

APPENDIX A

Act No. 5168

1986

REGULAR AND SPECIAL SESSIONS

Act No. 5168

(BILL 16-0571)

No. 5167

(Approved June 11, 1986)

To Amend Official Zoning District Map No. STZ-7, for Parcels
No. 93A and a Portion of No. 93B, Estate Anna's
Retreat, for the Island of St. Thomas.

Be it enacted by the Legislature of the Virgin Islands:

Section 1. Pursuant to the provisions of Title 29, chapter 3, Virgin Islands Code, the Official Zoning District Map STZ-7 for the Island of St. Thomas is amended by changing the designation of Parcels 93A and a portion of 93B, Estate Anna's Retreat, from R-2 (Residential—Low Density, one and two-family) to R-3 (Residential—Medium Density).

Approved June 11, 1986.

(BILL 16-0572)

No. 5168

(Approved June 11, 1986)

To Grant an Exclusive Franchise to Transportation Services of St. John, Inc. and Varlack Ventures, Inc. To Operate All Public Marine Transportation Between Red Hook Dock, St. Thomas and Cruz Bay Dock, St. John; To Grant an Exclusive Franchise to Manassah Bus Line, Inc. To Operate a Bus Service on the Island of St. Thomas; To Amend Title 25, Chapter 1, Virgin Islands Code, Regarding the Registration and Licensure of Marine Vessels and for Other Purposes.

WHEREAS it is in the public interest that an exclusive franchise for the operation of all public marine passenger transportation between Red Hood Dock, St. Thomas and Cruz Bay Dock, St. John be granted; and

WHEREAS pursuant to Act No. 3906, enacted November 18, 1976, two Virgin Islands corporations presently provide the necessary daily marine passenger transportation services between these locations; and

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WHEREAS the residents of the Islands of St. John and St. Thomas depend upon these services for carriage between their homes and their jobs; and

WHEREAS the residents of St. John also rely upon these essential services for the purchase of certain foodstuffs and other life necessities, including medical care; and

WHEREAS it is in order that the corporations sustain the present level of services and be protected from unfair and debilitating competition which would undermine the normal transportation services and stable economics of public marine transportation between the islands, Now, Therefore

Be it enacted by the Legislature of the Virgin Islands:

Section 1. There is granted to Transportation Services of St. John, Inc. and Varlack Ventures, Inc., hereinafter referred to as the franchisees, the joint exclusive right and franchise to operate the public marine passenger transportation service between Red Hook Dock, St. Thomas and Cruz Bay Dock, St. John, which exclusive franchise shall be for the term and under the conditions hereinafter specified.

Section 2. The franchisees, as a condition to the continued effectiveness of a joint exclusive franchise, agree to maintain and operate the presently existing scheduled passenger ferryboat transportation system between Red Hook Dock, St. Thomas and Cruz Bay Dock, St. John, including provision for commuter fares and transportation of school children, and otherwise to sustain an effective system of public marine passenger transportation between these locations for the duration of this franchise.

Section 3. The franchise granted shall be exclusive and shall be for a period of ten years from May 31, 1986; provided, however, this franchise shall not be construed to prohibit, abridge or restrict:

- (a) private transportation of individuals where no fee is charged;
- (b) transportation of individuals for a fee with not more than ten passengers per voyage between Red Hook Dock, St. Thomas and Cruz Bay Dock, St. John or other locations than publicly owned facilities;
- (c) federally documented or Virgin Islands licensed vessels engaged in charter operations as evidenced by standard form charter agreements; or
- (d) transportation of freight by duly licensed vessels.

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Section 4. No transfer or assignment of this franchise or of any interest therein shall be effective without the prior written approval of the Governor and the Legislature; provided, however, nothing herein shall be construed to prohibit subcontracting by the franchisees of the responsibilities under this franchise to other qualified agents so long as full compliance with the terms of the franchise and the rules and regulations promulgated pursuant thereto are at all times maintained by the franchisees; and provided, further that nothing herein shall be construed to prohibit one of the joint franchisees from carrying out the terms and conditions hereof, in case the other joint franchisee shall cease to do business or otherwise default hereunder.

Section 5. This franchise is further conditioned upon the franchisee's acceptance hereof, which acceptance must be in writing and filed with the Public Services Commission within thirty days from the effective date of this act.

Section 6. (a) The administration of this franchise, as it shall relate to the use of publicly owned facilities, fees for such use, rules governing such use and promulgated for passenger and freight service, shall be in the jurisdiction of the Virgin Islands Port Authority or subsequently established authority as designated.

