

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. A-41, SUB 21

VILLAGE OF BALD HEAD ISLAND,)	
Complainant,)	
)	
v.)	DIRECT TESTIMONY OF
)	DR. JULIUS A. WRIGHT
)	ON BEHALF OF
BALD HEAD ISLAND TRANSPORTATION,)	VILLAGE OF BALD HEAD
INC., BALD HEAD ISLAND LIMITED, LLC,)	ISLAND
and SHARPVUE CAPITAL, LLC)	
Respondents.)	

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. A-41, SUB 21

Direct Testimony of Dr. Julius A. Wright

On Behalf of the Village of Bald Head Island

August 9, 2022

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I. INTRODUCTION AND PURPOSE

Q. PLEASE STATE YOUR NAME, OCCUPATION, TITLE AND BUSINESS ADDRESS.

A. Julius A. Wright, Managing Partner, J. A. Wright & Associates, LLC, 6 Overlook Way, Cartersville GA, 30121. I am a consultant to regulated utilities and regulatory agencies and other public bodies on issues related to economics, economic modeling, regulatory policy, industry restructuring, demand-side investments, and resource planning.

Q. ON WHOSE BEHALF ARE YOU SUBMITTING THIS DIRECT TESTIMONY?

A. I am submitting this Direct Testimony on behalf of the Village of Bald Head Island (the "Village").

Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL EXPERIENCE.

1 A. I received an undergraduate degree from Valdosta State College (B.S. Chemistry),
2 an MBA in Finance from Georgia State University, and a Master's and Ph.D. in
3 Economics from North Carolina State University, where I focused on regulatory
4 and environmental economics. Among other past experiences, I served as a
5 Commissioner on the North Carolina Utilities Commission ("NCUC" or the
6 "Commission") from 1985 to 1993. Prior to serving as a member of the
7 Commission, I served three terms as a North Carolina State Senator and worked in
8 process engineering for 12 years at three chemical plants, the last with Corning in
9 Wilmington, NC.

10 Over the past 25 plus years in my consulting practice, I have dealt
11 extensively with electric, natural gas, and other regulated utilities focusing on a
12 number of issues. In this context, I have testified before regulatory commissions
13 and legislative bodies, presented studies and authored reports on issues related to
14 electric and gas regulation, and I have been a guest speaker at the Bonbright
15 Conference, other seminars, and at the Georgia Institute of Technology. I have
16 been a visiting professor teaching both microeconomics and macroeconomics
17 courses at the University of The Virgin Islands, and I have an Adjunct Economics
18 Professor appointment with the Emory University School of Nursing where I have
19 also lectured and worked with graduate students on economic issues related to
20 healthcare. I was also one of three economists engaged by the California State
21 Auditor to examine the problems that led to that state's electric energy crisis in the
22 summer and fall of 2000. I have worked for the last 25 plus years in the field of
23 utility regulation. A copy of my resume is attached as Exhibit JAW-1.

1 **Q. PLEASE PROVIDE A SUMMARY OF YOUR TESTIMONY.**

2 A. The Village has filed a Complaint and Request for Determination of Public Utility
3 Status (“Complaint”) seeking relief against Bald Head Island Transportation, Inc.
4 (“BHIT”) and Bald Head Island Limited, LLC (and “Limited”). Limited, directly
5 and through its ownership of BHIT, owns and operates the Bald Head Island
6 transportation service that runs between Southport, NC, and Bald Head Island. The
7 Complaint presents two questions. First, whether the mainland (i.e., Deep Point)
8 parking facilities in Southport, which are owned and operated by Limited for use
9 in connection with the ferry service, should be regulated by the Commission as
10 (a) ancillary to the ferry service or, alternatively, (b) a parent company’s operations
11 that have an effect on the public utility’s services and rates. Second, whether the
12 barge, which is also owned and operated by Limited, should be regulated by the
13 Commission as a common carrier service. My Direct Testimony provides a
14 summary of the factual background relevant to these issues, my findings concerning
15 Limited’s operation of the parking facilities and barge, and my conclusions on how
16 those facts bear on the regulatory issues before the Commission.

17 **Q. PLEASE EXPLAIN HOW YOUR TESTIMONY IS ORGANIZED.**

18 A. First, I provide a brief overview of Bald Head Island and its unique characteristics,
19 including the prohibition of the public’s use of automobiles on the Island.

20 Second, I summarize the critical facts relating to Limited’s operation of the
21 parking facilities serving the Bald Head Island ferry and address the question of
22 whether Limited’s parking facilities are so integral to the ferry service that they
23 should be subject to regulation by the Commission. As explained below, there is

1 ample basis for the Commission to conclude that the parking facilities are an
 2 integral component of the ferry service and, therefore, should be regulated as an
 3 ancillary service and/or parent company utility service to protect the using and
 4 consuming public.

5 Third, I discuss the barge operated by Limited and whether it should be
 6 regulated as a common carrier. I address the factors set out in the statute addressing
 7 common carriers and note that there is evidence that each of the factors are met here
 8 because Limited holds the barge out as offering to transport people (i.e., drivers)
 9 and household goods to and from the Island. I also discuss how public policy would
 10 be served by the Commission declaring as such.

11

12 **II. OVERVIEW AND HISTORICAL CONTEXT**

13 **Q. PLEASE PROVIDE A BRIEF OVERVIEW OF BALD HEAD ISLAND AND**
 14 **ITS SIGNIFICANCE TO THE STATE OF NORTH CAROLINA AND ITS**
 15 **CITIZENS.**

16 A. Bald Head Island (the “Island”) is a unique island used and enjoyed by many North
 17 Carolinians and other visitors. The Island is the southernmost of North Carolina’s
 18 barrier islands located approximately three miles across the Cape Fear River from
 19 the city of Southport. Currently the Island has over 1,000 private residences, with
 20 approximately 295 full-time residents.¹ In addition to the full-time residents, there
 21 are many visitors to the Island as well as people who work on the Island. Given all

¹ See Complaint ¶ 13; see also Bald Head Island Limited, LLC Project Pelican Confidential Memorandum, Draft – August 17, 2021, at 5 (stating that the Island has 1,350 residences with an ultimate build-out of 1,900 possible) (Exhibit JAW-6).

1 this activity, in peak season the daily population of the Island can exceed 7,000
2 persons.²

3 The Island has both historical and ecological treasures enjoyed by both the
4 Island's residents and visitors, including many youth-oriented educational
5 programs. For example, the Island is comprised of some 12,000 acres of land, of
6 which approximately 10,000 acres are untouched acres of beach, marsh and
7 maritime forest preserves. The Island is also home to a historic lighthouse ("Old
8 Baldy", completed in 1817), which is open for tours to the public; the Bald Head
9 Island Conservancy which sponsors and facilitates scientific research and
10 educational activities; and various restaurants and other outdoor activities (hiking,
11 canoeing, paddle boarding, bird watching, boating).

12 **Q. HOW DOES THE PUBLIC REACH BALD HEAD ISLAND?**

13 A. While a few Island visitors and residents may own their own boat to get to and from
14 the Island, for the large majority of Island visitors, residents, and workers, the Bald
15 Head Island ferry service is the only means of access to the Island. This is part of
16 the uniqueness of the island, along with the fact that that motor vehicles are
17 generally prohibited on the Island, except for commercial uses, public works, and
18 public safety purposes. Instead of motor vehicles, residents and visitors typically
19 ride bicycles or drive golf carts to travel on the Island.

20 **Q. WHO RELIES ON THE FERRY TO REACH THE ISLAND?**

21 A. Almost everyone who goes to the Island relies on the ferry. Several subgroups of
22 the general public regularly travel to and from Bald Head Island and must ride the

² Complaint ¶ 13.

1 ferry to reach the island. The most obvious group would be the Island residents,
 2 who make the Island their permanent home. A second group would be vacationers
 3 who rent one of the hundreds of properties on the Island for vacation trips. In
 4 addition, regular passengers on the ferry include municipal and utility employees,
 5 commercial employees who work on the island, construction workers, and daily
 6 visitors.³

7 Although I am not aware of any records of the specific visitors to the Island,
 8 Limited and BHIT have provided a breakdown of ticket sales, which provides some
 9 insight into the annual traffic volume of the various subgroups that travel to and
 10 from the Island. In 2021, BHIT had the following ferry ticket sales:

11 **[BEGIN CONFIDENTIAL]**

TABLE: FERRY TICKET SALES

Ticket Class	2021⁴	Explanation
Employee		Bona fide employees working on the Island. No tram or baggage. Board after other passengers.
Contractor		Bona fide contractors. Contractor ferry must be used. No tram or baggage.
General Fare		Applicable where other classes do not apply. Tram service provided. <i>Typically purchased by vacationers and day trippers.</i>
Child Fare		Age 3-12 traveling with adult.
Bulk 40		Bulk packages of 40 round trip tickets. Tram service provided. <i>Typically purchased by property owners.</i>
Bulk 80		Bulk packages of 80 round trip tickets. No tram service. <i>Typically purchased by property owners.</i>
Annual Pass		Available only to persons whose primary residence is on Island. No tram service. <i>Only purchased by property owners.</i>

³ See Complaint ¶¶ 13, 23.

⁴ Response to Village DR 2-10 (Exhibit JAW-11).

