

September 14, 2022

Via Electronic Filing

Shonta Dunston
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina. 27699-4300

Re: ***Docket A-41, Sub 21***
Village of Bald Head Island v. Bald Head Island Transportation, and Bald
Head Island Limited, LLC

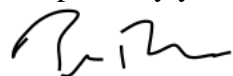
and;

Docket A-41, Sub 22
In the Matter of Joint Application of Bald Head Island Transportation, Inc.,
and Bald Head Island Ferry Transportation, LLC, for Approval of Transfer of
Common Carrier Certificate to Bald Head Island Ferry Transportation, LLC,
and Permission to Pledge Assets

Dear Ms. Dunston:

Transmitted herein is a ***Consumer Statement of Position*** in both of the aforementioned proceedings. Should you have any questions, please do not hesitate to contact us.

Respectfully yours,



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Enclosure

cc: Christopher Ayers, Director, NC Public Staff
Lucy Edmondson, Chief Counsel, NC Public Staff
Gina Holt, Manager, Legal Division, NC Public Staff
Zeke Creech- NC Public Staff
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Consumer Statement of Position

Re: Docket A-41 Sub 21 and Docket A-41 Sub 22

The following *Consumer Statement of Position* discusses issues that the NC Utilities Commission will consider in Docket A-41, Sub 21, the Village of Bald Head Island's petition to regulate the Bald Head Island transportation system (System) in its entirety, as well as Docket A-41, Sub 22, Bald Head Island Limited's (BHIL) application to transfer ownership of the System's regulated passenger ferry, along with the System's unregulated parking and barge operations, to SharpVue Capital (SharpVue), a private equity investor, for \$56M.

In 1995, the NC Utilities Commission determined that the Bald Head Island (BHI) passenger ferry is an essential service that must operate with a certificate of public necessity and convenience. The ferry terminal and parking facility at the Deep Point marina in Southport NC are ancillary services that clearly are essential to the provision passenger ferry service. Similarly, because the System's barge operation is a common carrier that transports virtually all goods, produce, materials, and service vehicles between the mainland and the island, it too is essential to sustaining the BHI community, and, by extension, the BHI passenger ferry. Few would bother to park at the Deep Point ferry terminal if the passenger ferry didn't run, just as few would bother to park at Deep Point and get on the passenger ferry, if the barge ceased operations and did not deliver the goods and materials needed to sustain the community of Bald Head Island.

This analysis documents why the entire BHI transportation System – passenger ferry, parking facility and barge – provides mutually interdependent, essential services and should be regulated as a commercially owned and operated local monopoly. It draws on financial projections for the System that were developed by the Bald Head Island Transportation Authority (BHITA) which, in late 2020, proposed to acquire the System for \$47.75M and finance the deal through a \$56M revenue bond issue.

The NC Local Government Commission (LGC), which must approve the issuance of all public debt in North Carolina, did not approve BHITA's bond application. In the course of discussing the application, members of the LGC expressed concern that the real estate appraisals on which BHITA's proposed acquisition price and bond issue were based were excessive and deeply flawed. It was noted, for example, that BHITA's appraised value of the Deep Point ferry terminal, including the parking and barge facility, was two and a half times what the Brunswick County tax assessor estimated they were worth. LGC members also expressed concern that a **20 percent** across-the-board increase in ferry, parking and barge rates that BHITA proposed to implement immediately after acquiring the system in 2021 -- in order to recoup annual debt service costs on its proposed \$56M revenue bond issue -- would have unfairly enriched the Mitchell Family Corporation, which owns BHIL, at the expense of captive System users.

BHITA spent nearly four years developing an extensive factual record pertaining to the System's operational and financial performance. That record has a direct bearing on the Village's petition to regulate the System's parking and barge operations, as well as BHIL's application to transfer

ownership of the regulated BHI passenger ferry to SharpVue. It should be reviewed and considered by the Commission and its Public Staff in resolving both proceedings.

