



434 Fayetteville Street
Suite 2800
Raleigh, NC 27601
Tel (919) 755-8700 Fax (919) 755-8800
www.foxrothschild.com

M. GRAY STYERS, JR.
Direct No: 919.755-8741
Email: GStyers@FoxRothschild.com

March 8, 2024

Ms. A. Shonta Dunston
Chief Clerk
NC Utilities Commission
430 N. Salisbury Street
Room 5063
Raleigh, NC 27603

**Re: In the Matter of
Application of Bald Head Island Transportation, Inc. for Approval of
Revisions to Regular Passenger Ferry Schedules to 45-Minute Departures
NCUC Docket A-41 Sub 23
*Bald Head Island Transportation, Inc.'s Response to Petitions to Intervene***

Dear Ms. Dunston:

Attached hereto for filing in the above referenced docket is Bald Head Island Transportation, Inc.'s ("BHIT") Response to Petitions to Intervene.

If you should have any questions pertaining to this filing, please do not hesitate to contact me.

Thanking you in advance for your assistance in this matter.

Sincerely,

/s/ M. Gray Styers, Jr.

M. Gray Styers, Jr.

pbb

Enclosure

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Copy to: Parties and Counsel of Record
NC Public Staff

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**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. A-41, SUB 23

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:)	
Application Of Bald Head Island)	
Transportation, Inc. for Approval of)	
Revisions to Regular Passenger Ferry)	
Schedules to 45-Minute Departures)	
		BALD HEAD ISLAND TRANSPORTATION, INC.'S RESPONSE TO PETITIONS TO INTERVENE

NOW COMES BALD HEAD ISLAND TRANSPORTATION, INC. ("BHIT"), by and through the undersigned counsel, and responds to the Petition to Intervene of BHI Academy LLC ("BHI Academy") and Bald Head Island Academy Foundation Inc. ("BHI Academy Foundation") (together with BHI Academy, the "Academy") and the Petition to Intervene by the Bald Head Island Club ("the Club").

History and Context

This issue of the on-time-performance (or OTP) of the Bald Head Island ferry has been an ongoing topic of discussion within and among BHIT management, its customers, island stakeholders, the Public Staff, and the North Carolina Utilities Commission ("Commission") for several years. Therefore, BHIT did not expect that there would be those who would have been surprised by its application in this docket.

Since the move from Indigo Plantation to Deep Point, the ferry has never achieved its 95% on-time-performance goal. The dredging activities in the Cape Fear River and then the abnormal circumstances during the COVID pandemic (e.g., lower vessel capacity to maintain social distancing; longer stays by island homeowners, etc.) during 2020 and 2021

made it difficult to establish normalized, base-line conditions from which to develop plans to improve on-time-performance. Following that period, and with the increased pace of construction and growth on the island, this issue needed to be addressed.

Taking an incremental approach, BHIT's first step was to define its baggage policy in Docket No. A-40, Sub 20. At the Monday morning staff conference on February 21, 2022, at which the Commission approved this request, it is the recollection of BHIT management that Commissioner Floyd McKissick specifically asked whether the baggage policy change would be sufficient to remedy the on-time-performance issues. BHIT management responded that it would help and was an important first step; that, as a second step, they were working on investigating, and hoped to implement, an on-line, electronic ticketing and reservation system that would also help; but that, as a third step, moving from a 30-minute trip schedule to a 45-minute schedule would be necessary in light of the additional 5-7 minutes of transit time that resulted from the move from Indigo Plantation to Deep Point Marina in 2009.

At the public witness hearing in Bolivia, NC on November 1, 2022, in Docket No. A-41, Sub 22, witnesses spoke of "the impact of persistent delays on the Island's employees and the contractors on their commuting time, much less on the homeowners or their visitors." (Tr. Vol. 1, p. 45). In response to a question by the Public Staff, witness Claude Pope testified about his employees, "[T]hey can't get on the boat. They either can't get on because the boat is late or the boat is full and they've been bumped to the next boat." *Id.* at 49. In response to a question by Commissioner Kemerait, he answered, "My anecdotal observations are that even though we are well outside of the peak season, delays are frequent." *Id.* at 57.

