

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
RHODE ISLAND PUBLIC UTILITIES COMMISSION

IN RE: INTERSTATE NAVIGATION COMPANY –     )  
      GENERAL RATE FILING –                    )     DOCKET NO. 4373  
      TRADITIONAL SERVICE RATES            )

**SETTLEMENT AGREEMENT**

On August 2, 2019, the Interstate Navigation Company (“Interstate”) filed its FYE May 31, 2018 Earnings Report, attached hereto as Exhibit A. This report provided the earned Return on Equity (“ROE”) informational calculation required to be filed for approval with the Division of Public Utilities and Carriers (“Division”) and the Public Utilities Commission (“Commission”). This filing requirement is part of the Settlement Agreement attached as Appendix A to the Commission’s Order No. 21069 issued on June 20, 2013 in Docket No. 4373.<sup>1</sup>

Mr. Bebyn’s August 2, 2019 calculations resulted in earnings in excess of the 12% ceiling in the amount of \$1,531,901. Section III.D.2. of the Settlement Agreement states that “Earnings in excess of 12% will be shared 50% for the stockholders and 50% for the ratepayers.” Thus, this provision in the settlement requires that excess earnings of \$765,950 (50% of \$1,531,901) for FY 2018 should be used for the benefit of ratepayers.

As a result of the January 9, 2015 FY 2014 ROE filing, Interstate agreed to maintain a record of excess earnings. Schedule DGB-ROE-3 of Interstate’s August 2, 2019 Report presents the cumulative balance of the excess earnings as of the end of FY 2018. The total accumulated

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<sup>1</sup> On January 9, 2015, Interstate filed its FYE March 31, 2014 Report; on September 19, 2016, Interstate filed its FYE May 31, 2015, Report; on December 29, 2017, Interstate filed its FYE May 31, 2016 Report; on March 15, 2018, Interstate filed its FYE May 31, 2017, Report.

balance of excess earnings to be used for the benefit of ratepayers is \$2,035,078 at the end of FY 2018, for the fiscal years 2014, 2015, 2016, 2017, and 2018.

The Division has reviewed Interstate's calculations and finds them to be accurate and in accordance with Order No. 21069.

Interstate has proposed that the total accumulated balance of \$2,035,078 at the end of FY 2018, and any future amounts, should be reserved for capital projects in a Capital Reserve. These capital projects could include fixed asset purchases such as new vessels and/or overhauls of vessels, buildings, ramps, docks, pilings, bulkheads, etc. Interstate has proposed that the ratepayers would be credited when Interstate excludes the depreciation on the appropriate portion of any asset paid for from the Capital Reserve. The depreciation would be prorated if only a portion of the asset was paid for from this Capital Reserve. In addition, any portion of assets purchased from the Capital Reserve would be excluded from rate base. Lastly, since for book purposes there will be no recognition of depreciation on the portion of assets purchased from the Capital Reserve, but there will be recognition of tax depreciation, a credit will be added at the end of each fiscal year to the Capital Reserve to reflect the tax savings from that tax depreciation. The credit will be calculated on the tax depreciation on the portion of assets purchased from the Capital Reserve each fiscal year multiplied by the current flat corporate tax rate of 21%. This credit will be added to the ratepayer's portion of the earnings in excess of 12% on each year's ROE report. If the current flat corporate tax rate of 21% is subsequently changed by law, the new rate will be used.

Interstate identified potential capital projects which could be funded or partially funded with this Capital Reserve.

The parties agree that the continued funding of a Capital Reserve with the excess earnings will benefit ratepayers.

The parties agree to use a portion of the excess earnings to fund Interstate's existing Fuel Reserve, as set forth in DGB-ROE-3.

The parties agree that, starting with FY June 1, 2019 – May 31, 2020, excess earnings will be allocated as set forth in paragraph 6 below.

