

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. A-41, SUB 21

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:

Village of Bald Head Island,)
)
Complainant,)
)
v.)
)
Bald Head Island Transportation, Inc.)
and Bald Head Island Limited, LLC,)
)
Respondents.)

**TESTIMONY SUMMARY
OF
JAMES W. FULTON, JR.
ON BEHALF OF
RESPONDENTS**

James W. (“Woody”) Fulton, Jr. Testimony Summary

Docket No. A-41, Sub 21

My name is Woody Fulton. I served as Director of Operations for BHIL for sixteen years. In this position, I supervised the operations of BHIL’s freight Barge Department and developed the procedures that the barge still follows to this day.

BHIL’s tug and freight barge system consists of the *Brandon Randall*, a 100 foot x 32 foot steel deck barge, and the *Captain Cooper*, a tug boat that pushes the barge, five days per week, between the Deep Point Barge Landing in Southport and the Bald Head Island Barge Landing. The barge is a roll-on/roll-off vessel that transports vehicles of varying sizes that are driven or towed to the Southport and/or Bald Head Island barge landings.

BHIL charges the vehicle/equipment owner-operator a fee based on the length of the transported vehicle or equipment. Barge travel is charged by deck spaces only, and each deck space authorizes the holder to utilize six feet in one of three lanes aboard the barge for one round trip. Barge deck spaces are \$60.00 each. The size of a vehicle determines the number of deck spaces required. Typical vehicles that are transported on the barge include trucks transporting food, groceries, dry goods, and building and landscape materials; container vehicles that bring diesel, gasoline, and propane; construction vehicles; and solid waste. The Village of Bald Head Island closely regulates what vehicles may operate on the island, and only those vehicles that have either a daily or annual Village-issued Internal Combustion Engine (ICE) permit are allowed on the barge.

It is true that some of the moving or delivery trucks that are transported on the barge may contain household goods, such as a kitchen appliances or furniture, but the barge is just transporting the vehicles. Barge and tug personnel do not handle nor otherwise take possession of cargo contained within the vehicles that it transports. The barge is neither a point of origin nor a

final destination of any cargo, vehicles, or equipment it carries. Rather, the barge is simply part of an intermodal transportation system in which freight is moved by two or more modes of transportation.

Using a Home Depot delivery as an example: a consumer is not ordering the stove or patio furniture to be delivered to the barge for transport to them waiting at Bald Head for delivery. The customer orders, from a third-party vendor unaffiliated with BHIL, a stove, as example, to be delivered to their front door on the island. The Home Depot truck picks up the stove, drives via road to and onto the barge, then off the barge and to the customer's front door. The BHIL barge has no responsibility for getting household goods to their delivery point; it simply gets a loaded vehicle across the river.

At least since 1995 when I stated work for BHIL, we have always understood the barge operations to be outside of the Commission's regulatory scope. Under N.C.G.S. Chapter 62, Article 10, the Commission regulates intrastate household goods ("HHG") movers by requiring them to have a certificate, insurance, meet specified consumer protection standards, and to comply with what's known as the Maximum Rate Tariff ("MRT"). As you know, the MRT is configured for over-the-road, point-to-point HHG transportation including requirements for cost estimates, stated/estimated value insurance coverage, and customer engagement requirements that require direct communication, coordination, and contract agreements with the retail, end-use customer. As the Commission describes it, if you are paying hourly rates "the 'clock' starts when the mover arrives at your home, and it stops when all the services at the destination have been completed."

The leasing of space on the barge deck for vehicles carrying items and supplies to the Island is not the retail business of HHG movers for consumers between their homes. As such, the

Commission has never regulated the barge as an HHG mover or otherwise treated the barge as falling under NCUC regulatory jurisdiction.

One of the reasons for this exclusion is that MRT Rule 4 states that it is designed to address the transport of HHGs “arranged and paid for by the householder or another party.” The BHIL barge is not involved in that transaction; it simply leases space on its deck to vehicles that transport items to and from the Island.

Second, the MRT regime is specifically configured to address the various service elements arising from the HHG owner directly contracting with the movers. The MRT provides an array of other regulations that are specific to the kinds of services that businesses that engage in point-to-point moves provide, such as for (i) packing and unpacking; (ii) the cost treatment of bulky items, (iii) fuel surcharges, and (iv) rules regarding waiting time. BHIL’s barge operations do not provide any of these services.

Third, there are currently 354 certified HHG Carriers listed as having a Certificate of Exemption from the Commission which allows them to transport household goods. All of them are motor carriers that use motor vehicles to conduct point-to-point moves across North Carolina roads and highways for consumers. None of them operate like the BHIL barge.

It’s true that the barge has transported vehicles to and from the Island that have contained furniture and other items that homeowners could use to establish private residences or rental properties, but that fact does not transform BHIL into the kind of end-to-end shipper of household goods for retail customers that the Commission seeks to regulate. Therefore, the barge does not operate as a regulated common carrier of household goods.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Testimony Summary of James W. Fulton, Jr. has been served by electronic mail, hand delivery, or by depositing a copy of same in the United States Mail, postage prepaid, properly addressed to parties and counsel of record as shown on the Commission’s Service List in docket A-41, Sub 21, and has also been provided to Commission’s Counsel and to the appropriate members of the NC Public Staff.

This 11th day of October, 2022.

/s/ *M. Gray Styers, Jr.*
M. Gray Styers, Jr.
Counsel for
Bald Head Island Transportation, Inc.
and Bald Head Island Limited, LLC