directors approved the long term capital plan submitted to the commissioners for Performance Term four (“PT4”) which included a provision for a replacement vessel for the Nimpkish;
- I. In December 2016, BC Ferries and the Ministry of Transportation and Infrastructure signed a letter agreement outlining the terms of an expanded Mid-Coast Service which provides for additional capital and operating funds to service the new route over and above what was provided for in the PT4 submission;
- J. Upon receipt of the Application, the commissioners posted it on their website and invited comments on the proposed Project;
- K. The commissioners retained the consulting firm of MNP LLP (“MNP”) to assist in their review of the Application including the financial analysis of the proposed capital expenditures and the suitability of the proposed vessel for Mid-Coast Service; and

L. The commissioners have reviewed the Application, MNP's report and the comments received from stakeholders.

**NOW THEREFORE** the commissioners have declared as follows:

1. Section 55(1) of the Act is applicable to this Application.
2. The capital expenditures proposed in the Application for the Project are reasonably required.

**DATED** at Victoria, in the Province of British Columbia, this 5th day of April 2017.

BY ORDER



Gordon Macatee  
BC Ferries Commissioner



Sheldon Stoilen  
BC Ferries Deputy Commissioner