

April 6, 2005

Luly Massaro, Clerk
Rhode Island Division of Public Utilities and Carriers
89 Jefferson Blvd.
Warwick, RI 02880

RE: Interstate Navigation Company, Division Docket No. D-05-06

Dear Luly:

Enclosed please find nine redacted copies of the Pre-filed Testimony of Lawrence R. Kunkel, filed on behalf of IHSF in the above captioned matter. Mr. Kunkel filed the original with you today, which boldly indicates on the front page "Contains Privileged Information – Do Not Release", as required by Division Rule 3 (d) (3). Please distribute duplicate originals accordingly.

Pursuant to Division Rule 3 (d) (3), request is made that the Division make a preliminary finding that the financial information redacted from that testimony at page 5, line 18, is exempt from the mandatory public disclosure requirements of the Access to Public Records Act, R.I.G.L. §38-2-1, et seq. ("the Act").

The grounds upon which this request is made are that the financial information referred to above is proprietary and confidential and its disclosure would do substantial harm to IHSF's competitive position. This information is of the same nature and type as was found by the Commission in Docket 2802, Report and Order 17396 and Report and Order 17102, to be exempt from disclosure under the Act.

Very truly yours,

Mark J. Hagopian

MJH/lm
Enclosure
Cc: Service List

REDACTED

**DIRECT TESTIMONY OF
LAWRENCE R. KUNKEL
President and Chief Economist
Kunkel Strategic Services, IBC**

**For
ISLAND HI-SPEED FERRY, LLC**

**Regarding
INTERSTATE NAVIGATION COMPANY
DOCKET NO. D-05-06**

April 6, 2005

1 Q. **Please state your name and business address for the record.**

2 My name is Lawrence R. Kunkel and my business address is 83 North

3 Pearson Drive, Warwick, Rhode Island 02888.

4 Q. **By whom are you employed and in what capacity?**

5 A. I am the President and Chief Economist of Kunkel Strategic Service, IBC

6 (KSS). KSS is an economics and strategic management consulting firm that

7 specializes in economic analysis, antitrust, the economics of regulation, financial

8 analysis and corporate strategy.

9 Q. **Mr. Kunkel, are you the same Lawrence R. Kunkel who has filed expert**

10 **testimony on behalf of Island Hi-Speed Ferry in other filings before the**

11 **Division of Public Utilities and Carriers (DPUC) and the Rhode Island**

12 **Public Utilities Commission (PUC)?**

13 A. Yes.

14 Q. **Mr. Kunkel, what is your educational background?**

15 A. I received my A.B Degree in Economics from Providence College and my A.M.

16 Degree in Social Sciences (Economics) from The University of Chicago. While

17 at The University of Chicago, I was the Research Assistant to George Stigler, the

18 1982 recipient of the Nobel Prize in Economic. In addition, during my graduate

19 studies at the University of Chicago, I had the opportunity to study under several

20 other Nobel Laureates in Economics.

21 Q. **Have you been qualified as an expert witness by the DPUC and the PUC?**

22 A. Yes. I have been qualified as an economics expert in Division Docket 98- MC-16

23 and in Commission Dockets 2803 and 3495, all of which were IHSF cases.

1 **Q. What is the purpose of your testimony in this Docket?**

2 A. I have been asked by Island Hi-Speed Ferry to analyze and provide expert
3 testimony regarding the claims made by Interstate Navigation with respect to
4 Interstate's request for a Water Carrier Certificates of Public Convenience and
5 Necessity to operate a fast ferry between Point Judith and Block Island (Old
6 Harbor) and between Newport and Block Island (Old Harbor). My background
7 and experience will be essential for the Division to fully understand and
8 appreciate the compelling economic arguments as to why the granting of those
9 Certificates to Interstate Navigation would be a monumental mistake. Some of
10 the more important arguments include: (1) the fact that IHSF and Interstate's Fast
11 Ferry would be direct competitors; (2) the fact that the market is already
12 characterized by excess competition and wasteful competition; (3) the fact that the
13 Block Island passenger pool is subject to leakage because of the Vineyard Fast
14 Ferry; and (4) the fact that additional market entry will generate extraordinary risk
15 to the survival of both the incumbent fast ferry carrier and the lifeline carrier.

