

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: ISLAND HI-SPEED FERRY, LLC. : DOCKET NO.

PETITION OF ISLAND HI-SPEED FERRY, LLC FOR EXEMPTION FROM
COMMISSION RULES OF PRACTICE AND PROCEDURE PART TWO

Now comes Island Hi-Speed Ferry, LLC (IHSF) and pursuant to Commission Rule 1.10 (a) and (b), petitions the Commission for a waiver of Part Two of the Commission's Rules of Practice and Procedure, to the extent that it applies to IHSF's pending Petition for Modification of Rate Orders.

Contemporaneous with the filing of this Petition, IHSF has filed a Petition for Modification of Rate Orders, which in sum requests that the Commission allow IHSF to offer season's passes to its most valued customers and to offer volume discounts to passengers traveling in groups of twenty five or more persons.

It is IHSF's position that the filing requirements of Part Two of the Commission's rules do not apply to its Petition for Modification of Rate Orders. The pertinent section of Part Two in question provides that: "[t]he rules and regulations contained in this part shall be applicable only to proceedings involving the investigation of changes in rates constituting a *general rate increase* in which the respondent utility's *overall revenue requirements are at issue.*" (Emphasis supplied). Commission Rule 2.2.

This rule is inapplicable to IHSF's Petition for Modification of Rate Orders because that petition proposes a discount in rate for certain IHSF customers, not a general rate increase. Additionally, since IHSF's rates are set by the utility pursuant to an anti-

trust price floor, and not through a traditional rate-base rate of return methodology, IHSF's overall revenue requirements are not at issue, as contemplated by Part Two.

Accordingly, to the extent that they even apply, IHSF requests a waiver from the filing requirements of Part Two of the Commission's rules, so that its Petition for Modification can be heard expeditiously on its merits, and so that IHSF may offer the requested discounts in time for the upcoming 2004 summer season.¹

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¹ IHSF's proposed Season's Pass would have to be purchased before May 15th and its Group Volume Discounts would have to be directly marketed to tour group operators with sufficient advance notice, to be effective.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: ISLAND HI-SPEED FERRY, LLC. : DOCKET NO.

AMENDED
PETITION OF ISLAND HI-SPEED FERRY FOR MODIFICATION OF RATE
ORDERS

Now comes Island Hi-Speed Ferry, LLC (IHSF) and petitions for a modification of Commission Order No. 17619 and Order No. 17819 to allow IHSF to sell a season's pass and offer volume discounts to passengers traveling in groups of twenty five or more persons. The rates proposed by IHSF for these categories of passenger tickets are as follows:

1. Season's Pass - \$500.00 (must be purchased by May 15th); and,
2. Volume Discount - \$20.30 during the months of May, June, September and October and \$23.20 during the months of July and August.¹

The proposed Season's Pass is targeted to reward, and stimulate advance purchases by, IHSF's most frequent travelers. IHSF is currently permitted by Order 17819 to sell adult Frequent User Cards (FUCs) for \$260.00. The FUC entitles an adult user to twenty, open ended, passenger trips, or ten roundtrips. There are twenty three weekends between IHSF's start of business in mid-May and its close of business in mid-October. Theoretically, a very frequent traveler could use the Season's Pass every weekend at a roundtrip cost of \$21.73, which is a savings of \$7.27 per roundtrip, but is \$4.27 below IHSF's \$26.00 price floor established in Order No. 17619. Therefore,

¹ Landing fees would be added to both Season's Passes and Volume Discounts.

partial relief from that order is needed for IHSF to offer this rate to its most valued customers.

The proposed Volume Discount is needed to stimulate IHSF's group tour business, particularly in the less-traveled shoulder seasons of Spring and Fall. Group tour passengers are frequently people living on fixed incomes, who travel by charter bus to and from destinations in the same day, because the trip is offered at a package price for transportation and a meal, usually lunch. In order for IHSF to make its service attractive to group tour operators, the operator must be able to keep its costs and the added cost of a ferry ticket within a certain margin. The proposed \$20.30 shoulder season group discount and the \$23.20 high season group discount are \$5.70 and \$2.80, respectively, below IHSF's \$26.00 price floor established in Order No. 17619. Therefore, partial relief from that order is needed for IHSF to offer this rate to tour group operators.