Q. ARE THEIR SPECIFIC ELEMENTS OF BHITA’S BOND APPLICATION THAT THE COMMISSION AND THE PUBLIC STAFF SHOULD CONSIDER?

A. Three documents developed for or by the BHITA are particularly relevant to Docket A-41, Sub 21 and Docket A-41, Sub 22. The first report, *Bald Head Island Sellers Due Diligence*, was done by Mercator International for BHIL, the seller, in January 2018. It estimated the enterprise value of the System at \$56M, as well as its three components: the BHI passenger ferry (\$3.6M), the Deep Point parking facility (\$38.2M), and the barge (\$14M).

The second report, BHITA’s *Bond Feasibility Study* also was done by Mercator International, in December 2020. It estimated how much cash flow the System could generate to cover annual debt service costs on a revenue bond issue that BHITA would have used to finance its acquisition of the System. The third report, a *Credit Presentation* that BHITA made to the LGC staff on Dec. 3&4, 2020, outlined BHITA’s plans and financial wherewithal to acquire the System from BHIL for \$47.75M, and finance the deal through a \$56M revenue bond issue that S&P Global tentatively rated BBB-, or one notch above junk.

Q. HOW SPECIFICALLY ARE THESE DOCUMENTS RELEVANT TO ISSUES PRESENTED IN DOCKET A-41, SUB 21 AND DOCKET A-41, SUB 22?

A. All three documents provide extensive factual evidence that the System and its three principal components – the passenger ferry, parking facility at the Deep Point ferry terminal in Southport NC, and the tug & barge operation which transports virtually all goods and materials between the mainland and the island – constitute an integrated, commercially-owned local monopoly that provides essential services to one geographic market: the community of Bald Head Island. All three documents also highlight the fact that BHIL’s barge service currently operates as an unregulated monopoly/common carrier.

Second, all three documents conclusively demonstrate that earnings on BHIL’s unregulated parking and barge operations are: 1) well in excess of earnings derived from its regulated passenger ferry, 2) excessive and indicative of monopoly pricing abuse, and 3) responsible for very high market valuations that both BHITA and SharpVue placed on the System.

Third, all three documents highlight the hard fact that if the System’s parking and barge services remain unregulated, captive users of those services will end up paying for a disproportionately large amount of the System’s purchase price -- however unreasonably high, it might turn out to be. For reasons discussed below, there also is ample reason to believe that if the System’s unregulated parking and barge operations are transferred to another commercial operator, like SharpVue, both will likely be sold off to an owner/operator(s) with no financial interest in the regulated passenger ferry. Doing so could preclude the imputation of parking and/or barge revenues to the passenger ferry and cut off one way of keeping regulated ferry rates lower than

they would otherwise be -- as the Commission did when it approved a settlement agreement that resolved BHIL's last rate case in 2010.

Q. DO ANY OF THE THREE REPORTS DISPUTE THAT THE SYSTEM, AND EACH OF ITS THREE COMPONENTS, THE PASSENGER FERRY, DEEP POINT PARKING FACILITY AND BARGE, CONSTITUTE A COMMERCIALY-OWNED, LOCAL MONOPOLY?

A. Both Mercator reports as well as BHITA's *Credit Presentation* provide extensive documentation that the System is the sole provider of transportation services to BHI, and has the capacity to serve the island's transportation needs (i.e., passenger ferry, mainland parking, and barge capacity) for the foreseeable future. As Mercator's *Bond Feasibility* report put it: "Vehicle parking demand is derivative of passenger ferry traffic." (p. 50)

Q. WHAT DO THE THREE REPORTS SAY ABOUT THE SYSTEM'S PROFITABILITY?

A. All three reports indicate that the System's unregulated parking and barge operations are substantially more profitable than the regulated passenger ferry. The Mercator *Due Diligence* report estimated EBITDA margins for all three components, and the System as a whole, as follows:

EBITDA Margins (Earnings Before Interest, Taxes, and Depreciation/Amortization as a % of Revenues)

Component	Year								
	2016	2017	2018	2019	2020	2025	2030	2035	2040
Ferry	-3.1%	5.6%	10.3%	12.1%	11.8%	15.0%	12.4%	12.6%	12.3%
Parking	70.1%	71.7%	82.3%	83.0%	83.1%	84.0%	84.8%	85.5%	86.1%
<u>Barge</u>	<u>71.8%</u>	<u>71.3%</u>	<u>74.8%</u>	<u>76.5%</u>	<u>76.9%</u>	<u>78.9%</u>	<u>80.5%</u>	<u>82.0%</u>	<u>83.2%</u>
Consolidated	25.6%	31.4%	43.2%	45.0%	45.2%	47.6%	48.0%	49.3%	50.3%

Source: Mercator International *Bald Head Island Sellers Due Diligence*, January 2018, Tables 13-16, pp. 66-71.

