

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. A-100, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Bald Head Island)
Transportation, Inc., Davis Shore Ferry) ORDER ADOPTING
Service, LLC, Waterfront Ferry Service,) FINAL RULE
Inc., and Morris Marina, Kabin Kamps &)
Ferry Service, Inc., to Establish Guidelines)
or Rules to Implement a Fuel Cost)
Surcharge)

BY THE COMMISSION: On August 5, 2008, Bald Head Island Transportation, Inc. (BHIT), Island Transportation, Inc., Davis Shore Ferry Service, LLC., Waterfront Ferry Service, Inc., and Morris Marina, Kabin Kamps & Ferry Service, Inc. (Morris Marina) (collectively referenced to as the "Petitioners") filed a petition pursuant to G.S. 62-31, G.S. 62-32, and Commission Rule R4-4, or, in the alternative, pursuant to G.S. 62-136, requesting the Commission to establish a procedure to allow the Petitioners and other regulated ferry operators to implement a temporary adjustment to their rates due to increased fuel costs. In support of the request, the Petitioners stated that a significant portion of the costs of their ferry operations is the cost of the diesel fuel required to operate their ferryboats. For example, BHIT explained that it operates a fleet of four passenger ferryboats that make at least 17 round trips per day from Indigo Landing in Southport to Bald Head Island, and at least seven round trips per day from Deep Point in Brunswick County to Bald Head Island. On average, each BHIT ferry burns approximately 24 gallons of diesel fuel per hour of twin-engine operation. The Petitioners further noted that the cost of diesel fuel has tripled in the past five years, doubled in the past three years, and risen by more than 50% in the eight months preceding their August 2, 2008 filing. The Petitioners asserted that the unprecedented increase in diesel fuel costs directly and substantially impacts the cost of ferry operations and warrants the adoption of a procedure for temporary adjustments to relieve the resulting financial pressure and to allow ferry operators to continue to recover their costs of providing service.

The Petitioners maintained that requiring ferryboat entities to institute new general rate case proceedings in order to catch up with rapidly fluctuating fuel costs, would impose an unreasonable burden on the financial and managerial resources of the ferryboat entities and an administrative burden on the Commission and the Public Staff. Instead, the Petitioners proposed that the Commission should provide needed relief to

ferry operators by extending to them the procedures available under the guidelines adopted in the Commission's Order dated January 18, 1991, in Docket No. M-100, Sub 121, for motor carriers. According to the petition, a temporary surcharge could involve the following variables and calculations:

- A. Index Price per Gallon When Current Rates Were Established
- B. Most Recent Diesel Price per Gallon
- C. Price Per Gallon Increase from A to B (B minus A)
- D. Gallons Purchased during last Fiscal Year
- E. Annual Cost Increase of Gallons Purchased (C multiplied by D)
- F. Total Tickets Used by Paying Passengers by Ferry during last Fiscal Year
- G. Per Passenger Share of Cost Increase (E divided by F)

A procedure for implementing a temporary surcharge procedure was set forth in Appendix A attached to the petition. The Petitioners submitted that such a surcharge would be the maximum amount a ferry could charge, but would not be a mandatory amount. Upon approval by the Commission, a ferry operator implementing such a surcharge would file revised tariff schedules indicating the amount of the surcharge.

On November 7, 2008, the Commission issued an Order Establishing Procedures for Implementing and Modifying Fuel Charges in this docket. In that Order, the Commission concluded that the procedures and modifications recommended by the Public Staff should be incorporated into a provisional rule effective immediately upon issuance of the Order. The Order also outlined the accounting responsibilities and reporting obligations of a ferry operator seeking a change in its fuel surcharge. To ensure that all parties had a reasonable opportunity to be heard, the Commission provided all interested parties an opportunity to comment on the provisional rule adopted therein within 21 days after issuance of that Order.

On December 1, 2008, the Petitioners made a filing with the Commission in support of having the provisional rule previously adopted by the Commission adopted as a permanent rule for establishing a fuel surcharge procedure.

Based upon the foregoing, the Commission finds and concludes that good cause exists to adopt the Commission's provisional rule as a permanent rule for establishing a fuel surcharge procedure for ferry operators, with minor modification, such that the references to Exhibit A in Paragraph 3 and Exhibit B in Paragraph 6 of the provisional Rule R4-13 should be modified to include some additional clarifying language. Specifically, the Commission concludes that in both Paragraphs 3 and 6 at the end of the sentences ending with "Exhibit A" and "Exhibit B", respectively, the following language should be added: "of the Commission Order issued January 28, 2009, in Docket No. A-100, Sub 0, unless otherwise ordered by the Commission."

IT IS, THEREFORE, ORDERED as follows:

1. That the provisional Rule R4-13 for establishing a fuel surcharge

procedure for ferry operators with minor modification, as set forth in Appendix A, attached hereto, be, and the same is hereby, adopted as a permanent Commission rule effective as of the date of this Order.

