

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. A-41, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Bald Head Island)	
Transportation, Inc. for a General Increase)	ORDER GRANTING
in its Rates and Charges Applicable to Ferry)	PARTIAL RATE INCREASE
Service Between Southport, North Carolina)	AND REQUIRING NOTICE
and Bald Head Island, North Carolina)	

HEARD: Friday, July 23, 2010, at 10:00 a.m., Ocean Room, Bald Head Island Club, 301 Salt Meadow Trail, Bald Head Island, North Carolina

Wednesday, October 20, 2010, at 9:00 a.m., Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Chairman Edward S. Finley, Jr., Presiding, and Commissioners Bryan E. Beatty and Lucy T. Allen

APPEARANCES:

For Bald Head Island Transportation, Inc.:

M. Gray Styers, Jr. and Charlotte Mitchell, Styers & Kemerait PLLC, 1001 Haynes Street, Suite 101, Raleigh, North Carolina 27604

For Bald Head Island Club:

Daniel C. Higgins, Burns, Day & Presnell, P.A., P.O. Box 10667, Raleigh, North Carolina 27605

For Bald Head Association, Inc.:

Odes L. Stroupe, Jr., Bode, Call and Stroupe, LLP, 3105 Glenwood Avenue, Suite 300, Raleigh, North Carolina 27612

For The Village of Bald Head Island:

Mary Lynne Grigg, McGuire Woods, LLP, 2600 Two Hannover Square, Raleigh, North Carolina 27601

For the Using and Consuming Public:

Dianna Downey, Staff Attorney, and Antoinette Wike, Chief Counsel,
Public Staff-North Carolina Utilities Commission, 4326 Mail Service
Center, Raleigh, North Carolina 27699-4326

BY THE COMMISSION: On May 5, 2010, Bald Head Island Transportation, Inc. (BHIT or Company) filed an application for a general rate increase, pursuant to G.S. 62-133 and G.S. 62-134 and Commission Rules R1-4, R1-5, and R1-17, along with the direct testimony and exhibits of James W. Fulton, Jr., Vice President of BHIT and Director of Operations for Bald Head Island Limited, LLC (BHIL); Shirley A. Mayfield, Secretary/Treasurer of BHIT and Chief Financial Officer of BHIL; and Fredrick W. Hering, outside consultant who is providing regulatory accounting services to BHIT. In its application, BHIT requested an increase in rates, fares, and operating revenues designed to produce an overall increase of \$2,767,548 in annual ferry operating revenues. On May 28, 2010, BHIT filed an amendment and/or clarification to its petition for a general rate case seeking to clarify the date rates were to become effective.

Motions to Intervene were filed by Bald Head Island Club (Club) on May 12, 2010, by The Village of Bald Head Island (Village) on May 19, 2010 and by Bald Head Association (BHA or Association) on June 7, 2010. The Commission granted intervention in this proceeding to the Club, the Village, and the Association (the Customer Group) by Orders dated June 3, 2010 and June 10, 2010.

On June 3, 2010, the Commission entered an Order Establishing General Rate Case, Suspending Rates, Scheduling Hearings, Requiring Public Notice, and Granting Petitions for Leave to Intervene. In accordance with that Order, a public hearing was conducted at the Bald Head Island Club on Bald Head Island on July 23, 2010. At the hearing, the following persons testified: Suzanne Dorsey, Brenda Quanstrom, Richard Mesaris, Sylvia Poole, Marilyn Ridgeway, Jane Johnson, John Earle, Harry Aylor, Barbara McQuaide, Patricia Garrett, Wendie Walker, Clark Pennell, Douglas Ledgett, Donna Finley, Donna Jarmusz, Norm Coryell, Timothy O'Brien, Erica Grantmyre, Bob Liesegang, Joseph Elrod, Larry Lammert, William Waddell, Patricia Barnard, Larry Patterson, Darren Witt, David Adcock, Nancy Giacci, and Sandra Hall.

On July 8, 2010, the Company provided notice of its filing of affidavits of publication of public notice of hearings as required by the Commission's June 3, 2010 Order.

On August 9, 2010, BHA filed a motion to reschedule the date for the hearing set for September 28, 2010, and on August 11, 2010, BHIT filed its response to BHA's motion. On August 11, 2010, the Village filed a motion for extension of time regarding the deadlines for the filing of testimony and for conducting discovery and BHIT filed a motion requesting to amend the schedule for taking depositions. On August 12, 2010, the Customer Group filed a joint reply to the response of BHIT. On August 13, 2010, BHIT filed its supplemental response to the motions to reschedule the hearing date. On

August 17, 2010, the Commission entered an Order Rescheduling Hearing, Requiring Public Notice, and Ruling On Motion to Compel that rescheduled the September 28, 2010 hearing to October 20, 2010, and directed the Public Staff and other intervenors to file direct testimony on or before Monday, September 20, 2010, and BHIT to file rebuttal testimony and exhibits on or before Monday, October 4, 2010.

On September 16, 2010, the Public Staff filed a motion for extension of time to file testimony. In its motion, the Public Staff notified the Commission that the Public Staff and BHIT had reached an agreement and required additional time to file a stipulation and supporting testimony. On September 20, 2010, the Commission entered an Order granting the Public Staff's motion, extending the time to file testimony to September 27, 2010, and the time to file rebuttal testimony to October 11, 2010. On September 27, 2010, the Customer Group filed a motion for extension of time to file testimony, indicating that discussions were ongoing for a global settlement and requesting an extension to September 30, 2010 to file testimony and to October 14, 2010 to file rebuttal testimony. On September 28, 2010, the Commission entered an Order granting the extension of time requested by the Customer Group.

On September 30, 2010, the Public Staff filed an Agreement and Stipulation of Settlement (Agreement) between BHIT and the Public Staff and the testimony of James G. Hoard, Assistant Director, Public Staff Accounting Division. On that same date, the Customer Group filed the testimony of Dr. Julius A. Wright, President of J.A. Wright & Associates, Inc. On October 14, 2010, BHIT filed the rebuttal testimony of Shirley A. Mayfield, Frederick W. Hering, and James W. Fulton, Jr. On October 15, 2010, BHIT filed its proposed order of witnesses and estimate of cross-examination times and also filed the amended rebuttal testimony of Shirley A. Mayfield and Frederick W. Hering. On October 18, 2010, the Customer Group filed a response to BHIT's proposed order of witnesses. On October 19, 2010, the Commission entered an Order Determining Order of Witnesses.