Tables on pages 44-47 of BHITA's *Credit Presentation* indicate that EBITDA margins on the currently regulated passenger ferry service would have increased from **24.6%** of revenues in 2022 to **27.5%** in 2030 had BHITA acquired the System in 2021. EBITDA margins on the System's unregulated parking service were projected to rise from **81.8%** to **82.8%** over the same time frame, whereas EBITDA margins on its unregulated barge operations were expected to decline marginally from **70%** in 2022 to **68%** in 2030. Again, projected EBITDA margins for 2022 were based on expectations that BHITA would have acquired the System in 2021 and immediately raised ferry, parking and barge rates by **20 percent** in order to recoup annual debt service costs on its proposed \$56M revenue bond issue.

Q. IN THIS INSTANCE, ARE EBITDA MARGINS IN THE 70% TO 80%+ RANGE INDICATIVE OF MONOPOLY PRICING ABUSE?

A. Yes, particularly in view of the fact that the System's parking and barge operations are mature, low growth lines-of-business that require only modest amounts of capital spending and, thus, have low depreciation expenses relative to operating revenues. Each, of course, also currently operates as a commercially-owned, unregulated local monopoly.

Most publicly traded companies that make up the S&P 500 have EBITDA margins in the range of 11%-15%, with anything above 10% considered "good." EBITDA margins do vary by industry with capital intensive businesses like water utilities and railroads having greater EBITDA margins (e.g., 40% to 45%) given that they have large on-going capital spending requirements and related depreciation expenses relative to their operating revenues. But EBITDA margins in the 70%-80%+ range for businesses with very modest capital spending and depreciation expenses are excessive and, in this instance, clearly indicative of monopoly pricing abuse.

Q. HOW DO THE SYSTEM'S EBITDA AND EBITDA MARGINS RELATE TO ITS MARKET VALUE AND SALES PRICE?

A. For privately owned businesses like the System that are not publicly traded, market or enterprise valuations (EV) are commonly developed, and expressed as a multiple of the firm's projected EBITDA which is discounted back to a present value (i.e., EV) using its weighted average cost-of-capital as the discount rate. Techniques for doing so are well explained in Mercator's *Bald Head Island Sellers Due Diligence* report. On page 72, the report notes, for instance:

A summary level view of Mercator's calculation of EV relative to EBITDA, as forecast for 2018, is ... approximately 11.1x (or \$56M). By unit, the ferry and tram business generates a 5.7x ratio (\$3.6M), the parking and facilities lease business generates an 11.2x ratio (\$38.2M), and the tug and freight barge business generates a 14.1x ratio (\$14M).

Of note, on page 72, the report goes on to state:

The "parking and marine terminal business" of the BHIL group is much like a property-based business and as such could be valued using a traditional real estate "capitalization rate" methodology... [T]ransactions in that space have been reported at average capitalization rates on the order of 7 percent (as opposed to BHIL's estimated 9.5% weighted average cost-of-capital which Mercator used to discount future cash flows/EBITDA and arrive at a \$38.2M valuation). Using that (7%) as a reference, the parking and "marine terminal business" within BHI Limited, with EBITDA of \$3.61M in 2018, could have a sale value on the order of \$51 million (14.1x) which exceeds the \$38 million valuation derived above for the parking and facilities (lease) business and indicates the \$38 million valuation is likely conservative.

