STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF PUBLIC UTILITIES AND CARRIERS
89 JEFFERSON BOULEVARD
WARWICK, RHODE ISLAND 02888

IN RE: Application by Rhode Island Fast Ferry, Inc. for Water Carrier Authority : Docket No. D-13-51

ORDER

(In response to Motions to Intervene)

1. Introduction

On July 2, 2013, Rhode Island Fast Ferry, Inc., 1347 Roger Williams Way, North Kingstown, Rhode Island ("RIFF" or "Applicant"), filed an application with the Rhode Island Division of Public Utilities and Carriers ("Division") seeking authority to operate as a seasonal "fast ferry" water carrier of passengers between Quonset Point, North Kingstown and Old Harbor, Block Island.[1] RIFF's application was filed pursuant to Rhode Island General Laws, Sections 39-3-3 and 39-3-3.1, which require the issuance of a "certificate of public convenience and necessity" ("CPCN") by the Division before "water carrier" services can be provided between points within the State.

In furtherance of starting the process of adjudicating the instant application request, the Division established a filing deadline of August 30,

[1] The Division notes that "fast" or "high-speed" ferry service is distinguishable from conventional "slower" ferry services. (See Interstate Navigation Company v. Division of Public Utilities, 824 A.2d 1282 (R.I. 2003)). With respect to the issue of the speed of the faster service, the Division's experience with "fast ferry" service has suggested that a ferry must be capable of operating comparatively smoothly and quietly at a service speed of approximately 28 knots. (See Order No. 17081, issued in Docket No. 02-MC-56). The Division has decided to adopt this criterion as a minimum standard for "fast" or "high-speed" ferry service.

2013 for all motions to intervene in the docket. Notification of the application filing and the prescribed deadline for intervention was posted on the Division's website, in accordance with State law, and also communicated during a pre-hearing/scheduling conference conducted on August 21, 2013, which was open to the public. The Division indicated that all motions would be considered in accordance with the requirements contained in Rule 17 of the Division's "Rules of Practice and Procedure."

In response to the notice of deadline to intervene, the Division received timely motions to intervene from the Interstate Navigation Company, d/b/a The Block Island Ferry ("Interstate"); Block Island Ferry Services LLC, d/b/a Block Island Express ("BI Express"); Intrastate Nav. Company ("INCo"); and the Town of New Shoreham (the "Town")(collectively, the "Movants").

After receiving copies of these formal intervention requests, the Applicant filed a timely written response and objections. In short, the Applicant argues that, with the exception of the Town, none of the Movants has satisfied the intervention standards set forth in Rule 17, supra.

2. Rule 17 Standard

Rule 17(b) of the Division's *Rules of Practice and Procedure* sets forth the following requirements for intervention:

> Subject to the provisions of these rules, any person with a right to intervene or an interest of such nature that intervention is necessary or appropriate may intervene in any proceeding before the Division. Such right or interest may be:
>
> (1) A right conferred by statue.

(2) An interest which may be directly affected and which is not adequately represented by existing parties and as to which movants may be bound by the Division's action in the proceeding. The following may have such an interest: consumers served by the applicant, defendant, or respondent and holders of securities of the applicant, defendant, or respondent.

(3) Any other interest of such a nature that movant's participation may be in the public interest.

3. Arguments For and Against Intervention

The Division has carefully considered the arguments proffered by the Movants and the Applicant regarding the pending intervention motions. Summaries of the Movants' rationale for intervention and the Applicant's responses and objections are outlined below:

A. Interstate

i. Interstate's Arguments in Support of Intervention

In its motion, Interstate emphasizes that it has been operating a "year-round lifeline" ferry service to Block Island for 80 years. Interstate states that it "operates the only ferry service to Block Island from Rhode Island and carries passengers as well as virtually all of Block Island's freight, including, but not limited to, trucks carrying fuel oil, gasoline and propane, garbage trucks, food trucks, cars, mail, food, building supplies, and all the many other items needed by Island residents and businesses to live."

Interstate additionally states that it carries about 200,000 round-trip ticketed passengers per year to Block Island; that it operates three large conventional ferries in its Point Judith to Block Island run; that during the summer it runs the high-speed ferries M/V Athena and M/V Islander from Point Judith to Block Island and from Newport to Block Island, respectively; that it is close to completing construction of its new office building in Galilee, which it will use when it moves its corporate headquarters from New London later this year; and that it has debt of approximately $12 million to support its operation that was approved by the Division.