The hearing resumed in Raleigh on October 20, 2010 as scheduled. No public witnesses appeared to testify. Upon becoming informed that substantive negotiations were still underway between the Customer Group, BHIT, and the Public Staff and at the request of all the parties, the Commission adjourned the hearing until October 21, 2010, if needed, to allow the parties additional time to discuss and conclude the ongoing settlement negotiations. On October 21, 2010, the Customer Group, the Public Staff, and BHIT (the Stipulating Parties) entered and filed a Revised Agreement and Stipulation of Settlement (Stipulation) and the late-filed revised exhibits of James G. Hoard. Additionally, BHIL also entered into the Stipulation for the purpose of acknowledging its agreement with its obligations under Section 2.C.i. (Deep Point parking facilities) and Section 8 (Accounting Policies) of the Stipulation. The foregoing Stipulation comprehensively resolved all issues in this proceeding among all of the parties; therefore, the October 21, 2010 hearing was not reconvened. Pursuant to Section 12 of the Stipulation, the Stipulating Parties agreed that all prefiled testimony and exhibits may be received into evidence without objection, and each Stipulating Party waived all rights to cross-examine any witness except to affirm the provisions of

the Stipulation and to explain and clarify testimony consistent with the Stipulation. Consequently, the Commission receives into evidence the prefiled direct and rebuttal testimony and exhibits of Shirley A. Mayfield, Frederick W. Hering, and James W. Fulton, Jr.; the prefiled direct testimony and exhibits of James G. Hoard and Dr. Julius A. Wright; and the amended joint rebuttal testimony and exhibits of Company witnesses Mayfield and Hering. Further, the Commission receives into evidence the Stipulation and Stipulation Exhibits, and the late-filed revised exhibits of Public Staff witness Hoard.

After the Stipulation was filed, the Commission received a total of seven emails¹ from customers indicating, among other things, that the proposed rate increase in the Stipulation was unfair and unreasonable and that the Commission should reject the Stipulation and proceed to a further hearing and final ruling on all issues.

On November 22, 2010, the Stipulating Parties filed a Joint Proposed Order.

WHEREUPON, based upon consideration of the verified application, the prefiled direct and rebuttal testimony and exhibits, the amended rebuttal testimony and exhibits, the late-filed revised exhibits, the Stipulation, the Stipulation exhibits, and the record as a whole, the Commission now makes the following

FINDINGS OF FACT AND CONCLUSIONS

1. BHIT is duly organized as a public utility operating under the laws of the State of North Carolina and is subject to the jurisdiction of the North Carolina Utilities Commission pursuant to G.S. 62-3(23)a.3. The Company is engaged in the business of transporting passengers and their personal effects by ferry to and from Deep Point Marina terminal in Southport, North Carolina and the Bald Head Island terminal on Bald Head Island, North Carolina. BHIT is a wholly-owned subsidiary of BHIL.

2. The Commission has jurisdiction over the rates and charges, rate schedules, classifications, and practices of public utilities operating in North Carolina, including BHIT, under Chapter 62 of the General Statutes of North Carolina. BHIL is subject to the jurisdiction of the Commission to the extent provided for in G.S. 62-3(23)c, and BHIL joined in the Stipulation for the purpose of and only to the extent of approving BHIL's obligations under Section 2.C.i. (Deep Point parking facilities) and Section 8 (Accounting Policies) of the Stipulation and incorporating those obligations in this Order.

3. BHIT is lawfully before the Commission based upon its application for a general rate increase in its ferry ticket rates pursuant to G.S. 62-133, G.S. 62-134, and Commission Rule R1-17.

¹ Four emails were received on October 28, 2010; one email was received on November 2, 2010; and two emails were received on November 15, 2010.

4. The appropriate test period for use in this proceeding, is the 12-month period ended December 31, 2009, updated with actual changes to revenues, expenses, rate base, and cost of capital.

5. In its application, BHIT requested approval of an increase in total annual ferry ticket revenues of \$2,767,548 to permit BHIT to earn income of \$342,453. The increase requested in the application would have resulted in an overall rate of return per BHIT of 9.25%, a 10.00% return on common equity, and a 8.50% cost of long-term debt, based on an imputed capital structure of 50% long-term debt and 50% common equity.

6. The Stipulation filed on October 21, 2010 included revisions to several of the provisions set forth in the September 30, 2010 Agreement and Stipulation between BHIT and the Public Staff and also set forth new provisions that, as revised and expanded, comprehensively resolved all issues in this proceeding among all of the parties. Having carefully reviewed the Stipulation and all of the evidence of record, the Commission finds and concludes that the provisions of the Stipulation are just and reasonable to all parties under the circumstances of this proceeding and should be approved in their entirety. The provisions of the Stipulation are addressed in the following findings of fact and conclusions.

7. Consistent with the Stipulation, the Commission finds and concludes that it is appropriate for BHIT to adjust its rates, fares, and charges to produce annual revenues of \$5,094,164 from its ferry operations, which will result in total annual revenues of \$5,966,508, including \$872,344 of other operating revenues. The Stipulating Parties agreed that these revenues are intended to provide BHIT, through sound management, the opportunity to earn an overall rate of return of 8.33% on a rate base of \$3,943,335, with BHIT's long-term debt cost of 6.65% and a rate of return of 10.00% on the member's equity component of the following imputed capital structure:

Long-Term Debt..... 50%
Member's Equity..... 50%

The Commission finds and concludes that this aspect of the Stipulation is just and reasonable.

8. Exhibits A and B of the Stipulation summarize the gross revenues, operating revenue deductions, rate base, and rate of return agreed upon by the Stipulating Parties.