(b) The administration of this franchise, as it shall relate to the adherence to the terms herein, including passenger schedules, passenger and commuter fees, including fees for school children and variances from franchise terms, and maintenance of the vessels and the equipment thereon shall be in the jurisdiction of the Public Services Commission or subsequently established authority as designated.

(c) In any matter involving the safety of passengers, crew, or vessel, the United States Coast Guard shall, subject to its consent and approval, be considered as "Advisor Ex-officio" to the Virgin Islands Port Authority and the Public Services Commission.

Section 7. Notwithstanding any provision of law, the schedules, fees, rules and regulations adopted pursuant to Public Services Commission Order No. 4-1977, dated March 11, 1977, as amended, shall continue in force and effect until subsequent amendment thereto by the Commission and shall be considered an addendum and integral part of this franchise, provided no scheduled voyage shall be cancelled for lack of a minimum number of passengers provided any person desires passage on such voyage.

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Section 8. The franchisees are deemed to be public utilities and, in addition to the specific terms of this franchise, subject to the provisions of Title 30, chapter 1, Virgin Islands Code, and the rules and regulations promulgated pursuant thereto.

Section 9. All terms, conditions, fares, fees, schedules and rules governing this franchise shall be a matter of public record, and be on display aboard each vessel and at each terminal facility.

Section 10. The Government of the Virgin Islands expressly reserves the right to commence proceedings for the forfeiture of this franchise in case a franchisee, its successor or assignee, shall fail to perform the conditions and obligations created by this act, including nonuse, misuse or abandonment of the franchise. Proceedings for the forfeiture of this franchise shall be brought before the Public Services Commission by the Attorney General of the Virgin Islands and on behalf of the Government of the Virgin Islands, and on such action if the Commission shall find that the franchisee has materially breached the conditions and obligations imposed upon it by this act, the Commission may order this franchise forfeited.

Section 11. The exclusive franchise to the Manassah Bus Line, Inc., to operate a bus service on the Island of St. Thomas granted pursuant to Act 602, enacted June 18, 1960, and renewed pursuant to Act 1651, enacted March 29, 1966, is hereby extended for a period of five years following the expiration of the present franchise.

Section 12. (a) Title 25, section 2, Virgin Islands Code, is amended by designating the existing language as subsection (a) and adding a new subsection (b) thereto to read:

(b) All vessels carrying passengers or freight between ocean common carriers and the public wharves of the Virgin Islands shall be registered and licensed pursuant to this section. For the purpose of this subsection "vessel" shall not include any vessel which is an integral part of and transported with the ocean common carrier.

(b) Title 25, section 9, subsection (a), Virgin Islands Code, is amended by striking "\$25.00" and substituting in lieu thereof "\$1000".

Approved June 11, 1986.

APPENDIX B

Act No. 5999

Act No. 5998

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* * *

"Section 4. (a) Act No. 5365, Section 5, as amended by Act No. 5425, Section 8, is further amended by reducing item (iv) by \$18,978;

(b) Act No. 5691, Section 1, subsection AA, item 83, is amended by reducing the amount by \$25,082; and

(c) Of the savings realized under subsection (a) and (b) of this section, there is appropriated the sum of \$44,010 to the Department of Housing, Parks and Recreation to provide a grant to the Boys and Girls Club of St. Croix."

Alexander A. Farrelly
Governor

(BILL NO. 20-0288)

No. 5999

(Approved July 22, 1994)

To amend Title 21, Chapter 1, Virgin Islands Code, relating to homestead and home loans and for other purposes

Be it enacted by the Legislature of the Virgin Islands:

Section 1. Title 21, Section 7, item 2, Virgin Islands Code, is amended by deleting the second sentence thereof.

Section 2. Title 21, Section 9, Virgin Islands Code, is amended in the following instances: (a) In the first sentence after the word "of" delete the figure "\$10,000.00" and insert in lieu thereof the figure "\$75,000.00".

(b) In the fourth sentence after "submit" delete the words "a working drawing or plan of the house for the approval of the Commissioner" and insert in lieu thereof "a set of plans and specifications of the house as approved by the Department of Planning and Natural Resources."