No Frills		Only purchased on Island. No baggage or tram. Roundtrip to Southport. <i>Typically purchased by property owners.</i>
One Way		Only available on Island where cannot present valid ticket for second leg of round trip.
Oversize Baggage		Extra fee for item too large to fit in baggage container (e.g., bicycle).
Excess Baggage		
Total Tickets Sold		
No Cost Child Tickets		
Total Tickets		

1 [END CONFIDENTIAL]

2 As is implied from this table, the majority of travelers to the Island are not
3 residents—they are vacationers purchasing General Fare tickets or
4 workers/contractors who purchase Employee or Contractor tickets at discounted
5 rates. As these ticket sales suggest, a broad cross-section of the public rely on the
6 Bald Head Island ferry service to get to and from the Island.

7 **Q. PLEASE PROVIDE A BRIEF OVERVIEW OF THE BALD HEAD ISLAND**
8 **TRANSPORTATION SERVICE.**

9 A. The transportation service provided by Limited and BHIT is the sole means of
10 public transportation for visitors, workers, and residents—and the related tangible
11 personal property owned by or used by such persons—to access the Island. This
12 service includes the following basic resources:

- 13 (1) a passenger ferry (basically people and baggage only);
- 14 (2) parking facilities on the mainland and on the Island;
- 15 (3) a tram system for transporting people and baggage on the Island;
- 16 (4) ferry terminals on both the mainland and Island; and

1 (5) a barge (and associated tugboat) used to transport commercial materials,
2 goods, supplies and personnel, including large household goods that
3 cannot be transported via the passenger ferry, to and from the Island.

4 These resources are owned, operated and managed through a web of
5 relationships between related corporate entities, all ultimately owned by the estate
6 of the Island's developer.⁵ BHIT owns and operates the passenger ferries and
7 Island trams and is a wholly-owned subsidiary of Limited. Limited owns and
8 operates the barge, the parking facilities at Deep Point, the Deep Point and Island
9 terminals, and other miscellaneous properties and assets used in connection with
10 the utility operation. Among other things, Limited leases the Deep Point and Island
11 terminal buildings to BHIT (for some \$1.2 million per year)⁶ in addition to the
12 employees that are assigned to these operations and certain management functions.⁷

13 Notwithstanding separate operation of the parking and barge services,
14 recognizing the inter-related nature of these operations with BHIT's regulated
15 services, BHIT's Chief Operating Officer and Assistant Transportation Manager
16 have management responsibilities "related to the intersection of BHIT's regulated
17 transportation assets with Deep Point parking to ensure they function cooperatively
18 to provide seamless experiences for users."⁸

⁵ See Bald Head Island Limited, LLC Project Pelican Confidential Memorandum, Draft – August 17, 2021, at 12 (Exhibit JAW-6).

⁶ See BHIT Quarterly Financial Report of Monthly Information, Docket No. A-41, Sub 7A (Feb. 17, 2022), at Income Statement page 2 (Exhibit JAW-13).

⁷ See Application of Bald Head Island Transportation, Inc., Docket No. A-41, Sub 4 (Aug. 15, 2007) (seeking approval of affiliate agreements); Letter Transmitting Amendments to BHIT Affiliated Agreements, Docket No. A-41, Sub 7 (Jan. 14, 2011); Order Accepting Agreements, Docket No. A-41, Sub 7 (Feb. 9, 2011).

⁸ See Responses to Village DR 1-13 (Exhibit JAW-10).

1 **Q. WHEN WAS THE FERRY TERMINAL MOVED TO ITS CURRENT**
2 **LOCATION?**

3 A. The original transportation system on the mainland side was conducted from a dock
4 on East Moore Street in Southport and later moved to the Indigo Plantation
5 terminal, a facility located on the Intracoastal Waterway west of Southport. In
6 2009, a new and larger ferry facility with substantially expanded parking was
7 placed into operation east of Southport, at the current Deep Point location.

8 **Q. UNDER THE EXISTING ARRANGEMENTS BETWEEN LIMITED AND**
9 **BHIT, DOES THE REGULATED UTILITY HAVE AN ENFORCEABLE**
10 **RIGHT TO USE THE PARKING FACILITIES?**

11 A. Interestingly, based on the discovery responses in this proceeding, the answer is
12 “no.” There are no agreements between BHIT and Limited related to the Deep
13 Point parking facilities, including any management agreement or employee lease
14 agreement.⁹ In other words, under the current state of affairs, ratepayers have no
15 protection with respect to their continued access to, and use of, the Deep Point
16 parking facilities—despite having relied on this access making investments on the
17 Island and otherwise enjoying the Island’s benefits.

18 **Q. IS THERE ANY DISPUTE THAT THE PASSENGER FERRY IS A**
19 **UTILITY SERVICE THAT SHOULD BE REGULATED BY THE**
20 **COMMISSION?**

⁹ See Responses to Village DR 1-6 (Exhibit JAW-10).

1 A. No. Limited and BHIT are not contesting the Commission's oversight of the
2 passenger ferry.¹⁰ The dispute between the parties is whether the parking facilities
3 and the barge should be regulated by the Commission as well.

4 **Q. DO YOU PLACE ANY SIGNIFICANCE ON THE FACT THAT THE**
5 **DEVELOPER'S ESTATE IS APPARENTLY SEEKING TO, BY AND**
6 **LARGE, EXIT ITS INVOLVEMENT WITH THE ISLAND?**

7 A. Yes, I think this is a very important consideration. As the Commission is aware,
8 BHIT has filed an Application seeking approval of the Commission to sell the
9 regulated ferry assets to a private equity firm, SharpVue Capital, LLC.¹¹ This is
10 part of a larger transaction involving all the transportation assets, in addition to
11 some other assets relating to the Island. As explained by BHIT in its Application,
12 the SharpVue transaction appears to be driven primarily by the desire of the
13 developer's estate to liquidate remaining assets, including those relating to the
14 Island.

15 The desire of an original developer, or in this case, their estate, to
16 disentangle from the development is not unreasonable. However, here this dynamic
17 has important implications for the Island given the manner which the parking and
18 barge assets have been held separately from the other transportation assets. While
19 commonly owned by the developer, ratepayers had some price and service
20 protection due to the common interest held by the developer in promoting his island
21 development business. Without this continuing common interest, ratepayers are

¹⁰ See Response, Motion to Dismiss, and Answer of Limited and BHIT, Docket No. A-41, Sub 21 (March 30, 2022), at 26 (¶ 3).

¹¹ Application for Transfer of Common Carrier Certificate, Docket No. A-41, Sub 22 (Jul. 14, 2022).

1 now exposed to decisions by the new transportation asset owners that could be
2 made based on different motivations. This dynamic is not dispositive of the
3 Commission's underlying authority, but this context is relevant to the public
4 interest questions at play.

6 **III. THE FERRY PARKING FACILITIES**

7 **Q. CAN YOU DESCRIBE THE PARKING FACILITIES FOR THE FERRY**
8 **SERVICE?**

9 A. The parking facilities are adjoined to the Deep Point Ferry Terminal, which is
10 located at 1301 Ferry Road, Southport, North Carolina 28461. The facilities
11 consist of 36 acres and 2,302 parking spaces.¹² The parking spaces are divided
12 among four separate lots: the General Lot, the Premium Lot, the Contractor Lot,
13 and the Employee Lot.¹³ As shown in Exhibit JAW-2 and Exhibit JAW-3, the
14 parking facilities are sprawling—dwarfing the ferry terminal itself. According to
15 Limited's records, there are [BEGIN CONFIDENTIAL] [REDACTED]
16 [END CONFIDENTIAL] that use the lot on an annual basis.¹⁴

17 **Q. HAS THIS COMMISSION ADDRESSED THE ISSUE OF WHETHER THE**
18 **PARKING FACILITY IS A PART OF THE FERRY SERVICE THAT**
19 **SUBJECT TO REGULATORY OVERSIGHT BY THIS COMMISSION?**

¹² See Deep Point Parking Facility (Parking Lot Space Allocation) (Exhibit JAW-14); SharpVue Project Pelican Investment Opportunity January 2022, at 14 (Exhibit JAW-7).

¹³ IBID.

¹⁴ See VBHI Complaint Data Response - Parking (Exhibit JAW-15); Parkers-by-Month (Exhibit JAW-16).

1 A. Not specifically. This issue was broached, in the 2010 Rate Case, by numerous
2 citizen comments and by joint testimony of the intervening parties (the Village,
3 Bald Head Island Association, and Bald Head Island Club).¹⁵ In the end, the
4 Commission adopted the parties' settlement stipulation resolving all disputed
5 issues, thus alleviating the need to specifically address the question concerning the
6 regulatory status of the parking facilities in its final ruling. I will address the
7 significance of the parties' stipulation in the 2010 Rate Case later in my testimony.

8 **Q. BASED ON YOUR REGULATORY EXPERIENCE AND EXPERTISE, DO**
9 **YOU BELIEVE THERE IS A BASIS FOR ASSERTING REGULATORY**
10 **AUTHORITY OVER THE FERRY PARKING FACILITIES?**

11 A. Yes, there is ample basis for the assertion of regulatory authority under the facts
12 presented in this proceeding. Under G.S. § 62-32 the Commission has "general
13 supervision over . . .the services offered by all public utilities in this State," which
14 includes the authority to require and compel "reasonable service."¹⁶ While there
15 may be other sources of authority in the General Statutes, based on my regulatory
16 experience I believe it is reasonable for the Commission to conclude that the
17 parking facilities fall under the Commission supervisory powers for at least two
18 separate, but closely related, reasons.