9. With respect to the parking operations and facilities at the Deep Point ferry terminal and the property formerly used for parking and ferry operations at Indigo Plantation, the Stipulating Parties agreed as follows:

- a. BHIL, the parent affiliate of BHIT, owns certain parking facilities adjacent to the BHIT ferry terminal in Southport (the Deep Point parking facilities). The imputation of the revenues of the Deep Point parking facilities, as

described in the testimony and shown in the exhibits of Public Staff witness James G. Hoard, is limited to this case and establishes no binding precedent for future cases, and shall not be binding in future cases as a reason for or against imputation of parking revenues or any other regulatory treatment of parking operations. However, the Stipulating Parties agreed that:

- i. Seasonal/Non-Seasonal Daily Parking: BHIL agrees not to increase the price of the Seasonal/Non-Seasonal Daily Parking rates currently in effect (\$10 Seasonal; \$8 Non-Seasonal) in any one 12-month period in an amount greater than the percentage change in inflation (inflation shall be defined as the Consumer Price Index for All Urban Consumers (CPI-U) as calculated by the U.S. Bureau of Labor Statistics), rounded to the nearest whole 25¢. Any increase in rates due to the CPI-U shall not exceed the compound average growth rate from January 1, 2011. BHIL agrees to be bound by this provision for a period beginning on January 1, 2011, and ending on December 31, 2016. This limitation shall apply through December 31, 2016, to any successor entity that owns, operates, or leases the Deep Point parking facilities.
- ii. Annual Parking: BHIL and the Village have a pre-existing understanding and commitment regarding accommodations afforded by BHIL associated with Annual Parking patrons. The understanding between BHIL and the Village is reflected in a letter dated April 24, 2009, attached as Exhibit C to the Stipulation. BHIL agrees to comply with the limitations set forth in the letter of April 24, 2009 with the following amendments: (i) the term "inflation" shall be defined as CPI-U as calculated by the U.S. Bureau of Labor Statistics and (ii) the term set forth in the letter shall be extended through December 31, 2016 and the following additional language shall be added: *"2015 Rates increase not to exceed annual inflation experienced during 2014, and 2016 Rates increase not to exceed annual inflation experienced during 2015."* Any increase in rates due to the CPI-U shall not exceed the compound average growth rate from January 1, 2011. These limitations shall apply through December 31, 2016, to any successor entity that owns, operates, or leases the Deep Point parking facilities.
- iii. BHIL will provide notice to the Public Staff and the Commission of any sale or lease of the Deep Point parking facilities or any part of those facilities not less than 90 days prior to the scheduled closing date for the sale or lease.
- iv. BHIL will include, in any contract for the sale or lease of the Deep Point parking facilities, the parking rate limitations described in the Stipulation and in this Order.

- v. Any gain or loss on the sale or lease of parking facilities owned by BHIL shall not be assigned, credited, or attributed for ratemaking purposes to BHIT.
- b. The applicability of the treatment of the gain on the transfer of the Indigo Plantation property from utility to nonutility property is limited to this case and establishes no precedent in future cases for the regulatory treatment of any property owned by BHIL and leased by BHIT.
- c. Notwithstanding the foregoing provisions, nothing in the Stipulation shall be construed to imply any limitation on the Commission's regulatory jurisdiction or ability to exercise its statutory powers and discharge its statutory duties to protect the public interest with respect to the rates charged and service rendered by BHIT pursuant to its grant of common carrier authority from the Commission.

The Commission finds and concludes that these provisions are just and reasonable and should be approved in this Order.

10. As agreed in the Stipulation, in Section 2.D., BHIT's revenues from its ferry operations for the 12 months ended December 31, 2009 (the test period), by customer class under current base rates, and as approved herein, will be as follows:

Type of Passenger	Annual Revenues	
	Current Rates	Approved Rates
Class I General	\$1,605,825	\$2,462,265
Class II Bulk/Bulk40	272,663	464,415
Class III Group Purchase/Bulk 80	252,150	71,055
Class IV Government Employees	77,211	-
Class V Special Event	21,750	-
Class VI No Frills	110,900	155,260
Class VII Contractor	345,950	484,330
Class VIII Corporate Guest	28,024	-
Class IX Employee	387,128	1,081,822
Class X Children	148,704	225,624
Class XI Annual Pass	33,000	33,300
Class XII Senior Citizen Annual Pass	15,750	-
Class XIII Excess Baggage	65,550	100,510
Class XIV Student Ticket	856	-
Class XV Lost/One-Way Ticket	6,775	15,583
Total	\$3,372,236	\$5,094,164

The Commission finds and concludes that this provision of the Stipulation is just and reasonable.

11. The Stipulating Parties agreed that the Schedule of Rates and Charges attached as Exhibit D to the Stipulation should be approved, and the Commission finds and concludes that this Schedule of Rates and Charges is just and reasonable.

12. The effective date of the rate change (Effective Date) is January 1, 2011. With respect to issues relating to the renewal and expiration of current tickets held by customers, the Stipulating Parties agreed to the following, as set forth in the Joint Proposed Order:

- a. Currently issued Class XI Annual Passes sold at the current rate will continue to be honored for passage until they expire, but no Class XI Annual Passes sold or renewed at the current rate will be honored after December 31, 2011. Annual passes held by agencies or nonresidential property owners that expire after December 31, 2010, will not be renewed. There shall be no proration in value of either a currently issued annual pass or new/renewed annual pass.
- b. Currently issued Class XII Senior Citizen Annual Passes will continue to be honored for passage until they expire, but shall not be renewed upon expiration after December 31, 2010. No Class XII Senior Citizen Annual Passes sold or renewed at the current rate will be honored after December 31, 2011. There shall be no proration in value of either a currently issued annual pass or new/renewed annual pass.
- c. All other tickets (except Class II Bulk Fare, Class XV Lost Tickets, and Class VI No Frills tickets) shall be honored when used and/or may be presented for refund or credit towards purchase of another ticket through March 31, 2011, but shall expire and have no value after that date. Class II Bulk Fare tickets issued on or before December 31, 2010, will be honored for passage only when used through March 31, 2011, but will be accepted for refund or credit towards purchase of other ticket(s) when presented or returned at any time up to and including June 30, 2011, and will have no value after that date.

The Commission finds and concludes that the foregoing agreement by the Stipulating Parties regarding ticket renewal and expiration dates is just and reasonable.

13. The Stipulating Parties agreed upon the following regarding the rate design changes proposed by BHIT:

- a. BHIT shall cancel the Class IV Government Employees; Class V Special Event; Class VIII Corporate Guest; Class XII Senior Citizen Annual Pass; and Class XIV Student Ticket classes, as recommended by BHIT witness Fulton.
- b. BHIT shall establish new Bulk 40 and Bulk 80 ticket classes as proposed by BHIT witness Fulton at the rates and as described in the rate schedule and tariff attached to the Stipulation as Exhibits D and E.

