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April 24, 2015

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

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

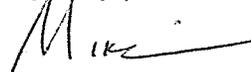
Dear Luly:

As you know, this office represents intervenor Interstate Navigation Company (Interstate) in this matter.

Enclosed for filing in this matter are an original and five copies of Interstate's Objection to Rhode Island Fast Ferry, Inc.'s Motion to Compel More Responsive Responses to Data Requests and for Extension of the Procedural Schedule.

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

Very truly yours,



Michael R. McElroy

MRMc:tmg
cc: Service List

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'S
OBJECTION TO RHODE ISLAND FAST FERRY, INC'S MOTION TO COMPEL
MORE RESPONSIVE RESPONSES TO DATA REQUESTS AND FOR
EXTENSION OF THE PROCEDURAL SCHEDULE**

Interstate Navigation Company d/b/a The Block Island Ferry ("Interstate") submits this objection to Rhode Island Fast Ferry, Inc's ("RIFF") Motion to Compel More Responsive Responses to Data Requests and for Extension of the Procedural Schedule. In support thereof, Interstate states as follows:

1. In its April 15, 2015 Motion, RIFF seeks to compel Interstate's responses to 18 data requests based on specific arguments in response to Interstate's objections and responses. In addition, RIFF seeks to extend its deadline for filing rebuttal testimony and for a corresponding shift in the remainder of the procedural schedule. For purposes of efficiency, Interstate has consolidated RIFF's arguments in its motion into categories, and responded to each in turn below.

2. Prior to filing its Motion, RIFF made no efforts to meet and confer with Interstate on these issues or to determine whether Interstate would oppose its Motion, as required by the Rhode Island Division of Public Utilities and Carriers (the "Division") Rules of Practice and Procedure. D.P.U.C. Rule 19(b).

Motion to Compel More Responsive Responses to Data Requests

3. On March 5, 2015, RIFF filed its First Set of Data Requests to Interstate in Docket No. D-13-51. The document contained 103 data requests, including subparts. On April

1, 2015, Interstate filed its Responses to RIFF's First Set of Data Requests. On April 15, 2015, RIFF filed the instant Motion to Compel seeking additional responses to 18 data requests.

4. Upon receipt of the Motion, Interstate conducted a full review of the 18 data requests at issue in this Motion. Interstate believes it adequately responded to each and every data request. The Division should deny RIFF's Motion to Compel.

5. Interstate acknowledges that there was a typographical error within its response to RIFF 1-46(g). Within the response, Mr. Edge referred to "BIPCo" which is neither a party nor relevant entity in this matter. Clearly, this reference should have been to "RIFF" instead of "BIPCo." This shall serve as an amendment to Interstate's response to RIFF Data Request 1-46(g) to correct this error.¹

6. RIFF's Motion to Compel is primarily an attempt to take a second bite at the apple because RIFF is unhappy with Interstate's reasonable responses to its data requests and time has passed to file additional data requests. For example, in four (4) of its data requests, RIFF used the term "actual survey takers."² No definition of the term was provided by RIFF. Interstate responded fully to the requests based on its reasonable understanding of the term "actual survey takers." RIFF now argues that it meant something else by this term. However, RIFF failed to provide any specific definition to Interstate when the data requests were filed and the time to submit clarified data requests has passed.

7. RIFF also argues that Interstate is responsible to provide RIFF with data that is a matter of public record.³ This information is equally available to all parties. Requiring Interstate to locate, copy, and furnish such information would be unreasonable, burdensome and

¹ Interstate's Response to RIFF 1-46(g) should instead read: "No, but serving them by RIFF instead of Interstate will adversely impact Rhode Islanders who live on Block Island."

² RIFF Data Requests 1-6, 1-7, 1-8, and 1-9.