Interstate argues that RIFF's plan to operate 4 round-trip (passenger-only) runs to Block Island each day with a 300-passenger vessel during only the summer months, will, if permitted by the Division, significantly damage Interstate's ability to continue to provide a "lifeline" "bridge" to Block Island. In support of its claim, Interstate notes that during its 2012 fiscal year, it carried about 200,000 round-trip ticketed passengers, and that 174,000 of these tickets were sold during the 5-month period between May and September. Interstate observes that if the Applicant is granted a CPCN it will have the capacity to carry approximately 180,000 round-trip ticketed passengers during that same 5-month summer timeframe. Interstate argues that because its costs are "essentially fixed," if it loses business to the Applicant, it will either have to increase rates or reduce its level of services to the Island "especially during the winter months when Interstate operates at a major loss." Interstate further argues that if is forced to raise rates it will lose more ridership, which

Interstate predicts will lead to "a continuing downward spiral." As a worst case scenario, Interstate argues that its rates could be forced so high that it would be unable to recover its costs from declining traffic "and could be forced to dramatically reduce service, lay off employees, sell vessels, etc."

Interstate also argues that under Rhode Island law, the Division may consider the following issues regarding Interstate's (the incumbent provider) operation: (1) whether Interstate is meeting the needs of the public for ferry travel to Block Island; (2) the investments of capital made by Interstate; (3) the nature of the ferry service being rendered by Interstate's owners; (4) whether Interstate's service is adequate, and what will be the probable effect of admitting competition into a field now adequately served; (5) what effect competition will have on Interstate's revenues; and (6) whether competition would have an adverse effect on the adequacy of the existing services provided by Interstate.[2]

Interstate also takes exception to the Applicant's description of its proposed service as a service being in "competition" with Interstate. Interstate argues that the Applicant "is proposing a pure cream-skimming operation" and, therefore, it is unfair to characterize the two services as 'apples to apples' competitive.

ii. RIFF's Objection

RIFF argues that Interstate has no standing to intervene in this proceeding, as it "is not a necessary or appropriate party in a competitive high-

[2] Citing Abbott v. Public Utilities Commission, 136 A. 490 (RI 1927).

speed ferry application..." RIFF maintains that Interstate's motion "is simply an effort to use the agency process to block competition, to the detriment of the public convenience and necessity and the well established benefits of competition and choice." RIFF additionally accuses Interstate of wanting to stall competition in order to advance its plans to open a new market for high-speed ferry services between Fall River and Block Island.

In support of its objection, RIFF stresses that it is now well recognized in law and regulatory practice, that high-speed ferry services represent a "competitive market" which "is different and unrelated to 'lifeline' and freight service." RIFF argues that Interstate is ignoring agency and court precedent by asserting that its freight services will be destroyed by high-speed ferry competition. RIFF contends that once the Division "looks beyond that clearly erroneous argument, it is left only with considering whether the competition that the proposed high-speed ferry service would bring to Interstate's current high-speed service (i.e., comparing apples to apples) is in the public interest."

Next, addressing the "standards for intervention," RIFF argues that "no decision of the Division or a reviewing court has ever held that an interest in preventing competition so as to protect a monopoly position in a market that is deemed competitive is sufficient to satisfy the discretionary intervention standards of Rule 17 since, *a fortiori*, such motives are not in the public interest..." RIFF asserts that Rule 17(c) requires that a motion to intervene set out "clearly and concisely facts from which the nature of the movant's alleged right or interest can be determined, the grounds of the proposed intervention,

and the position of the movant in the proceeding." However, RIFF notes that in this case, Interstate's motion "asserts that its 'interest' is only in maintaining its tariffed rates and forcing intrastate customers only one option – requiring a long drive (for most customers) to Point Judith - - so that its lifeline and freight service is not affected by competition from a new service providing high-speed ferry transportation options to customers via a different port." RIFF argues that this type of interest is not a sufficient interest to warrant Interstate's intervention in this proceeding.