Q. WHY IS MERCATOR’S VALUATION, PARTICULARLY OF BHIL’S PARKING OPERATION, RELEVANT TO THE VILLAGE OF BALD HEAD ISLAND’S PETITION TO REGULATE THE SYSTEM’S PARKING AND BARGE OPERATIONS, AND BHIL’S APPLICATION TO TRANSFER OWNERSHIP OF THE SYSTEM TO SHARPVUE FOR \$56M?

A. Mercator’s valuation report contends that the System may be worth \$56M (or possibly more), but *only because BHIL’s unregulated parking and barge operations are earning an excessive amount of monopoly profits that “justifies” or produces a valuation that high.* Again, this is evidenced by extremely high EBITDA margins (e.g., 70 to 80%+) for both operations. Favorable action on the Village’s petition would obviously help correct that problem and protect captive System users from monopoly pricing abuse going forward.

Mercator’s valuation report as well as financial data presented in its *Bond Feasibility* study and BHITA’s *Credit Presentation* also underscore the need for the Commission to rule on the Village’s petition before acting on BHIL’s transfer of ownership application. The reasons for this have to do with the fact if the Commission were to: 1) defer taking favorable action the Village’s petition to regulate BHIL’s parking and barge operations and 2) subsequently approve transferring ownership of the System from BHIL to SharpVue, the System would likely be broken up and its regulated and unregulated components sold off to different owners.

Q. WHY WOULD SHARPVUE, OR ANY OTHER COMMERCIAL OPERATOR, BE INCLINED TO PURCHASE THE SYSTEM AS A SINGLE ENTITY, AND SUBSEQUENTLY SELL OFF ITS FERRY, PARKING AND BARGE OPERATIONS TO DIFFERENT OWNERS?

A. It is reasonable to expect that the higher the price a private equity investor, like SharpVue, might agree to pay for the System, the greater the likelihood that the System will be broken up with the unregulated piece-parts (i.e., parking and barge) sold off to an owner(s) who does not have a financial stake in the regulated passenger ferry. This is simply because separating ownership of the System’s currently regulated and unregulated assets would preclude the imputation of unregulated parking or barge revenues to the regulated passenger ferry operation in an effort to keep ferry rates lower than they would otherwise be.

In 2010, when the Commission approved a settlement agreement in BHIL’s last major rate case, BHIL agreed to impute \$523,097 annually in BHIL’s parking revenues to help offset the annual cost of operating the regulated passenger ferry, at least thru 2016 when the agreement terminated. BHIL did so in order to gain Commission approval of a general rate increase, and to forego Commission consideration of whether BHIL’s parking and barge operations should be regulated. In 2011, the passenger ferry’s revenue requirement that resulted from the 2010 settlement was \$5.238M, so approximately 10 percent of that amount was satisfied through the imputation of unregulated parking revenues.

Quite obviously, if SharpVue acquired the System and filed a general rate case requesting a significant increase in regulated ferry rates, and if its parking and barge operations remained unregulated and exceedingly profitable as they are today, the issue of imputing parking or barge

revenues to the regulated passenger ferry's annual revenue requirement (in an effort to keep ferry rates down) would certainly come up again. Since SharpVue or any other commercial buyer would very much want to avoid any such imputation in a future rate case, it would have a clear incentive to sell off the parking and barge operations to a third party before a new rate case for regulated ferry service was filed. Were that to occur, revenue imputation would no longer be a practical option. And the combined market value of the System's three components would likely be greater than the System's value as long as it continued to operate as a single, partially regulated entity.

Q. WOULD BREAKING UP OWNERSHIP OF THE SYSTEM ADVERSELY AFFECT CAPTIVE SYSTEM USERS?

A. Yes, particularly if the Commission did not assert jurisdiction over BHIL's parking and barge operations before transferring ownership of the regulated passenger ferry from BHIL to SharpVue, or another commercial operator. In that instance, user fees would very likely go up, possibly sharply, for two reasons. First, the regulated passenger ferry would have to stand on its own financially (e.g., without subsidies or revenues imputed from the System's unregulated parking operation). Given that the ferry currently operates at a financial loss, a new owner presumably would file a general rate case asking for significant rate increases that the Commission would likely have to approve.