19 First, the services offered by a regulated utility are defined under G.S. § 62-
20 3(27) as "any service furnished by a public utility, including . . . any ancillary
21 service or facility used in connection with such service."

¹⁵ See, e.g., Direct Testimony of Julius A. Wright, Ph.D., Docket No. A-41, Sub 7 (Sept. 30, 2010), at 5-17; Complaint and Request for Determination of Public Utility Status, Docket A-41, Sub 21 (Feb. 16, 2022), at n.9.

¹⁶ G.S. § 62-32(a) and (b).

1 Second, under G.S. § 62-3(23)c, the term “public utility” includes “all
 2 persons affiliated through stock ownership with a public utility doing business in
 3 this State as a parent corporation . . . to such an extent that the Commission shall
 4 find that such affiliation has an effect on the rates or service of such public utility.”¹⁷

5 **Q. WHAT IS YOUR UNDERSTANDING OF HOW THE TERM**
 6 **“ANCILLARY” SHOULD BE INTERPRETED?**

7 A. The term is not defined in Chapter 62, so one must resort to various principles of
 8 regulatory interpretation. The Commission is certainly well-versed in applying
 9 these principles, but in common parlance the term “ancillary” means “providing
 10 necessary support to the primary activities or operation of an organization,
 11 institution, industry, or system.”¹⁸

12 **Q. HOW DOES THAT APPLY HERE TO THE FERRY OPERATION?**

13 A. The parking operation is not merely an additional optional service supporting the
 14 utility service—rather it is an integral, necessary and irreplaceable ancillary
 15 component of the ferry service leaving me to conclude that the parking facilities
 16 easily meet the statutory requirement of being an “ancillary service or facility used
 17 in connection with such service.” Public parking is necessary for the public’s
 18 access to the ferry service, in the same manner that the terminal is necessary for the
 19 loading and unloading of passengers unto the ferry itself, and substitutable parking
 20 is not available from any other source. Stated another way, if the ferry ceased
 21 operations tomorrow, the property would have very little value as a parking lot but
 22 it could still be developed for other purposes. Conversely, if the parking lot ceased

¹⁷ G.S. § 62-3(23)c.

¹⁸ Google search for “ancillary” (definition supplied by Oxford Languages).

1 operations tomorrow, the ferry would be crippled as passengers would have almost
2 no means to access to the ferry. Therefore, there is an ample practical basis for the
3 considering the parking operation to be a regulated “ancillary service” or “ancillary
4 facility” to the ferry service.

5 **Q. WHAT FACTORS OR ISSUES MIGHT THE COMMISSION CONSIDER**
6 **IN ITS EVALUATION OF WHETHER THE PARKING FACILITIES ARE**
7 **AN ANCILLARY SERVICE OR FACILITY TO THE REGULATED**
8 **FERRY SERVICE?**

9 A. There were four basic considerations that I used in my analysis of this question and
10 that I believe respond affirmatively to this question. First, I studied how Limited’s
11 parking facilities are integral to the regulated passenger ferry service provided by
12 BHIT. Second, I looked at evidence of whether Limited’s ownership and control
13 of the parking facilities provides it with monopolistic power over access to BHIT’s
14 passenger ferry. Third, I looked at Limited’s statements and actions from past
15 Commission dockets. Finally, I examined other Commission decisions that provide
16 analogous precedents that corroborate my conclusion that the Commission should
17 regulate the parking facilities for the Bald Head Island ferry service.

18 **Q. WITH REGARD TO THE FIRST FACTOR, WHAT IS THE BASIS FOR**
19 **YOUR CONCLUSION THAT THE PARKING FACILITIES ARE**
20 **INTEGRAL TO THE PASSENGER FERRY SERVICE?**

21 A. There are numerous sources for my conclusion, including a presentation provided
22 by Limited in discovery, observations of a third-party consultant, and statements
23 on the BHIT website.

1 Q. CAN YOU DESCRIBE THE PRESENTATION YOU REVIEWED AND
2 EXPLAIN ITS RELEVANCE?

3 A. In a memorandum related to Limited’s seeking a buyer for the transportation
4 assets, Limited itself made the case that the parking facilities are an integral
5 component of the transportation services. There, Limited stated:

6 [BEGIN AEO CONFIDENTIAL]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]¹⁹

20 [REDACTED]
21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [END AEO CONFIDENTIAL]

¹⁹ Bald Head Island Limited, LLC Project Pelican Confidential Memorandum, Draft – August 17, 2021, at 12 (Exhibit JAW-6).

1 **Q. WHAT HAVE THIRD PARTIES SAID ABOUT THE ESSENTIAL**
2 **NATURE OF THE PARKING FACILITIES?**

3 A. A 2020 Bond Feasibility Study prepared for the Bald Head Island Transportation
4 Authority supports the conclusion the parking is essential to the ferry operation. In
5 the report, Mercator International, LLC—a transportation consulting firm—made
6 the following observation about the ferry service’s parking facilities:

7 Nearly all ferry passengers travel to and from the
8 Deep Point Terminal (at Southport, on the North
9 Carolina Mainland) by personal vehicle and park
10 their vehicles in the BHI Limited parking facility.
11 Therefore, the parking operation is tied to the ferry
12 operation, with demand for parking very closely
13 related to overall ferry traffic.²⁰
14

15 This observation has two notable components. First, it observes that nearly
16 all ferry passengers reach the ferry by “personal vehicle.” This is because there is
17 no form of public transportation to the Deep Point Ferry Terminal—ferry passenger
18 must drive a personal vehicle to Deep Point Ferry Terminal and, once there, must
19 park their vehicle at the parking facilities.

20 Second, Mercator observed that the parking facilities are “closely tied” to
21 the ferry operation because demand for parking is “very closely related” to ferry
22 traffic. This means that when ferry traffic is high, parking demand is high, and
23 when ferry traffic is low, parking demand is low. This suggests that ferry
24 passengers are the primary users of the parking facilities. This also suggests that
25 ferry passengers do not have alternative parking operations: when ferry passenger
26 traffic increases, those passengers fill up the spots in the parking facilities because

²⁰ See Bond Feasibility Study for the Bald Head Island Transportation Authority, Mercator International, LLC Draft 4, Dec. 2020, at 26 (Exhibit JAW-9).

1 there is no other place to park; if there was an alternative, when ferry traffic
2 increased, there would not necessarily be a correlative rise in parking demand
3 because ferry passengers would have other places to park.

4 **Q. HOW DOES BHIT'S WEBSITE ILLUSTRATE THAT THE PARKING**
5 **FACILITIES ARE INTEGRAL AND NECESSARY TO THE PASSENGER**
6 **FERRY?**

7 A. BHIT hosts a website at www.baldheadislandferry.com that provides information
8 about the ferry services and parking. That website includes three separate menu
9 options that all specifically reference the Deep Point Parking facilities: an
10 instructional video, a General Information memo, and a 360 Tour with numbered
11 instructions for ferry system usage. Each of these support my conclusion regarding
12 parking being an integral and necessary part of the ferry transportation services.

13 **Q. TELL US ABOUT THE INSTRUCTIONAL VIDEO.**

14 A. The homepage of the website includes an instruction video on “traveling to and
15 from Bald Head Island.” The video describes how to use the ferry service, including
16 information related to buying tickets for the passenger ferry, baggage handling, and
17 the on-island tram service. Importantly, the video also provides instruction on
18 parking:

19 After unloading your baggage *and parking your car*,
20 walk back to the lower level [of the terminal] and
21 enter the line for the gated waiting area

22
23 When you arrive back on the mainland, *simply*
24 *retrieve your car, pay for parking*, and drive to the
25 lower level, where you can pick up your checked
26 baggage.²¹
27

²¹ Available at <https://baldheadislandferry.com/video> (emphases added).

1 Two important points are clear from these video statements. First, the Bald
2 Head Island ferry service expects most passengers reach the terminal via a car that
3 needs parking services. Second, most people will need a car to reach the terminal
4 because they will be transporting a lot of baggage with them—so much so that they
5 will want to unload baggage at the terminal and then park their car.

6 **Q. TELL US ABOUT THE GENERAL INFORMATION MENU.**

7 A. In addition to the instructional video, the website’s homepage also provides a
8 “General Information” dropdown menu that includes information on “Parking.”²²
9 Under the “Parking” item, the website states that “[w]hen arriving at Deep Point
10 you will need to first drop off your luggage/passengers at the ferry terminal *and*
11 *then enter the general [parking] lot.* A parking ticket is issued from an electronic
12 parking device when approaching the lot.” (emphasis added)

13 The simple fact that this “General Information” tab has a link to parking
14 information is more evidence that most ferry passengers will arrive at the terminal
15 via a vehicle that will require parking. Equally important, the only parking option
16 identified by the website is the parking facility at the Deep Point Terminal.

17 **Q. TELL US ABOUT THE 360 TOUR ON BHIT’S WEBSITE.**

18 A. On the same General Information menu is a “Deep Point Aerial / 360 Tour” icon.
19 Clicking on this icon, the first thing one sees is an aerial view showing the terminal
20 and the large parking facilities, all in one big picture. This is shown in Exhibit
21 JAW-4, Figure 1.