RIFF next argues that because Interstate does not have a "statutory right" to intervene in this matter, Interstate must show that it has a necessary or appropriate 'interest' to intervene. RIFF asserts, however, that Interstate's interests in protecting "its monopoly lifeline and freight business is not 'directly affected' by the proposed fast ferry service "because the Division has already ruled that it is impermissible to link an interest in high-speed ferry service to an interest in lifeline/freight service." RIFF argues that the Division, Commission and Rhode Island Supreme Court, have explicitly rejected that argument and explained "in the most basic terms that lifeline service and high-speed ferry service are utterly distinguishable;" thus, according to RIFF, Interstate "is left with its argument that it is 'directly affected' due to the potential for competition with its **discretionary** high-speed business" (emphasis in original). But, RIFF contends that such an argument "must fail because the mere fear of competition in a *de jure* competitive segment of a marketplace is a legal oxymoron and cannot provide means for intervention in

Division matters." Additionally, RIFF contends that the interests of consumers are "adequately represented" by the Attorney General and the Division's Advocacy Section.

RIFF continued its attack on Interstate's 'directly affected' rationale for its request to intervene by citing to a number of Division, Commission and court decisions, which RIFF asserts support its argument for denying Interstate's intervention. The Division has summarized a sampling of these cases below:

- Relying on the R.I. Supreme Court case of In re Island High-Speed Ferry, 746 A.2d at 1246, RIFF argues that allowing a direct competitor to intervene simply because it is a direct competitor places the applicant in a 'precarious position' and is of questionable wisdom;

- Relying on the Division case of In re: Interstate Nav. Co. for Water Carrier Auth, Docket No. D-05-06 at 61 (Jan. 23, 2006), RIFF argues that it is well settled that "'fast ferry services' and 'conventional' ferry services are two distinctly different water carrier options," and that "the Division cannot accept Interstate's argument that economic viability of the two services should be linked for licensing purposes."

- Relying on the R.I. Supreme Court case of Interstate Nav. Co. vs. Div. of Pub. Utilities & Carriers of the State of R.I., 824 A.2d 1282, 1282 (R.I. 2003), RIFF notes that "a high-speed ferry substantially alters the kind of service that water carriers can provide;" it "requires different equipment, it

provides faster service and it operates on the water in an entirely different way than a standard ferry does."

- Relying on the Commission case of In re: Island Hi-Speed Form of Regulation and Review of Rates, Docket No. 3495 at 10 (May 9, 2003), RIFF observes that the Commission found "that Interstate's and the Town's interest in IHSF's form of regulation and rates as impacting the lifeline service is indirect, at best."

- Relying on the R.I. Supreme Court case of Town of Coventry v. Hickory Ridge Campground, Inc., 337 A.2d 233 (R.I. 1975), RIFF argues that "a general economic interest in a proceeding is not enough to warrant permissive intervention, especially where the claimed impact of a decision on the moving party is speculative and remote."

RIFF argues that the mere existence of competition and the potential that customers may choose another company is not a sufficient and legitimate interest that can be used to claim a right to intervention, but rather simply is a signal that a competitive market is functioning. RIFF concludes that "Interstate does not have any directly affected interest sufficient to satisfy the standard for intervention set forth in Rule 17."

RIFF also contends that Interstate is not acting on behalf of the public's interest. RIFF likens Interstate's "public interest" claim as just another "too big to fail" argument. RIFF questions how Interstate thinks it is in the public interest "that all customers in the Rhode Island region who wish to visit Block Island in the summer season must be forced to travel to Point Judith by way of

crowded and congested highways so that Interstate can capture all the intrastate travel-related revenue." RIFF argues that Interstate's efforts "to freeze its monopoly position and to eliminate customer choice, is actually taking a position antithetical to the public interest..." RIFF adds that "it is plainly not in the public interest to let Interstate overburden this license application with a self serving protectionist strategy to delay and hinder the efforts of a competitor seeking to benefit the greater Rhode Island region and its economy."

RIFF also argues against Interstate's assertion that RIFF's services will greatly diminish Interstate's ridership out of Point Judith. RIFF opines that "due to the different geographical location of the proposed fast ferry, the customers seeking to use... [RIFF's] service to Block Island will, in many instances, be customers from the Upper Bay/Southern Massachusetts or other regions that travel via flights to T.F. Green Airport, and who do not and would not travel to Point Judith to reach Block Island." RIFF argues that it expects that its new service "will activate and service a dormant, un-served, niche market." RIFF notes that Interstate's recent actions to announce a new port of service from Fall River, Massachusetts adds credence to RIFF's contention "that there are other customers that would never drive all the way to Point Judith..."

RIFF further asserts that "Interstate does not represent the public interest because it is not a Rhode Island business entity." RIFF also argues

that Interstate ignores the associated business development and job creation opportunities a new high-speed service could foster here in Rhode Island.