The parties also agree as follows:

1. Upon approval of this Settlement Agreement by the Commission, Interstate shall transfer \$300,000 of the FY 2018 excess to its Fuel Reserve. This amount will be grossed up for a flat tax of 21% since this amount represents after-tax profits and will be used to offset pretax fuel expenses. In addition to the gross-up for income taxes, the balance of the Fuel Reserve transfer will accrue interest which will be calculated monthly. The rate used in the calculation will be set using the money market account rate published on the Washington Trust Company website. Interstate will continue to calculate interest on the balance of the amount transferred to the Fuel Reserve. The Division and Interstate will annually review the status of the Fuel Reserve to mutually determine whether additional Fuel Reserve funding from excess earnings would be appropriate.

2. The balance of the excess earnings through May 31, 2018 (\$508,830) will be transferred by Interstate to a Capital Reserve to be used by Interstate for capital projects as outlined above. Similar to the treatment of the Fuel Reserve balance, the Capital Reserve will accrue interest which will be calculated monthly. The rate used in the calculation will be set using the money market account rate published on the Washington Trust Company website. Interstate will continue calculating interest on the balance of the amount transferred to the Capital Reserve.

3. As a result of the 2017 Tax Reform Act, Interstate has included a credit for the tax savings from tax on ROE below the ceiling. This credit was included in the FY 2018 ROE report filing. Interstate annually will continue to include a credit in the amount of \$42,880 (which was calculated in the response to Commission data request COMM1-1 in Docket # 4792) and will continue with this amount as long as the 2017 Tax Reform Act rates remain effective. The FY 2018 ROE report was prorated to conform with the effective date of the 2017 Tax Reform Act. This credit will continue to be added to the ratepayer's portion of the earnings in excess of 12% on each year's ROE report.

4. The Fuel Floor to be used by Interstate for fuel surcharge filings shall be \$2.40 per gallon, effective January 1, 2020.

5. Interstate and the Division will ask the Commission to authorize a 10% reduction to Interstate's non-commuter passenger rates, effective January 1, 2020 or on the effective date approved by the Commission. The new rates are shown on Schedule 1 attached hereto.

6. Effective June 1, 2019, Return on Equity sharing shall be as follows: Interstate's owners will keep 100% up to 12% Return on Equity; above 12%, Interstate's owners shall keep 25%, and 75% shall be used in accordance with the terms of the July 9, 2018 Settlement Agreement approved by the Commission in Order No. 23287 for the benefit of ratepayers.

7. This Settlement Agreement is the result of negotiations among the Settling Parties. The discussions that have produced this Agreement have been conducted on the explicit understanding that all offers of settlement and discussions relating hereto are and shall be privileged, shall be without prejudice to the position of any party or participant presenting such offer or participating in any such discussion, and are not to be used in any manner in connection with these or other proceedings involving any one or more of the parties to this Settlement or

otherwise. The agreement by a party to the terms of this Settlement Agreement shall not be construed as an agreement as to any matter of fact or law for any other purpose. In the event that the Commission (1) rejects this Agreement, (2) fails to accept this Agreement as filed, or (3) accepts this Agreement subject to conditions unacceptable to any party hereto, then this Agreement shall be deemed withdrawn and shall be null and void in all respects. The Parties recognize that the Commission has an ongoing obligation to protect the public against improper and unreasonable rates that cannot be precluded by a settlement agreement.

IN WITNESS WHEREOF, the parties agree that this Settlement Agreement is reasonable and have caused this document to be executed by their respective representatives, each being fully authorized to do so.


Respectfully submitted,

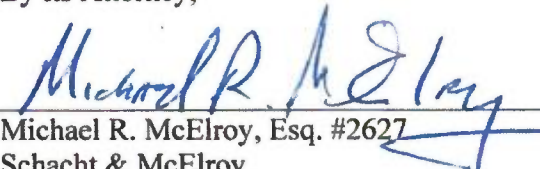
RHODE ISLAND DIVISION OF  
PUBLIC UTILITIES AND CARRIERS

INTERSTATE NAVIGATION COMPANY

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Dated: December 5, 2019

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