



OFFICE OF THE
BRITISH COLUMBIA
FERRIES COMMISSIONER

ORDER NUMBER: 17-02

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IN THE MATTER OF

Section 55(5) and Section 67 of the *Coastal Ferry Act*, and
Establishment of the Criteria for a Major Capital Expenditure

BEFORE: Gordon Macatee, BC Ferries Commissioner
Sheldon Stoilen, BC Ferries Deputy Commissioner
(the “commissioners”)

ORDER

WHEREAS:

- A. Section 55(2) of the *Coastal Ferry Act* (the “Act”) requires that a ferry operator must not incur a major capital expenditure without first obtaining the commissioner's approval of the expenditure;
- B. Section 55(5) of the Act provides that a capital expenditure of a ferry operator is a major capital expenditure if it meets the criteria:
 - a) established from time to time by the commissioner, and
 - b) most recently provided by the commissioner to the ferry operator;
- C. By Order 12-04 dated September 30, 2012, the commissioners established criteria for a major capital expenditure which would require the commissioners’ approval of the capital expenditure; and

D. Section 67 of the Act provides that:

- (1) In addition to the reports required under sections 65 and 66, each ferry operator must provide to the commissioner information reasonably required by the commissioner and, for the purposes of this Act, must answer all questions of the commissioner.
- (2) A ferry operator that receives from the commissioner any form of return must fully and correctly answer each question in the return and deliver it to the commissioner.

E. This Order replaces Order 12-04.

NOW THEREFORE the commissioners order that:

For purposes of Section 55(5):

1. Any capital expenditure for any new vessel or mid-life upgrade to a vessel is a major capital expenditure if the expenditure exceeds \$50 million inclusive of component programs and interest during construction;
2. Any capital expenditure for new terminals, terminal upgrades, information technology systems or other non-vessel capital expenditures is a major capital expenditure if the expenditure exceeds \$25 million, inclusive of component programs and interest during construction;
3. The commissioners' determinations of a Section 55(2) application for approval of a major capital expenditure, as defined in paragraphs 1 and 2 above, will be based on whether or not the proposed capital expenditure project is:
 - a) reasonable, affordable and prudent,
 - b) consistent with the twelve-year capital plan submitted to the commissioners under section 64.1 for the current performance term;
 - c) consistent with the current Coastal Ferry Services Contract; and
 - d) consistent with any government long term vision for the future evolution of coastal ferry services; and

For purposes of Sections 67(1) and (2)

4. The operator shall deliver a report to the commissioner within 15 days following board approval of any capital expenditure exceeding \$25 million, detailing the purpose of the expenditure and providing answers to the relevant questions set out in the Commissioner's Guidelines for Section 55 applications. This requirement is waived for any capital expenditure or major capital expenditure which will be the subject of an application under Section 55 (1) or (2).

DATED at Victoria, in the Province of British Columbia, this 2nd day of March 2017.

BY ORDER



Gordon Macatee
BC Ferries Commissioner



Sheldon Stoilen
BC Ferries Deputy Commissioner