

**GOVERNMENT OF THE VIRGIN ISLANDS
OF THE UNITED STATES
PUBLIC SERVICES COMMISSION**

IN RE)	
)	
TRANSPORTATION SERVICES OF ST.)	DOCKET NUMBER 601
JOHN, INC. AND VARLACK VENTURES,)	ORDER <u>51</u>/2013
INC. PETITION FOR RATE INCREASE)	
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ORDER

WHEREAS, on May 4, 2012, Transportation Services of St. John Inc. and Varlack Ventures, Inc. (hereinafter "Ferry Franchisees or Ferry Companies") submitted a report regarding the request and justification for an increase in fares to the Virgin Islands Public Services Commission (hereinafter "PSC" or the "Commission"); and

WHEREAS, at the July 19, 2012, meeting the Commission appointed Attorney Dolace N. McLean as Hearing Examiner to preside over the hearings for the Ferry Franchisees' Petition for an increase in rates; and

WHEREAS, on December 21, 2012, the Ferry Franchisees and the PSC staff submitted a Stipulation of Facts regarding the matters involved in the rate investigation proceedings and the related joint recommendation to the Hearing Examiner; and

WHEREAS, on February 27, 2013, and February 28, 2013, on the islands of St. John and St. Thomas respectively, public hearings were conducted to obtain comment and information from interested parties and members of the public; and

WHEREAS, on July 31, 2013, the Commission received the Final Report and Recommendations from the Hearing Examiner; and

WHEREAS, on August 15, 2013, the Commission held a special meeting in the Commission's offices on both St. Thomas and St. Croix; and

WHEREAS, upon careful review and deliberation the Commission voted to accept the Hearing Examiner's report and recommendations with amendments; and

NOW THEREFORE, the Commission finds and orders:

1. That the Hearing Examiner's report is **ADOPTED**, with amendments to paragraphs 6, 8, 10, 11, 12 and 15.

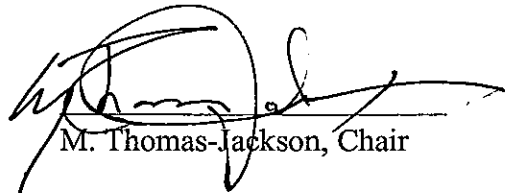
2. That the term "Tourist" will be changed and replaced with "Non-Resident Adult" (hereinafter "Non-Resident").
3. That the new Non-Resident category as set forth in the Parties' Joint Stipulation is **ADOPTED** without taking into consideration government grant or subsidies. It is one creative way to ensure the Ferry Companies net a return of eight percent (8%) on their investment, while creating minimal changes to the current fee structure.
4. That Commission revisits the Ferry Companies' Non-Resident rate within six (6) months and assess the impact of the new Non-Resident category on the overall appreciation in revenue for the Ferry Companies.
5. That the Ferry Companies are required to apply any over-earnings due to the Non-Resident rate to decrease the Adult, Students, and Teachers' fares.
6. That the Ferry Companies are required to cover any under-earnings by increasing only the Non-Resident fares.
7. That future consideration will be given to the implementation of other categories of tickets (one-day pass, family pass, monthly pass, and holiday special pass) that can be billed at a lower differential rate, yet have the potential to increase ridership frequency and revenue.
8. That an increase in the Baggage fares category as set forth in the Parties' Joint Stipulation is **GRANTED**.
9. That an increase in the Student and Teacher fares category as set forth in the Parties' Joint Stipulation is **GRANTED**.
10. That the Ferry Companies are required to increase publicity and promotion of ferry services using alternate media such as radio and television in addition to current methods used to publicize its services.
11. That the Ferry Companies are required to gather data on ticket sales to local residents and Non-Residents through an independent third party that will provide information about demand for services in those categories.
12. That the Ferry Companies are required to issue a press release on the new rates as provided in Appendix A of the Stipulation of Facts and Joint Recommendations, provide schedules and rates to the Department of Tourism, and post copies of the new rates at each ticket booth and on all vessels thirty days before the rates are to go into effect.
13. That the Ferry Companies reserve the right to provide evidence of a need for a higher rate of return at a future rate investigation, pursuant to Title 30 of the Virgin Islands Code, Section 23(b).