16 **Q. Mr. Kunkel, in your expert opinion, if Interstate Navigation is allowed to**
17 **operate a fast ferry from Point Judith and Newport to Block Island, would**
18 **Interstate Navigation and IHSF be direct competitors?**

19 A. Yes.

20 **Q. Please explain your answer.**

21 A. The definition of direct competitors is two or more firms supplying a
22 product or service to the same market (in this case fast ferry service to Block
23 Island), where the product or service offered is characterized largely of the

1 same attributes at or about the same price (and quality) and the competing firms
2 draw their customers from largely the same geographic area. Based on this
3 definition, IHSF and Interstate Navigation would be direct competitors.

4 **Q. Mr. Kunkel, are you aware of other fast ferry competitors which**
5 **operate in such a way as to make them additional direct or indirect**
6 **competitors with the targeted customer base of IHSF?**

7 A. Yes.

8 **Q. Would you please identify them for us and explain why you believe, in**
9 **your expert opinion, they are direct competitors.**

10 A. BI Express, which operates a fast ferry from New London to Block Island, is a
11 direct competitor, because they meet the criteria of the definition which I have
12 already established. The Vineyard Fast Ferry, which operates a fast ferry from
13 Quonset to Martha's Vineyard, is a powerful indirect competitor, inasmuch as it
14 draws away potential IHSF passengers who otherwise may have gone to Block
15 Island.

16 **Q. What impact has this extraordinary level of competition had on the ridership**
17 **and performance of IHSF as the market exists today?**

18 A. This level of direct and indirect competition resulted in a very sharp decline in
19 ridership of 14.4 percent in 2004 (the first year of operations for BI Express) from
20 the level recorded in 2003. Prior to the start-up of BI Express in mid-July 2004
21 approximately forty eight (48%) percent of IHSF's passenger base was from the
22 Connecticut – New York – New Jersey market. In July and August of 2004,
23 which traditionally are IHSF's busiest months, IHSF suffered dramatic

1 ridership losses. In July its ridership totals were down nineteen (19%) percent
2 compared to 2003 and down sixteen (16%) percent compared to 2002. August's
3 numbers were even worse. IHSF's ridership was down twenty six (26%) percent
4 compared to 2003 and down twenty five (25%) percent compared to 2002. Those
5 ridership losses are directly attributable to direct unfair competition from BI
6 Express, which is directly attributable in large part to regulatory and market-
7 imposed restrictions preventing IHSF from operating its service to Old Harbor
8 and requiring that it maintain at least a \$10 ticket price differential over
9 Interstate's rates, as well as indirect competition from Vineyard Fast Ferry.

10 **Q. What, in your expert opinion, has been the most compelling market dynamic**
11 **which has weakened the performance of IHSF?**

12 A. The market entry of a strong direct competitor and an indirect competitor which
13 has created an unsustainable level of excess capacity.

14 **Q. Please elaborate.**

15 A. At present, and only on the part of the direct competitors (i.e. IHSF and BI
16 Express), there are approximately 966,700 seats of high speed ferry capacity
17 serving Block Island.¹ Based on the 2004 ridership of these two direct
18 competitors, an estimated 80,000 for BI Express and ██████ for IHSF, only 16
19 percent of total market capacity was utilized. This means that at existing market
20 capacity over 800,000 passenger seats remain unutilized and available to the
21 Block Island market. Added to this, is the approximate 320,000 passenger seats
22 offered by a Rhode Island-based indirect competitor, Vineyard Fast Ferry, which

¹ Capacity is defined as the number of operating days, multiplied by the number of scheduled trips, multiplied by vessel seating capacity.