The Commission finds and concludes that these rate design changes are just and reasonable.

14. The Stipulating Parties agreed that BHIT's fuel surcharge shall be set at zero as of the Effective Date but agreed that the difference between fuel collections and fuel expenses should continue to be tracked in the fuel tracker account and reported to the Commission on a quarterly basis consistent with present procedures. The revised fuel component of rates recomputed based on the cost of service and billing units from this proceeding is set forth in Exhibit F of the Stipulation. A fuel surcharge adjustment may be requested in the future pursuant to the Commission's January 29, 2009 Order in Docket No. A-100, Sub 0. The Commission finds and concludes that this provision of the Stipulation is just and reasonable.

15. The Stipulating Parties agreed that the depreciation rates for regulatory accounting purposes shall, with the exception of the assets listed on Exhibit G of the Stipulation, be determined by the Company based on the straight-line method and the life of the asset used for federal income tax purposes. The Commission finds and concludes that the depreciation rates applicable to the specific assets listed on Exhibit G are just and reasonable and shall be the rates set forth thereon.

16. In the Stipulation, BHIT agreed that it will, within 30 days after the date of issuance of this Order, file with the Commission amendments to its affiliate agreements with BHIL that reflect any changes necessary to conform the affiliate agreements with this Order. The Commission finds and concludes that this provision of the Stipulation is just and reasonable.

17. BHIT operates on a calendar year basis ending December 31. In the Stipulation, the Company agreed to submit to the Commission and Public Staff a quarterly financial report of monthly information within 45 days after the end of each quarter. The report shall contain a calendar year-to-date income statement in a format presently produced for internal management purposes, information on the Company's month-end balances of plant, accumulated depreciation, and accumulated deferred taxes by plant category, monthly book depreciation expense by plant category, the number of customers by fare class for each month, and the number of tram riders by month. The quarterly reports to be provided in this regard should be filed with the Commission as "non-confidential" filings available to the public. The Commission finds and concludes that this provision of the Stipulation is just and reasonable.

18. The Stipulation provides that the Public Staff shall perform an audit (in accordance with the scope and process generally employed in connection with this docket) of BHIT, and file a report with the Commission regarding the earnings of BHIT and a recommendation as to whether the Public Staff believes there are grounds for requiring BHIT to show cause why its rates should not be reduced or increased for service rendered thereafter. The audit shall be commenced on the earlier of the following: (1) six years from the entry of the Approval Order or (2) the date BHIT's ferry ticket revenues as reported in BHIT's quarterly reports for any Reporting Period are 5% greater than the immediately preceding Reporting Period or the date BHIT's ferry ticket revenues as reported in BHIT's quarterly reports for any Reporting Period are 5% less than the immediately preceding Reporting Period. For purposes of this subsection, the Reporting Period shall be defined as the 12-month period ending with the quarterly report most recently filed with the Commission. The Stipulating Parties agreed that nothing contained in the Stipulation shall prevent BHIT from filing a general rate case or the Public Staff, any Stipulating Party, or any person from initiating a proceeding with the Commission regarding BHIT's rates, earnings, or service at any time. The Commission finds and concludes that this provision of the Stipulation is just and reasonable.

19. The Company employs a modified tax basis of accounting for regulatory reporting purposes. The financial statements produced by the Company for internal management purposes are prepared on a tax basis of accounting. The tax-basis financial statements are modified for regulatory reporting purposes to reflect book depreciation expense. The Company agreed in the Stipulation that it will use the same asset capitalization and asset retirement policies for regulatory reporting purposes that it uses for tax purposes. The Company and BHIL also agreed that consistent with codes of conduct governing transactions between other utilities regulated by the Commission and their unregulated affiliates, charges to the Company from affiliates will be priced at the lower of cost or fair market value and that charges by the Company to affiliates will be priced at the higher of cost or fair market value. The Commission finds and concludes that this provision of the Stipulation is just and reasonable.

20. Consistent with Section 9 of the Stipulation, the Commission finds and concludes that the overall quality of service provided by BHIT is good.

21. The Stipulation provided that, except as provided in the Stipulation, the Stipulation shall not be construed to allow, support, confer, or provide a basis for Commission regulation or jurisdiction over rates, service, or complaints regarding parking services provided by BHIL, or the assets utilized for those services, in this rate case. The Commission finds and concludes that this provision of the Stipulation is just and reasonable.

EVIDENCE IN SUPPORT OF FINDINGS OF FACT
AND CONCLUSIONS NOS. 1 THROUGH 3

The evidence supporting these findings of fact and conclusions is contained in the verified general rate case application, BHIT's direct and rebuttal testimony and exhibits, the testimony, exhibits, and revised exhibits of James G. Hoard, the Stipulation, and the entire record in this proceeding. These findings and conclusions are informational, procedural, and jurisdictional in nature and are not contested by any party.

EVIDENCE IN SUPPORT OF FINDINGS OF FACT
AND CONCLUSIONS NOS. 4 THROUGH 6

The evidence supporting these findings of fact and conclusions is contained in the verified general rate case application, BHIT's direct and rebuttal testimony and exhibits, the testimony and exhibits of Dr. Julius A. Wright, the testimony, exhibits, and revised exhibits of James G. Hoard, the Agreement (filed September 30, 2010), the Stipulation (filed October 21, 2010), the Stipulation Exhibits, and the entire record in this proceeding.

The Stipulation, among all of the parties, entered and filed on October 21, 2010, included revisions to several of the provisions set forth in the September 30, 2010 Agreement between BHIT and the Public Staff, and also set forth new provisions that, as revised and expanded, comprehensively resolved all issues in this proceeding among all of the parties. In particular, the revisions and additions included in the October 21, 2010 Stipulation are briefly summarized as follows:

(1) Exhibit A attached to the Stipulation provided that the Stipulating Parties have agreed to a revenue increase of \$1,721,928, which incorporated a revenue decrease of \$144,133 from the revenue increase that had been reflected in the Agreement; and it is \$1,045,620, or 38% less than the increase that BHIT requested in its application. An "Other revenue adjustment" column was added to Hoard Exhibit 1, Schedule 3 Revised, which was filed on October 21, 2010, to reflect such agreed-upon annual revenue decrease.