14. That the Revenue Recognition Principles as articulated in Paragraphs 5-9 of the "Joint Recommendations to the Hearing Examiner" section of the Parties' Joint Stipulation is **ADOPTED**. Accordingly, projection of Government subsidies, which have not been earned and which are not yet receivable, should not be taken into account for purposes of setting rates because those subsidies or grants are an uncertain and unreliable source of income to the companies.
15. That the Revenue Recognition Principles are **ADOPTED** in this present rate investigation and in future rate reviews.
16. That the Ferry Companies will implement all outstanding requirements of the 2008 Ferry Rate Investigation, except to the extent that changed circumstances or known changes in actual passenger level revenues and expenses render the previous requirements no longer appropriate.
 - a. Specifically, within six (6) months the Ferry Companies will issue Request for Proposals to seek an Independent Third Party Ticketing agent.
 - b. During the PSC's six (6) month review the issue of cost will be considered and those costs will be added to the rate structure to be determined.

So Ordered.

For Commission

Dated: August 29, 2013



M. Thomas-Jackson, Chair

Virgin Islands Public Services Commission

IN RE TRANSPORTATION SERVICES OF)
ST. JOHN, INC. AND VARLACK VENTURES, INC.)
PETITION FOR RATE INCREASE)

Docket No. 601

**STIPULATION OF FACTS AND
JOINT RECOMMENDATION TO HEARING EXAMINER**

COME NOW, Transportation Services of St. John, Inc., Varlack Ventures, Inc., and the staff of the Public Services Commission, (hereinafter sometimes jointly referred to as the "Parties") by and through their undersigned counsel, and respectfully submit to the Hearing Examiner the following stipulation of facts regarding the matters involved in the present rate investigation, and the related joint recommendation for a report to the Commission on a reasonable adjudication of the matters at issue in these proceedings.

I. STIPULATION OF FACTS

- A. The Ferry Boat Companies having provided information to the PSC's consultant as requested, and the Parties having exchanged reports of their expert consultants concerning the revenues, expenses, rate base, and other factors relevant to a determination of the Ferry Boat Franchisees' rate requirements, and having met to review and consider the same, the Parties now agree that the following facts are correct, based upon the record, and should be accepted as the basis for a determination of the rate requirements in this matter.
- B. The Parties agree with the choice of 2011 as the Test Year.
- C. Without a government subsidy, the fares now in effect are not sufficient to provide the required rate of return to either Transportation Services or Varlack

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Ventures.

- D. While the Ferry Boat Companies believe a rate of return in excess 8% per annum is appropriate, given all the circumstances related to their investment risk, in order to allow submission of a joint recommendation and avoid protracted rate proceedings, they have agreed to accept, and the PSC's Staff concurs in the use of an 8% rate of return for purposes of this rate case, while reserving the right to request a higher rate of return in future proceedings, based upon whatever evidence may be adduced.
- E. Using an 8% rate of return yields a requirement of after tax earnings of \$71,280 for Transportation and \$49,200 for Varlack Ventures.
- F. At present rates, for Transportation Services the PSC consultant calculated an operating loss of \$226,063 resulting from the Ferry Boat Companies' consultant's calculations. For Varlack Ventures, both consultants determined that the operating loss for the company was \$27,868.
- G. Based upon analysis of the historical experience of the Ferry Boat Companies since the last rate case, and the downward trend in passengers, the Parties stipulate that the expected 2013 passenger projections will yield a total of 1,037,258 passengers.
- H. For 2013, status quo revenues of \$5,457,861 are reasonably projected.
- I. For 2013, projections of expenses also require adjustment to reflect anticipated changes in the cost of doing business. The parties stipulate that total expenses for 2013 of \$5,995,495 are reasonably projected. They include \$5,647,653 in operating expenses, which reflect a 2% adjustment as a reasonable increase in the cost of doing business from projections for 2012, as well as required statutory

provisions for payment of gross receipts taxes as well as income taxes.

- J. Projected revenue requirements for the companies for a 2013 test year amount to \$6,115,303.
- K. For 2013, after all appropriate adjustments are taken into account, a revenue shortfall of \$657,443 is projected based on a revenue need of \$6,115,303 and status quo revenues of \$5,457,861.
- L. The overall revenue need for the Franchise as a whole for the 2013 test year is \$6,115,303, based upon the facts and projections stated above.
- M. Transportation Services has received a subsidy payment in the amount of \$250,000, less a reduction of 5% for taxes directly withheld, and subject to a further tax reduction of 25% to be paid immediately, for a net subsidy payment of \$178,000, for the fiscal year 2011, finally received in November, 2012, after years of requests, demand letters from its legal counsel, and compliance with assorted procedural requirements applied by the Government. Varlack Ventures last received a subsidy payment in 2010 of \$120,000, less than half the amount appropriated. Except as described here, despite appropriation of a subsidy, the Government did not regularly pay a subsidy to either of the companies. This has evidently been a result of Government budgetary constraints.