(c) Delete sentence six (6) which begins with the words "construction loans" and insert in lieu thereof: "Loans provided for under this program shall be used for the express purpose to:

(1) purchase a house, including but not limited to a mobile home, house trailer, prefabricated house or manufactured house;

(2) construct, improve, alter, repair or rehabilitate a home including cisterns, foundation slabs or retaining walls including block and/or wire fencing;

(3) to purchase a plot of land on which to construct a home or locate a mobile home or house trailer; Loans available under item (3) shall not

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exceed \$50,000.00; provided, however, that loans for home improvement shall not exceed \$40,000.00. Once an applicant has met the eligibility requirements and funds are available for the purpose of granting loans to purchase land, the Virgin Islands Government, acting by and through the Commissioner of Housing, Parks and Recreation, shall issue a commitment to the prospective purchaser to buy land not in excess of one half (½) acre."

Section 3. Title 21, Section 10, Virgin Islands Code, is amended in the following instances:

(a) In subsection (a), in the first sentence, delete "4" and insert in lieu thereof "6"; and insert a new sentence between the first and second sentence to read:

"Loans for home purchases granted under this program shall be for a period not exceeding 20 years. Home improvement loans or loans for the purchase of land shall be for a period not exceeding 10 years, at the same interest rate."

(b) In subsection (c), at the end of the second sentence, delete the "." and add the following:

"provided, however, that the first payment on a loan granted for the purchase of land, purchase of a home and home improvement, shall be made three (3) months after the first installment is received by the applicant."

(c) Redesignate subsection (d) as (e) and insert a new subsection (d) to read as follows:

"(d) The applicant shall be required to show evidence of having invested not less than 10 percent of the estimated cost of construction in the project before the first installment is advanced by the Government. The 10 percent investment by the applicant shall be in the form of cash or its equivalent."

Section 4. Title 21, Section 16, Virgin Islands Code, is amended by adding the following language at the end thereto:

"Loans available under the provisions of subdivision (3) of this subchapter shall not exceed \$50,000.00, and loans available under other provisions of this subchapter shall not exceed \$75,000.00, provided however, that loans for improvement shall not exceed \$40,000.00. Once an applicant has met the eligibility requirements and funds are available for the purpose of granting loans to purchase land, the Virgin Islands Government, acting by and through the Commissioner of Housing, Parks and Recreation, shall issue a commitment to the prospective purchaser to buy land not in excess of one half (½) acre)".

*Section 5. There is hereby appropriated from the Homestead and Home Loan Fund, to the Department of Economics Development and

* Objected to by the Governor. See Governor's objection following text of Act.

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Agriculture, fifteen (15) percent of the existing funds, to be used as loans to farmers.

Section 6. Designate the existing Section 9 of Title 21, Virgin Islands Code as Section 9 (a) and add a new Section 9(b) to read as follows:

"(b) Notwithstanding any other law, rule or regulation, no applicant shall be prohibited or restricted from participation in the Homestead and Home Loan Fund program as defined in this Chapter solely as a result of his prior participation in a real estate acquisition, homeownership or mortgage program conducted under the auspices of the Virgin Islands Housing Finance Authority or any other government agency, if he or she is otherwise qualified under Section 9(a) of this Chapter".

Section 7. Act No. 5979 (Bill No. 20-0355), Section 6 is amended in the following instances:

(a) Delete the word "There" and insert in lieu thereof the phrase; "Notwithstanding any other law, there".

(b) Strike the figure "\$20,000" and insert in lieu thereof the figure "\$17,000" and insert after the phrase "Uniform Law Commission" the words: "and \$3,000 to Legal Services of the Virgin Islands to be used for the summer employment program".

Section 8. Title 12A, Chapter 2, Virgin Islands Code, as added by Act No. 5919, (Bill No. 20-0153), as amended by Act No. 5991 (Bill No. 20-0251), is further amended in the following instances:

(A) Section 180, paragraph (m), is amended by striking the existing paragraph in its entirety and inserting a new paragraph (m) to read as follows:

"(m) Purchase Price" means the price the consumer paid for his vehicle, including cash and the value of any trade-in."

(B) Section 180, paragraph (o), is amended by striking the number "45" and inserting in lieu thereof, "40".

(C) Section 182, is amended in the first sentence thereof by inserting after the word "agreement", the words "except when selling through a dealer".

(D) Section 182, paragraph (k), sub-paragraph (2) is amended by striking the number "45" and inserting in lieu thereof, "30".

(E) Section 182, paragraph (m), is amended by striking the number "45" and inserting in lieu thereof, "30".

(F) Section 182, paragraph (r) is amended by adding the word "legal" after the word "any" where at first appears.

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(G) Section 184, paragraph (13), is amended by striking the words "towing fees or".