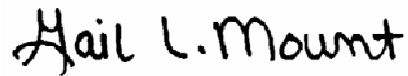
2. That the fuel surcharge and the fuel component of rates shall be computed using the formula set forth in Exhibit A.

3. That any ferry operator implementing a surcharge pursuant to Commission Rule R4-13 shall establish a fuel tracker account and shall file a quarterly fuel surcharge tracking report in the format set forth in Exhibit B within 45 days after the end of each calendar quarter.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of January, 2009.

NORTH CAROLINA UTILITIES COMMISSION

Handwritten signature of Gail L. Mount in black ink.

Gail L. Mount, Deputy Clerk

Kc012809.01

*Chairman Edward S. Finley, Jr., Commissioner Lorinzo L. Joyner, and Commissioner Susan Rabon did not participate in this Order.

Rule R4-13 PROCEDURE FOR DETERMINING FUEL SURCHARGES
BY FERRY OPERATORS

1. Any passenger ferry operating as a common carrier as defined by G.S. 62-3(6) may apply pursuant to NCUC Rule 4-4 for approval of a fuel surcharge.
2. The application shall specify the fuel cost per gallon expressed to three decimal places that is proposed to be used as the basis of determining the fuel surcharge. In addition, although no single data point or price index will be mandated by this procedure, the application shall include documentation of its fuel prices during, at least, the previous six months and/or government or industry fuel cost forecasts in support of the fuel cost per gallon proposed by the applicant.
3. The surcharge shall be computed in the manner set forth in Exhibit A of the Commission's Order issued January 28, 2009 in Docket No. A-100, Sub 0, unless otherwise ordered by the Commission. The base period used for computing the surcharge shall be the calendar year 2004 or the test year from the ferry operator's most recent rate case, whichever is later. If calendar year 2004 is used, the base period cost shall be calculated by dividing the total annual expense for the purchase of fuel in calendar year 2004 to operate the ferries by the number of gallons purchased during that period.
4. Applications for a fuel surcharge increase may be filed no more frequently than every three months. Applications for a fuel surcharge shall be considered at the Commission's Staff Conference within two weeks of the date of filing. Upon approval of the surcharge, the ferry operator may implement the surcharge, effective the first day of the month following the ferry operator's filing the revised tariff rate schedules reflecting the surcharge with the Chief Clerk of the Commission.
5. If the ferry sells an annual pass or other approved means of paying for transportation that are not individual single- or round-trip tickets, the surcharge shall apply only to the price of such passes sold following the approval of any surcharge and shall be equivalent to the approved surcharge at the time of sale multiplied by the projected average number of trips per passholder in the class of such passholders during the valid period of the pass. For purposes of calculating the number of customers, it will be assumed that each passholder travels the average number of trips (to be reflected in the number of customers) by all passholders in the class of such passholders during the valid period of the pass, calculated using historic ridership data.

6. Any ferry operator implementing a fuel surcharge shall establish a fuel tracking account to account for the difference between the amount of fuel costs collected from customers as compared to the amount of fuel costs incurred by the carrier. A quarterly report on the activity recorded in a fuel tracking account shall be filed with the Commission within 45 days after the end of each calendar quarter in the manner set forth in Exhibit B of the Commission's Order issued January 28, 2009, in Docket No. A-100, Sub 0, unless otherwise ordered by the Commission. The balance of the fuel tracking account shall be considered in determining the amount of the fuel surcharge after the initially approved fuel surcharge.
7. Applications or petitions for changes in the fuel surcharge may be filed by the ferry operator, the Public Staff, the Attorney General, or other interested parties.
8. Copies of any application for a surcharge and for change in the surcharge shall be served upon the Public Staff, the Attorney General, and other party requesting a copy. Persons desiring a copy who notify the Chief Clerk of the Commission in writing shall be placed on a service list.

EXHIBIT A

FORMULA TO DETERMINE FUEL SURCHARGE
AND FUEL COMPONENT OF RATES
FOR FERRY OPERATORS

FUEL SURCHARGE:

A. Proposed Fuel Cost per Gallon for Surcharge	\$_____
B. Base Period Cost per Gallon	\$_____
C. Increase in Fuel Cost per Gallon (A – B)	\$_____
D. Gallons Purchased in Base Period	_____
E. Annualized Increase in Cost of Gallons Purchased (C x D)	\$_____
F. Balance in Fuel Tracking Account	\$_____
G. Amount Used for Computing Surcharge (E + F)	\$_____
H. Number of Customers in Base Period	_____
I. Computed Surcharge per Customer (G/H)	\$_____

FUEL COMPONENT OF RATES:

A. Proposed Fuel Cost per Gallon for Surcharge	\$_____
B. Gallons Purchased in Base Period	_____
C. Annualized Fuel Costs (A x B)	\$_____
D. Balance in Fuel Tracking Account	\$_____
E. Tracked Fuel Costs (C + D)	\$_____
F. Number of Customers in Base Period	_____
G. Fuel Cost Component of Rates (E/F)	\$_____