JOINT RECOMMENDATIONS TO THE HEARING EXAMINER:

- 1. In order to achieve the required revenue increase, rates must be increased, but the Parties agree that this should be done in a manner that minimizes the impact on the groups among Ferry Boat users who can least afford any increase at this time. This means that all possible sources of revenue need to be considered. A concerted effort will be made in securing

any government subsidy that is available. Any proposed rate structure change would leave rates for the passenger categories of Child, Senior and Commuter unchanged. Also, a new tourist category should be developed, that would charge visitors a different rate than residents, to reflect the difference in financial burden on tourists and regular commuters. To determine the number of tourists actually traveling, the parties agree that the rates set forth in this stipulation should be put into effect immediately, with the ferry boat companies authorized to require travelers on adult fares to show government issued photo identification to verify their Virgin Islands residence in order to qualify for the "Adult" fare. All others shall be charged the Tourist fare. The companies shall maintain a count of travelers for Adult and Tourist fares for a period of six months from implementation, and the Commission should then reconsider the amount of the Tourist fare to insure that it is producing sufficient revenue to meet the requirements set forth in this stipulation. If the companies are found to be under-earning the revenue requirement set forth, the Tourist fares shall be increased accordingly. If the companies are found to be overearning the revenue requirements set forth, the Tourist fares (or other fares) shall be reduced accordingly. The increased revenue need will be met by creation of a newly established tourist fare, in the initial amount of \$7.00 from Cruz Bay to Red Hook and \$13.00 from Cruz Bay to Downtown, and Baggage fares (an increase of \$1.50). The student fares would also see an increase of \$1.25 as would Teachers (\$1.00) but this shifts the burden of this increase to the Department of Education and not the travelers themselves. (See Exhibit A)

2. While the Virgin Islands Government has appropriated subsidies in the past, neither of the Ferry Boat Companies actually received the appropriated government subsidies in 2011. As set forth in the stipulated facts, one company finally received a partial subsidy payment applicable to 2011 in late 2012. The history of subsidy payments actually received has been

irregular and extremely uncertain.

3. Revenue recognition from government grants and subsidies should be based on generally accepted accounting principles for grant accounting promulgated by the AICPA and the IFRS.

Types of Government Grants: Government grants may be of two types (a) revenue-based and (b) capital-based. Revenue based grants are intended to cover some of the everyday costs of operations of an entity. Capital-based grants are grants to cover a portion or all of the expenses for a capital expenditure or fixed asset.

4. In a resource publication issued by the American Institute of CPA's (AICPA) together with the International Financial Reporting Standards (IFRS) Board the following guidelines are offered for the recognition and measurement of revenues from governmental grants.

5. According to these authorities, an entity shall recognize government grants as follows:

- a. A grant that does not impose specified future performance conditions on the recipient is recognized in income when the grant proceeds are receivable.
- b. A grant that imposes specified future performance conditions on the recipient is recognized in income only when the performance conditions are met.
- c. Grants received before the revenue recognition criteria are satisfied are recognized as a liability.

6. Further, under these guidelines, grant proceeds are deemed to be "earned" and "receivable" when they can be matched with the operating expenses towards which they are intended to contribute. Revenue-based grants are to be recognized in the P&L accounts when the relevant expenses for the fiscal year to which they apply have been incurred. Stated another

way, these grants are deemed earned when the relevant expenses to which they apply, in a particular fiscal year. They are to be recognized in the Profit and Loss accounts in the same period in which those relevant operating expenses for the period or fiscal year are recognized.

7. Application of Recognition Principles to V I Government Subsidy. The subsidy received from the Government of the Virgin Islands is a revenue-based grant that does not impose specific performance conditions on the ferry boat companies for the recognition of the subsidy as revenues. Consequently, in keeping with guidelines of the AICPA and IFRS, government grant revenues are deemed earned and should be recognized in the period for which the award is given to match expenses of the same period and only for this period.

8. The ferry companies should utilize an accrual system for grant revenues based on the principle that revenues from grants and subsidies are to be recognized only when they are both "earned" and "receivable". Both of these conditions must apply for revenue recognition or revenue accrual to take place.

9. Government grant revenues are deemed "earned" in the year to which the appropriation applies, irrespective of when the funds are received. Revenue-based grants are deemed "earned" when the relevant expenses for the fiscal year to which they apply have been incurred. They are deemed "receivable" when a check for the amount of the grant has been prepared by the Department of Finance and is approved for release to the ferry companies by the appropriate government officials. Only when a Virgin Islands Government grant of a subsidy to the Ferry Boat Companies has been earned and is receivable, as defined in this stipulation and joint recommendation, should that subsidy be recognized on the company's books.

