

**GOVERNMENT OF THE VIRGIN ISLANDS
OF THE UNITED STATES**

Public Services Commission

In re

TRANSPORTATION SERVICES OF)	Docket No. 640
ST. JOHN, INC. AND VARLACK VENTURES,)	Order No. <u>16</u> /2018
INC. RATE INVESTIGATION)	
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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 to the Virgin Islands Public Services Commission (hereinafter "Commission" or "PSC") regarding a request for justification for an increase in fares, thereby establishing Docket 601; and

WHEREAS, at its regular meeting on July 19, 2012, the Commission appointed Dolace N. McLean, Esquire as Hearing Examiner to preside over the hearings for the Ferry Franchisees' request for an increase in rates in Docket 601; 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 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, in PSC Order No. 51/2013, the Commission accepted the Hearing Examiner's Report and Recommendations with amendments and ordered that the Commission conduct a six (6) month review of the Ferry Franchisees' existing rates; and

WHEREAS, on December 2, 2014, the Commission's Executive Director, Mr. Keithley R. Joseph, submitted letters to both Ferry Franchisees seeking detailed financial information; and

WHEREAS, on December 16, 2014, the Commission held a regular meeting at both its offices on St. Thomas and St. Croix, United States Virgin Islands and placed the selection of a Hearing Examiner and Technical Consultant on its agenda; and

WHEREAS, after review and deliberation, the Commission voted to establish Docket 640, stay the selection and the appointment of a Technical Consultant and Hearing

Examiner and further stay a review of Docket 640 until a report is presented by the Ferry Franchisees, within thirty (30) days (PSC Order No. 19/2015); and

WHEREAS, on February 17, 2015, the Ferry Franchisees submitted a report to the Commission on the impact of new fares on revenue and performance of the Ferry Franchisees and other new developments in accord with PSC Order No. 19/2015; and

WHEREAS, on March 25, 2015, PSC Technical Consultant, Avery Williams, submitted a response to the February submission of the Ferry Franchisees; and

WHEREAS, on July 2014, the Ferry Franchisees acquired vessels Cruz Bay I and Red Hook I and placed them into operation, the receipt and deployment of the same being a substantial change in circumstances; and

WHEREAS, on September 22, 2015, the Commission held a regular meeting at both its offices on St. Thomas and St. Croix and upon review and deliberation, the Commission voted to appoint Jennifer Jones, Esquire as Hearing Examiner to preside over the proceedings in Docket 640, the Ferry Franchisees’ Rate Investigation; and

WHEREAS, after submission of evidence, stipulations between the parties, and public hearings on both St. Thomas and St. John, Hearing Examiner Jones submitted her report and recommendations to the Commission on February 7, 2017; and

WHEREAS, on March 21, 2017, the Commission held a regular meeting in both its offices on St. Thomas and St. Croix, where the Ferry Franchisees, their legal counsel and technical consultant testified; and

WHEREAS, the Commission expressed concerns and the Ferry Franchisees testified about the Ferry Franchisees’ procedure in determining whether to charge passengers the resident or non-resident rate and the forms of identification accepted to make this determination;

WHEREAS, the Ferry Franchisees testified that they have requested from the Virgin Islands Department of Public Works, but have not completed a lease for the use and operation of the vessels Cruz Bay I and Red Hook I; and

WHEREAS, the Ferry Franchisees testified that the last year that it received an appropriated subsidy was in 2015; and

WHEREAS, on July 19, 2016, the Thirty-First Legislature of the Virgin Islands passed Act 7893, which grants an exclusive franchise to Transportation Services of St. John, Inc. and Varlack Ventures, Inc. to operate all public marine transportation between Red Hook, St. Thomas and Cruz Bay, St. John and between downtown Charlotte Amalie, St. Thomas and Cruz Bay; and

WHEREAS, Act 7893 provides that the rate of return would be based on the current fair value of the applied assets presently acquired for and devoted to the public use, rather than the depreciated value of those assets reflecting prior asset recovery; and

WHEREAS, the Commission expressed concerns about the Hearing Examiner’s final report, specifically whether the appropriate rate structure was used; and

WHEREAS, on April 11, 2017, the Commission made a written request to the Ferry Franchisees for supplemental information; and

WHEREAS, on May 15, 2017, the Commission issued PSC Order No. 43/2017, requiring that Ferry Franchisees submit an audited financial statement within one hundred fifteen (115) days of the close of its fiscal year; and

WHEREAS, on July 14, 2017, the Ferry Franchisees filed the supplemental information requested on April 11, 2017; and

WHEREAS, on September 6, 2017, the Virgin Islands suffered a direct impact from Hurricane Irma, which directly struck the northern islands as a Category 5 storm; and on September 19, 2017, Hurricane Maria directly struck St. Croix as a Category 5 storm; and

WHEREAS, on December 19, 2017, the Commission held a regular meeting at the Henry E. Rohlsen Airport on St. Croix, where the Ferry Franchisees testified on the status of their operations; and

WHEREAS, as a direct result of these storms, the Ferry Companies were required to suspend service until the United States Coast Guard (hereinafter “USCG”) inspected and cleared the route(s) between St. Thomas and St. John; and

WHEREAS, after the USCG inspected and cleared the route(s) between St. Thomas and St. John, the hours of ferry service have been limited and ridership has decreased; and

WHEREAS, the Ferry Companies suffered losses due to various factors including damage to vessels, the imposition of a curfew, loss of employees, guidelines by the USCG and the Department of Homeland Security, lack of navigational lighting at docking facilities and the availability of fuel and water; and

WHEREAS, the PSC is interested in limiting damage by providing an interim rate during the hurricane recovery period.

NOW THEREFORE, the Commission **ORDERS** that:

1. An interim rate of \$8.15 be adopted for non-residents for a period of twelve months.
2. The rates for baggage and all other services will be maintained at current levels.

So Ordered.

For the Commission,

Date: January 25, 2018



Raymond Williams, Chair