22 The 360 Tour includes a “Quick Arriving Guide” icon, that when activated,

²² Available at <https://baldheadislandferry.com/parking> (emphases added).

1 provides the visual image shown in Exhibit JAW-4, Figure 2. This image provides
2 stepwise instructions for arriving ferry terminal users which states the following:

- 3 1 – Find the Sign
- 4 2 – Follow the road to the intersection
- 5 3 – *Go straight to unload Passengers/Luggage*
- 6 4 - *Unload*
- 7 5 - *Park in General Lot*
- 8 6 – *Walk to the terminal facility*
- 9 7 – Purchase/Pickup Ferry Ticket & Check In
- 10 8 – Board the ferry . . .

11
12 Notably, the only parking option given to ferry passengers under these instructions
13 is the Deep Point parking facilities labeled “General Lot” and it is only public
14 parking facility from which a public ferry passenger could comfortably “walk to
15 the terminal facility” as instructed by this BHIT video.

16 The 360 Tour also includes a “Quick Departing Guide” icon. When
17 activated, the link provides the visual image shown in Exhibit JAW-4, Figure 3.
18 This image provides instructions for returning to the mainland, including: “[a]fter
19 disembarking from ferry, have one member of your party retrieve your vehicle” and
20 “[w]alk to the General Lot and retrieve your vehicle.” Again, the only parking
21 option given to ferry passengers under these instructions is the parking facilities
22 labeled “General Lot.”

23 **Q. DOES THE DEEP POINT TERMINAL PARKING SERVICE ALSO MEET**
24 **THE DEFINITION OF A MONOPOLY SERVICE?**

25 A. Yes. A monopoly is defined as an entity which has the exclusive possession or
26 control of the supply of or trade in a commodity or service. In this case, Limited
27 owns and operates the exclusive public parking facility with reasonable access to
28 the facilities and the operations of the Deep Point Ferry Terminal.

1 **Q. WHAT IS THE BASIS FOR YOUR CONCLUSION THAT THE PARKING**
2 **FACILITIES ARE A MONOPOLY SERVICE?**

3 A. My conclusion that the parking facilities are a monopoly service is based on (1)
4 Respondents' admissions that there is no public transportation to the Deep Point
5 ferry terminal and that there is no other public parking lot available near the ferry
6 terminal, (2) Respondents' respective websites, (3) Southport's website, (4) an
7 assessment prepared by the consulting firm, Mercator International, LLC, and (5)
8 SharpVue Capital's assessment of the parking facilities.

9 **Q. WHAT ADMISSIONS DID RESPONDENTS MAKE ABOUT PARKING?**

10 A. First, Respondents admitted in their Answer to the Complaint that there is no public
11 bus service that runs to the ferry terminal.²³ In addition, because the ferry terminal
12 is located in Southport, North Carolina—with a population of only some 3,700
13 persons²⁴—there is likely limited, if any, taxi service or ride-share service (e.g.,
14 Uber) available.

15 Even if there were public transportation, it would not be a suitable substitute
16 for the parking facilities. As described repeatedly on the BHIT website, ferry
17 passengers bring a lot of luggage with them, so much that BHIT describes the
18 process for unloading luggage at the terminal. It is unlikely that transportation like
19 a public bus—even if they existed in such a small community—would be able to
20 readily accommodate the passengers and all of their luggage. And even then, there

²³ See Response, Motion to Dismiss, and Answer of Limited and BHIT, Docket No. A-41, Sub 21 (March 30, 2022), at 30 (¶ 22) (“It is admitted that Respondents know of no other regular bus services from another public parking lot to and from the Deep Point Terminal operating at this time.”).

²⁴ See <https://datausa.io/profile/geo/southport-nc>.

1 is still the question where persons would park their vehicles before taking the bus
2 or some other form of public transportation.

3 Second, Respondents admitted there is no alternative public parking
4 available. In discovery, Respondents were asked to identify any “alternative
5 options a ferry passenger has to parking in the Deep Point parking lot[.]”²⁵ The
6 only options Respondents could identify were four parking lots located at the old
7 Indigo Plantation site.²⁶ These are not a true parking alternative option for two
8 basic reasons. First, these Indigo Plantation parking lots, as Respondent itself
9 indicated, are four miles away from the ferry terminal.²⁷ Second, the parking lots
10 are owned by Limited.²⁸ The fact that the only public available parking facility that
11 Limited itself could identify as a potential substitute to its Deep Point parking was
12 a parking lot four miles away that is owned by Limited itself should be conclusive
13 evidence of Limited’s monopolistic control over the parking needed by the public
14 in order to use the regulated ferry.

15 **Q. COULD SOMEBODY BUILD A NEW PARKING LOT TO COMPETE**
16 **WITH THE PARKING FACILITIES AT DEEP POINT TERMINAL?**

17 A. Maybe, but that it seems highly unlikely. Exhibit JAW-2 provides an aerial view
18 of the Deep Point ferry terminal and surrounding areas. The area surrounding the
19 terminal is either residential, industrial, or undeveloped. Simply put, none of these
20 neighboring areas currently provide any public parking.

²⁵ Response to Village DR 1-15 (Exhibit JAW-10).

²⁶ IBID.

²⁷ IBID.

²⁸ IBID.

1 In addition, in its discovery responses, Limited pointed to an undeveloped
2 106-acre adjacent to the Deep Point property as a potential site for a competitive
3 parking facility, located at the intersection of Moore Street and Ferry Road, across
4 the road from the current on-site parking.²⁹ However, at the time of my testimony,
5 the lot is under contract to be sold.³⁰ Thus, the property is not available.

6 Even if one could purchase the lot, it would likely be uneconomic to turn it
7 into a parking facility. The lot is listed for \$3.25 million and is currently
8 undeveloped. Attached is Exhibit JAW-5 is a screenshot from the MLS listing for
9 this property showing that it is completely overgrown with trees and vegetation.

10 Regardless of whether or not one could build a competing parking
11 operation, such a possibility is irrelevant. The simple fact is that *at this time* there
12 is no parking alternative or competitive parking facility for Deep Point Terminal
13 passengers to use and the existing terminal parking has always been made available
14 to the public as a component of the ferry service. Until alternative services exist,
15 the only conclusion I can draw is that the parking facilities are a monopoly service
16 which is integrally connected to the currently-regulated utility service. As utility
17 commissions did with telephone service handsets, the yellow pages, and even
18 natural gas and telephone deregulation, when a regulated utility service is “ripe”
19 for deregulation is not based on “potential” for competitive options, but based on a
20 finding that actual competition has developed and is challenging the once regulated
21 industry or service. For example, while I was a Commissioner, the Commission
22 continued to regulate essentially all aspects of local telephone service until there

²⁹ Response to Village DR 1-14 (Exhibit JAW-10).

³⁰ MLS Listing for 00 Ferry Road, Southport, NC (Exhibit JAW-17).

1 was actual competition from cell phones. Similarly for yellow page services and
2 natural gas pipeline services.

3 **Q. HOW DO BHIT'S AND LIMITED WEBSITES SHOW THE PARKING**
4 **FACILITIES ARE A MONOPOLY SERVICE?**

5 A. The monopoly nature is reflected in several statements noted above about parking
6 on BHIT's website. As explained already, BHIT's website repeatedly speaks of
7 the need to park but only illustrates or speaks of one option: the "General Lot"
8 owned and operated by Limited. Having only one option for a service is the basic
9 economic definition of a monopoly.

10 Furthermore, Limited operates its own website at www.baldheadisland.com
11 that provides information about the ferry services, vacation rentals, and other events
12 on Bald Head Island. Regarding the ferry services, Limited's website discusses the
13 passenger ferry's schedule, what to pack, loading baggage, parking, barding and
14 disembarkation. As to parking, the website says that, after dropping off your
15 luggage, "[y]ou'll then proceed to a parking lot to secure your car. The Premium
16 Parking Lot and the General Parking Lot, owned and operated by Bald Head Island
17 Limited, are both conveniently located directly across the street from the ferry
18 terminal."³¹

19 If there were other options for parking, one would expect BHIT or Limited
20 to have described them, or at least referenced them in some way, on their websites.

21 But Respondents did not, because there are none.

³¹ See <https://www.baldheadisland.com/island/ferry/>.

1 **Q. WHAT DOES THE TOWN OF SOUTHPORT SAY ABOUT THE PARKING**
2 **FACILITIES?**

3 A. In addition, the Town of Southport hosts a website³² and discusses, among other
4 things, Bald Head Island and the ferry service to get to the Island. In describing the
5 ferry service, the website states that “[u]pon arriving at the Deep Point Ferry on
6 Ferry Road, visitors will be able to park at three separate parking lots, with rates
7 that are determined by the length of stay.”³³ All three parking lots are at the Deep
8 Point terminal. If Southport had other parking options available, surely the
9 Southport website would have listed them.

10 **Q. WHAT DOES THE MERCATOR REPORT SAY ABOUT THE PARKING**
11 **FACILITIES?**

12 A. As part of the report provided to the Bald Head Island Transportation Authority,
13 Mercator evaluated the parking facilities and observed that “[n]early all ferry
14 passengers . . . park their vehicles in the BHI Limited parking facility.”³⁴ Mercator
15 further observed that “the parking operation is tied to the ferry operation, with
16 demand for parking very closely related to overall ferry traffic.”³⁵ Thus, Mercator
17 observed the essential nature of the parking services to the ferry service, and
18 importantly, Mercator does not identify a single alternative to the Deep Point
19 parking option.