(2) Stipulation Section 2.C.i.a., regarding Seasonal/Non-Seasonal Daily Parking was added as an entirely new (additional) provision. This Section imposed limitations (tied to the percentage change in inflation) on the amount by which BHIL may increase the prices of the Seasonal/Non-Seasonal Daily Parking rates currently in effect (\$10.00 Seasonal and \$8.00 Non-Seasonal); and it was agreed that BHIL shall be bound to this provision for the period beginning January 1, 2011 and ending December 31, 2016.

(3) In Stipulation Section 2.C.i.b., Annual Parking, BHIL agreed to be bound to certain limitations (tied to the percentage change in inflation) on the amount by which it may increase the prices of the annual parking rates through December 31, 2016.

Whereas, in the Agreement, BHIL had agreed to similar provisions, but it would be bound for five years from the date of the Commission's Order adopting the Stipulation, rather than six years. Additionally, language was added referencing a letter dated April 24, 2009, which was attached to the Stipulation as Exhibit C, which addresses an understanding between the Village and BHIL, as to BHIL's annual parking rate commitment regarding changes in rates through 2014. As a result of the Stipulation, the terms of the letter were extended through December 31, 2016.

(4) Stipulation Section 2.C.i.c. included a modification to the timeframe for providing notice that BHIL is required to provide to the Commission and the Public Staff of any sale or lease of the Deep Point parking facilities or any part of those facilities. In the Agreement, BHIL had agreed to 30 days notice; whereas, the Stipulation provides that BHIL shall provide notice to the Commission and the Public Staff not less than 90 days prior to the scheduled closing date.

(5) Stipulation Section 7.B. regarding financial reporting was added as an entirely new (additional) provision. This Section establishes a requirement for a future audit by the Public Staff to be commenced on the earlier of (1) six years from the entry of the approval order or (2) the date BHIT's ferry ticket revenues for a quarterly reporting period (12-month period) are 5% greater than or 5% less than the immediately preceding quarterly reporting period. Once such audit is completed, the new provision requires the Public Staff to file a report with the Commission and a recommendation as to whether the Public Staff believes there are grounds for requiring BHIT to show cause why its rates should not be increased or decreased for service rendered thereafter.

(6) Some clarifying language regarding the tram service was added to Tracked Tariff NCUC No. 6 and certain admissibility language originally included in Section 10.B was excluded.

(7) As a result of the Stipulation, rates were reduced below previously stipulated rates for some customer classes and other rates remained unchanged from the previously stipulated rates; and the stipulated rates were lower than what the Company had initially requested as indicated in the following table:

<u>Type of Passenger²</u>	<u>Initially Requested Rates</u>	<u>9/30/2010 Stipulated Rates</u>	<u>10/21/2010 Stipulated Rates</u>
1. Class I General	\$ 28.00	\$ 23.00	\$ 23.00
2. Class II Bulk 40	\$ 22.00	\$ 19.65	\$ 17.50
3. Class III Bulk 80	\$ 18.00	\$ 17.50	\$ 15.00
4. Class VI No Frills	\$ 18.00	\$ 17.00	\$ 14.00
5. Class VII Contractor	\$ 16.00	\$ 14.00	\$ 14.00
6. Class IX Employee	\$ 16.00	\$ 14.00	\$ 14.00
7. Class X Children	\$ 15.00	\$ 14.00	\$ 12.00
8. Class XI Annual Pass	\$2,800.00	\$2,100.00	\$1,850.00
9. Class XIII Excess Baggage	\$ 28.00	\$ 23.00	\$ 23.00
10. Class XV Lost/One-Way Ticket	\$ 14.00	\$ 11.50	\$ 11.50

These findings and conclusions are not contested by any party.

EVIDENCE IN SUPPORT OF FINDINGS OF FACT
AND CONCLUSIONS NOS. 7 AND 8

The evidence supporting these findings of fact and conclusions is contained in the verified general rate case application, BHIT's direct and rebuttal testimony and exhibits, the testimony and exhibits of Dr. Julius A. Wright, the testimony, exhibits, and revised exhibits of James G. Hoard, the Stipulation, and the entire record in this proceeding. Public Staff witness Hoard testified concerning certain adjustments reflected in the Stipulation, including the following:

- a. An adjustment that reduces the revenue requirement by \$73,683 for the gain on the transfer of the former ferry terminal located at Indigo Plantation from utility to nonutility property. Prior to June 2, 2009, BHIT conducted its ferry operations from facilities located at Indigo Plantation. Hoard Exhibit 1, Schedule 3-1, presented the computation of the gain amount and an adjustment that amortizes the gain over a five-year period.
- b. An adjustment to include the Bald Head Island terminal in rate base at its depreciated net book value of \$363,503, as computed on Hoard Exhibit 1, Schedule 2-2. The impact of including the terminal in rate base at the rate of return reflected in the Stipulation, in lieu of including the lease payment as an operating expense as originally proposed by BHIT, resulted in a reduction in revenue requirement of \$278,438.
- c. An adjustment to increase operating expenses by \$213,338 to reflect the annual impact of reformulating the lease of the Deep Point terminal as a levelized cost-based lease for the BHIT portion of the facility. The computation of the levelized payment was presented on Hoard Exhibit 4.

² The "Class" roman numerals are provided prior to the renumbering of rate classes and eliminated classes are not presented in the table.

- d. An adjustment to reflect the cost of debt to BHIT at 6.65%. The combination of this cost of debt with the stipulated imputed capital structure composed of 50% long-term debt and 50% member's equity, and a return on equity (ROE) of 10% produces an overall rate of return of 8.33% and a pretax interest coverage ratio of 3.4 times.

These findings and conclusions are not contested by any party.

