

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. A-41, SUB 19

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Bald Head Island)	ORDER ALLOWING MOTION TO
Transportation, Inc., to Implement)	RESTORE FULL FERRY VESSEL
Temporary Ferry Schedule and Policies)	CAPACITY LIMIT BUT OTHERWISE
and for Expedited Approval of Application)	MAINTAIN OPERATING POLICIES
)	IN RESPONSE TO COVID-19

BY THE COMMISSION: On September 15, 2020, Bald Head Island Transportation, Inc. (BHIT or Applicant), filed with the Commission a Motion seeking expedited approval to modify the ferry vessel capacity limit to allow a maximum of 100 passengers per voyage instead of the maximum of 75 passengers as previously approved by the Commission by Order dated May 8, 2020 in the above-captioned docket but also seeking to maintain emergency operating procedures (Emergency Operating Procedures) as previously approved, and that have been effective for the regular passenger ferry since Saturday, May 9, and for the contractor ferry since Monday, May 11.

On September 4, 2020, Governor Roy Cooper issued Executive Order No. 163 (EO 163). EO 163 provided that slowing and controlling community spread of COVID-19 remains critical to ensuring that the state’s healthcare facilities remain able to accommodate those who require medical assistance. EO 163 also continued to urge all people in North Carolina to follow social distancing recommendations, including that everyone wear a cloth face covering, wait six feet apart and avoid close contact, and wash hands often or use hand sanitizer, and also required safety measures in certain business settings, limited mass gatherings, and closed certain types of businesses and operations. EO 163 recognized several reasons supporting a “Need for a Phased, ‘Dimmer Switch’ Approach to Loosening Restrictions.” As a result, among other things, EO 163 loosened some restrictions and increased the number of persons allowed to gather under certain circumstances. But EO 163 also maintained numerous restrictions previously put in place, including a cap on the maximum number of guests allowed in various locations by way of the lesser produced by three different metrics, including in some instances 50% of stated capacity.

On September 23, 2020, the Commission issued an Order Denying Motion to Modify Ferry Capacity Limit, based in part upon EO 163 and the reasons set forth therein, as well as the insufficient showing of need set forth in BHIT’s motion. The Order also emphasized that the requirements set by the Governor’s Executive Order No. 141, and as amended by Executive Orders Nos. 147 and 163, remain in place.

On September 30, 2020, Governor Roy Cooper issued Executive Order No. 169 (EO 169) or “Phase 3”. EO 169 maintained many of the restrictions previously put in place, and again provided that slowing and controlling community spread of COVID-19 remains critical. EO 169 provided several reasons supporting North Carolina’s continued “Need for a Phased, ‘Dimmer Switch’ Approach to Loosening Restrictions.” And, as a result of the trends, it lifted previous restrictions on several entertainment venues, for example, amusement parks, bars, arenas, movie theaters, et al., and in some instances allowed for up to 100 persons to gather in certain indoor and outdoor areas.

On October 5, 2020, BHIT filed with the Commission a Second Motion to Modify Ferry Vessel Capacity Limit to 100 and Otherwise Maintain Operating Policies in Response to COVID-19. In support, among other things, BHIT stated that there were no locally imposed restrictions on short-term rentals or on maintenance and construction activities on the island; the number of persons on Bald Head Island would be much greater than any fall season in the history of the island; increasing the amount of passengers to 100 would reduce the amount of bumped passengers; and BHIT has been able to successfully and smoothly implement the Emergency Operating Procedures approved by the Commission in its May 8, 2020 Order.

On October 9, 2020, the Commission issued an Order Allowing Second Motion to Modify Ferry Capacity Limit to 100, based in part upon EO 169 and the reasons set forth therein, as well as the showing of need set forth in BHIT’s motion.

On March 23, 2021, Governor Roy Cooper issued Executive Order No. 204 (EO 204) “Further Easing Restrictions on Business and Gatherings,” based in part upon sustained improvements in the state’s key COVID-19 metrics over the past couple months;

specifically, as of the date of this Executive Order, the state is experiencing declines in the percent of emergency department visits that are due to COVID-like illness, the number of COVID-19 daily diagnoses, the percent of total COVID-19 tests that are positive, and the number of COVID-19-associated hospitalizations, relative to the peak severity of these metrics in January 2021[.]

EO 204, at 2. Accordingly, EO 204 increased the numbers of persons allowed to gather under certain specified circumstances.