Second, and potentially far more problematic, if a new (and different) owner of the System's unregulated parking or barge monopolies understood that it could not be compelled to impute parking and barge revenues to the regulated passenger ferry, assuming the Commission declined to assert jurisdiction over BHIL's parking and barge operations, they too would likely raise rates simply because they could.

Imputing revenues from an unregulated monopoly to a regulated one, after all, is a form of regulating both. If that threat is removed, it stands to reason that a commercial owner of a totally unregulated monopoly would be more inclined to increase operating profits by raising user rates. The incentive to do so would become that much more apparent, and potentially problematic for captive System users, if that owner were a private equity investor who planned to sell the unregulated parking or barge business at a healthy multiple of whatever price they might have paid for it. Conceivably, ownership of both operations could be "flipped" from one buyer/investor to another – at progressively higher prices – in which case user fees for unregulated parking and barge service would continue to escalate until the cost of getting people, products and materials to and from the island exceeded the willingness of those who live, work, vacation or do business on BHI to pay those costs.

Q. IF THE COMMISSION ASSERTED JURISDICTION OVER THE PARKING AND BARGE OPERATIONS AND IT WAS SUBSEQUENTLY SOLD TO ANOTHER COMMERCIAL OPERATOR, LIKE SHARPVUE, WOULD THE NEW OWNER BE MORE INCLINED TO OPERATE THE SYSTEM AS A SINGLE ENTITY?

A. If the entire System were regulated, as it should be, a new owner would be less inclined to break the System up into separately owned piece-parts simply because the System would be more profitable if operated as a single entity. To begin with, keeping the System together would allow the owner to share or spread common managerial, maintenance and administrative costs (e.g., the salary of a general manager) over its ferry, parking and barge operations and, thus, avoid the need to duplicate those costs (for each service) as would be the case if the System were broken up. A single owner also would have the flexibility to determine how the System's ferry, parking and barge services should be priced to meet its overall revenue requirement (e.g., given differences in demand elasticities and cost characteristics of the different services). This too should improve operational efficiencies and lower costs. Third, because the System's ferry, parking and barge operations carry different degrees of operational and financial risk, the System's overall level of risk, and cost-of-capital, should be lower if it were operated as a single entity.

Q. IS IT REASONABLE TO ASSUME, AS BHIL AND SHARPVUE HAVE ASSERTED, THAT SHARPVUE WOULD CONTINUE TO OPERATE THE SYSTEM IN MUCH THE SAME WAY AS BHIL HAS OPERATED IT?

A. SharpVue Capital is a private equity investor. Private equity companies are in the business of maximizing returns on their clients' capital investments. Unlike BHIL which developed much of the island's real estate on behalf of George P. Mitchell and his family, and, thus, had an incentive to keep ferry, parking and barge rates widely affordable, SharpVue has no similar ties to or interests in BHI. The same would very likely be true of any other commercial buyer of the System.

The System is a business. It also is a local monopoly as are each of its three components – the ferry, parking facility and the barge. As long as the System or any one of its components is commercially owned and operated, captive System users will need to be protected against monopoly pricing abuse. Again, that's what exceedingly high EBITDA margins (i.e., 70 to 80%+) on BHIL's unregulated parking and barge operations clearly demonstrate. That's also why all states, including North Carolina, have a state regulatory commission.

Q. IF THE COMMISSION WERE TO REGULATE THE ENTIRE SYSTEM WOULD SHARPVUE BACK-OUT OF THE DEAL AND COULD BHIL FIND ANOTHER QUALIFIED BUYER?

A. If the System were fully regulated, its market value and sales price should go down since its prospective earnings (e.g., EBITDA) also would be lower. But that does not mean that SharpVue or another commercial operator would not be interested in acquiring the System, albeit at a lower price.