1 travels from Quonset to Martha’s Vineyard and represents a major source of
2 market leakage, since it draws from the Block Island passenger pool. In
3 economic terms, Interstate’s proposed fast ferry service would be the fifth high
4 speed carrier in this already saturated market. Based on these facts, the idea that
5 Interstate Navigation wants to make a capital intensive entry into this super-
6 competitive and capacity swamped market is absurd, economically irrational and
7 contrary to the public interest.

8 **Q. Mr. Kunkel, do you recall the fundamental reasons why Interstate**
9 **Navigation vigorously objected to the granting of a Water Carrier**
10 **Certificate of Public Convenience and Necessity to IHSF?**

11 A. Yes.

12 **Q. What were those reasons?**

13 A. Interstate argued that there was no need for high speed ferry service to Block
14 Island. Ironically, this argument was based upon the fact that Interstate had 80%
15 excess passenger capacity. Alternatively, Interstate argued that: if there was a
16 need, it should be allowed the first opportunity to service it; IHSF would
17 draw passengers from Interstate and erode its customer base, sending it into a
18 “death spiral”; or, this would drive up the cost of Interstate’s lifeline services.

19 **Q. Now that Interstate Navigation wants to enter the fast ferry market to Block**
20 **Island and given the current market dynamics, in your expert opinion, is this**
21 **a financially prudent thing to do and is it in the public interest?**

22 A. Absolutely not.

23 **Q. Please explain.**

1 A. Regardless of the market, entry in the face of excess capacity and a highly
2 competitive and seasonal environment (especially entry which is capital intensive)
3 is irrational and eventually extremely wasteful. Perhaps the preeminent
4 economist, Paul Samuelson, provided the best answer when he wrote about why,
5 on occasion, entry takes place in a market characterized by excess capacity and
6 wasteful competition. He writes that entry occurs “Apparently, partly out of
7 ignorance and partly out of misplaced hope.”² The market realities, which are
8 irrefutable, are the following: (1) the fast ferry market to Block Island is saturated,
9 as evidenced by excess capacity and wasteful competition; (2) the market is
9 subject to passenger base leakage due to the Vineyard Fast Ferry operation; (3)
10 the entry by Interstate Navigation is capital intensive; (4) failure has very dire
11 consequences for the lifeline mono-hull service; and (5) the “window of
12 opportunity” has closed. In addition, the management of Interstate Navigation
13 could pursue more logical and less risky strategies to make themselves more
14 competitive by simply offering a better service, re-powering existing vessels in
15 the fleet, to make them faster and offering a loyalty incentive program. All of
16 which would certainly be in the public interest and which Interstate is already
17 doing with ratepayer dollars, i.e., the re-powering and refitting of the *Carol Jean*.
18 Also, if, as I understand it to be, the DPUC’s legal mandate is to concern itself
19 primarily with the public need, the most economically rational and efficient
20 means of satisfying it would be to simply allow the incumbent fast ferry carrier to
21 travel to Old Harbor instead of New Harbor, particularly in light of the

² See Paul A. Samuelson, *Economics*, (McGraw-Hill, New York, 1973, 9th ed.), p. 517.

1 irrefutable fact that IHSF has excess passenger capacity.

2 **Q. If Interstate Navigation is allowed to enter, given the market dynamics**
3 **previously discussed, what would be the impact on the incumbent carrier,**
4 **IHSF?**

5 A. The incumbent carrier would be caught in a competitive crossfire, with BI
6 Express on one side and Interstate Fast Ferry on the other, and with Vineyard
7 Fast Ferry acting as a sapper. IHSF would no doubt be forced into bankruptcy.

8 **Q. Assuming Interstate Navigation were allowed to operate a fast ferry to Block**
9 **Island, is there a scenario where, through a convergence of adverse market**
10 **developments, both the incumbent carrier and the life-line carrier could both**
11 **be forced to exit the market?**

12 A. Yes.

13 **Q. What is that scenario?**

14 A. The powerful unknown here is the weather. Should there be two consecutive poor
15 weather summers, the financial losses would be enormous, especially for
16 Interstate Navigation, which would suffer a double financial hit—on the fast ferry
17 side and the life-line side of the business. This could well lead to the financial
18 collapse of IHSF, Interstate Fast Ferry and Interstate Navigation. This would be a
19 nightmare scenario for the ratepayers, the public interest and the residents and
21 businesses of Block Island.