The following schedules summarize the gross revenues and the rate of return that the Company should have a reasonable opportunity to achieve based upon the determinations made herein. These schedules, illustrating the Company's gross revenue requirement incorporate the findings and conclusions made by the Commission in this Order. As reflected in Schedule I, and as impacted by the other findings in this Order, BHIT is authorized to increase its annual level of ferry ticket revenues by \$1,721,928 based upon the updated test year level of operations:

SCHEDULE I
BALD HEAD ISLAND TRANSPORTATION, INC.
North Carolina Operations
Docket No. A-41, Sub 7
STATEMENT OF OPERATING INCOME
Twelve Months Ended December 31, 2009
(000s Omitted)

Item	Present Rates	Approved Increase	Approved Rates
Operating revenues:			
Ferry tickets	\$3,372,236	\$1,721,928	\$5,094,164
Other operating revenues	872,344*	-	872,344
Total operating revenues	<u>\$4,244,579~</u>	<u>\$1,721,928</u>	<u>\$5,966,508</u>
Operating revenue deductions:			
Operations and maintenance	5,014,442	-	5,014,442
Depreciation	315,314	-	315,314
Property taxes	41,214	-	41,214
Payroll taxes	140,622	-	140,622
Regulatory fee	4,049	2,066	6,115
State income tax	0	21,920	21,920
Federal income tax	0	98,598	98,598
Total operating revenue deductions	<u>\$5,515,640~</u>	<u>\$ 122,585~</u>	<u>\$5,638,225</u>
Net Operating Income	<u>(\$1,271,061)</u>	<u>\$1,599,344~</u>	<u>\$ 328,283</u>

Notes:

* Other operating revenues is composed of the following:

Item	Amount
Intercompany tram	\$100,545
Other tram	4,615
Parking revenues	523,097
Gain on transfer of Indigo Plantation	73,683
Other miscellaneous	170,404
Total other operating revenues	<u>\$872,344</u>

~ Denotes rounding per Stipulation.

SCHEDULE II
BALD HEAD ISLAND TRANSPORTATION, INC.
North Carolina Operations
Docket No. A-41, Sub 7
STATEMENT OF RATE BASE AND RATE OF RETURN
Twelve Months Ended December 31, 2009
(000s Omitted)

Item	Amount
Plant in service	\$6,656,972
Accumulated depreciation	<u>(2,402,645)</u>
Net plant in service	4,254,326~
Cash working capital	626,805
Average tax accruals	(44,044)
Deferred income taxes	<u>(893,752)</u>
Original Cost Rate Base	<u>\$3,943,335</u>
Overall Rate of Return on Rate Base:	
Present rates	(32.23%)
Approved rates	8.33%

Note: ~ Denotes rounding per Stipulation.

SCHEDULE III
BALD HEAD ISLAND TRANSPORTATION, INC.
North Carolina Operations
Docket No. A-41, Sub 7
STATEMENT OF RATE BASE AND RATE OF RETURN
Twelve Months Ended December 31, 2009
(000s Omitted)

Present Rates – Original Cost Rate Base

Item	Capitalization Ratio	Original Cost Rate Base	Embedded Cost or ROE	Net Operating Income
Long-term debt	50.00%	\$1,971,668	6.65%	\$ 131,116
Member's equity	<u>50.00%</u>	<u>1,971,668</u>	(71.12%)	<u>(1,402,177)</u>
Total	<u>100.00%</u>	<u>\$3,943,335[~]</u>		<u>(\$1,271,061)</u>

Approved Rates – Original Cost Rate Base

Item	Capitalization Ratio	Original Cost Rate Base	Embedded Cost or ROE	Net Operating Income
Long-term debt	50.00%	\$1,971,668	6.65%	\$ 131,116
Member's equity	<u>50.00%</u>	<u>1,971,668</u>	10.00%	<u>197,167</u>
Total	<u>100.00%</u>	<u>\$3,943,335[~]</u>		<u>\$ 328,283</u>

Note: [~] Denotes rounding per Stipulation.

EVIDENCE IN SUPPORT OF FINDING OF FACT AND CONCLUSION NO. 9

The evidence supporting this finding of fact and conclusion is contained in the verified general rate case application, BHIT's direct and rebuttal testimony and exhibits, the testimony and exhibits of Dr. Julius A. Wright, the testimony, exhibits, and revised exhibits of James G. Hoard, the Stipulation, and the entire record in this proceeding.

Public Staff witness Hoard testified that the parking revenue adjustment of \$523,097 reflects a compromise that considers projected operating results of the parking facility over a period of years. He testified that neither the investment nor the operating expenses associated with the Deep Point parking facilities are reflected in the revenue requirement computation on a fully rolled-in basis, and thus the entire amount of the parking revenue adjustment results in a direct reduction in the amount of the rate

increase. Further, witness Hoard explained that had the parking facility been reflected in revenue requirement on a fully rolled-in basis, the full amount of parking revenues would have been offset by the pretax rate of return on the parking facility rate base investment, depreciation expense, operation and maintenance expenses, property taxes, and payroll taxes. Witness Hoard opined that the revenue requirement impact of reflecting the parking facility on a fully rolled-in basis would have been considerably less favorable for ratepayers than the stipulated adjustment. This finding and conclusion is not contested by any party.

EVIDENCE IN SUPPORT OF FINDINGS OF FACT
AND CONCLUSIONS NOS. 10 THROUGH 13

The evidence supporting these findings of fact and conclusions is contained in the verified general rate case application, BHIT's direct and rebuttal testimony and exhibits, the testimony and exhibits of Dr. Julius A. Wright, the testimony, exhibits, and revised exhibits of James G. Hoard, the Stipulation, the Joint Proposed Order, and the entire record in this proceeding. These findings and conclusions are not contested by any party.

EVIDENCE IN SUPPORT OF FINDINGS OF FACT
AND CONCLUSIONS NOS. 14 THROUGH 19

The evidence supporting these findings of fact and conclusions is contained in the verified general rate case application, BHIT's direct and rebuttal testimony and exhibits, the testimony and exhibits of Dr. Julius A. Wright, the testimony, exhibits, and revised exhibits of James G. Hoard, the Stipulation, and the entire record in this proceeding. These findings and conclusions are not contested by any party.

EVIDENCE IN SUPPORT OF FINDING OF FACT AND CONCLUSION NO. 20

The evidence supporting this finding of fact and conclusion is contained in the verified general rate case application, BHIT's direct and rebuttal testimony and exhibits, the testimony, exhibits, and revised exhibits of James G. Hoard, the Stipulation, and the entire record in this proceeding. This finding and conclusion is not contested by any party.

EVIDENCE IN SUPPORT OF FINDING OF FACT AND CONCLUSION NO. 21

The evidence supporting this finding of fact and conclusion is contained in the verified general rate case application, BHIT's direct and rebuttal testimony and exhibits, the testimony and exhibits of Dr. Julius A. Wright, the testimony, exhibits, and revised exhibits of James G. Hoard, the Stipulation, and the entire record in this proceeding. This finding and conclusion is not contested by any party.

