

Review of Coastal Ferry Act

Commissioner's Discussion Paper #4

The BC Ferry Commission (“the commissioner”) has been mandated under Bill 14 to conduct a review of the Coastal Ferry Act and to make recommendations to the Minister of Transportation and Infrastructure on potential changes which would better enable the commissioner to balance the financial sustainability of the ferry operator and the interests of users. The commissioner is conducting public consultation meetings in coastal communities served by BC Ferries and is inviting additional input via written submissions or comments on a number of key issues.

This is the fourth of a series of discussion papers to be published on key issues to be considered by the commissioner during his review. Previous discussion papers have dealt separately with interests of ferry users and financial sustainability objectives. This paper deals with the balancing of the interests of ferry users with these objectives.

There are examples within the British Columbia regulatory system of how this balancing is addressed. The BC Utilities Commission has recognized a duty to approve rates that will provide a reasonable opportunity to earn a fair return on invested capital by the regulated entity¹. The BCUC has determined that the rate impacts of the revenue required to yield a fair return and the process of balancing the interests of users should not come at the expense of financial sustainability of the regulated entity.

It should also be noted that the duty to ensure financial sustainability can be considered to be in the interests of users, who rely on the services provided and the company being able to finance its day-to-day activities, along with asset renewal.

In many other sectors that are governed by regulatory pricing systems, the duties set out for regulators are prioritized by establishing two tiers of duties: a primary duty and a set of secondary duties. In the UK, for example, the most common primary duty for regulators is to protect and / or further the interests of consumers. The primary duty does not override the secondary duty of providing a return that sustains financial viability.

Secondary duties are more wide ranging and can include the following:

- Promotion of competition
- Protection of citizen interests and the public at large (i.e. beyond just those of consumers)
- Encouragement of market investment and innovation
- Promotion of public awareness
- Protection of the environment
- Implementation of good regulatory principles

In contrast to these regulatory duties, the issue of ensuring affordability is more commonly addressed by government through social policies (e.g. fare discounts to seniors).

¹ British Columbia Utilities Commission Decision March 2, 2006 In the Matter of Terasen Gas Inc. and Terasen Gas (Vancouver Island) Inc. Application to Determine the Appropriate Return on Equity and Capital Structure and to Review and Revise the Automatic Adjustment Mechanism.

The commissioner is interested in obtaining public feedback on the following:

- What approaches should be taken by the commissioner to ensure consumer protection? How are these approaches to be balanced against financial sustainability objectives?
- Is a tiered approach to establishing regulatory duties the most appropriate for regulation of the BC ferry system?
- If so, what should be primary duties of the regulator be? What should the secondary duties of the regulator be?
- If not, what alternative approaches are appropriate?

Comments can be submitted by email to info@bcferrycommission.com or by mail to BC Ferry Commission, RPO Box Hillside, Box 35119, Victoria BC, V8T 5G2.