22 **Q. In the face of a fiercely competitive market dogged by excess capacity and**
23 **a seasonal component, is there market entry that makes economic sense and**
24 **is clearly in the public interest?**

1 Yes.

2 **Q. Please explain what forms of market entry you are referring to.**

3 A. Normally, market entry would take place in the form of a merger with one of the
4 existing firms in the market or an outright acquisition of one of the existing
5 firms, especially if the entry is capital intensive. The point being, of course, is
6 that with a merger or acquisition, entry takes place with NO new capacity added
7 to the market, which makes much more economic sense and is less risky for both
8 the public and the market participants.

9 **Q. Does this conclude your testimony?**

10 A. Yes.

11

Lawrence R. Kunkel

12

13 Subscribed and sworn to before me this ____ day of April, 2005.

**DIRECT TESTIMONY OF
FREDERICK L. NOLAN, III
for
ISLAND HI-SPEED FERRY, LLC**

**Regarding
INTERSTATE NAVIGATION COMPANY
DOCKET NO. D-05-06**

April 6, 2005

1 Q. **What is your name?**

2 A. Frederick L. Nolan, III.

3 Q. **In what capacity are you testifying in this matter?**

4 A. I am a member of Harbor Cruises, LLC, d/b/a Boston Harbor Cruises,
5 which is a member of Island Hi-Speed Ferry, LLC and is its Operations
6 Manager.

7 Q. **Please briefly describe Boston Harbor Cruises' history and your
8 experience with the company.**

9 A. BHC has been in the passenger ferry transportation and marine excursion
10 business for over 78 years. The company was founded by my grandfather and
11 I have been involved in the business for more than 30 years. BHC operates
12 23 vessels in Boston Harbor, Massachusetts Bay and the U.S. Virgin
13 Islands. In addition to its private interests, BHC operates commuter ferry
14 routes for the Massachusetts Bay Transportation Authority. BHC, with my
15 participation, has designed and constructed five INCAT high speed
16 catamarans at Gladding Hearn shipyard, including IHSF's vessel, *Athena*.
17 BHC and I also have extensive experience in the high speed ferry charter and
18 resale markets.

19 Q. **Are you involved in the management of the day to day affairs of BHC and
20 IHSF?**

21 A. Yes. I, along with my brother Christopher Nolan and my daughter Alison
22 Nolan, manage the operations of BHC and I interact on a daily basis with
23 Jon Hagopian, IHSF's Director of Operations and its General Counsel, Mark

1 Hagopian.

2 **Q. Have you reviewed the pre-filed testimony of Interstate Navigation's**
3 **witnesses in this Docket?**

4 A. Yes.

5 **Q. What is your opinion of the conclusions in that testimony as to the ability**
6 **of Interstate to mitigate the risk of its proposed high speed ferry service?**

7 A. It is my studied opinion that Interstate's management and their financial
8 advisor have a false sense of security as to the viability of existing markets
9 for both off-season charters and the resale values of high speed ferries.

10 **Q. Why do you say that?**

11 A. Because the rosy revenue predictions made in that testimony simply do not
12 reflect reality.

13 **Q. Please explain what you mean by that.**

14 A. While I have the utmost respect for the Duclos family, Gladding Hearn's
15 opinion of the potential for off-season charters suggests that there are a
16 number of operators on the East Coast who in the fall, winter and spring are
17 desirous of chartering high speed ferry's. This simply is no longer true.

18 Gladding Hearn's representation is reflective of the off-season charter market
19 which existed in New York Harbor after 911 and through the Spring of 2004.