Customer emails were received between October 28, 2010 and November 15, 2010, wherein such customers expressed, among other things, that the

stipulated rate increase was unfair and unreasonable and that the Commission should reject the Stipulation and proceed to a further hearing and final ruling on all issues. The Commission has reviewed such correspondence and appreciates all the customer participation in this matter. The Commission acknowledges that there has been significant involvement by consumer interests in this proceeding which has greatly influenced the outcome of this rate case. In particular, the three Customer Group Intervenors - BHA, the Club, and the Village - played a very active and important role in asserting the interests of the specific consumer groups they represented; and they endeavored to support their recommendations through the submission of expert testimony. The Commission believes that the Customer Group Intervenors represented the vast majority of the consumers that will ultimately be affected by the final determinations made in this proceeding.

Furthermore, according to information provided in their respective petitions to intervene - BHA is a NC non-profit corporation, organized for the purposes of providing for beautification, maintenance, and architectural control of the exterior of homes and common areas of Stage 1 of BHI, to promote the health, safety, and welfare of the residents and act as an advocate for approximately 1,200 property owners; the Club is a NC non-profit corporation, organized for social and recreational purposes on BHI and its facilities include restaurants, a golf course, tennis courts, a swimming pool, and other sports and social facilities; and the Village is a municipal corporation, governed by an elected Village Council which exists, in part, to help property owners maintain the Island's unique qualities and to ensure that the Island is an accessible and enjoyable place to live, visit, and work. Further, the Public Staff, an independent agency from the Commission that represents the using and consuming public in all Commission proceedings affecting rates or service, was also very actively involved in the ultimate resolution of the issues in this proceeding.

The Commission believes that the compromises and ultimate settlement that was reached in this proceeding fairly acknowledged the interests represented by the various consumer groups in large measure. Unfortunately, it is not unusual for some affected consumers to be partially or completely dissatisfied with the final resolution of various opposing issues in a general rate case proceeding. However, the Commission is of the opinion that, in light of the various provisions set forth in the Stipulation that were agreed upon by the opposing parties, particularly those provisions such as the imputation of the revenues related to the Deep Point parking facilities (Stipulation Section 2.C.i.) and the limitations and the terms of such limitations agreed to by BHIL regarding price increases with respect to seasonal/non-seasonal daily parking rates and annual parking (Stipulation Section 2.C.i.a. and Section 2.C.i.b.), that opening up the hearing to obtain further evidence for review and consideration would not be productive or beneficial in this proceeding. Additionally, the Commission finds and concludes that the agreed-upon quarterly financial reporting (Stipulation Section 7.A.) as well as the future Public Staff audit (Stipulation Section 7.B.) should effectively apprise the Commission in a timely manner of any rate issues regarding the operations of BHIT that may need to be further investigated in the future.

The Commission has carefully reviewed the Stipulation and Stipulation Exhibits. The revenue requirement and allocation, accounting treatment, and other issues addressed and resolved in the Stipulation are the result of negotiations among the parties to this proceeding and are not opposed by any party. The Commission finds and concludes that the Stipulation provides a just and reasonable resolution of all of the issues necessary to be addressed in this proceeding and that its adoption will result in rates that are just and reasonable to all customer classes in consideration of all of the evidence presented in this proceeding.

IT IS, THEREFORE, ORDERED as follows:

1. That the Stipulation is hereby received into evidence in this proceeding and is approved in its entirety. The provisions of the Stipulation are incorporated herein by reference as if set out in full in this Order. Pursuant to Section 12 of the Stipulation regarding the receipt of testimony, the prefiled direct and rebuttal testimony and exhibits of Shirley A. Mayfield, Frederick W. Hering, and James W. Fulton, Jr., the prefiled direct testimony and exhibits of James G. Hoard and Dr. Julius A. Wright, and the amended joint rebuttal testimony and exhibits of Company witnesses Mayfield and Hering are received into evidence in this proceeding. Further, the Commission receives into evidence the Stipulation Exhibits and the late-filed revised exhibits of Public Staff witness Hoard.

2. That the Schedule of Rates and Charges (Tariff NCUC No. 6) attached as Exhibit D to the Stipulation with an effective date of January 1, 2011, shall be, and hereby is approved. In addition, the following provisions regarding ticket renewal and expiration dates of current tickets held by customers are approved:

- a. Currently issued Class XI Annual Passes sold at the current rate will continue to be honored for passage until they expire, but no Class XI Annual Passes sold or renewed at the current rate will be honored after December 31, 2011. Annual passes held by agencies or nonresidential property owners that expire after December 31, 2010, will not be renewed. There shall be no proration in value of either a currently issued annual pass or new/renewed annual pass.
- b. Currently issued Class XII Senior Citizen Annual Passes will continue to be honored for passage until they expire, but shall not be renewed upon expiration after December 31, 2010. No Class XII Senior Citizen Annual Passes sold or renewed at the current rate will be honored after December 31, 2011. There shall be no proration in value of either a currently issued annual pass or new/renewed annual pass.
- c. All other tickets (except Class II Bulk Fare, Class XV Lost Tickets, and Class VI No Frills tickets) shall be honored when used and/or may be presented for refund or credit towards purchase of another ticket through March 31, 2011, but shall expire and have no value after that date. Class II

Bulk Fare tickets issued on or before December 31, 2010, will be honored for passage only when used through March 31, 2011, but will be accepted for refund or credit towards purchase of other ticket(s) when presented or returned at any time up to and including June 30, 2011, and will have no value after that date.

3. That prior to implementing Tariff NCUC No. 6, BHIT shall provide the Public Staff's Transportation Rates Division with its revised tariff sheets, incorporating the increased rates and ferry operation changes approved herein. Further, upon review and acceptance by the Public Staff, that the increased rates and ferry operation changes approved herein have been properly reflected in the Company's revised tariff, BHIT shall file with the Commission a copy of its new Tariff NCUC No. 6.

4. That within 30 days of the date of this Order, BHIT shall file with the Commission all amendments to BHIT's affiliate agreements with BHIL that reflect any changes necessary to conform the affiliate agreements with this Order.

5. That BHIT (and BHIL, as applicable,) shall comply with the Stipulation, including the provision that BHIT shall file with the Commission the quarterly financial reports described in Finding of Fact and Conclusion No. 17.

