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April 6, 2021

Ms. Kimberley Campbell  
Chief Clerk  
North Carolina Utilities Commission  
430 N. Salisbury Street  
Raleigh, NC 27603

**Re: *Bald Head Island Transportation  
Motion to Restore Full Ferry Vessel Capacity But Otherwise Maintain Operating Policies in  
Response to Covid-19  
Docket A-41, Sub 19***

Dear Ms. Campbell:

On behalf of Bald Head Island Transportation, I hereby electronically submit for filing its MOTION TO RESTORE FULL FERRY VESSEL CAPACITY BUT OTHERWISE MAINTAIN OPERATING POLICIES IN RESPONSE TO COVID-19 in Docket A-41, Sub 19.

Please do not hesitate to contact me should you have any questions regarding this filing. Thank you in advance for your assistance.

Very truly yours,

*/s/ M. Gray Styers, Jr.*

M. Gray Styers, Jr.

MGS:clj  
Enclosure

cc: NC Public Staff  
All parties of record  
Sam Watson, Esq.

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Georgia Illinois Minnesota Nevada  
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**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

Docket No. A-41, Sub 19

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION:

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

This motion is filed by Bald Head Island Transportation, Inc. (“BHIT”), through undersigned counsel, pursuant to Commission Rules R1-5 and R1-7 and N.C.G.S. § 62-32(b), to allow its vessels to operate at full capacity pursuant to United State Coast Guard regulations (“full capacity”), instead of the maximum of 100 passengers as set by Order of the North Carolina Utilities Commission (“Commission”) dated October 9, 2020 in Docket No. A-41, Sub 19 (“October 9 Order”), but to otherwise maintain emergency operating procedures (“Emergency Operating Procedures”), including the requirement of face coverings by all passengers, as approved by the Commission in that same Order. In support thereof, BHIT respectfully shows the Commission as follows:

1. Pursuant to the October 9 Order, BHIT has been limiting the number of passengers per ferry voyage to a maximum of 100 passengers in good weather (i.e. when passengers are willing to ride outside rather than in the interior passenger cabin), and, in the discretion of the vessel captain, to a lesser number during inclement weather. It was BHIT that initially requested a capacity limitation, and passenger and employee safety and health have been in the forefront of its decision-making and operations at all times since the on-set of COVID-19.

2. There are no locally imposed restrictions on short-term vacation rentals or on maintenance and construction activities on the island. Anecdotally, it appears that many homeowners and their visitors/renters are working and attending school remotely from the island. As the late-spring / summer “peak season” approaches, and with the island fully opened up, levels of rental reservations indicate that the numbers of persons traveling to and from Bald Head Island by ferry will be at or the near the highest levels ever.

3. The projected demand in ridership is supported by passenger numbers during the first quarter of 2021 that have surpassed 2019, the previous record year. 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 records.

4. As the result of the limit of one hundred (100) passengers per vessel, this greater-than-normal ridership is resulting in passengers being routinely “bumped” to the next scheduled trip (“Bumped Passengers”), often waiting one to two hours at the terminal when arriving or leaving the island, and sometimes up to three or four hours on the weekends.

5. BHIT has been vigilant in implementing and enforcing the Emergency Operating Procedures -- including the requirement of face coverings by all passengers, spatial distancing, and readily available hand sanitizing stations -- as approved by the Commission. It is pleased to report that, of the very few cases of BHIT employees being exposed to the COVID-19 virus, none have been traced to contact at their workplace in general or on the ferries specifically. BHIT intends to continue to follow those previously approved Emergency Operating Procedures and requests no change to them at this time.

6. Moreover, on March 30, the Brunswick County Health Department administered vaccinations to both BHIT and Village of Bald Head Island employees at an “employee vaccination day” event at the Deep Point Terminal in Southport. All BHIT and Village employees who wanted vaccine shots are either fully vaccinated (some employees received the Johnson & Johnson-vaccine single dose) or will receive a second Pfizer-vaccine dose in April.

7. On March 23, 2021, Governor Roy Cooper issued Executive Order No. 204, “Further Easing Restrictions on Business and Gatherings,” based upon the facts, among others, that:

over recent months in North Carolina . . . there have been sustained improvements in the state's key COVID-19 metrics; and

. . . 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;

*Id. at p. 2.* Accordingly, the Governor’s Executive Order 204 increased the numbers of persons allows to gather under certain specified circumstances, consistent with the Governor’s “Dimmer Switch” approach to allow phased reopenings.