B. BI Express

i. BI Express' Arguments in Support of Intervention

BI Express identifies itself as "a family-owned, long-time operator of fast-ferry services between New London, Connecticut and ... [INCo's] dock in Old Harbor, Block Island." BI Express also argues that it has a "direct property interest" in opposing RIFF's application.

BI Express asserts that the Applicant's additional vessels will impact navigation and increase congestion; resulting in the likelihood of damaging collisions between vessels, including potential damage to BI Express' vessels. BI Express also has concerns that additional vessels coming through the narrow entrance channel to Old Harbor will cause delays for the other ferries entering and exiting the harbor. BI Express also asserts that there is insufficient dock space to dock ferry vessels at the dock the Applicant intends to use (Filippi Dock) and INCo's dock at the same time. BI Express also argues that its intervention is in the public interest because of its "institutional knowledge on navigation to and from Block Island.

ii. RIFF's Objection

RIFF consolidated its written objections to BI Express' and INCo's motions to intervene. Its arguments in support of its objections are provided below, infra.

C. INCo

i. INCo's Arguments in Support of Intervention

INCo identifies itself as "a family-owned and operated ferry terminal that includes a wooden dock, pier, ramps, slips, a parking lot, and other on-shore facilities in Old Harbor, Block Island." INCo notes that has operated the terminal in Old Harbor since 1965.

INCo seeks to intervene in the instant case based on its belief that the Applicant's proposed service and docking at "Filippi Dock" will adversely impact INCo's dock schedules, its leasees' ferry services, and its ability for reasonable use of its dock; it also is concerned about an increase in the likelihood of collisions among vessels and congestion in Old Harbor. INCo argues that if RIFF's application is approved, INCo's property interests will be "irreparably harmed...without any gain for the public."

ii. RIFF's Objection

As noted above, RIFF consolidated its written objections to BI Express' and INCo's motions to intervene. RIFF collectively refers to these two Movants as "Cross Sound" and for ease of summarizing the reasoning behind RIFF's objections, so shall the Division.

RIFF asserts that Cross Sound is not a necessary or appropriate party in this proceeding. In support of its position, RIFF argues that Cross Sound "has no Rhode Island based intrastate customers, and its primary concerns, related to dockage issues on Block Island, are within the exclusive jurisdiction of the CRMC and the Town of New Shoreham Harbormaster." RIFF contends that the

Division's review in this docket is properly limited to the public convenience and necessity for an optional port for customers seeking intrastate high-speed service to Block Island.

RIFF argues that if the public convenience and necessity are benefited, the Division will grant a conditional license, "so that the Applicant has the opportunity to obtain the required permits, vessels, and dockage within a reasonable period of time." RIFF observes that "this is how the Division properly ruled when Island Hi-Speed Ferry ("IHSF") first sought a license to offer customers a choice in high-speed ferry service to Block Island in 1998. The same rationale applies here." RIFF rejects Cross Sound's "property interest" argument as a basis for intervention; arguing that it "is the Town and CRMC that will, under their delegated statutory authority, determine what is best for the public in the use of the harbor."

RIFF asserts that Cross Sound is not a necessary or appropriate party because the issue of 'congestion' in the harbor or dockage is not within the Division's jurisdiction. RIFF maintains that the proper "*fora*" for Cross Sound to present its concerns are the Rhode Island CRMC and before the Harbormaster of the Town of New Shoreham, not the Division.[3] RIFF understands that if it is granted a CPCN by the Division, it will have "to seek either an amendment to an existing CRMC permit for dockage or seek a new CRMC Assent or permit to build a new dock in the Town of New Shoreham." RIFF also understands that it will "need to satisfy the requirements of the

[3] Citing Champlin's Realty Assocs. V. Tikoian, 989 A.2d 427, 431 (R.I. 2010).

Harbormaster and the Town of New Shoreham to the extent applicable." RIFF argues that Cross Sound's "property interest" in a dock and the general interests of the public claimed by Cross Sound in its Motions "... will be fully and adequately adjudicated by the CRMC and reviewed as required by the Town, under their lawful authority to manage the Rhode Island waters and harbors."