IHSF's price floor was imposed to keep an approximate \$10.00 price differential between IHSF's rates and Interstate Navigation's rates for the average customer of each company. In Interstate's last rate case the parties agreed, with the approval of the Division and the Commission, to the following stipulated changes in Interstate's rates for frequent and group customers:

“Section 6: The Parties agree that the Company will be permitted to offer the following volume and group discounts: (1) an advance purchase of 10 non-commuter passenger tickets may be sold at a price of 9 tickets (a discount of approximately 10%); and (2) group purchases of 25 or more passengers may receive a round-trip ticket discount of 15% (not including the landing fee). Authorization for these discount programs will expire on December 31, 2005, but may be extended by the Company only after making application to the PUC and obtaining approval. Other than expressly agreed herein, all other proposals for pricing flexibility as set forth in the Company's rate filing are rejected.” Order 17929.

The proposed modifications in IHSF's rates are in keeping with the spirit of Order 17619 and the effect of Order 17929. The Season's Pass price would maintain a ticket price differential of \$7.65 between its users and users of Interstate's frequent user pass, even if the Season's Pass were used for roundtrips every weekend for the entire season. It would also maintain more than a \$10.00 price differential between its users and users of Interstate's Commuter Pass. Interstate's rate for a roundtrip commuter ticket is \$10.00 and its Commuter Pass is more analogous to IHSF's proposed Season's Pass than Interstate's frequent user pass is.² The fact that this pass would have to be purchased before May 15th will also make it attractive to only the most dedicated frequent users of IHSF's service.

Assuming Interstate charges groups of 25 or more \$12.15 per head, the maximum allowed 15% discount on its \$14.30 adult roundtrip fare (before landing fees), the differential between its group discount and IHSF's proposed group discount during July and August would still be approximately \$11.05. The differential during the shoulder seasons would be \$8.25. The average differential would be \$9.65. Because of this significant differential and the fact that summer group tours are traditionally booked many months in advance, either at trade shows or through direct marketing-customer

² It is not clear that Interstate will even continue to offer a frequent user pass. This discount program expired on December 31, 2004, pursuant to Order 17929, Interstate has not applied to the Commission to extend it and it does not appear in the published rates on Interstate's website. Also, the effect of Order 17929 was to maintain a 30% discount in Interstate's passenger commuter rates over standard rates, even though passenger commuter rates actually rose by \$1.00.

contact, allowing these discounts will not violate the intent of IHSF's price-floor form of regulation.³

The tariff IHSF filed pursuant to Order No. 17819 was barely in effect two months, when IHSF was exposed to predatory competition from Block Island Express (BI Express), an affiliate of Cross-Sound Ferry, Inc., a Wronowski family-owned company. In mid-July of 2004, BI Express began a passenger only, high-speed ferry service from New London to Block Island, Rhode Island, with a same day, adult, round trip fare of \$25.00.

BI Express poses a serious, unfair, competitive threat to IHSF, because it provides its service with a foreign built high-speed ferry, which was re-flagged under the federal Wrecked Vessel Act. This vessel was purchased and repaired at a fraction of what it would cost to construct the same vessel in the United States today, dramatically lowering Block Island Express's cost of service, and allowing it engage in predatory pricing. This vessel also has nearly double the passenger carrying capacity of IHSF's vessel, *Athena*.

Prior to the start-up of BI Express in mid-July 2004, approximately forty eight (48%) percent of IHSF's passenger base was from the Connecticut – New York – New Jersey market. In July and August of 2005, which traditionally are IHSF's busiest months, IHSF suffered dramatic ridership losses. In July its ridership totals were down nineteen (19%) percent compared to 2003 and down sixteen (16%) percent compared to 2002. August's numbers were even worse. IHSF's ridership was down twenty six (26%)

³ It is equally unclear whether Interstate will continue to offer this discount program, since it also expired on December 31, 2004, pursuant to Order 17929, and Interstate has not applied to the Commission to extend it.

percent compared to 2003 and down twenty five (25%) percent compared to 2002.

Those ridership losses are directly attributable to unfair competition from BI Express, which is directly attributable in large part to regulatory and market-imposed restrictions preventing IHSF from operating its service to Old Harbor and requiring that it maintain at least a \$10 ticket price differential over Interstate's rates.

IHSF must be allowed to meet this competitive threat. Allowing IHSF to reward its most valued customers and to offer the group discounts proposed in this petition, will give IHSF some of the tools it needs to survive in this new environment.

Wherefore, IHSF prays that Commission Order No. 17619 and Order No. 17819 be modified to allow IHSF to sell a season's pass and offer volume discounts to passengers traveling in groups of twenty five or more persons, as follows:

1. Season's Pass - \$500.00 (must be purchased by May 15th); and,
2. Volume Discount - \$20.30 during the months of May, June, September and October and \$23.20 during the months of July and August.

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