³² See <https://www.southport-nc.com/bald-head-island-ferry.html>.

³³ See <https://www.southport-nc.com/bald-head-island-ferry.html>.

³⁴ Bond Feasibility Study for the Bald Head Island Transportation Authority, Mercator International, LLC Draft 4, Dec 2020, at 26 (Exhibit JAW-9).

³⁵ IBID.

1 Q. DOES SHARPVUE CAPITAL’S ASSESSMENT OF THE PARKING
2 FACILITIES SUPPORT YOUR CONCLUSION THAT THE FACILITIES
3 ARE A MONOPOLY SERVICE?

4 A. Yes. As part of SharpVue Capital’s pending acquisition of the ferry service’s
5 assets, SharpVue evaluated the parking facilities. In doing so, SharpVue made the
6 following observations. [BEGIN AEO CONFIDENTIAL] [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]³⁶ [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]³⁷ [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]³⁸ [REDACTED]

20 [REDACTED]

³⁶ SharpVue Project Pelican Investment Opportunity January 2022, at 4 (emphasis added) (Exhibit JAW-7).

³⁷ IBID, at 22 (Exhibit JAW-7).

³⁸ IBID, at 24 (Exhibit JAW-7).

1 [REDACTED]

2 [REDACTED]³⁹ [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED] [END AEO

8 CONFIDENTIAL]

9 **Q. WHAT DID YOU FIND IN PAST COMMISSION PROCEEDINGS THAT**

10 **SUPPORTS YOUR CONCLUSION THAT THE PARKING FACILITIES**

11 **ARE AN ANCILLARY SERVICE?**

12 A. In addition to reviewing evidence of the parking facilities being integral and

13 exclusive, I reviewed past filings in Commission proceedings regarding BHIT. For

14 over two decades, BHIT has been providing information and taking actions that are

15 consistent with the parking facilities being an ancillary service to the Bald Head

16 Island ferry service. In particular, I would like to call the Commissions attention

17 to materials I reviewed in Docket Nos. A-41, Sub 1, Sub 6, and Sub 7.

18 **Q. WHAT DID YOU FIND IN DOCKET NO. A-41, SUB 1 RELATED TO THE**

19 **PARKING FACILITIES?**

20 A. In 1998, BHIT opened a proceeding before the Commission to modify its tariff

21 filings.⁴⁰ In in the hearing transcript, Mr. Kenneth Kirkman, the Chief Operating

³⁹ SharpVue Project Pelican Investment Opportunity January 2022, at 24 (Exhibit JAW-7).
See also SharpVue Pelican Initial Valuation, December 8, 2021, at 2 (JAW-8).

⁴⁰ *See* Order of Suspension and Notice of Hearing, Docket A-41, Sub 1 (Aug. 18, 1998).

1 Officer and Chief Legal Officer for Bald Head Island Management Company,
2 stated, “We are beginning the development of a mainland ferry base which is under
3 construction now that will be a \$5 million plus project. It is designed to help some
4 of the problems like parking that you have heard about today.”⁴¹ Mr. Kirkham was
5 referencing the construction of the Deep Point terminal, the future home of the Bald
6 Head Island ferry service that would open in 2009. In describing the construction
7 of this “mainland ferry base,” Mr. Kirkman acknowledged that improved parking
8 was one of the benefits of the new location. Thus, from the conception of the Deep
9 Point terminal, the parking facilities were viewed by BHIT as integral to the new
10 “mainland ferry base” and the Island’s ferry service.

11 **Q. WHAT DID YOU FIND IN DOCKET NO. A-41, SUB 6 RELATED TO THE**
12 **PARKING FACILITIES?**

13 A. When the Bald Head Island ferry service moved its operations from Indigo
14 Plantation to the Deep Point terminal, BHIT and Limited submitted filings related
15 to the move. In those filings, there is evidence that specifically links the passenger
16 ferry transportation to the parking facilities. In that filing, a document called “The
17 Deep Point Dispatch, Issue No. 1” indicated the following: “Arriving by car you
18 will turn off Ferry Road onto a well-marked entrance road that leads around the
19 perimeter of the main parking lots.”⁴² The next issue of the Deep Point Dispatch
20 stated the following:

21 Many passengers will elect to retrieve their car from
22 the parking lot prior to claiming their baggage. This
23 will be a simple matter of walking the short distances

⁴¹ Docket A-41, Sub 1, transcript dated Sept. 3, 1998, at 111, lines 6-10.

⁴² See Notice of Relocation of Ferry Terminal and Application for Approval of Schedule Revisions, Docket No. A-41, Sub 6 (April 30, 2009), at Appx. 2, p. 2.

1 to the Premium Parking lot or to the General Parking
 2 Lot, both conveniently located directly across the
 3 street from the ferry terminal. . . . We hope you are
 4 as excited as we are about the new Transportation
 5 Facility at Deep Point.⁴³
 6

7 It is clear from these statements that Limited was including the parking facilities as
 8 a part of, or ancillary to, the “new Transportation Facility” and the ferry service
 9 experience. Even more telling, what is missing from the Deep Point Dispatch is
 10 any reference to any parking facilities available to ferry riders other than the Deep
 11 Point parking facility—because there are none.

12 **Q. WHAT DID YOU FIND IN DOCKET NO. A-41, SUB 7 RELATED TO THE**
 13 **PARKING FACILITIES?**

14 A. As I referenced earlier, the 2010 Rate Case is also relevant to the question at hand.
 15 In its order disposing of the proceeding, the Commission did not reach the issue of
 16 the regulatory status of the parking facilities because a settlement reached by all of
 17 the parties in the case alleviated the need for the Commission to resolve that issue.
 18 While the Commission did not resolve the legal issue, the Commission accepted
 19 and approved a stipulation of all parties—including both Limited and BHIT—that
 20 addressed the parking facilities in several respects.

21 First, the stipulation accepted by the Commission provided that \$523,097
 22 of revenues from the Deep Point Parking Facilities would be imputed to the
 23 regulated ferry operations for purposes of the rate case.⁴⁴ In other words,
 24 notwithstanding the separate ownership of the parking facilities, the Commission

⁴³ See Notice of Relocation of Ferry Terminal and Application for Approval of Schedule Revisions, Docket No. A-41, Sub 6 (April 30, 2009), at Appx. 2, p. 6.

⁴⁴ See Order Granting Partial Rate Increase and Requiring Notice, Docket No. A-41, Sub 7 (Dec. 17, 2010), at 5-7.

1 effectively treated some portion of the parking revenues as regulated revenues to
2 offset regulated expenses.

3 Second, as a signatory to the Revised Agreement and Stipulation of
4 Settlement, Limited agreed to limit rate increases for terminal parking applicable
5 to daily rates to the rates then in effect (\$10 seasonal; \$8 non-seasonal) plus the
6 annual inflation rate in any 12-month period for a period of six years, ending
7 December 31, 2016. Limited further agreed that an existing agreement regarding
8 annual parking—that limited rate increases to annual inflation for annual parking
9 rates at the Deep Point Parking Facilities between 2009 and 2014⁴⁵—would be
10 extended through December 31, 2016.⁴⁶

11 Third, the parties agreed that Limited would provide prior notice to the
12 Public Staff and the Commission of any sale or lease of the Deep Point parking
13 facilities, or any portion of those facilities, at least ninety days prior to the closing
14 of any such transaction.⁴⁷ Limited has now provided such notice in connection with
15 its pending sale to Pelican Logistics, LLC, a subsidiary of Pelican Legacy Holdings,
16 LLC, and an affiliate of SharpVue Capital, LLC.⁴⁸

17 All of these stipulations were accepted by the Commission in its final order
18 disposing of the proceeding. Although the parties agreed that the stipulation would
19 not be binding on Limited or BHIT outside the context of that specific settlement,⁴⁹

⁴⁵ See Revised Agreement and Stipulation of Agreement, Docket No. A-41, Sub 7 (Oct. 21, 2010), at Ex. C (the “April 4, 2009 Letter Agreement”) (attached as Exhibit 2 to Complaint).

⁴⁶ Revised Agreement and Stipulation of Agreement, Docket No. A-41, Sub 7 (Oct. 21, 2010), at 3.

⁴⁷ Stipulation in Docket No. A-41, Sub 7, paragraph 2.C.i.c.

⁴⁸ See Notice of Pending Sale, Docket No. A-41, Sub 7 (July 14, 2022).

⁴⁹ Revised Agreement and Stipulation of Settlement, Docket No. A-41, Sub 7 (Oct. 21, 2010), at para. 11(B).

1 the stipulation is nonetheless a persuasive indication that all the parties to the
2 stipulation, and the Commission, understood the integral connection between the
3 parking and the ferry, consistent with the parking facilities being treated for
4 regulatory purposes as an ancillary service to the passenger ferry.