To further buttress its position, RIFF argues that the Division generally "establishes a time period between the issuance of an order granting authority and the planned date of operations so that an applicant will have a reasonable amount of time to fulfill the conditions contained in the order..."[4] RIFF asserts that the "proper order of events is, therefore, to allow the applicant to first secure a CPCN so that it may secure the other required regulatory and zoning approvals." RIFF notes that the Division 'has not expected other applicants to invest millions of dollars into a business before applying for operating authority..."[5]

RIFF additionally argues that Cross Sound is not a necessary or appropriate party because it does not represent the interest of the Rhode Island public. RIFF declares that as a Connecticut business, with admittedly out-of-state customers, Cross Sound's interests rest with protecting the interests of its

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[4] Citing the Division's Order in Docket 99 MC 19 (affirmed by the Superior Court in Interstate Navigation Company d/b/a Block Island Ferry, et al. v. Division of Public Utilities and Carriers et al., C.A. 99 No. 1999-5058; C.A. No. 1999-5317 (August 31, 1999)) and the Division's Order No. 16146 in Docket 98 MC 16 (January 7, 2000).

[5] Citing Division Order in Docket 99 MC 19 at pg. 8 (affirmed by Superior Court in Interstate Navigation Company d/b/a Block Island Ferry et al. v. Division of Public Utilities and Carriers et al. C.A. No. 1999-5098; C.A. 1999-5317 (August 31, 1999)).

Connecticut business activities, not Rhode Island's public interest. RIFF asserts that the Division should not protect Cross Sound's Connecticut business "to the detriment of the public convenience and necessity and the potential for the development of business here in Rhode Island." RIFF also argues that Cross Sound has not proven that the Division's Advocacy Section cannot adequately protect the public interests of Rhode Island, which RIFF emphasizes is a perquisite for intervention.

4. Findings

In reaching its findings, the Division relied on the provisions of Rule 17 of the Division's Rules of Practice and Procedure, Rule 24 of the Superior Court Rules of Civil Procedure, relevant case law, and the related pleadings filed in this proceeding.

As an initial finding, the Division will permit the intervention of the Town. The Division finds that because RIFF did not object to the Town's request to intervene in this docket, the request must be approved by operation of law.[6]

With respect to the other requests to intervene, the Division began its evaluation with a close review of the requirements of Rule 17. In determining whether the requested interventions are necessary or appropriate, Rule 17(b) mandates that the Movant's must demonstrate that they either have: (1) *a right* [to intervene] *conferred by statute*, (2) *an interest which may be directly affected and which is not adequately represented by existing parties and as to which*

[6] See Rule 17(e).

movants *may be bound by the Division's action in the proceeding. The following may have such an interest: consumers served by the applicant, defendant, or respondent and holders of securities of the applicant, defendant, or respondent,* or (3) *any other interest of such nature that the movant's participation may be in the public interest.*

To start, the Division finds that none of the Movants have demonstrated a statutory right or a "directly affected" interest that is not adequately represented by the Division's Advocacy Section (who is represented by the Attorney General). At best, the Movants have demonstrated only an interest that is indirectly affected by Applicant's proposed services.[7] With respect to Interstate's claim of a "direct" interest, the Division agrees with the Applicant's observation and assertion that high-speed ferry services and traditional (slow) ferry services are distinguishable for licensing purposes. This regulatory distinction has been adopted by the Division for licensing purposes and has been affirmed by the Rhode Island Supreme Court.[8] As Interstate's sole interest in this case is to preserve the financial viability of its "year-round lifeline service to Block Island," which is provided through the use of traditional (slow) ferry vessels, the Division is unable to characterize Interstate's interest as one "directly affected" by the Applicant's proposed high-speed ferry service.

Similarly, the Division is unable to characterize BI Express' and INCo's respective interests in this matter as interests "directly affected" by the

[7] See In re: Hi-Speed Form of Regulation and Review of Rates, Commission Docket No. 3495 (May 9, 2003).
[8] See Interstate Navigation Co. d/b/a The Block Island Ferry et al. vs. Division of Public Utilities and Carriers of the State of Rhode Island et al., 824 A.2d 1282 (R.I. 2003).

Applicant's proposed ferry services. As it is clear that the Applicant will not be docking at INCo's dock in Old Harbor, the Division is compelled to find only an "indirect" connection to the Applicant's proposed services.

Accordingly, the issue boils down to whether it would be in the public interest to permit Interstate, BI Express and INCo to participate in this proceeding? In deciding whether the "public interest" demands the participation of these Movants, the Division must logically find that their individual interests warrant recognition and protection in furtherance of the general welfare of the public.[9] In considering this issue, the Division must also balance several related factors, specifically, whether the Division ultimately has the authority to grant the relief requested, whether the Movants may more effectively pursue their respective interests in other forums, and whether the intervention(s) would unduly delay or prejudice the adjudication of the rights of the Applicant and other parties.

