

**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 the RIFF's Motion for Clarification, to Correct Order
and to Adjust Procedural Schedule)

Whereas: As an introduction to this Order, the Rhode Island Division of Public Utilities and Carriers ("Division") hereby incorporates Order No. 22030 by reference. Order No. 22030 was issued on August 11, 2015.

Whereas: The Division issued Order No. 22030 in response to a July 21, 2015 motion for summary disposition, filed by the Town. In its motion, the Town argued that RIFF's application must be dismissed for RIFF's failure to identify the dock it plans to use in Old Harbor. RIFF filed an objection to the Town's motion on August 3, 2015.

Whereas: After considering the arguments made by the Town and RIFF, the Division held as follows:

1. Consistent with the findings contained herein, the Division shall reserve final decision on the Town of New Shoreham's July 21, 2015 motion for summary disposition until August 28, 2015.
2. On or before August 28, 2015, RIFF shall submit a written declaration to the Division identifying the dock it is proposing to use on Block Island (in

furtherance of its proposed ferry services) and offer proof of the dock's availability.

3. That if RIFF proposes to use a docking facility located in New Harbor, rather than Old Harbor, the Division will immediately suspend the current procedural schedule in this docket and require RIFF to amend its application accordingly.
4. That if RIFF proposes to use a docking facility located in New Harbor, the Division will conduct an additional scheduling conference for the purpose of ensuring that the Intervenors in this docket, and the Division's Advocacy Section, are provided sufficient time to explore and address this new development. The Division will also entertain any intervention requests directly linked to the change of docking locations on Block Island.¹

Whereas: On August 14, 2015, RIFF filed a motion for Clarification to Correct Order and Adjust Procedural Schedule. In support of its motion, RIFF observes that the hearing officer who issued Order No. 22030, misstated the hearing dates that have been adopted in this case. Specifically, that the hearing officer referenced September 7 and 8, 2015, instead of October 7 and 8, 2015, the latter dates reflecting a recent agreed-upon amendment to the hearing schedule in this docket. RIFF contends that if the hearing officer intended that the August 28, 2015 deadline, *supra*, was directly linked to the misstated September 7 and 8 hearing dates, then it would be proper to amend the August 28, 2015 deadline to September

¹ See Order No. 22030.

28, 2015, to coincide with the new October 7 and 8, 2015 hearing dates. RIFF also argues that it needs the additional time “to secure the necessary supporting documents or evidence in support of the Order’s requirement that RIFF submit ‘proof’ of dock availability.” RIFF adds that the additional time is necessary “in order for RIFF to respond to the Town’s position regarding the use of the South Pier that it acquired from the Army Corps of Engineers.”

Whereas: In response to RIFF’s motion, Interstate Navigation and the Town filed an objection on August 17, 2015. In their objection, Interstate Navigation and the Town assert that it is clear to them from their reading of the Division’s Order, that the hearing officer did not establish the August 28, 2015 deadline in connection to the scheduled hearing dates in this docket. Interstate Navigation and the Town further argue that extending the deadline to September 28, 2015 “would make it impossible for the parties to properly conduct discovery on whatever docking arrangements are identified by RIFF in its docking declaration.”

FINDINGS

As an initial finding, the Division selected the August 28, 2015 deadline predicated on this date’s relationship to the issue date of Order No. 22030 and not its relationship to the hearing dates. It is true, that this hearing officer incorrectly referenced the previously scheduled September 7 and 8, 2015 hearing dates. But the reference was made for informational purposes, not as a nexus for establishing the August 28, 2015 deadline. The Division’s reasoning was that August 28, 2015 would provide RIFF with at least two (2) weeks) and that the deadline would be further extended to the end of the week.

As for RIFF's request that it be given additional time to proffer the required proof of its planned docking facility, the Division is not averse to granting RIFF some limited additional time. However, as RIFF has indicated that it wishes to further investigate a perceived right to access the Town's South Pier, the Division is mindful that the Town will likely need some additional time as well to address this claim in advance of the scheduled hearings. Therefore, the Division will extend the August 28, 2105 deadline by two (2) weeks, to September 11, 2015. The Division reserves the right to suspend the hearing dates in this docket if it determines that additional time for discovery would be appropriate.

Now, therefore, it is

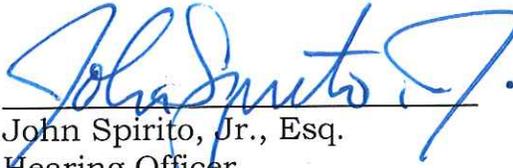
(22045) ORDERED:

1. That Order No. 22030 is hereby incorporated by reference and made part of this Order.
2. That consistent with the findings contained herein, the Division shall grant RIFF an additional two (2) weeks, to September 11, 2015, to submit a written declaration to the Division identifying the dock it is proposing to use on Block Island (in furtherance of its proposed ferry services) and offer proof of the dock's availability.
3. That the Division reserves the right to suspend the hearing dates in this docket if it determines that additional time for discovery would be appropriate.

4. That the other findings contained in Order No. 22030, not inconsistent with this Order, shall remain in full force and effect.

Dated and Effective at Warwick, Rhode Island on August 19, 2015.

Division of Public Utilities and Carriers



John Spirito, Jr., Esq.
Hearing Officer

APPROVED: 

Thomas F. Ahern
Administrator