20 As we know first hand, one of the infrastructure casualties inflicted on New
21 York on September 11th included the destruction of the New York/New
22 Jersey Path Subway tunnel and station below the World Trade Centers. The
23 loss of this critical transportation corridor in lower Manhattan's financial

1 district created an immediate and unique demand in New York Harbor for
2 traditional and high speed ferry's.

3 **Q. How did that demand manifest itself?**

4 A. Local marine transportation operators in New York and New Jersey,
5 particularly New York Waterway, experienced immediate increased daily
6 ridership of between 50% and 100%. New York Waterway, the oldest and
7 largest of those operators, chartered many vessels on the east coast, including
8 the *Athena*, to meet the artificial demand, while they went about building their
9 own new fast ferries. For example, New York Waterway built a number of
10 fast ferries with Allen Marine shipyard. As a result, the winter charter market
11 options in New York during the three years after 911 no longer exist. In fact
12 since the re-opening of the Path Train line last winter, ferry ridership levels
13 have returned to pre 911 levels and New York Waterway is selling off the
14 majority of the fast ferry's it built over the last few years. Additionally, IHSF
15 had the unfortunate experience of having to sue New York Waterway to
16 recover its final installment payment for the 2004 *Athena* charter, which was a
17 substantial sum of money.

18 **Q. Did any other marine transportation operators in New York Harbor**
19 **experience financial difficulty as a result of the post-911 artificial**
20 **demand you have described?**

21 A. Yes. SeaStreak, a division of a large international shipping business, Sea
22 Container, rapidly built a number of fast ferries at Gladding Hearn shipyard
23 in response to that demand. It took delivery of the last vessel, *The Highlands*,

1 last winter. SeaStreak is now looking to charter or sell that vessel.

2 Also, New York Fast Ferry, which chartered the *Athena* in the months
3 immediately after 911, was forced into bankruptcy, due to fierce competition from
4 New York Waterway and its tactic of flooding the market with leased ferries.
5 IHSF is still owed tens of thousands of dollars by New York Fast Ferry relating to
6 the 2001 *Athena* charter, which it will likely never recover.

7 **Q. What impact has this had upon the high speed ferry resale market?**

8 A. It has created a glut of new fast ferries on the market.

9 **Q. Getting back to the fast ferry charter market, other than New York, are**
10 **there any realistic charter opportunities for fast ferries on the East**
11 **Coast?**

12 A. The only non New York customer for such vessels in an off-season market is
13 a casino Vessel operator off the west coast of Florida, which this past winter
14 chartered the three Gladding Hearn built fast ferries referred to in Interstate's
15 response to IHSF Data Request 1-26. Those ferries are being used to transport
16 passengers to an anchored casino ship stationed in international waters off
17 Tampa FL. These charters will end on May 1, 2004 and the casino owner is
18 taking delivery of its own vessels to replace the chartered vessels.

19 **Q. What does this pattern of operators chartering vessels, while building or**
20 **purchasing their own ferries, portend for the fast ferry charter market?**

21 A. This unfortunate fact is very sobering for fast ferry vessel owners looking for
22 off-season charter opportunities. Currently there are none. As a result, IHSF
23 was forced to take the extraordinary risk of establishing a new winter service

1 between the islands of Puerto Rico.

2 **Q. Do you have any other opinions regarding Interstate’s testimony that**
3 **a charter of its proposed fast ferry could be “very profitable”?**

4 A. Yes. A \$30,000.00 per month charter rate, if it were achievable, would only
5 support roughly 50% of the monthly fixed cost of the vessel Interstate is
6 proposing to build.