In his Direct Testimony in Docket No. A-41, Sub 22, Village of Bald Head Island Mayor Pro Tem Scott T. Gardner spent five pages discussing the on-time-performance problem. (Tr. Vol. 4 pp. 81-85). Although the Rebuttal Testimony of Bion Stewart

explained the fallacies or inapplicability of Mr. Garner's data and comparisons, he "acknowledge[d] Mr. Gardner's surface-level assessment of our performance," *Id.* at 103, even in light of "supply chain constraints, increased complexity in the maritime environment, and growth in demand for our services with another record-breaking year in ridership for 2022." *Id.* at 102

The next, second step taken by BHIT to try to address the concerns like those expressed by Mr. Pope and Mr. Gardner and reduce the number of bumped passengers was implemented over the course of the summer of 2023, with the advent of on-line, electronic ticketing. The success of those measures can be seen in Figure 2 of the Application:

Figure 2

BHIT Passenger Ferry Bumps by Year/Month				
	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
January	25	670	215	191
February	5	104	40	122
March	276	2,087	195	142
April	963	2,898	830	1,182
May	2,531	1,366	1,074	1,289
June	16,136	2,122	884	1,044
July	21,630	2,768	2,648	1,969
August	10,501	620	1,245	1,382
September	8,794	730	884	239
October	4,480	701	373	31
November	730	292	556	170
December	372	153	27	9
Average	5,537	1,209	748	647
COVID-19 (Reduced Passenger Capacity)			Reservation System Transition	

The on-line electronic ticketing and reservation system, as the next logical step in the effort to improve on-time-performance, was a prerequisite to transitioning from a 30-minute to a 45-minute transit schedule. The electronic ticketing and reservation system

allows BHIT to better manage passenger flows through allocating reservation and general boarding spaces based on ridership trends and near real-time data. In addition, this new system also provides greater predictability for those riders who choose to use the reservation option through the purchase of a reservation-eligible ticket class.

Still, while the baggage and electronic ticketing and reservation initiatives were marginally successful in improving on-time-performance by 10 percent in 2023 as compared to 2021 and 2022, these two efforts combined are not able to address the fundamental operational issue that remains: that the 30-minute schedule does not allow sufficient time to load and unload passengers and baggage and make the voyage between the Deep Point Marina in Southport and Bald Head Island.

The management and operational personnel of BHIT have been living with, and trying to address, the on-time-performance issue, day-in-and-day-out, and have heard the complaints of customers over the past several years. They have long known (and believed that it was well understood by most stakeholders on the island) that a revised schedule, based upon a 45-minute transit, was fundamental to building reliability and predictability into the ferry schedule.

Therefore, BHIT has requested in this docket approval of necessary schedule changes as the next logical step that Mr. Paul discussed with Commissioner McKissick over two years ago, and more recently with the Public Staff and as was discussed during testimony in Docket Nos. A-41, Sub 21 and Sub 22.

The Proposed Schedule Solution

As stated in the Application, the on-time-performance issue is a time – speed – distance problem:

**The ferry vessels, when operating close to full capacity,
simply cannot unload and load their passengers and baggage
and cross the river to their destination
in 30 minutes.**

Nothing can change that fact. It was the fact before the application was filed, and it will remain the fact after this docket has been closed. This fact seems self-evident and irrefutable to the management and operational personnel of BHIT—those who hire the employees, pilot the vessels, sell the tickets, board the passengers, load the baggage, and otherwise deal with this fact day-in-and-day-out. Based upon the interventions and consumer statements that have been filed since the Application, BHIT believes additional clarification of the facts and rationale is appropriate.

The hallmarks of good utility operations are (1) safety, (2) reliability, and (3) affordability. The proposed 45-minute schedule advances all three of these measures.

The margin of “safety” declines when employees are required to perform necessary duties and do not have sufficient time in the schedule to do them. BHIT believes this is unacceptable, and safety should not be compromised.

“Reliability” is providing utility services as expected by customers. When the ferries are consistently behind schedule, customers cannot rely upon them to provide passage according to the schedule. As history has proven, a 30-minute transit schedule is

not consistently reliable, especially during peak times. The new schedule will improve the reliability of the service.

“Affordability” is a function of efficiently utilizing both capital and human resources. It involves appropriately managing peak load conditions with available resources, as well as utilizing existing, available capacity. Over the course of a day, the ferries, under the proposed schedule, have sufficient capacity to carry all the passengers who wish to travel between the mainland and the island.¹ The challenge is allocating that capacity to meet the demand. The new proposed schedule—especially with the aid of electronic ticketing—achieves that allocation much better than the current schedule. Unnecessarily adding vessels and personnel to try to increase capacity for peak conditions, when they can otherwise be accommodated with existing resources with existing capacity, would necessarily and inevitably require substantial ticket price increases and reduce affordability.²

No objection to greater transparency and public engagement

Given the apparent lack of public understanding associated with operating a public utility in general and a ferry system, specifically, coupled with the need for the proposed schedule change, BHIT welcomes greater transparency and public engagement about the coming revisions and does not object to the requested interventions. The ferry system is of vital importance to the Island, and BHIT believes that the public needs to fully

¹ Under the current schedule, the vessels’ aggregate capacity for the trips during the peak morning hours and peak afternoon hours is approximately 900 passengers. Under the new proposed schedule, the vessels’ aggregate capacity for the trips during the peak morning hours and peak afternoon hours is the same 900 passengers.