5 Obviously the parties and the Commission recognized the connection
6 between parking and ferry sufficient to justify the imputation of a significant
7 amount of revenues from the parking operations to the ferry operations.
8 Additionally, a legitimate question to consider is why would a stipulation that the
9 Commission and Public Staff be notified of any sale or lease of the parking facilities
10 if the parking facilities were not a vital and necessary service of the ferry service?
11 In fact, if the parking operation were simply a competitively supplied service, then
12 there would be no reason for this statement to be in this stipulation and no reason
13 for the Commission and Public Staff to be notified in advance of a potential sale of
14 the parking operations.

15 **Q. WHAT OTHER UTILITY PROCEEDINGS SUPPORT YOUR**
16 **CONCLUSION THAT THE PARKING FACILITIES SHOULD BE**
17 **CONSIDERED AN ANCILLARY SERVICES REGULATED BY THE**
18 **COMMISSION?**

19 **A.** As part of my research, I investigated analogous situations in which utility
20 commissions regulated services that were ancillary to a core utility service. I found
21 similar situations with the Commission's regulation of telephone handsets and the
22 yellow pages, plus the California commission's regulation of a training terminals'
23 parking lot.

1 **Q. HOW ARE TELEPHONE HANDSETS ANALOGOUS TO THE PARKING**
2 **FACILITIES?**

3 A. This first example deals with the provision of customer premise telephone
4 equipment (such as telephone handsets) prior to the deregulation of the telephone
5 industry. Prior to the deregulation of the telephone industry, most local telephone
6 companies leased residential customers a basic telephone handset. The level of
7 these lease payments was regulated by State utility commissions and the revenues
8 and related expenses were a part of the regulated utility's regulated dollars.

9 It should be noted that the monopoly service the telephone utility was
10 offering to the public was not the lease of a telephone handset, but rather the ability
11 to use its wires and related back office infrastructure to make phone calls
12 connecting telephone subscribers to one another. The basic telephone handset,
13 while necessary to use the telephone utility's primary services, did not have to be
14 regulated if there were alternative suppliers, but it was regulated for many years as
15 there was no other place for customers to purchase a phone handset. Once
16 competition was available from other hand set suppliers, such as Radio Shack or
17 Sears, this type of customer premise equipment along with its price and revenues,
18 became deregulated.

19 **Q. HOW ARE YELLOW PAGES ANALOGOUS TO THE PARKING**
20 **FACILITIES?**

21 A. This second example from the telephone industry concerns yellow pages directory
22 services which were deemed by regulators at the time as an integral part of the
23 overall telecommunication service offered by the telephone utilities.

1 To explain, prior to 1984 the telephone directory and yellow pages were a
2 regulated part of Southern Bell's telephone services. In 1984, the Commission
3 approved Southern Bell transferring its directory operations and assets to an
4 unregulated affiliate, BAPCO.⁵⁰

5 In a subsequent rate case order, the Commission carefully evaluated the
6 relationship between the parent and its affiliate to ensure that ratepayers were
7 protected by allocating revenues from BAPCO to Southern Bell for ratemaking
8 purposes. In so doing, the Commission relied on "the integral relationship of the
9 directory to telephone service" (in fact, characterizing the relation as "integral"
10 three times for emphasis) and expressed its concern that "these revenues should not
11 be siphoned off in any manner or for any purpose ... to ensure that the profits of a
12 nonregulated subsidiary are not maximized at the expense of ratepayers."⁵¹

13 Similarly, in a General Telephone Company rate proceeding the
14 Commission carefully scrutinized the revenues of GTC's directory publishing
15 affiliate and allocated some 58% of revenues to the utility, concluding that "the
16 directory operations are an integral part of the local telephone operations of GTC
17 and the company's ratepayers are entitled to receive the benefit of these
18 operations."⁵² In so holding, the Commission noted the Public Staff's position that:

19 [W]ere it not for the structural separation of the directory publishing
20 function from the telephone operating company, the Company

⁵⁰ See *Re: Southern Bell Tel. and Telegraph Co.*, Docket No. P-55, Sub 834, 1984 WL 1028455 (Nov. 9, 1984), at 2 (reciting entry of order approving transfer dated June 6, 1984, in Docket No. P-55, Sub 839).

⁵¹ *IBID*, at 8-10.

⁵² Order Granting Partial Increase in Rates and Requiring Service Improvements, Docket P-19, Sub 207, Sept. 16, 1986, page 11. The Commission had previously entered similar decisions in Docket Nos. P-19, Sub 158 and P-19, Sub 163.

1 would earn only the return on equity granted by the Commission on
2 its investment in directory operations and the ratepayers would
3 benefit directly from any cost savings or economies of scale
4 generated.⁵³

5 The NCUC's longstanding belief that telephone directory revenues were a
6 service provided as an integral part of regulated telephone service was affirmed by
7 the North Carolina Supreme Court. In *State of North Carolina ex rel. Utilities*
8 *Commission v. Southern Bell Telephone and Telegraph Company*, 307 N.C. 541,
9 299 S.E.2d 763 (1983), the court considered the Commission's ruling that it could
10 take the investments, costs and the revenues relating to Southern Bell's directory
11 advertising operation into account in rate making proceedings. The North Carolina
12 Supreme Court affirmed that ruling on appeal, rejecting the utility's argument that
13 "mere transmission of messages across telephone lines is adequate telephone
14 service" as "ludicrous".⁵⁴

15 A key to these examples is that the basic telephone service the utility's
16 customers sought did not require that customers purchase the related telephone
17 hand set or use the yellow pages provided by the utility. However, these services
18 were considered integral to the provision of the telecommunications services. In
19 order to protect ratepayers, until sufficient competition or substitute products
20 became available, the allocation of revenues, and in some cases the rates and
21 expenses, associated with those services continued to be regulated and treated as
22 part of the public utility's regulated services and/or regulated revenue stream.

23 Here, the regulatory interests at stake appear to be directly analogous to

⁵³ IBID, at 9.

⁵⁴ 307 N.C. at 544, 299 S.E.2d at 765.

1 these prior cases and provide the Commission a roadmap for evaluating the issues
2 here.

3 **Q. ARE YOU AWARE OF AUTHORITY FROM OTHER STATES WHERE A**
4 **REGULATORY COMMISSION HAS EXERCISED JURISDICTION OVER**
5 **PARKING FACILITIES AS NECESSARY TO THE PROVISION OF**
6 **UTILITY SERVICES?**

7 A. Yes. I am aware of a decision by the California Public Utilities Commission (PUC)
8 addressing facilities at several railroad depots in California. Basically, the Southern
9 Pacific Company was leasing or closing several of its former parking facilities at
10 several train stations. Southern Pacific Company’s position was that “parking is
11 extraneous to the furnishing of transportation for persons and their baggage” and
12 that the California PUC had no jurisdiction in the matter.⁵⁵ Intervening cities and
13 other parties took the position that the parking facilities were an integral part of the
14 regulated railroad transportation services and should therefore also be regulated. In
15 ordering that the parking facilities be reopened, the PUC easily rejected the
16 railroad’s limited authority argument, stating: “We do not believe in the year 1967
17 it can seriously be argued that customer parking facilities adjacent to a railroad
18 station are not ‘incidental to the safety, comfort, or convenience of the person being
19 transported’ . . . [and] cannot be reasonably necessary to accommodate
20 passengers.”⁵⁶

21 This statement, that the parking is an incidental and necessary service for

⁵⁵ *City of Mountain View v. S. Pac. Co.*, 70 P.U.R.3d 304, 1967 WL 164047 (Cal. P.U.C. June 20, 1967), at 7.

⁵⁶ *IBID*, at 10.

1 railroad passengers, is easily just as applicable to the Deep Point Ferry service. In
2 both situations the parking of a vehicle at the transportation terminal is necessary
3 to enable passengers to use the specific, either rail or water ferry, regulated
4 transportation service. This rings even more true with the Bald Head Island ferry
5 system based on the fact that railroad stations, being located usually near downtown
6 areas, will likely have some public access parking relatively near the railroad
7 terminal—no such parking option is currently available for Bald Head Island.

8 **Q. HAS THE NORTH CAROLINA UTILITIES COMMISSION PREVIOUSLY**
9 **RECOGNIZED THAT PARKING FACILITIES ARE APPROPRIATELY**
10 **TREATED AS REGULATED ASSETS OF THE UTILITY?**

11 A. Yes, and the treatment was affirmed by the North Carolina Supreme Court in *State*
12 *ex rel. Utilities Commission v. Eddleman*.⁵⁷ There the Commission expressly
13 permitted Duke Power to include “all common plant” associated with the Catawba
14 Nuclear Station in rate base, including “[s]witching stations, waste treatment
15 facilities, shops, laboratories, roads and parking lots—all of which are intended to
16 serve both generating units at Catawba.”

17 **Q. IF THERE IS NO ALTERNATIVE TO THE DEEP POINT PARKING**
18 **FACILITY, WHAT DOES THIS MEAN TO FERRY PASSENGERS?**

19 A. It means they are captive customers to a monopoly service. From an economist
20 perspective, this means the monopoly service provider can often arbitrarily increase
21 prices to earn what is termed “monopoly rents.” Monopoly rents are earned by
22 firms that are able to restrict supply and/or increase prices without fear of attracting

⁵⁷ 320 N.C. 344, 362-63, 358 S.E.2d 339, 352 (1987).

