

# *Schacht & McElroy*

*Robert M. Schacht  
Michael R. McElroy*

*Attorneys at Law*

*(401) 351-4100  
fax (401) 421-5696*

*Members of Rhode Island  
and Massachusetts Bars*

*21 Dryden Lane  
Post Office Box 6721  
Providence, Rhode Island 02940-6721*

*email: RMSchacht@aol.com  
McElroyMik@aol.com*

February 1, 2010

Luly E. Massaro, Clerk  
Division of Public Utilities & Carriers  
89 Jefferson Boulevard  
Warwick, RI 02888

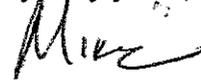
Re: Aquidneck Ferry & Charter, Inc., Docket No. D-10-01  
Conanicut Marine Services, Inc. d/b/a Jamestown & Newport Ferry  
Motion to Intervene/Protest

Dear Luly:

Enclosed for filing are an original and five copies of the Motion of Conanicut Marine Services, Inc. d/b/a Jamestown & Newport Ferry, for Intervention as a Full Party/Protestant in the above mentioned docket.

If you have any questions, please feel free to call.

Very truly yours,



Michael R. McElroy

MRMc:tmg

cc: Service List Docket D-10-01

STATE OF RHODE ISLAND  
DIVISION OF PUBLIC UTILITIES AND CARRIERS

IN RE: AQUIDNECK FERRY & CHARTER, INC. : DOCKET NO. D-10-01

MOTION OF CONANICUT MARINE SERVICES, INC. d/b/a JAMESTOWN & NEWPORT  
FERRY FOR INTERVENTION AS A FULL PARTY/PROTESTANT

Pursuant to Rules 17 and 19 of the Rules of Practice and Procedure of the Division of Public Utilities and Carriers, Conanicut Marine Services, Inc. d/b/a Jamestown & Newport Ferry (CMS or Jamestown & Newport Ferry) by and through its undersigned counsel, moves to intervene as a full party/protestant in this matter.

CMS is the long-standing operator of the existing Jamestown & Newport Ferry, and is strongly opposed to the application filed by Aquidneck Ferry & Charter, Inc. (AFC) for a Certificate of Public Convenience and Necessity (CPCN) to operate a ferry service in Newport Harbor, and to Fort Adams and Rose Island.

CMS is the current holder of a CPCN to operate a ferry service providing virtually the same service sought to be provided by AFC.

The overlap includes service by CMS to Perrotti Park, Bowen's Landing, Ft. Wetherill, Fort Adams, and Rose Island.

CMS is the current operator in a line of ferry service between Jamestown & Newport going back to the early 18<sup>th</sup> Century.

For more than a decade, CMS, as operator of the Jamestown & Newport Ferry, has, through hard work and a high level of financial commitment, established a record of reliability and excellent service, despite all of the difficulties inherent in operating a scheduled ferry service on Narragansett Bay in all weather conditions.

The dilution (or “cannibalization”) that would result from the granting of AFC’s application would effectively end the ability of CMS to operate this important part of access between Newport Harbor, Jamestown’s East Ferry, Fort Adams, and Rose Island. If the requested CPCN is granted, a vital part of the transportation mix during the peak season for visitors to Newport (from Memorial Day to Columbus Day) would be effectively destroyed.

CMS also believes that the schedule proposed by AFC is unreasonably ambitious, and, in practicality, simply cannot be achieved. Even if AFC had exclusive dedicated dock space at its stops in Newport Harbor, it would be very difficult to maintain the schedule it proposes. When one factors in the delays that inevitably occur when a passenger vessel operator shares the dock space and congested waterways with others, the schedule proposed by AFC becomes ultimately impossible.

To summarize, CMS submits that:

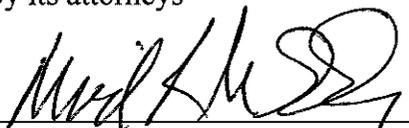
1. The existing service provided by CMS, and others already licensed and permitted, is more than adequate to meet the need. The CMS vessels have substantial excess capacity, and CMS is meeting the entire need for water-borne transportation on the routes CMS services. Therefore there is no public need for this additional ferry service.
2. The schedule proposed by AFC is not practically achievable, and AFC is not “fit, including and able” to perform as proposed.
3. Granting AFC a CPCN to operate will severely damage CMS, the existing ferry, without achieving any gain for the public.