(H) Section 104, paragraph (e), is amended by striking the existing paragraph in its entirety and inserting a new paragraph (e) in lieu thereof to read as follows:

"(e) In addition to the penalties or fines prescribed in this chapter, the Commissioner may, for repeated offenses of this chapter, revoke or suspend an individual's, partnership's, or corporation's business license in accordance with the procedures set forth in Title 27, Section 304 et. seq., Virgin Islands Code. The appellate process referred to in Section 185 of this chapter is applicable hereto."

Section 9. Act No. 5838, Section 1, subsection (C), is amended by adding a new item (12) to appropriate the following sum or so much thereof as may be necessary, from any funds available in the special Internal Revenue Matching Fund, created by subsection 28 (B) (C) (I) of the Revised Organic Act of the Virgin Islands, Public Law 517, 83rd Congress, for the fiscal year ending September 30, 1993, and shall remain available until expended for purposes hereafter expressly named:

"(12) FUND 225100 MATCHING FUND

ORG 7411 ECONOMIC DEVELOPMENT AND AGRICULTURE

FUNDING FOR DROUGHT RELIEF INCLUD- ING DAM CLEANING, AND PURCHASE OF FEED AND WATER	\$100,000
TOURISM PROMOTION-ST. CROIX	200,000
INDUSTRIAL PROMOTION	100,000
TOTAL ORG 7411 FUNDING REQUIRED	\$400,000
TOTAL FUND 225100 FUNDING REQUIRED	\$400,000

Section 10. Act No. 5932, Section 1, is amended by adding a new paragraph to appropriate the following sum or so much thereof as may be necessary, from funds available in the Caribbean Basin Initiative Fund, created pursuant to 26 USC 7652 (PL. 98-67), for the fiscal year ending September 30, 1994, and shall remain available until expended for purposes hereafter expressly named:

"Fund 263100 CARIBBEAN BASIN INITIATIVE

ORG 7411 ECONOMIC DEVELOPMENT AND AGRICULTURE

Act No. 5999

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FUNDING FOR RUM PROMOTION AND ADVERTISING	\$200,000
TOTAL ORG 7411 FUNDING REQUIRED	\$200,000
TOTAL FUND 268100 FUNDING REQUIRED	\$200,000

*Section 11. Title 21, Section 16, Virgin Islands Code, is amended in the second paragraph by striking "\$75,000" where it appears and inserting "\$95,000" in lieu thereof.

X Section 12. Act No. 5168 (Bill No. 16-0572), enacted June 11, 1986, is amended as follows:

- (1) Strike the words "Red Hook Dock" and "Cruz Bay Dock" wherever they appear.
- (2) In Section 8, strike the word "ten" and insert in lieu thereof "thirty".

Section 13. There is appropriated the sum of \$12,000 from the Land Bank Fund established pursuant to Title 33, Section 3004, Virgin Islands Code, in the fiscal year ending September 30, 1994, to the Department of Property and Procurement for the purpose of appraisals, surveys, and title searches of Plots No. 53 and 53A, Estate Little Princess, St. Croix. Such sum shall remain available until expended.

Section 14. Title 33, Section 2305, subsection (b), Virgin Islands Code, is amended by deleting the figures "\$15,000" and "20,000" wherever they appear, and inserting the figures "\$20,000" and "\$30,000" respectively in lieu thereof.

Section 15. Act No. 5991 (Bill No. 20-0251) enacted May 31, 1994, is amended in Section 4 by striking the words "Alvin McBean Little League" and inserting in lieu thereof the words "Elmo Plaskett Little League East".

Section 16. Act No. 5883 (Bill No. 20-0164), Section 5, subsection (d) as amended by Act No. 5966 (Bill No. 20-0238) and Act No. 5969 (Bill No. 20-0274) is further amended by adding appropriately numbered new items to read as follows:

- () Department of Housing, Parks and Recreation — St. Croix — To replace the lighting at Renholt Jackson Complex at Estate Whim \$93,541
- () Department of Education — St Croix To rehabilitate the Juanita Gardine Public Elementary School track

* Objected to by the Governor. See Governor's objection following text of Act.