² Moreover, major capital expenditures cannot occur until after the current transfer uncertainty associated with the Village’s appeal in Sub 22 is resolved and the system is sold.

understand the reasons for and benefits of the changes. With this information and a better understanding of the regulatory process under which BHIT operates, most ferry users will appreciate why the change is appropriate and, in fact, necessary. BHIT also welcomes feedback and open discussion and will consider proposed modifications that can be safely, operationally, and cost-effectively implemented to minimize inconveniences.

BHIT notes that both the Academy in its Petition to Intervene and the Club in its March 5, 2024, letter to the Commission, have requested that a public hearing be held on the Island. BHIT has no objection to such a proceeding and will gladly participate when and where the Commission deems it appropriate, including on the island. BHIT does not believe that having separate public witness and expert witness hearings is necessary nor that the formality, expense, and time delays of pre-filing direct, response, and reply testimony is necessary. Any public hearing should begin with live testimony by Bion Stewart and Chad Paul, as a panel, on behalf of BHIT, to explain in greater detail the need for and benefits of the proposed ferry schedules, after which they would welcome questions by counsel for the intervenors, redirect questions by BHIT counsel, questions by the Commission, and questions on the Commission's question, consistent with regular Commission practice. Witnesses testifying on behalf of parties should be identified in advance, and they or public witnesses who would wish to testify should likewise do so pursuant to typical Commission procedures.

Consequences of Delayed Implementation

BHIT also notes that both the Academy's Petition to Intervene and the Club's March 5, 2024, letter request that any change in the ferry schedule be delayed until, at least, the fall, requiring the ferry to maintain its current schedule through the summer busy season.

As history shows, the summer season is the point at which the on-time performance problems are at their worst. In his direct testimony in Sub 22, Village Mayor Pro Tem Gardner described the weekends during peak summer months as “a complete nightmare.” (Tr. Vol. 4, p. 83). Protracted delay in implementation of the proposed 45-minute turnaround schedule will not only result in continued on-time performance problems but will also exacerbate them as BHIT heads into the busiest months of the year.

By asking the Commission to approve the schedule changes effective May 1 in its application, BHIT was seeking to implement the changes before the height of the summer season, enhancing customer experience and ensuring safe and reliable operations. This timing would benefit not only the public, but also BHIT employees who are tasked with operating the system—a task that is much harder when the system is stressed by delays in service.

One option that may be worth considering would be requiring BHIT (in cooperation with the Club) to host an informal, but widely noticed, public information session about the new schedules and to engage in other community information efforts prior to April 1, 2024, allowing BHIT to implement the revised schedule, as requested, as a temporary pilot program from May 1 to October 1, 2024, and scheduling the public hearing after October 1, 2024, with the benefit of seeing the effects of the new schedule over the course of the summer. BHIT would be willing to discuss this option and other scheduling or notice issues with the Commission at the March 18, 2024, Staff Conference³.

³ This option, however, would require a Commission Order to this effect before the end of March. Summer rental bookings have already begun, and to allow for visitors and vacationers to properly plan their travel, BHIT must open bookings for May through September as soon as possible, and no later early April.

Regardless, unnecessary delay benefits no one, and BHIT encourages the Commission to proceed as quickly as possible while still allowing a fair and open process. For its part, BHIT will do whatever it can, and will, of course, accommodate whatever schedule the Commission establishes, to further this proceeding without delay in order to improve service for its customers.

Respectfully submitted this 8th day of March, 2024.

FOX ROTHSCHILD, LLP

By: /s/ M. Gray Styers, Jr.

M. Gray Styers, Jr.

N.C. State Bar No. 16844

Elizabeth S. Hedrick

N.C. State Bar No. 38513

434 Fayetteville Street

Suite 2800

Raleigh, NC 27601

Telephone: 919-755-8700

E-mail: GStyers@FoxRothschild.com

E-mail: EHedrick@FoxRothschild.com

CERTIFICATE OF SERVICE

I certify that a copy of BALD HEAD ISLAND TRANSPORTATION, INC.'S RESPONSE TO PETITIONS TO INTERVENE has been served by electronic mail, hand delivery, or by depositing a copy in the United States Mail, first-class postage prepaid, properly addressed to parties and / or counsel of record.

This the 8th day of March, 2024.

FOX ROTHSCHILD LLP

By: /s/ M. Gray Styers, Jr.
M. Gray Styers, Jr.