1 competitors. Said another way, from the customers perspective, a captive customer
2 to a monopoly service generally means, over time, that prices will be higher and
3 services of lesser quality than what that customer would find in a competitive
4 market for the same goods and services. This is the basic economic fear for
5 customers of the Bald Head Island Ferry terminal parking services.

6 **Q. IS THERE AN ALTERNATIVE STATUTORY BASIS FOR ASSERTION**
7 **OF REGULATORY AUTHORITY?**

8 A. Yes, as I mentioned previously, Chapter 62 also permits regulation of a parent entity
9 where “the Commission shall find that such affiliation has an effect on the rates or
10 service of such public utility.” Here, Limited is the parent entity of BHIT, which
11 is currently providing public utility services. Because Limited owns both the
12 parking facilities for the regulated passenger ferry and BHIT, the operator of the
13 passenger ferry, Limited’s affiliation with BHIT has an effect on the public utility
14 service and rates.

15 **Q. WHAT FACTORS MIGHT THE COMMISSION LOOK TO IN**
16 **EVALUATING WHETHER THE PARKING OPERATION HAS AN**
17 **“EFFECT” ON THE FERRY SERVICE OR RATES?**

18 A. There are a few factors that the Commission could rely on making in such a
19 determination. First, as stated previously, there is no ferry service without parking;
20 thus, without question, Limited’s control of the parking has an impact on BHIT’s
21 ferry services. The Commission need go no further.

22 Second, it is also evident that parking has an impact on rates. As discussed
23 previously, in the 2010 Rate Case the Commission imputed over \$500,000 in

1 parking revenues in establishing the existing ferry rates. While this was endorsed
 2 by the Commission as a product of settlement by the parties (which settlement
 3 stipulated that the attribution would not be binding in future cases), it is nonetheless
 4 unassailable that the existing ferry rates are currently directly “affected” by parking
 5 revenues. [BEGIN AEO CONFIDENTIAL] [REDACTED]

6 [REDACTED]

7 [REDACTED]⁵⁸ [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED] [END AEO CONFIDENTIAL]

14 **Q. DO YOU HAVE ANY CONCLUDING THOUGHTS ABOUT THE**
 15 **PARKING FACILITIES?**

16 A. In summary, I would point that, in order to argue that the Deep Point parking
 17 facilities are not essential to the provision of the regulated passenger ferry, one has
 18 to conclude that ferry passengers arriving at the Deep Point terminal have either (1)
 19 a legitimate competitive parking service available, (2) some readily accessible
 20 alternate means of land transportation to the ferry terminal, or (3) some other ferry
 21 service to the Island. None of these options is available at this time. Moreover, the
 22 evidence demonstrates that Limited and BHIT have consistently held out to the

⁵⁸ See O’Donnell Direct Testimony, at 6-7.

1 public that the parking operation is an integrated component of the overall ferry
2 system's services and the public has relied on this perception created by Limited in
3 making investments on and otherwise establishing ties to the Island.

4 5 **IV. THE BARGE SERVICE**

6 **Q. PLEASE PROVIDE A BRIEF OVERVIEW OF THE BARGE SERVICE.**

7 A. The barge service consists of a flat floating barge onto which vehicles are driven
8 which is pushed by a tugboat (for convenience, I collectively refer to this as the
9 "barge" in my testimony). Contractors, suppliers, business and citizens are able to
10 drive their vehicles onto the barge for transport to and from the Island.⁵⁹ The barge
11 is used to transmit essentially all of the commercial goods and materials sold and
12 used on the Island, including building materials, as well as items such as household
13 furnishings that are too large to transport on the passenger ferry. In other words,
14 most items used in the construction and furnishing of the approximately 1,000 plus
15 residences on Bald Head Island would likely have been transported via the barge.

16 Barge travel is priced based on the amount of deck spaces utilized. Barge
17 deck spaces are \$60.00 for each 6ft length by one lane wide. Each deck space
18 authorizes the holder to utilize six feet in one of three lanes aboard the barge for
19 one round trip.⁶⁰

20 **Q. WHAT IS THE DISPUTE ABOUT THE BARGE?**

21 A. The basic issue is whether the barge, owned and operated by Limited, should be
22 declared by the Commission as a common carrier and that Limited be declared a

⁵⁹ See <https://bhibarge.com>.

⁶⁰ IBID.

1 public utility whose barge rates and services are regulated by the Commission under
2 the provisions found in Chapter 62.

3 **Q. HAS THE COMMISSION PREVIOUSLY ADDRESSED THE ISSUE OF**
4 **WHETHER THE BARGE IS SUBJECT TO REGULATORY OVERSIGHT**
5 **BY THIS COMMISSION?**

6 A. No. As far as I can ascertain, the Commission has not been called upon previously
7 to address the issue of whether the barge service is subject to regulation.

8 **Q. BASED ON YOUR REVIEW OF THE FACTS AND REGULATORY**
9 **EXPERTISE, DO YOU BELIEVE THERE IS A BASIS FOR THE**
10 **COMMISSION TO CONCLUDE THAT THE BARGE OPERATION IS A**
11 **COMMON CARRIER SERVICE?**

12 A. Yes. Based on my review of the facts relating to the barge service, I find ample
13 evidence and regulatory justification for a conclusion that the barge is subject to the
14 regulatory authority of the Commission. Based on this I recommend that this
15 Commission find that the barge service is performing the operations of a common
16 carrier and thus subject to public utility laws and rules and under the jurisdiction of
17 this Commission.

18 **Q. WHAT ELEMENTS WOULD THE COMMISSION EXAMINE TO**
19 **DETERMINE WHETHER THE BARGE IS A COMMON CARRIER**
20 **SERVICE?**

21 A. One should start with the governing statutes. Here, the public utility laws define
22 “common carrier” to mean “any person, other than a carrier by rail, which holds
23 itself out to the general public to engage in transportation of persons or household

1 goods for compensation, including transportation by bus, truck, boat or other
2 conveyance, except as exempted in G.S. 62-260.”⁶¹ Under this test, the barge
3 service should be treated as a common carrier if it holds itself out as providing
4 transportation services (a) to the general public (b) to transport persons or
5 household goods (c) for compensation.

6 **Q. WITH RESPECT TO THE FIRST CRITERIA FOR BEING A COMMON**
7 **CARRIER IN NORTH CAROLINA, IS LIMITED’S BARGE SERVICE**
8 **PROMOTED AS A SERVICE TO THE GENERAL PUBLIC?**

9 A. Yes. Limited advertises its barge service to the general public, without any
10 restrictions on whether usage of the barge.⁶² In its responses to discovery requests,
11 Limited admitted that there are no restrictions on usage of the barge so long as the
12 passenger has an Internal Combustion Engine (“ICE”) permit that is required to use
13 a vehicle on the Island.⁶³ Limited also conceded that it was not aware of a single
14 instance in which it refused service to a member of the public who had paid the
15 appropriate fare and had an ICE permit.⁶⁴

16 **Q. WITH RESPECT TO THE SECOND CRITERIA FOR BEING A COMMON**
17 **CARRIER IN NORTH CAROLINA, DOES LIMITED’S BARGE SERVICE**
18 **TRANSPORT PEOPLE OR HOUSEHOLD GOODS?**

19 A. Yes. It transports both.

20 The primary utility of the barge is to transport all manner of supplies and

⁶¹ G.S. § 62-3(6); *see also* G.S. § 62-3(23)a.4.

⁶² *See, e.g.*, <https://bhibarge.com/default>.

⁶³ Response to Village DR 1-23 (Exhibit JAW-10).

⁶⁴ Response to Village DR 1-24 (Exhibit JAW-10).

1 equipment and vehicles to the Island. On its website, Limited states that “[t]he Bald
2 Head Island Limited, LLC barge is available for carrying vehicles and equipment
3 to and from Bald Head Island.”⁶⁵ Similarly, the Mercator report summarizes that,
4 “[w]ith the exception of passenger baggage moving on the ferries, the freight barge
5 service provides the only means to transport supplies and equipment to and from
6 the Island”⁶⁶ and “[t]he freight barge delivers all the materials associated with
7 residential and non-residential construction.”⁶⁷

8 Regarding household goods, Limited publicly advertises that the barge is
9 used to transport furniture. On its website, Limited provides an information
10 document titled “How to Pack for Your Bald Head Island Trip.” The document
11 states that “Furniture must be transported via Bald Head Island Limited’s barge and
12 special arrangements must be made.”⁶⁸ Consequently, the barge service is held out
13 to the public as engaging in the transportation of some types of household goods,
14 like furniture.

15 Similarly, the BHIT public website, in its FAQs, explains that, “The barge
16 is used to get large items to and from the island. If you need to schedule the barge
17 or want general information please visit www.bhibarge.com or call (910) 457-
18 5205.”⁶⁹

19 Furthermore, in its discovery responses Respondents stated that “[Limited]

⁶⁵ See <https://bhibarge.com>.

⁶⁶ Bond Feasibility Study for the Bald Head Island Transportation Authority, Mercator International, LLC Draft 4, Dec 2020, at 31 (Exhibit JAW-9).

⁶⁷ IBID, at 37 (Exhibit JAW-9).

⁶⁸ See <https://cms.scurtomarketing.com/data/1033/uploads/how-to-pack-for-bhi.pdf>.

⁶⁹ See <https://baldheadislandferry.com/faq>.