APPENDIX C

Varlack Ventures and Transportation Services – PSC Order No. 09/2008

GOVERNMENT OF THE VIRGIN ISLANDS
OF THE UNITED STATES

Public Services Commission

IN RE:)
) PSC DOCKET NO. 573
Rate Investigation –)
Varlack Ventures, Inc. and)
Transportation Services of St. John, Inc.)
) ORDER NUMBER: 09/2008
)
_____)

ORDER

WHEREAS, on June 21, 2007, the Virgin Islands Public Services Commission (“PSC” or “Commission”) met in regular session at the PSC Offices in Barbel Plaza, St. Thomas;

WHEREAS, pursuant to Title 30, section 20, the Commission has the authority to investigate the rates and services of any public utility under its jurisdiction;¹

WHEREAS, Varlack Ventures, Inc. and Transportation Services of St John, Inc. (hereinafter “Varlack” and “Transportation Services” respectively) are considered public utilities subject to the jurisdiction of the Commission;

WHEREAS, after deliberation and review the Commission found the financial submissions of both Varlack and Transportation Services to be inadequate;

WHEREAS, after deliberation and review the Commission found significant lapses in the provision of services by Varlack and Transportation Services;

WHEREAS, the Commission voted unanimously to begin a formal rate investigation;

¹ Title 30, section 20 provides *inter alia*:

Upon its own initiative or upon reasonable complaint made against any public utility that any of the rates, tolls, charges, or schedules, or services, or time and conditions of payment, or any joint rate or rates, schedules, or services, are in any respect unreasonable or unjustly discriminatory, or any service in connection therewith, is in any respect unreasonable, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained, or any billing for service inaccurate or erroneous the Commission may, in its discretion, proceed, with or without notice, to make such investigation as it may deem necessary or convenient. But no order affecting said rates, tolls, charges, schedules, regulations, or act complained of shall be entered by the Commission without a formal hearing.

30 V.I.C. § 20(a) (2007).

NOW THEREFORE, it is hereby **ORDERED** that the Motion to order a formal rate investigation to determine if the rates and services of Varlack Ventures, Inc. and Transportation Services of St. John, Inc. are reasonable, just and non-discriminatory is **GRANTED**.

Dated: December 11 2007

FOR THE COMMISSION

A handwritten signature in black ink, appearing to read 'J-Bh', written over a horizontal line.

JOSEPH B. BOSCHULTE

Chair

GOVERNMENT OF THE VIRGIN ISLANDS
OF THE UNITED STATES

Public Services Commission

IN RE:)
) PSC DOCKET NO. 573
Rate Investigation –)
Varlack Ventures, Inc.)
And Transportation Services of)
St. John, Inc.)
)
) ORDER NUMBER: 16/2008

ORDER

WHEREAS, on October 16, 2007, the Virgin Islands Public Services Commission (“PSC” or “Commission”) met in regular session at the PSC Offices in Barbel Plaza, St. Thomas;

WHEREAS, on June 21, 2007, and pursuant to Title 30, section 20, the Commission unanimously voted to open a rate investigation of Varlack Ventures, Inc. and Transportation Services of St. John, Inc. (hereinafter “Varlack” and “Transportation Services” respectively);

WHEREAS, the Commission after deliberation and review, and upon the recommendation of its staff, appointed Natalie Nelson Tang-How, Esq. as Hearing Examiner to preside over the rate investigation;

WHEREAS, the Commission after deliberation and review, and upon the recommendation of its staff, appointed Richard W. Moore Ph D. as Technical Consultant for this rate investigation; and

WHEREAS, the Commission voted unanimously to take the aforementioned actions;

NOW THEREFORE, it is hereby **ORDERED** that the Motion to appoint Natalie Nelson Tang-How, Esq. as hearing examiner in this Docket be **GRANTED**; and finally

It is hereby **ORDERED** that the Motion to appoint Richard W. Moore, Ph D. as technical consultant in this Docket be **GRANTED**.

Dated: December 11 2007

FOR THE COMMISSION


JOSEPH B. BOSCHULTE
Chair

GOVERNMENT OF THE VIRGIN ISLANDS
OF THE UNITED STATES

Public Services Commission

IN RE:)
)
Docket Specific Assessment) ORDER NO. 14/2008
)
_____)

By Action taken in noticed meeting of this Commission on October 16, 2007, the following assessments are made to Varlack Ventures, Inc.

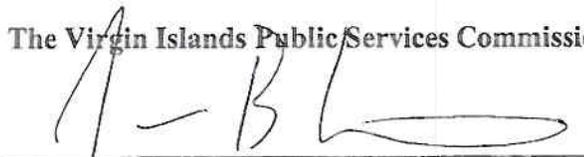
<u>DOCKET</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
No. 573	Rate Investigation	\$5,000.00

Full payment is to be made in accordance with the prescribed rules, regulations and requirements set forth previously by this Commission.