The basic problem with BHITA's proposed \$56M bond issue, which the LGC would not approve, as well as SharpVue's proposal to buy the System for \$56M using high-cost private equity capital (e.g., 15% vs. an anticipated 4.75% interest rate on BHITA's revenue bonds) have to do with the fact that both deals were/are predicated on a local monopoly being completely unregulated in the case of BHITA's bond application, or remaining partially unregulated in the case of SharpVue's deal. *In either case, a \$56M price tag would effectively monetize future monopoly profits on the System's unregulated operations which would accrue immediately to BHIL, the seller, in the form of an inflated sales price that captive System users would have no choice but to pay for over time.* That's not how a reasonably efficient, competitive market works, nor is it how the BHI transportation System should be allowed to operate.

If SharpVue is not interested in acquiring the System, fully regulated, presumably at a lower price, some other commercial operator would be. What is important for everyone concerned, is that a new commercial operator understand at the outset – before an acquisition price is finalized-- how the System will be regulated going forward. Changing the rules of the game in the bottom of the fourth inning is not a good idea.

Q. COULD THE COMMISSION TAKE A “WAIT AND SEE” APPROACH TO REGULATING THE PARKING AND BARGE, AND DO SO ONLY IF IT BECAME APPARENT THAT SHARPVUE OR ANOTHER COMMERCIAL OPERATOR WAS ABUSING ITS MONOPOLY PRICING POWER?

A. Taking a “wait and see” approach would carry a significant amount of avoidable risk to System users as well as a new owner/operator. To begin with, it is unclear how the Commission could judge whether, or to what degree, a commercial operator might be abusing its unregulated monopoly, and how much that might be costing captive System users. This is simply because the Commission does not collect financial data on business operations that it does not regulate. BHIL has been steadfast in refusing to disclose publicly how much it is earning on its unregulated parking and barge monopolies for a reason.

Equally, and possibly more problematic, if SharpVue paid \$56M for the System on expectations that its excessively profitable parking and barge monopolies would remain unregulated, and the Commission subsequently decided to regulate the entire System, actual returns on Sharpvue's investment could potentially fall well below levels on which the \$56M acquisition price were based. Should that to occur, SharpVue may be reluctant to invest any more capital in the System than is minimally necessary -- in which case, service quality and reliability would very likely deteriorate at least until a new owner stepped in and acquired the System at a lower price.

Q. ARE BHI PROPERTY OWNERS CONCERNED ABOUT THE QUALITY AND COST OF TRANSPORTATION SERVICES TO AND FROM THE ISLAND?

A. Yes, in growing numbers. On August 1, 2022 more than 400 BHI property owners signed a letter to Chairwoman Charlotte Mitchell ([Bald Head Island Community Letter to NCUC](#)) urging that the Commission regulate the entire System before it is sold to SharpVue, or any other commercial operator. On August 31, the Bald Head Association, released the results of a survey ([BHA Survey on Ferry Regulation](#)) in which property owners were asked whether the System's

parking and barge operations should be regulated along with the passenger ferry: 72% voted in favor of regulating the entire System, 15% against, with the remaining 13% saying they aren't sure, or did not have enough information to make a decision.

Individual comments filed with both the letter and BHA survey further indicate that a growing number of BHI property owners are concerned about deteriorating service quality due to a perceived unwillingness on the part of BHIL to capitalize much needed System improvements.

Q. IS THERE A WAY THAT THE PARTIES TO BOTH PROCEEDINGS COULD WORK OUT A MUTUALLY BENEFICIAL SETTLEMENT THAT WOULD PROTECT CAPTIVE SYSTEM USERS?

A. Yes, provided that all parties were prepared to give a little in order to get a little. A mutually beneficial, straightforward settlement could easily be structured in a way that would: a) protect System users from excessive profiteering going forward, b) enable BHIL to sell the System for a very reasonable price that would certainly be fair to the Mitchell Family estate that owns BHIL, c) incent a new commercial owner to make needed capital improvements to the System and d) minimize the amount of time and resources that the Commission would need to commit to overseeing the System's operations.

Q. WHAT MIGHT SUCH A SETTLEMENT LOOK LIKE?

A. One possible settlement agreement could involve the following three elements or stipulations. First, all parties would agree that the Commission can and should assert regulatory jurisdiction over the entire System, including its parking and barge operations. Second, the parties and the Commission would agree that current user fees for ferry, parking, and barge services are presumed to be reasonable until BHIL, or a new owner, elects to file a general rate case with the Commission that would determine a revenue requirement for the entire System. Once that revenue requirement is determined, the System owner/operator also would be given the discretion to decide how user fees for its ferry, parking and barge operation should be set to satisfy or meet the System's overall revenue requirement.

