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January 17, 2018

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

Re: Docket No. D-13-51
In Re: Rhode Island Fast Ferry, Inc.

Dear Luly:

Enclosed for filing are an original and three copies of Interstate Navigation Company and the Town of New Shoreham's Response to Rhode Island Fast Ferry's Objection to Interstate and the Town's Motion to Vacate Division Order No. 22877.

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

Very truly yours,


Michael R. McElroy

cc: Service List

Rhode Island Fast Ferry (RIFF) – CPCN Application Docket No. D-13-51
Updated 11/28/17

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Interested Parties:		
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STATE OF RHODE ISLAND
DIVISION OF PUBLIC UTILITIES AND CARRIERS

IN RE: RHODE ISLAND FAST FERRY, INC. : DOCKET No. D-13-51

**INTERSTATE NAVIGATION COMPANY D/B/A THE BLOCK ISLAND FERRY
AND THE TOWN OF NEW SHOREHAM'S RESPONSE TO
RHODE ISLAND FAST FERRY'S OBJECTION TO INTERSTATE AND
THE TOWN'S MOTION TO VACATE DIVISION ORDER NO. 22877**

Interstate Navigation Company d/b/a The Block Island Ferry ("Interstate") and the Town of New Shoreham ("Town") submit this Response to Rhode Island Fast Ferry's ("RIFF") Objection to Interstate and the Town's Motion to Vacate Division of Public Utilities and Carriers ("Division") Order No. 22877 Granting RIFF a One-Year Continuance to Satisfy Conditions Precedent Contained in Division Order No. 22548 Granting RIFF's CPCN Application ("Motion to Vacate").

RIFF argues in its Objection that the Division lacks the authority to vacate its own Order. This contention is entirely without merit. As the Hearing Officer is no doubt aware, under the Division Rules of Practice and Procedure, the Division is vested with full authority to vacate prior Division orders. In fact, the Division has availed itself of this authority and vacated prior orders in this very docket. *See* Division Order 22254 (In Response to the Town's Motion for Summary Disposition), dated December 10, 2015, at 3 ("...the Division reconsidered and vacated its earlier decision to permit the Town to conduct further discovery").

The Division Rules of Practice and Procedure plainly permit the Division to vacate a prior order under certain circumstances, including: fraud, misrepresentation, or other misconduct of an adverse party (under Rule 31(b)(3)); newly discovered evidence (under Rule 31(b)(2)); or any other reason justifying relief from the operation of the order (under Rule 31(b)(6)).

Therefore, RIFF’s “desperate attempt” to undermine the Motion to Vacate on this ground is unfounded and should be disregarded by the Hearing Officer.

As discussed in the Motion to Vacate and incorporated herein by reference, over two years ago RIFF assured the Division that the permit process would be completed within 12-18 months (by April 2017 at the latest). RIFF failed to meet this self-imposed deadline to secure permits. In fact, as recently discovered via RIFF’s responses to the Town’s Data Requests, Bluewater submitted its first application to the USACE in May 2017 – one month after all permitting was set to be completed based on RIFF’s docking timeline.

RIFF also represented to the Division that Bluewater would file applications for RIFF’s proposed docking facility with all relevant regulatory agencies by the end of December 2017. Again, RIFF failed to deliver on this promise to the Division. RIFF admits that Bluewater is still “working with consultants and engineers on compiling the necessary information and documentation to submit the additional permits.”¹ *See* RIFF Objection, at 5.

RIFF and Bluewater still have not submitted the required applications and related documents necessary to procure approvals and permits for RIFF’s proposed docking facility, as newly discovered via the Town’s Data Requests and confirmed by RIFF’s Objection. Further, RIFF misled the Division regarding the docking timeline and misrepresented its efforts to procure permits for the proposed docking facility. This is adequate basis to vacate Division Order No. 22877.

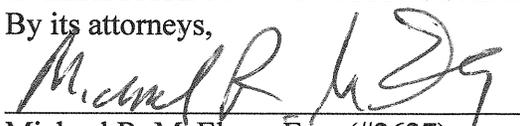
¹ RIFF alleges that Bluewater has been “coordinating” with various agencies since May 2017. While this may (or may not) be true, it is beside the point. *See* RIFF Objection, at 5. RIFF misrepresented to the Division that applications would be filed with all relevant regulatory agencies by the end of December 2017. *See* Letter from Kelley Drye & Warren LLP, dated November 20, 2017, at 2 (“Bluewater anticipates filing the requisite submissions with the relevant regulatory agencies by the end of the calendar year.”) (Exhibit E to Motion to Vacate). This simply did not occur.

WHEREFORE, the Interstate and the Town respectfully request that the Division vacate Order No. 22877 granting RIFF a one-year continuance to satisfy Conditions Precedent contained in Order No. 22548, and grant such other and further relief as the Division deems necessary and just.

Respectfully submitted,

INTERSTATE NAVIGATION COMPANY

By its attorneys,


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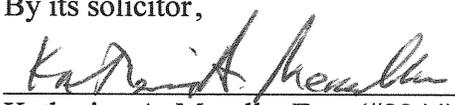
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Dated: January 17, 2018

TOWN OF NEW SHOREHAM

By its solicitor,


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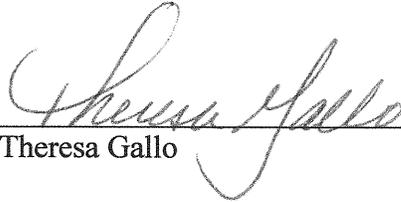
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Dated: January 17, 2018

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of January, 2018, I sent a copy of the foregoing to the attached service list.



Theresa Gallo