SO ORDERED.

The Virgin Islands Public Services Commission

DATED: 12-10, 2007



Joseph B. Boschulte, Chair

GOVERNMENT OF THE VIRGIN ISLANDS
OF THE UNITED STATES

Public Services Commission

IN RE:)
)
Docket Specific Assessment) ORDER NO. 15/2008
)
_____)

By Action taken in noticed meeting of this Commission on October 16, 2007, the following assessments are made to Transportation Services of St. John, Inc.

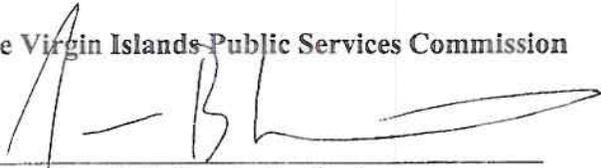
<u>DOCKET</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
No. 573	Rate Investigation	\$5,000.00

Full payment is to be made in accordance with the prescribed rules, regulations and requirements set forth previously by this Commission.

SO ORDERED.

The Virgin Islands Public Services Commission

DATED: 12-10, 2007



Joseph B. Boschulte, Chair

APPENDIX D

Docket 573 – Notice of Scope and Schedule

GOVERNMENT OF THE UNITED STATES
VIRGIN ISLANDS

PUBLIC SERVICES COMMISSION

IN RE:) PSC DOCKET NO. 573
)
RATE INVESTIGATION OF VARLACK)
VENTURES, INC. AND TRANSPORTATION)
SERVICES OF ST. JOHN, INC.,)
_____)

NOTICE OF SCOPE AND SCHEDULE

On or about June 11, 1986, The V.I. Legislature enacted Act No. 5168 (Bill 16-0572). Act No. 5168 granted an exclusive franchise to Transportation Services of St. John, Inc. and Varlack Ventures, Inc. to operate public marine transportation services between Red Hook Dock, St. Thomas, US Virgin Islands and Cruz Bay Dock, St. John, U.S. Virgin Islands:

The V.I. Legislature in granting the joint exclusive franchise found that it was in the public interest to provide for the operation of all public marine passenger transportation between the St. Thomas/St. John District. As a condition of the effectiveness of the joint exclusive franchise, the Legislature further mandated that the franchisees maintain and operate the existing scheduled passenger ferry both transportation between Red Hook Dock, St. Thomas and Cruz Bay Dock, St. John, including provisions for transporting of students,

commuter fares and to maintain an effective mode of public marine transportation between the two (2) islands for the duration of the franchise.

Pursuant to Title 30 § 20, The V.I. Public Service Commission (“PSC” and/or “Commission”) was vested with the authority to regulate the administration of the joint franchisees as it relates to compliance with the terms and conditions including but not limited to the authority to investigate the rates and services of any public utility under its jurisdiction.¹

The joint franchisees are recognized as public utilities subject to the provisions set forth in Title 30, Chapter 1, V.I. Code and as such all terms, conditions, fares, fees, schedules and rules governing the joint franchisees shall be of public record and on display aboard each vessel and at each terminal.²

¹ Title 30, Section 20 provides inter alia:

Upon its own initiative or upon complaint made against any public utility that any of the rates, tolls, charges or schedules, or services, or time and conditions of payment, or any joint rate or rates, schedules, or services are in any respect unreasonable or unjustly discriminatory, or any service in connection therewith, is in any respect unreasonable, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained, or any billing for service inaccurate or erroneous the Commission may, in its discretion, proceed, with or without notice, to make such investigation as it may deem necessary or convenient. But no order affecting said rates, tolls, charges, schedules, regulations, or act complained of shall be entered by the Commission without a formal hearing.

30 V.I.C §20(a)(2007).

² The Transportation Services of St. John, Inc. was established on March 18, 1968 to operate motor vessels between the islands of St. Thomas and St. John of the United States Virgin Islands, and Puerto Rico. In addition, the Company provides bus transportation and land tours on the islands of St. John. In 1994, the Company was granted by the Government of the U.S. Virgin Islands a twenty (20) year extension on the franchise agreement to May 31, 2016.

On even date, The Commission, upon deliberation and review found the financial documentation submitted by Varlack Ventures, Inc. and Transportation Service of St. John, Inc. to be sporadic and inadequate.