10. Projection of Government subsidies, which have not been earned and which are not yet receivable, should not be taken into account for purposes of setting the rates because they

are an uncertain and unreliable source of income to the companies. Such a procedure would put the ferry companies at great financial risk and subject the companies to a level of financial instability which will further erode the already strained financial position of the companies. However, when subsidies are actually "receivable", within the meaning of that term under GAP, they should be recognized as revenues applicable to the year in which they were "earned". **Subsidies shall be recognized and applied by the ferry boat companies to the fiscal year stipulated in the MOU with the Government of the Virgin Islands, and MOU's shall be drafted to reflect that stipulation.** Revenue recognition principles based on GAP should be consistently applied in all rate determination and rate adjustment cases. That is to say that rate determination and rate adjustment will be based on "revenue" and not "cash flows".

11. The Ferry Boat Companies accept the concept of rate rebalancing when, for revenue recognition purposes, an appropriated subsidy, not previously taken into account in the "Test Year" or the period of Interest, is subsequently received after a rate increase goes into effect. The proper application of rate rebalancing is to calculate rate adjustments using the same principles of grant revenue recognition that apply to rate determination. Grant revenues will be recognized when deemed earned in the year to which they apply and when they are receivable based on the approval of the release of grant funds, as described above.

12. If a subsidy is received which is expressly designated by the Virgin Islands Government for capital purposes, or otherwise specifically designated for a purpose other than subsidy of rates, treatment of the subsidy should recognize the stated legislative purpose, but the same principles regarding the time of recognition on the companies' books described above should apply.

13. The parties jointly recommend to the Hearing Examiner that the facts set forth in this stipulation be adopted as part of the record in this proceeding. The parties further jointly recommend that a rate increase as set forth in paragraph 1 above, should be approved, as presented in the attached Exhibit A.

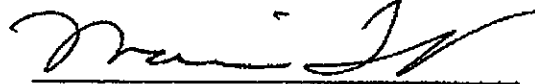
14. The parties also jointly recommend that the Hearing Examiner recommend treatment of Government Subsidies to the Ferry Boat companies, in accord with the accounting principles set forth above, to govern the present rate case and to guide future rate review, in order to allow the companies a return on their investment that will "ensure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital." The joint recommendation is also intended to insure that the interests of the rate payers are protected, that rates are fair and reasonable, and that the burden of the necessary revenue increase is appropriately allocated to minimize the burden on the consumer groups least able to sustain any increase in expense at this time.

15. The parties also agree to final implementation of all outstanding requirements of the 2008 Ferry Rate Investigation, except to the extent that changed circumstances or known changes in actual passenger levels, revenues and expenses, render the previous requirements no longer appropriate. Specifically, the Independent Third Party Ticketing Company shall be implemented, provided that the cost of implementing this procedure is estimated and approved,

and that amount is added to the revenue requirements set forth in this stipulation, and to the fare increase authorized.

Dated: 12/21/12

Respectfully submitted,



Maria Tankenson Hodge
Attorney for Transportation Services
of St. John, Inc. and Varlack Ventures, Inc.
Hodge & François
(340) 774-6845
maria@hodgefrancois.com

Dated: 12/21/12



Tanisha Bailey-Roka
Legal Counsel to the PSC
(340) 778-6010
Tbail002@aol.com

EXHIBIT A – PROPOSED NEW FARES - STIPULATION AGREEMENT

	Current Fares	Proposed New Fare	Change
<u>Cruz Bay to Red Hook</u>			-
Adult	\$6.00	\$6.00	\$0.00
Tourist	\$6.00	\$7.00	\$1.00
Child	\$1.00	\$1.00	\$0.00
Senior	\$1.50	\$1.50	\$0.00
Commuter	\$3.50	\$3.50	\$0.00
Bulk	\$3.00	\$3.50	\$0.50
Students	\$2.00	\$3.25	\$1.25
Teachers	\$3.00	\$4.00	\$1.00
Baggage	\$2.50	\$4.00	\$1.50
<u>Cruz Bay to Downtown</u>			
Adult	\$12.00	\$12.00	\$0.00
Tourist	\$12.00	\$13.00	\$1.00
Child	\$3.50	\$3.50	\$0.00
Senior	\$6.00	\$6.00	\$0.00
Commuter	\$7.00	\$7.00	\$0.00
Bulk	\$9.50	\$10.00	\$0.50
Baggage	\$2.50	\$4.00	\$1.50

Exhibit A