Third, if BHIL, or a new owner/operator like SharpVue, elected to break the System up and sell the ferry, parking or barge operation to a different owner(s), it would agree to do so with the understanding that the allowable rate base for the operation in question (e.g., parking facility) would reflect the net book value of its capital plant-in-service, less accumulated depreciation, as determined by actual capital expenditures by BHIL, or subsequent owners, on the separate operation in question. Any intangible asset (e.g., "good will") that results from an acquisition price for the operation exceeding its net book value (based of straight-line depreciation schedules) would not be allowed in that operation's rate base.

Q. WHY WOULD THIS TYPE OF SETTLEMENT BE MUTUALLY BENEFICIAL TO SYSTEM USERS AND BHIL, OR ANOTHER COMMERCIAL OWNER LIKE SHARPVUE.

A. A settlement structured along these lines would protect System users from future rate increases that would result from a new owner/operator, like SharpVue, over-paying for an unregulated monopoly. The agreement also would remove financial incentives for BHIL or another commercial owner/operator like SharpVue, to break the System up in an effort to avoid being compelled to impute revenue from its unregulated parking or barge operation to its regulated passenger ferry.

BHIL, and a subsequent commercial owner/operator, would benefit because leaving current user rates in tact would result in the System continuing to generate significantly higher earnings than would be the case if all three components (i.e., ferry, parking and barge) were regulated and the System's rate base and revenue requirement were determined immediately after the Commission asserted jurisdiction over the entire System. That higher level of earnings also would allow BHIL and SharpVue, or another buyer if SharpVue opted out, to renegotiate a purchase price that would be fair to both the buyer, and the Mitchell Family estate – without asking captive System users to pay for a substantial mark-up in the System's value that would only result from the Commission allowing the parking and barge operations to continue operating as an unregulated monopoly (in perpetuity) with EBITDA margins in the 70-80%+ range.

Lastly, since it would be up to the System's operator to decide if and when to file a new rate case for the System as a whole, the Commission would not be required to commit much time or resources to overseeing the System's operation until a new rate case was filed. Once a rate case was filed, the Commission could limit its involvement to determining the System's overall revenue requirement and leave it up to the owner/operator to decide how user fees for various classes of ferry, parking and barge service are set to satisfy the System's overall revenue requirement. Moreover, there would be no need for the Commission to oversee how the System's common costs were allocated between its regulated ferry and unregulated parking and barge services as is now the case.

Q. ARE THEIR OTHER ISSUES THAT THE COMMISSION SHOULD CONSIDER IN THE COURSE OF RESOLVING DOCKETS A-41 SUB 21 AND A-41 SUB 22?

A. Yes, there are two other issues. First, it is entirely possible that System users would benefit from SharpVue, or some other commercial operator, purchasing the System -- provided it is regulated. Again, if the System is regulated, a prospective commercial operator presumably would negotiate the purchase price down which would lower user fees for ferry, parking and barge services over time. If a commercial operator acquired the System, it also would do so using private capital, as opposed to public debt, and would likely manage the System more efficiently since it would be putting its own capital at risk.

Second, relative to other proceedings currently before the Commission, both of these Dockets involve modest amounts of money, or consumer welfare. For people who live, work, vacation, visit or do business on Bald Head Island, however, the disposition of both proceedings is vitally

important. The BHI passenger ferry, parking facility at the Deep Point ferry terminal and the barge operation are interdependent components of a single transportation System on which the community of Bald Head Island totally depends and cannot survive without. At a minimum, the Commission needs to facilitate a mutually beneficial settlement that would resolve both docketed proceedings in a manner that is permanent and fair to all concerned. Once that settlement is in place, a new owner/operator will have the financial incentives and wherewithal to keep the System operating safely, reliably, and in good working order for the foreseeable future.

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