7 **Q. What is your opinion regarding the belief of Interstate’s management**
8 **that there is a “high demand” for high speed ferries in the resale**
9 **market?**

10 A. It does not reflect the realities of today’s market. Ms. Linda refers to Peter
11 Duclos’ representation that he is familiar with fast ferry vessels that have
12 historically sold for about 8% above initial purchase price. I have no reason to
13 doubt that this number is reasonably accurate. However, it is important to
14 understand that, like the off-season charter market of these vessels, the resale
15 market has gone through dynamic changes over the past several years which
16 have significantly diminished the resale values of such vessels. In fact, the
17 most recent Gladding Hearn fast ferry to sell on the resale market *Voyager III*,
18 sold for \$3,000,000.00. Roughly, \$1,300,000.00 less than the initial cost of
19 this three year old vessel. Another Gladding Hearn fast ferry, the *Grey Lady*
20 *II* has been on the resale market for two years, with no buyers.

21 **Q. What in your opinion are the causes of this downturn in the fast ferry**
22 **resale market?**

23 A. There are several reasons for the recent correction of this re-sale market:

- 1 • The glut of New York Harbor fast ferries and others being advertised for
2 resale has softened the market for what had been a rare commodity. In the
3 past eighteen months the sale of this type of vessel has changed from a seller's
4 market to buyer's market.
- 5 • During most of the 1990s operators desirous of contracting for the
6 construction of a fast ferry had two options for the domestic construction of
7 such vessels. Gladding Hearn Shipbuilding on the East coast and Nichols
8 Brothers on the West coast. In the middle and late 1990s, when the demand
9 for these vessels began to accelerate. These two yards had very limited
10 manufacturing capacity and a significant back log. The inability to get new
11 vessels built in a timely fashion, created a unique demand for the limited number
12 of used vessels which came up for sale. Gladding Hearn reacted to this by
13 doubling its manufacturing capacity. Ironically, IHSF came into existence at the
14 end of this demand curve. In 2005, there are currently at least eight shipyards in
15 the U.S. which specialize in constructing high speed ferries. None of these yards
16 currently has a back log, and demand for new construction of fast ferries has
17 diminished.
- 18 • High speed ferries are very expensive to build, and even more costly to
19 operate. This is becoming an even starker reality with the spiraling cost of
20 petroleum products. The number of markets for fast ferries in the US that can
21 support them economically is very limited. In fact, the limited markets and
22 routes in which fast ferries can be justified have been identified and
23 established.

1 Q. **What is your opinion of Interstate’s contention that IHSF has a loyal,**
2 **robust ridership which will follow it even Interstate offers fast ferry service**
3 **from Point Judith, with identical rates and a terminal in Old Harbor as an**
4 **alternative?**

5 A. That contention cannot be taken seriously. BHC was naturally excited at the
6 prospect of becoming an IHSF partner in 2001, but after my first trip to Block
7 Island I had four serious reservations about New Harbor as a debarkation
8 point. My primary concern was the approximate 12 to 15 minute slow ride
9 through the heavily trafficked 1.2 nautical mile no-wake zone in between the
10 entrance to New Harbor and Payne’s Dock. I was also concerned with the
11 lack of ground transportation to the tourist business center in Old Harbor.
12 Initially the taxicabs were not responsive to IHSF’s presence in New Harbor.
13 My third concern was that the additional cost of a taxi ride to Old Harbor
14 would make our service unattractive from a total price standpoint. My fourth
15 concern was that the additional time cost of traveling to Old Harbor would
16 discourage day-trippers. While these initial concerns have been allayed, it is
17 reasonable to expect that if IHSF’s ridership is offered a fast ferry service with
18 identical rates and a terminal in Old Harbor as an alternative, that ridership
19 will evaporate rather quickly. The idea that IHSF could sustain itself by
20 servicing the relatively few people who use it *because* it lands in New Harbor
21 is ridiculous.

22 Q. **Are there any other natural advantages Interstate would have by**
23 **offering fast ferry services to Old Harbor?**

1 A. Yes. The factors critical to success of passenger-only fast ferry service are
2 adequate parking at the point of embarkation and seamless links with other
3 modes of transportation at the point of debarkation. There are only 34 taxi
4 cabs on Block Island. As it is, they divide their time between the Old Harbor
5 docks and those in New Harbor. Interstate has testified in its Data Responses
6 that it cannot and does not intend to decrease its scheduled traditional ferry
7 runs. Therefore, it will be adding runs to an already aggressive schedule. It is
8 reasonable to expect that with that opportunity, the cabs will decrease or
9 stop servicing the New Harbor docks completely, particularly if our ridership
10 falls off.