Jamestown & Newport Ferry has been serving this route more than adequately. There is no “public convenience and necessity” which can be shown that “requires” this new service, as

mandated by R.I.G.L. § 39-3-3 and Rule 15. To the contrary, the new service is not “required” and would be contrary to the public convenience and necessity. It could put the Jamestown & Newport Ferry out of business.

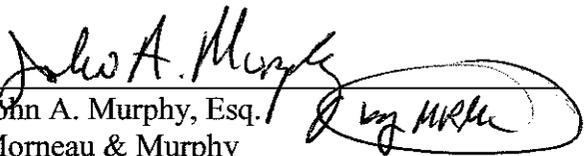
For these reasons, Jamestown & Newport Ferry moves to intervene in this matter as a full party/protestant, and for these reasons, and other reasons which will be more fully developed in the testimony and hearings in this matter, Jamestown & Newport Ferry respectfully requests that the applicant’s request for a CPCN be denied.

Respectfully submitted,  
CONANICUT MARINE SERVICES, INC.  
d/b/a JAMESTOWN & NEWPORT FERRY  
By its attorneys



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Michael R. McElroy, Esq. #2627  
Schacht & McElroy  
21 Dryden Lane  
P.O. Box 6721  
Providence, RI 02940-6721  
Tel: (401) 351-4100  
Fax: (401) 421-5696  
E-mail: [Michael@McElroyLawOffice.com](mailto:Michael@McElroyLawOffice.com)

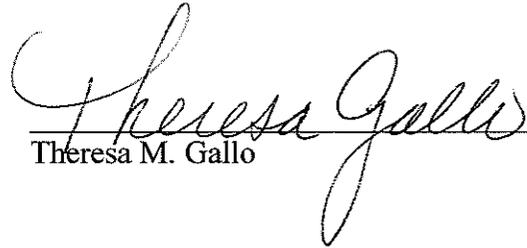


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John A. Murphy, Esq.  
Morneau & Murphy  
77 Narragansett Avenue  
Jamestown, RI 02835  
Tel: (401) 423-0040  
E-mail: [JAMurphy@JamestownLawyer.com](mailto:JAMurphy@JamestownLawyer.com)

CERTIFICATE OF SERVICE

I hereby certify that on the 1<sup>st</sup> day of February, 2010, I mailed a true copy of the foregoing by first class mail to the service list attached hereto.

  
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Theresa M. Gallo

Aquidneck Ferry & Charter, Inc. – Docket No. D-10-01  
 Application to Operate as Water Vessel Passenger Carrier Authority  
 Service List – Updated on 1/21/10

<b>Name</b>	<b>E-mail</b>	<b>Phone/FAX</b>
Addison Closson, President Aquidneck Ferry & Charter, Inc. 459 Windstone Drive Portsmouth, RI 02871	<a href="mailto:Aclosson3@gmail.com">Aclosson3@gmail.com</a>	401-225-8956
Attorney Sherry Goldin Armstrong, Gibbons & Gnys, LLP 55 South Main Street, Suite 301 Providence, Rhode Island 02903	<a href="mailto:SGoldin@agglaw.com">SGoldin@agglaw.com</a>	401-751-1500 Ext. 174
Luly E. Massaro, Clerk Division of Public Utilities 89 Jefferson Blvd. Warwick, RI 02888	<a href="mailto:Lmassaro@puc.state.ri.us">Lmassaro@puc.state.ri.us</a>	401-780-2107
	<a href="mailto:Tmercerc@ripuc.state.ri.us">Tmercerc@ripuc.state.ri.us</a>	
	<a href="mailto:Bill-ag@ripuc.state.ri.us">Bill-ag@ripuc.state.ri.us</a>	
	<a href="mailto:Rharwood@ripuc.state.ri.us">Rharwood@ripuc.state.ri.us</a>	
John Nicholson, City Solicitor City of Newport	<a href="mailto:jnicholson@cityofnewport.com">jnicholson@cityofnewport.com</a>	
Matt Gineo, Old Port Marine	<a href="mailto:mattgineo@gmail.com">mattgineo@gmail.com</a>	
Mike McElroy, Esq.	<a href="mailto:McElroyMik@aol.com">McElroyMik@aol.com</a>	