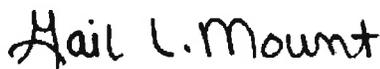
6. That, not later than Friday, December 31, 2010, BHIT shall, at its own expense, publish in newspapers having general coverage in its service area, the Notice to Customers attached hereto as Appendix A, once a week for two consecutive weeks. The Notice shall cover no less than one-fourth of a page. In addition, within 10 days after the date of this Order and until January 30, 2011, BHIT shall post a copy of the Notice to Customers at the Deep Point and Bald Head Island ferry terminals.

7. That, BHIT shall file no later than Monday, January 17, 2011, an affidavit of publication and a certificate of service showing that it provided notice as required herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of December, 2010.

NORTH CAROLINA UTILITIES COMMISSION



Gail L. Mount, Deputy Clerk

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. A-41, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Application of Bald Head Island Transportation, Inc.)	NOTICE TO CUSTOMERS
for a General Increase in its Rates and Charges)	OF RATE INCREASE
Applicable to Ferry Service Between Southport,)	EFFECTIVE
North Carolina and Bald Head Island, North)	JANUARY 1, 2011
Carolina)	

NOTICE IS HEREBY GIVEN that the North Carolina Utilities Commission (Commission) issued an Order on December 17, 2010, authorizing Bald Head Island Transportation, Inc. (BHIT), to increase and adjust its rates and rate design for ferry transportation service to and from Southport, North Carolina and Bald Head Island, North Carolina, effective on January 1, 2011, as explained below.

Pursuant to the Commission's Order, there are certain changes in rate design, classifications, fares, and tariffs for the ferry transportation service. The number of classes of tickets will be reduced from 15 to 10, eliminating six of the current classes and adding one new class. The classes that will be eliminated will be Class III Group Purchases; Class IV Government Employees; Class V Special Event; Class VIII Corporate Guest; Class XII Senior Citizen Annual Pass; and Class XIV Student Ticket. A new Bulk 80 ticket class will be created. The following table presents the rate changes and the classes that will be eliminated and created effective January 1, 2011:

<u>Type of Passenger</u>	<u>Current Rate*</u>	<u>Approved Rate</u>
General	\$16.00	\$23.00
Bulk 40	\$13.50	\$17.50
Bulk 80	N/A	\$15.00
No Frills	\$11.00	\$14.00
Contractor	\$11.00	\$14.00
Employee	\$9.00	\$14.00
Children, ages 3-12	\$9.00	\$12.00
Annual Pass	\$1,665.00	\$1,850.00
Excess Baggage	\$15.00	\$23.00
One-Way	\$5.00	\$11.50

<u>Eliminated Classes</u>	<u>Eliminated Rates</u>
Group Purchases	\$13.50
Government Employees	\$10.00
Special Event	\$11.00
Corporate Guest	\$ 9.00
Senior Citizen Annual Pass	\$842.00
Student Ticket	\$5.00

General - Available to all persons traveling to Bald Head Island (BHI) from Southport who do not qualify for any other fare.

Bulk 40 - Available to persons or organizations who purchase packages of 40 ferry tickets at one time.

Bulk 80 - Available to persons or organizations who purchase packages of 80 tickets at one time. The Bulk 80 ticket will be issued via a durable plastic, photo ID bar-coded ticket, specific to each customer, valid for 80 round trips. No tram service is provided.

No Frills - Round trip tickets available for purchase only on BHI by persons living or staying on BHI and valid only on day of purchase. No baggage service or tram service available with this ticket and hand-held parcels only.

Contractor - Available to bona fide contractors traveling to BHI to provide service. Not available on Saturday or Sunday. Contractor ferry must be used unless otherwise noted. Shuttle bus only is included. No baggage handling or tram services are included.

Employee - Available to employees of governments, governmental agencies, commercial, and non-profit businesses on BHI who are traveling in the course of their employment. Allowed to board after all other fares have boarded. No tram or baggage included.

Children - For ages 3-12 traveling with an adult. No charge for children under age 3.

Annual Pass - Available only to persons whose primary residence is on BHI who are residential property owners of record or persons leasing residential property. Tram service is not included.

Excess Baggage - Applicable to each bicycle or other non-carry-on item deemed too large to fit into baggage containers.

One-Way - Available only on BHI to persons who cannot present a valid ticket for passage on the second leg of their round trip under any fare described above except No Frills.

*The current rate includes a \$1.00 fuel surcharge previously approved by Order of the Commission in Docket No. A-41, Sub 5, on December 16, 2008. The approved rate does not include a fuel surcharge.

On and after January 1, 2011, currently issued Class XI Annual Passes sold at the current rate will continue to be honored for passage until they expire, but no Class XI Annual Passes sold or renewed at the current rate will be honored after December 31, 2011. Annual passes held by agencies or nonresidential property owners and that expire after December 31, 2010, will not be renewed. In addition, currently issued Class XII Senior Citizen Annual Passes will continue to be honored for passage until they expire, but shall not be renewed upon expiration, if such pass expires after December 31, 2010. No Class XII Senior Citizen Annual Passes sold or renewed at the current rate will be honored after December 31, 2011. All other tickets (except Class II Bulk Fare, Class XV Lost Tickets, and Class VI No Frills tickets) shall be honored when used and/or may be presented for refund or credit towards purchase of

another ticket through March 31, 2011, but shall expire and have no value after that date. Class II Bulk Fare tickets issued on or before December 31, 2010, will be honored for passage only when used through March 31, 2011, but will be accepted for refund or credit towards purchase of other ticket(s) when presented or returned at any time up to and including June 30, 2011, and will have no value after that date. Refunds or credits are allowed only upon presentation of the two-part round trip ticket. A single part will not be refunded or credited. There shall be no proration in value of either a currently issued annual pass or new/renewed annual pass.

A complete copy of the Commission's Order authorizing these new rates and approving this rate design can be obtained from the offices of BHIT or may be viewed and printed from the Commission's website at www.ncuc.net. Click on "Docket Search" and type in the docket (A-41) and sub (7) numbers. Detailed ferry information including hours of operation may be viewed at www.ferrytobhi.com or www.baldheadisland.com/contact/ferry_information.aspx.

This the 17th day of December, 2010.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount

Gail L. Mount, Deputy Clerk