During the Commission's meeting on or about October 16, 2007, at its office located at No. 1004 Estate Ross, Barbel Plaza in St. Thomas, Virgin Islands, The Commission appointed Natalie Nelson Tang How, Esq. as the designated Hearing Examiner to address any and all issues pertaining to PSC Docket No 573 and to submit any proposals that warrant further consideration by the Commission. The designated Hearing Examiner has a date certain in which to conduct proceedings on Docket No. 573 and to report findings and recommendation to the Commission in order to conduct the rate investigation. The Commission, on even date, appointed Richard Moore, Ph.D. as Technical Consultant to facilitate the rate investigation of the joint franchisees. By Order entered December 11, 2007 the Commission initiated a formal rate investigation of the joint franchisees to determine whether the rates and services offered by the joint franchisees to the public are reasonable, just and non discriminatory.

SCOPE OF THE PROCEEDING

The basis for the rate investigation request has been disseminated to the Technical Consultant for review and feedback. In an effort to expedite a prompt resolution of the issues presented in Docket 573 and to allow the interested parties a fair opportunity to express their views on the matter, the Hearing Examiner has

established a schedule that will conclude with a final report and recommendation to the Commission for its consideration. As designated by the Commission, the Hearing Examiner, sets the guidelines and procedure to conduct the rate investigation of the joint franchisees and any and all requests made by interested parties in their presentations. In fairness to all parties, the Hearing Examiner has set forth a schedule that would allow adequate opportunity for all interested parties to compile and proffer evidence and oral arguments on the issues before the Commission. The schedule sets forth the events and dates as proposed by the designated Hearing Examiner to comply with the applicable rules and regulations set forth in 30 V.I.R.R. §§ 11-31 and 11-42, respectively. Accordingly, there exists no plausible reason for the waiving of these rules.

PROCEDURAL SCHEDULE

Pursuant to the criteria set forth in 30 V.I.C. § 2, the Commission will examine the proposed rates and fees of the joint franchisees to determine whether same are reasonable, fair, just and administered pursuant to the mandates of 30 V.I.C. § 2. The Hearing Examiner has resolved to ensure that the issues to be addressed are fully and thoroughly examined in a fair and non discriminatory manner. The Hearing Examiner has set forth a schedule that will culminate in the Final Report and Recommendation of the Hearing Examiner. It is anticipated that this course of proceeding will allow for a complete record of evidence that would

be comprehensive and reflective of an accurate presentation of the issues to be addressed.

In initial filings, interested Parties are directed to limit direct testimony to the issues and proposals set forth in Docket No 573. There is, however, no requirement to categorize and/or identify testimony by issues addressed in this proceeding, or to produce separate filings per issue. The Hearing Examiner will consider the Docket in its entirety, including any and all attached exhibits or other evidence in support thereof. The Parties shall identify any and all portions of its submissions that should be construed as evidence and identify any witnesses and/or supporting testimony.

Previously submitted testimony must be resubmitted, along with any revisions or other changes therein, to the Commission and served on all Parties, if the Parties intend to rely upon such testimony. In the event there are no proposed changes to any such testimony, it should be noted accordingly in the transmittal to the Parties to be served. In the event there is any rebuttal testimony, same should be limited to addressing the claims and/or issues raised by the other Party in accordance with the criteria set forth herein.

In accordance with the schedule of proceedings to be followed herein, the Hearing Examiner issues the following schedule:

Staff Interrogatories by:	July 5, 2008	
Response to Staff Interrogatories by	July 31, 2008	- 5:00 p.m.

Consultant's Response by		September 22, 2008 - 5:00 p.m.
Pre-File Testimony by		October 31, 2008 - 5:00 p.m.
Telephonic Procedural Conference		November 5, 2008 - 2:00 p.m.
Hearing Dates	STJ	November 17, 2008 - 6:30 p.m.
	STT	November 18, 2008 - 6:30 p.m.
Closing Briefs Due		December 19, 2008
Hearing Examiner's Report Recommendations to PSC		January 23, 2009

Respective Parties are required to file one (1) copy of its submissions directly with the Commission's office located at Sunny Isles Professional Bldg. Suite 8, P.O. Box 7360 S.I. C'sted, V.I. 00823-7360 or No. 1004 Est. Ross, Barbel Plaza, St. Thomas VI 00802 along with copies to the Hearing Examiner by the due date, via email natlaw@vipowernet.net or 27-28 King Cross Street, C'sted, V.I. 00820; to the PSC at msmoore@psc.gov.vi; to the technical consultant, Richard Moore, Ph.D. at rick@redmud.vi; Any other interested parties submitting comments shall send same to the Hearing Examiner (natlaw@vipowernet.net), Technical Consultant rick@redmud.vi and Transportation Services of St. John, Inc. and Varlack Venture, Inc. cferron@attglobal.net by email.

