

February 23, 2011

Martin Crilly  
BC Ferry Commissioner  
BC Ferry Commission  
P.O. Box 1497  
Comox, B.C. V9M 8A2

Dear Mr. Crilly:

**Re: Errors in Commissioner's Calculations of MAAT**

We write further to your email of February 14, 2011, addressed to stakeholders regarding the identification of "any material errors, including arithmetic, and mistakes in transcription or interpretation of the source materials provided by BCFS in its submissions." In the attachment to this letter, British Columbia Ferry Services Inc. ("BCFS") has identified several errors that meet this description. BCFS has described each error, and has provided tables showing the effect of the correction of each error. A non-confidential version of this submission has been provided for public distribution, deleting only the commercially sensitive and confidential data. BCFS respectfully submits that fairness requires the Commissioner to make the identified adjustments to the Minimum Allowed Average Tariff ("MAAT").

BCFS believes that even the smallest of these adjustments is material in the present context, particularly when considered together. Since the Commissioner issued his Order #11-01, BCFS has learned that Seaspan has stated to customers that it will meet or beat any price that BCFS can offer. The MAAT must be set accurately to ensure that BCFS is not *unfairly disadvantaged* in competing for drop trailer business, which would be detrimental to the interests of all ferry users and those consumers who are dependent upon the drop trailer marketplace for the transportation of the goods that they consume.

As indicated above, we have limited this submission to the types of errors identified by the Commissioner in the February 14, 2011 email to stakeholders. However, BCFS wishes to make the point that the distinction the Commissioner is drawing between (a) the types of errors upon which he will accept comments from BCFS, and (b) issues concerning methodology that will not be heard, is unjustified in the circumstances. As a matter of procedural fairness, the PricewaterhouseCoopers ("PWC") report, calculations *and methodology* ought to have been provided to BCFS prior to the Commissioner issuing a decision in this matter. PWC and the Commissioner developed a methodology that departed from the expert evidence of either EES Consulting, on behalf of BCFS, or Mr. Linxwiler, on behalf of Seaspan. BCFS never had an opportunity to comment on the methodology developed by the Commissioner. As BCFS is the only entity commercially regulated by the Commissioner, and as the Commissioner's application of the MAAT directly and significantly impacts BCFS' business, BCFS respectfully submits that

fairness requires issues raised in this letter by BCFS that flow from the PWC report and the MAAT be given due consideration, regardless of how they are characterized (i.e. factual, mathematical, or methodological).

In addition, BCFS respectfully asks the Commissioner to reconsider his approach of precluding BCFS from commenting on methodological issues related to the MAAT. BCFS requests a full opportunity to address the methodology applied, in advance of the implementation date of April 1, 2011.

BCFS requests that the Commissioner's determinations in response to this letter be provided as soon as possible, and in any event prior to March 5, 2011.

Sincerely,

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

Enclosure

Copy: Gordon Macatee  
David Egan  
Richard Plecas