³ RIFF Data Requests 1-41(f), 1-41 (g), and 1-48(f).

oppressive. Further, two (2) of these public record data requests – regarding fuel cost and usage – exceeds the scope of Interstate’s pre-filed direct testimony.⁴ Under the Procedural Schedule, RIFF was permitted to “propound discovery in response to [Interstate’s] pre-filed direct testimony.” These data requests are outside the scope and are improper. Of note, the testimony located within the page and line citations referenced by RIFF for these data requests do not mention fuel, fuel cost or fuel usage.

8. Additionally, RIFF seeks information about Interstate’s ridership statistics that is unnecessary to evaluate RIFF’s request for a CPCN.⁵ Interstate objects to providing this confidential and proprietary information. Even if a protective order were in place, *which it is not*, RIFF has not, and cannot, demonstrate any exceptional circumstances that would support its argument to gain access to this propriety information.

Motion for Extension of Procedural Schedule

9. Finally, RIFF seeks to extend its deadline for filing rebuttal testimony in this matter and for a corresponding shift in the remainder of the procedural schedule. RIFF has received multiple extensions during the pendency of this matter. Under the existing Procedural Schedule, RIFF’s deadline for filing optional rebuttal testimony in this matter was April 16, 2015. This deadline has passed.

10. An extension of time in the Procedural Schedule requires the consent of the parties or an order by the Hearing Officer. D.P.U.C. Rule 10(b). RIFF received neither prior to the existing deadline for filing optional rebuttal testimony. Consequently, RIFF has waived its right to file optional rebuttal testimony in this matter.

⁴ RIFF 1-41(f) and 1-44(g).

⁵ RIFF 1-33 and 1-34.

11. Interstate filed its responses to RIFF's data requests on April 1, 2015. RIFF waited two (2) full weeks and filed its Motion for Extension in conjunction with this Motion to Compel only one (1) day before the deadline for its optional rebuttal testimony. The requested extension had not been granted as of the deadline date. It is presumptuous for RIFF to rely on an extension that has not yet been granted by the Division, however, RIFF apparently did so. RIFF did not file any rebuttal testimony on or before the existing deadline of April 16, 2015.

12. RIFF argues that it needs Interstate's "more responsive answers" to complete its rebuttal testimony. However, this is a red herring. RIFF propounded 103 data requests in this matter and has moved to compel further responses in only a fraction of these. Of the 103 data requests answered by Interstate in this matter, RIFF has included only 18 in the instant Motion to Compel, which one must presume means that RIFF found the remaining 85 responses to have been properly answered. For the sake of argument, if we presume that the 18 responses at issue were, in fact, deficient (which they are not), RIFF nevertheless had the remaining 85 responses as well as 60 pages of direct testimony of Interstate's witnesses at its disposal.

13. Therefore, even if the Division grants RIFF's Motion to Compel, in whole or in part, RIFF should not be permitted to file optional rebuttal testimony in this matter and the Procedural Schedule should not be amended.

Conclusion

14. For these reasons, the Division should deny RIFF's Motion to Compel More Responsive Responses to Data Requests and for Extension of the Procedural Schedule.

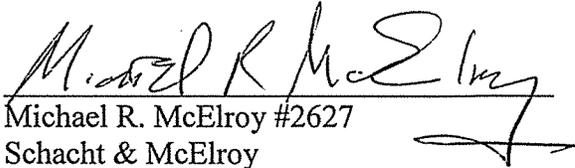
WHEREFORE, Interstate respectfully requests the Division:

- A. Deny RIFF's Motion to Compel;
- B. Deny RIFF's Motion for Extension; and

C. Grant such other and further relief as the Division deems necessary and just.

Respectfully submitted,
Interstate Navigation Company
By its attorney,

Dated: April 24, 2015


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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of April, 2015, I mailed a true copy of the foregoing by first class mail to the attached service list.


Theresa Gallo

Rhode Island Fast Ferry (RIFF) – CPCN Application Docket No. D-13-51
Updated 11/7/14

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