11 **Q. Does IHSF have the capability and resources to compete directly with**
12 **Interstate to retain its ridership base?**

13 A. No.

14 **Q. Please explain the basis for that opinion.**

15 A. First of all, IHSF is not allowed to compete directly with Interstate. The
16 conditions in its Certificate of Public Convenience and Necessity prohibit it
17 from doing so, as does its rate floor.

18 **Q. If IHSF's CPCN conditions were eliminated and IHSF were allowed to**
19 **set market rates without regard to the impact upon Interstate, could it**
20 **successfully compete directly with Interstate?**

21 A. No.

22 **Q. Why not?**

23 A. The primary reason is that Interstate has a monopoly over the available

1 infrastructure in both Point Judith and Block Island's Old Harbor. In Point
2 Judith, it has long term leases with the State for all available ferry docks.
3 In fact, Interstate used its lease of the northern half of State Pier 3 to prevent
4 IHSF from starting its business up in the summer of 2000. IHSF had planned
5 to use a BHC 37 meter catamaran known as the *Millenium*, which was 22 feet
6 longer than the *Athena*. This would have required removing a dolphin piling
7 from the southwest corner of Pier 3, so that the *Millenium* could hang off the
8 west face of the pier. However, Interstate's lease of the north side of Pier 3
9 included the right to make use of the west face. Interstate had not used the
10 west face of Pier 3 for years and allowed fishing boats to permanently dock
11 there. The long and the short of that controversy is that Interstate still holds
12 the lease of the west face of Pier 3, which it does not use, fishing boats still tie
13 up there, and the dolphin piling is still in place. What all of this means is that
14 IHSF will never be able to grow out of its allotted 100 feet of dock space on the
15 south side of Pier 3. As a consequence, it is permanently limited to using a
16 vessel with a 250 passenger capacity limit, regardless of whether that
17 condition is lifted from its CPCN. Without additional passenger capacity,
18 IHSF cannot lower its rates to effectively compete with Interstate, regardless
19 of whether the Commission removes its rate floor.

20 **Q. Are there any circumstances then under which IHSF could compete**
21 **directly with Interstate to retain its ridership?**

22 A. The only circumstance I can think of is if IHSF were allowed to use
23 Interstate's docks in Old Harbor.

1 **Q. Are there any other realistic possibilities for dockage in Old Harbor?**

2 A. No. Not at this time. The owners of Ballards Restaurant have applied to the
3 Coastal Resources Management Council for an assent to build a pier with
4 floating docks in Old Harbor. However, I understand that Interstate has
5 opposed the assent because it believes the proposed dock will interfere with
6 the navigation of its vessels in Old Harbor. Also, from what I have read about the
7 dock design, it might not be able to handle a powerful vessel such as the *Athena*.

8 **Q. What is your understanding of the current regulatory scheme imposed upon**
9 **IHSF by the Division and the Commission?**

10 A. It is my understanding that IHSF is only allowed to compete indirectly with
11 Interstate by offering a significantly different service at a significantly higher
12 price, to protect Interstate from erosion of its customer base.

13 **Q. Short of being allowed access to Interstate's Old Harbor docks, are there any**
14 **steps the Division could take that might protect the investments of IHSF's**
15 **ratepayers and owners in a similar fashion?**

16 A. The only other steps I can envision which might level the playing field would be
17 to allow IHSF to provide free jitney service to its passengers on Block Island and
18 for Interstate's fast ferry ticket price to be significantly higher than IHSF's. But
19 even this would require close monitoring and review.

20 **Q. Does that conclude your testimony?**

21 A. Yes.

22

23

1

Frederick L. Nolan, III

2

3 Subscribed and sworn to before me this ____ day of April, 2005.

4