8. By increasing the allowed number of persons who can gather both indoors and outdoors, and specifically allowing 100% of fire capacity for museums, personal care business, and retail businesses (*Id. at pp. 7, 15, 17*), Executive Order 204 acknowledges that the risks are lower now than they were back in the winter or last fall, when the October 9 Order was issued, and that it is appropriate to adjust capacity limitations to reflect these changed circumstances.

9. Reflecting these improved conditions, other modes of transportation are now restoring full service. On March 30, the North Carolina Department of Transportation announced that the state's passenger trains will be resuming full service on April 5. See NCDOT March 30, 2021 Press Release at <https://www.ncdot.gov/news/press-releases/Pages/2021/2021-03-30-april-train.aspx>. In the words of Jason Orthner, director of NCDOT's Rail Division. "Passengers can travel with peace of mind as they get out and safely begin rediscovering all that North Carolina has to offer." *Id.*

10. In addition, all United State airlines are, or soon will be, selling tickets for all seats and thus allowing their planes to fly at full capacity.<sup>1</sup>

11. Based upon the increased demand for ferry transportation services since last fall, as described above, and consistent with the rationale of easing restrictions by Executive Order No. 204 and policies of other transportation companies, BHIT requests permission to resume operating its vessels at full capacity while maintaining Emergency Operating Procedures for both the Contractor Ferry and Passenger Ferry and Tram Operations as previously approved by the Commission.

12. This request is made after the compilation and careful analysis of considerable data, observations of passenger travel experiences and complaints, and extensive consideration of competing interests and stakeholder concerns.

13. Executive Order No. 204 does not change the requirement to wear face coverings in public places or alter its General Recommendations for reducing the spread

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<sup>1</sup> On March 31, Delta, the last US airline that had not been booking middle seats, announced that it would start allowing passengers in all seats on all of its flights, so that its planes could be at full capacity, beginning May 1. <https://www.nbcnews.com/business/travel/delta-stop-blocking-middle-seats-may-1-n1262606>. Delta CEO Ed Bastian said that 65% of its customers said they expect to have at least one dose of a Covid-19 vaccine by May 1 and that that is "giving us the assurance to offer customers the ability to choose any seat on our aircraft." *Id.*

of COVID-19. Likewise, and consistent with Executive Order No. 204, BHIT 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. All BHIT employees are questioned about symptoms and possible exposures (and must attest that there are none) prior to starting each shift. Employees are expressly instructed to immediately report any COVID-19 symptoms.

14. BHIT further requests that these safety measures be maintained until the earlier of (A) 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.

15. The Public Staff authorizes the undersigned counsel to represent that it is not opposed to this Motion.

16. Upon approval of this motion, BHIT will: i) post notices of this change in passenger capacity limits at the Deep Point terminal, the terminal on Bald Head Island, and

on the BHIT website; ii) send mass e-mails via several channels to island property owners; and iii) provide such other notice as may be ordered by the Commission.

17. BHIT will resume operating at full capacity as quickly as possible, but, in order to provide sufficient notice and to make necessary operational modifications, requests up to thirty-six (36) hours to implement these measures from the time any order is issued.

**WHEREFORE**, BHIT respectfully requests that the Commission issue an order:

(1) allowing BHIT to operated its vessels at full capacity, according to U.S. Coast Guard regulations, while maintaining Emergency Operating Procedures for both the Contractor Ferry and Passenger Ferry and Tram Operations as previously approved by the Commission in its October 9 Order; and

(2) ordering notification at Deep Point, on Bald Head Island and to customers as described herein; and

**WHEREFORE**, BHIT respectfully requests that the Commission issue its Order on this motion as soon as possible, on an expedited basis.

Respectfully submitted this 6th day of April, 2021.

**FOX ROTHSCHILD, LLP**

*M. Gray Styers, Jr.*

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Attorneys for Bald Head Island Transportation, Inc.

**CERTIFICATE OF SERVICE**

I, M. Gray Styers, Jr., hereby certify that the foregoing **MOTION TO RESTORE FULL FERRY VESSEL CAPACITY BUT OTHERWISE MAINTAIN OPERATING POLICIES IN RESPONSE TO COVID-19** has been served this day on counsel of record by electronic email as follows:

Christopher J. Ayers, Esq.  
Executive Director  
North Carolina Utilities Commission - Public Staff  
430 N. Salisbury Street  
Raleigh, North Carolina 27611

Dianna Downey, Esq.  
Legal Division  
North Carolina Utilities Commission - Public Staff  
430 N. Salisbury Street  
Raleigh, North Carolina 27611

This 6th day of April, 2021.

*M. Gray Styers, Jr.*

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M. Gray Styers, Jr.