On April 7, 2021, BHIT filed with the Commission a Motion to Restore Full Ferry Vessel Capacity Limit But Otherwise Maintain Operating Policies in Response to COVID-19. In support, BHIT stated that:

- (1) pursuant to the October 9 Order, BHIT has been limiting the number of passengers per ferry voyage to a maximum of 100 passengers, and at the determination of the captain, even less throughout inclement weather;

- (2) there are no locally imposed restrictions on short-term rentals or on maintenance and construction activities on the island;
- (3) the number of persons on Bald Head Island will be at or near the highest levels ever. BHIT states that this prediction is supported by the fact that passenger numbers during the first quarter of 2021 that have surpassed 2019, the previous record year, and that there were 61,574 ferry passengers in the first quarter of 2021, and 27,156 passengers rode the ferries in March – both numbers are all-time record;
- (4) increasing the amount of passengers will reduce the amount of passengers that are bumped from their original scheduled trip to the next scheduled trip. BHIT estimates that wait times for “bumped passengers” can range from one to two hours during the weekdays and up to three or four hours on the weekends;
- (5) BHIT has been vigilant in implementing the Emergency Operating Procedures approved by the Commission in its May 8, 2020 Order – including the requirement of face coverings by all passengers, spatial distancing, and readily available hand sanitizing stations – and will continue to follow them. According to BHIT, as of the date of filing, there have been no cases of infection traced to employees’ workplace or contact on the ferry;
- (6) On March 30, vaccinations were administered by the Brunswick County Health Department to all BHIT and Village of Bald Head Island employees who wanted the vaccine and those employees are either fully vaccinated or will receive a second dose in April;
- (7) Governor Roy Cooper issued EO 204 which increased the number of persons allowed to gather under certain circumstances, including specifically allowing 100% of fire capacity for museums, personal care businesses, and retail businesses; and
- (8) Other modes of transportation including passenger trains and airlines are resuming full service at or near the time of the filing.

BHIT believes that its request to restore full vessel capacity will substantially reduce the number of bumped passengers this spring and summer and constitute an appropriate balance between meeting customer transportation demand and protecting public health and safety consistent with EO 204. BHIT emphasized that it has implemented and will continue numerous safeguards to provide safe transportation services, including: requiring all passengers and employees to wear face-covering at all times during the ferry voyage and while on the trams, posting signage informing all passengers that any who are experiencing any symptoms of COVID-19 are not allowed in the terminals or on board the vessels, locating hand-sanitizer stations at numerous locations throughout the terminals and on-board the vessels, marking 6-foot separation distances in the queuing area, and hiring additional cleaning personnel to regularly wipe

exposed surfaces in the interior passenger cabin area and terminal areas with disinfectant. BHIT also states that all BHIT employees are questioned about symptoms and possible exposures (and must attest that there are none) prior to starting each shift. BHIT also requests that the Emergency Operating Procedures as previously approved in the Commission's May 8, 2020 Order be maintained until the earlier of (a) further amendment, modification, or rescission by order of the Commission; or (b) the expiration of the last applicable Executive Order by the State of North Carolina, Brunswick County, City of Southport, or Village of Bald Head Island pertaining to restrictions on travel, business operations, or mass gatherings arising from the COVID-19 pandemic.

According to BHIT the Public Staff has reviewed BHIT's motion and does not oppose its implementation.

On April 7, 2021, the Commission received a consumer statement of position from the Mayor of Bald Head Island supporting BHIT's motion.

Based on the foregoing, and the position of the Public Staff, the Commission finds good cause to allow BHIT to restore and operate its contractor and passenger ferries at full vessel capacity. The Commission recognizes the guidance set out in EO 204 emphasizing the need for a, and continuing the Governor's, phased approach to loosening restrictions. The Commission continues to emphasize that the requirements set by the Governor's Executive Orders addressing the COVID-19 pandemic remain in place. Accordingly, the Commission concludes that BHIT must continue to maintain all additional Emergency Operating Procedures and necessary controls to allow for appropriate social distancing, dutifully and consistently within the spirit and intent of these executive orders, both while passengers wait at terminals and also while they are in transit aboard ferries and trams.

IT IS, THEREFORE, ORDERED as follows:

1. That BHIT shall be allowed to restore and operate its passenger and contractor ferries at full vessel capacity, while maintaining the additional Emergency Operating Procedures as previously approved in the Commission's May 8, 2020 Order, and be effective within 36 hours after the issuance of this Order;
2. That these modified Emergency Operating Procedures be maintained until further order by the Commission;
3. That upon any change of circumstances brought to the attention of BHIT regarding whether any BHIT employee has contracted COVID-19 or any case of infection

can be traced to contact on the ferry, BHIT shall report the same to the Commission as soon as practicable;

4. That BHIT shall file with the Commission in the above-captioned docket notice when the new maximum vessel capacity limit becomes effective; and

5. That BHIT shall provide notice of this change by posting a copy of this Order at the Deep Point and Bald Head Island ferry terminals and on the Bald Head Island website, send mass e-mails to island property owners, and inform passengers who call to make ferry reservations.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of April, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Kimberley A. Campbell". The signature is written in a cursive style with a large initial 'K'.

Kimberley A. Campbell, Chief Clerk