With respect to the arguments offered by BI Express and INCo, the Division finds that because it must defer to the CRMC and New Shoreham's Harbormaster concerning matters related to boat docks and ferry congestion in Old Harbor, it would be impractical for the Division to spend any significant time addressing these issues in the context of the instant CPCN (licensing) proceeding. As argued by the Applicant, it is true that the Division routinely issues "conditional" certificates of public convenience and necessity (CPCNs) and certificates of operating authority (COAs) to prospective common carriers.

[9] See definition of "public interest" in Black's Law Dictionary, Seventh Edition.

For a water carrier of passengers, it would not be uncommon for the Division to require a water carrier to produce evidence of insurance, applicable U.S. Coast Guard approval(s), applicable State and local permit approval(s), a Public Utilities Commission-approved tariff, final operating schedules, and even submit to a Division compliance inspection, before actual passenger services may commence.[10] Though the Division would condition the granting of authority to the Applicant, in part, on the Applicant's "ability" to provide the service proposed, the Division is ill-equipped to meaningfully evaluate harbor congestion and dock adequacy issues as a condition-precedent to the issuance of a CPCN.

Moreover, considering that the Applicant will have to address these very issues at some point before the CRMC and the New Shoreham's Harbormaster, the Division finds that the related interventions in this proceeding would indeed unduly delay and prejudice the Applicant's rights in this case.

For the reasons stated above, the Division finds that the motions to intervene filed by BI Express and INCo must be denied. The Division notes, however, that these Movants are free to offer public comment in this docket, which the Division will certainly take into consideration in the general context of the Applicant's "ability" to provide the proposed services.

On the question of whether Interstate's intervention is in the public interest, the Division is mindful that both the Public Utilities Commission and the Rhode Island Supreme Court have challenged the notion of Interstate being

[10] See Division Order No. 15652.

allowed to intervene in regulatory dockets initiated by another ferry service provider.[11] Nevertheless, the Division would agree with Interstate's argument that it would be proper for the Division, in its assessment of the Applicant's direct case to prove that there is a "public need" for its proposed services, to also consider what impact, if any, the Applicant's services would have on Interstate's existing "lifeline" services.[12]

However, to be clear, the Division recognizes that existing carriers do not have a legal right to maintain a monopoly upon services rendered, and that increased competition is not a valid ground for denying a common carrier CPCN.[13] The Division also accepts that "protecting existing investments... from even wasteful competition must be treated as secondary to the first and most fundamental obligation of securing adequate service for the public."[14]

In the final analysis, the Division agrees that it is in the public interest to permit Interstate to participate in this docket for the purpose of safe-guarding the year-round lifeline services it provides to Block Island. The Division considers the scope of this participation as relating to the Applicant's burden of proof to demonstrate "that public convenience and necessity require[s] the services."[15] However, the Division will not permit Interstate to participate beyond this limited issue. Interstate will be free to fully participate in the context of the "public convenience and necessity" elements of this proceeding,

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[11] See In re: Island Hi-Speed Ferry, LLC., 746 A.2d 1240, at 1246.
[12] See Abbott v. Public Utilities Commission, 48 R.I. 196, 136 A. 490 (1927).
[13] See Breen v. Division, 194 A. 719, 720 (1937).
[14] Id.
[15] R.I.G.L. §39-3-3.

but it will not be permitted to challenge the Applicant with respect to its claims of "fitness." This area of inquiry will be restricted to the Division's Advocacy Section. Finally, with respect to the dock and harbor congestion issues, *supra*, Interstate will be afforded the same limited "public comment" rights as BI Express and INCo.

Now, therefore, it is

(21170) ORDERED:

1. The motion to intervene filed by the Town of New Shoreham is granted.
2. The motion to intervene filed by the Interstate Navigation Company, d/b/a The Block Island Ferry, is hereby granted, subject to the limitations described herein.
3. That the motions to intervene filed by Block Island Ferry Services LLC, d/b/a Block Island Express and the Intrastate Nav. Company, are hereby denied.

Dated and Effective at Warwick, Rhode Island on September 24, 2013.

Division of Public Utilities and Carriers

John Spirito, Jr., Esq.
Hearing Officer

APPROVED:

Thomas F. Ahern
Administrator