1 does not take, or require submission of, inventories of items contained in such
 2 vehicles. However, it is true that individuals or businesses who wish to transport
 3 furniture, materials, equipment or supplies to the island can do so as cargo in a
 4 vehicle that qualifies to rent space on the barge.”⁷⁰ Thus, Limited itself admits that
 5 the barge service has, and must be, used to transport household goods like furniture.
 6 In addition, in SharpVue Capital’s assessment of the Bald Head Island
 7 transportation service for its investors, SharpVue [BEGIN AEO
 8 CONFIDENTIAL] [REDACTED]
 9 [REDACTED]
 10 [REDACTED]⁷¹ [END AEO CONFIDENTIAL]

11 **Q. DOES LIMITED HAVE KNOWLEDGE THAT IT IS TRANSPORTING**
 12 **HOUSEHOLD GOODS VIA THE BARGE?**

13 A. Yes. First, again with the caveat that I am not a lawyer, I would point out that the
 14 common carrier statute—as I have quoted it above—does not specifically state that
 15 the common carrier must have knowledge in connection with any specific
 16 transaction. Regardless, Limited has produced in discovery its log showing items
 17 transported by the barge since March 2015 that shows it is aware of the items it
 18 transports. [BEGIN CONFIDENTIAL] [REDACTED]

19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]

⁷⁰ See Responses to Village DR 1-20 (Exhibit JAW-10).
⁷¹ See SharpVue Project Pelican Investment Opportunity January 2022, at 10 (Exhibit JAW-7).

1 [REDACTED]

2 [REDACTED]⁷² [END

3 CONFIDENTIAL]

4 [BEGIN AEO CONFIDENTIAL] [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]⁷³

14 [REDACTED]

15 [END AEO CONFIDENTIAL]

16 Based on its own statements, I find Limited’s claims of “no first-hand
17 knowledge of the types of materials and equipment” transported via the barge⁷⁴
18 unconvincing and, in any event, of questionable relevance to the regulatory
19 question before the Commission.

20 **Q. DOES THE BARGE TRANSPORT PERSONS?**

21 A. Yes. Vehicles are driven on the barge for transport to the Island. The vehicles are
22 driven by people. Consequently, I have difficulty distinguishing this situation from
23 other ferry operations in the State that transport both vehicles and passengers from
24 one place to another and which are currently operated as regulated utilities in North

⁷² See Exhibit JAW-12.

⁷³ Bald Head Island Limited, LLC Project Pelican Confidential Memorandum, Draft – August 17, 2021, at 49 (Exhibit JAW-6).

⁷⁴ See Response, Motion to Dismiss, and Answer of Limited and BHIT, Docket No. A-41, Sub 21 (March 30, 2022), at 31-32 (¶¶ 25-27).

1 Carolina. In the context of this barge monopoly service, the transport of persons
2 via the barge is sufficient to trigger the Commission's regulatory authority.

3 **Q. FINALLY, WITH RESPECT TO THE COMMON CARRIER**
4 **DEFINITION'S THIRD CRITERIA, DOES LIMITED RECEIVE**
5 **COMPENSATION FOR THE PROVISION OF ITS BARGE SERVICES TO**
6 **THE PUBLIC?**

7 A. Yes. Limited's barge travel is priced based on the amount of deck spaces
8 utilized. Barge deck spaces are \$60.00 for each 6 foot length by one lane
9 wide.⁷⁵ Each deck space authorizes the holder to utilize six feet in one of three
10 lanes aboard the barge for one round trip.⁷⁶

11 **Q. BECAUSE THE BARGE SERVICE MEETS ALL THREE CRITERIA**
12 **ESTABLISHED FOR BEING A COMMON CARRIER UNDER NORTH**
13 **CAROLINA LAW, WHAT DO YOU CONCLUDE THIS MEANS WITH**
14 **RESPECT TO THE COMMISSION?**

15 A. This means several things. First, if the Commission agrees with me and concludes
16 that the common carrier criteria are met, Limited should apply to the Commission
17 for a Certificate of Service or Authorization to continue to conduct its barge
18 operations. Second, that under G.S. § 62-32(a) the Commission has "general
19 supervision over the rates and service rendered by all public utilities in this State."
20 The potential regulated services offered by such a regulated utility is defined under
21 G.S. § 62-3(27) as, "Service means any service furnished by a public utility,
22 including . . . any ancillary service or facility used in connection with such service."

⁷⁵ See <https://bhibarge.com/rates>.

⁷⁶ IBID.

1 Consequently, Limited should also make an appropriate filing to properly establish
2 with the Commission the terms, services, and rates related to its regulated services
3 and it should seek approval of the Commission prior to any sale of the barge
4 business and related facilities.

5 **Q. HOW SHOULD “HOUSEHOLD GOODS” BE UNDERSTOOD?**

6 A. I do not believe that it is necessary for the Commission to engage in an extended
7 analysis of the term “household goods” since, without question, goods intended for
8 use and consumption in a person’s home are being transported on the barge. As I
9 have previously testified—a paradigmatic example being the furniture, appliances
10 and food listed on the barge logs referenced earlier.⁷⁷ This understanding is
11 consistent with legal definitions I have seen.⁷⁸

12 **Q. ARE THERE OTHER REASONS THAT MIGHT SUPPORT THE**
13 **COMMISSION’S EXERCISE OF REGULATORY AUTHORITY OVER**
14 **THIS BARGE SERVICE?**

15 A. Yes. I believe this service is exactly the sort of service that requires regulation in
16 that it is a monopoly service with the common carrier attributes discussed above.
17 There is, quite literally, no other way for the public to transport large household

⁷⁷ See Exhibit JAW-12 for a representative sample of this log. References to the transport of furniture – in addition to appliances and food – is found on these pages. A complete copy of the log is filed separately due to its size.

⁷⁸ See, e.g., 11 U.S.C. § 522(f)(4) (defining “household goods” for purposes of the bankruptcy code to include items such as clothing, furniture, appliances, educational material, kitchenware, personal effects, works of art, electronic equipment, jewelry, vehicles, watercraft, and computers); G.S. § 25-7-209(d) (warehouse liens on household goods); N.C.U.C. Rule R2-37 (“The term “household goods”, as used in connection with transportation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is arranged and paid for by the householder or another party.”).

1 goods or for service vehicles and delivery vehicles to get to the Island. Respondents
2 have admitted this.⁷⁹

3 Finally, the passenger services and the barge service have been dependent
4 on and support each other's use of the Island as components of the overall
5 transportation services. Each provides essential services that complement one
6 another.

8 **V. CONCLUSION**

9 **Q. DO YOU HAVE ANY CONCLUDING THOUGHTS TO SHARE WITH THE** 10 **COMMISSION?**

11 A. The questions presented in this proceeding are of great importance to the many
12 residents, visitors and workers on Bald Head Island, particularly at this time. As I
13 mentioned earlier, Limited has expressed its intention to divest itself of the ferry
14 and related transportation assets, including the Deep Point Marina terminal, ferries,
15 Barge, on-island tram and mainland Parking Facilities. Also the proposed
16 SharpVue transaction apparently includes all the Transportation assets and Limited
17 has stated publicly that the various assets could be sold to different parties,⁸⁰
18 meaning that the passenger ferry could be sold to one party while the barge ferry
19 and parking facilities could be sold to and operated by other parties.

20 The Village, BHITA, and various individuals (such as Island residents and
21 workers) have expressed a concern that the sale of the Deep Point Parking facility

⁷⁹ Response, Motion to Dismiss, and Answer of Limited and BHIT, Docket No. A-41, Sub 21 (March 30, 2022) at ¶¶ 25, 47.

⁸⁰ See Complaint ¶ 44.

1 as an unregulated parking facility separate and apart from the still regulated ferry
2 operations will result in an unregulated, monopoly ferry parking enterprise. Such
3 an outcome would likely result in increased parking rates, potentially to
4 unreasonable levels with ferry system riders having no alternative parking or other
5 readily available option and thus being forced to either pay the exorbitant parking
6 fees, or don't go to the Island—a rather daunting proposition for the residents of
7 the Island.

8 Finally, I am aware that in its Response, Motion to Dismiss, and Answers
9 filing in this proceeding⁸¹ Limited and BHIT claim that, “Hypothetically, if the
10 Commission were to consider parking and barge operations to be part of the
11 regulated ferry service . . . , the appropriate time to revisit these issues is in the next
12 rate case, so that the cost of service of the operations and rate of return on all
13 associated assets could be considered in setting reasonable rates.” However, this
14 claim is illogical and unfair given the current circumstances. Limited and BHIT
15 are in the process of selling the parking facilities and barge. It would be unfair to
16 a purchaser to proceed with said purchase without the purchaser knowing whether
17 they are buying a competitive or regulated company. Also, it is illogical to proceed
18 with the sale and assume that once the assets are no longer in possession of Limited
19 that in some future BHIT (or BHIT's successor's) rate proceeding that the NCUC
20 can unwind history and claim regulatory control over these long-sold assets. The
21 only logical and fair time to determine whether the parking service is an ancillary
22 service necessary to support the regulated ferry operations is prior to the disposal

⁸¹ This proceeding, filing dated March 30, 2022, p. 22-23.

1 of these parking assets. The same logic applies to the barge assets.

2 **Q. DOES THIS COMPLETE YOUR DIRECT TESTIMONY?**

3 **A. Yes.**