DONE AND SO ORDERED this 17th day of June, 2008.


 Natalie Nelson Tang How, Esq.
 Hearing Examiner

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2008, I electronically and/or manually served the Commission staff's "Notice of Scope and Schedule" in PSC Docket No. 573 on the rate investigation of Transportation Services of John, Inc., and Varlack Ventures, Inc., to:

Claudette V. Ferron, Esq.
Counsel for the Franchise Ferryboat Operators
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General Counsel
Virgin Islands Public Services Commission
Sunny Isle Professional Bldg., Suite No. 8
Christiansted, St. Croix, VI 00823
email: tbail002@aol.com

I further certify that a copy of the information and Certification has been entered into record in this docket.


Michael S. Moore
Legal Assistant

APPENDIX E

Varlack Ventures and Transportation Services – Answer to Interrogatories on Grants and Subsidies

Transportation Services of St. John, Inc.

Question No. 7

Describe the franchise activities to secure federal /local funds to support the franchise, by agency, form and amount. Sheare the results of any such efforts and the current status of any such activities.

History

Transportation Services has been serving the public for over forty (40) years. It started in the early years where there was no transportation between St. Thomas and St. John other than the St. John Administrator who, at that time, had a government vessel. This was the only form of transportation between the islands. If a St. Johnian wanted to get to St. Thomas, they had to wait until the Administrator was going to St. Thomas and catch a ride. Later, Mr. Loredon Boynes, Sr. purchased a vessel and started moving people between the islands.

In 1987, Act No. 5296 authorized the VI Department of Public works to include inter-island water ferry services between St. Thomas and St. John in the Comprehensive Mass Transit Plan developed by the Office of Transportation. At that time, the Department of Public Works was developing a comprehensive mass transit system plan for the Virgin Islands. To ensure that the U.S. Department of Transportation recognized that water ferry service is a part of the Virgin Islands Mass Transit System, a copy of Act 5296 was sent to the Secretary of the US Department of Transportation.

The Comprehensive Transit Plan for the Virgin Islands Technical Report (Final Report, September 1987-July 1988) contains a description of the elements and recommendations of a transportation study of the islands of St. Thomas, St. Croix, and St. John in the U.S. Virgin Islands. Among other things, it was recommended that a new governmental instrumentality be created to oversee mass transportation (including ferries).

Act 5168 (amended by acts 5999 and 6344) grants an exclusive franchise to Transportation Services of St. John and Varlack Ventures for a period of thirty years. Later they were made a part of the mass transit system of the Virgin Islands which made them eligible for local and federal funding. To date, the company received one half million of local but no Federal Funds. They are the only mass transit companies in the United States that have not received such subsidies from their local government.

Status of Funding Issues

Federal Assistance

Transportation Services of St. John, Inc.

Based on the forgoing, Transportation Services of St. John, Inc. retained the services of DAL Management Consulting in March of 2005 to research funding eligibility and to subsequently apply for funding. In their research, it was discovered that the Virgin Islands was never before included in the Federal Highway Administration's (FHWA) authorization for funding of ferry services. We were advised to pursue a formal request for inclusion in the Ferry Boat Discretionary Program. Accordingly, we sent letters to the Governor, the Delegate to Congress, and the President of the Legislature to pursue these funds.

As a result of this effort, a technical amendment was placed in the Reauthorization Bill through the work of the Delegate to Congress and the Government of the Virgin Islands lobbyist in Washington. This technical amendment allowed FHWA Funds to be used to purchase ferry vessels and facilities which are part of the VI Mass Transit System. This authorization and funding became available to the Virgin Islands Government in October, 2005.

Transportation Services made a formal request to the Department of Public Works for new vessels, the Commissioner has approved our request for the vessels, and he has also secured approval from Federal Highway for the purchase of vessels for ferry service between St. Thomas and St. John. Varlack Ventures and Transportation Services of St. John are the only ferry service with the exclusive franchise to provide ferry transportation as part of the VI Mass Transit System. We have worked together with the Department of Public Works to provide all requested information to facilitate the acquisition of these vessels.

Based on our meetings, correspondences and telephone conversations with the Commissioner of Public Works and the Governor, we were assured that the Government will purchase at least two vessels for Transportation Services. Based on Commissioner Phillips' letter of September 24, 2005, it was understood that the government will purchase the vessels and lease them back to Transportation Services of St. John, Inc. for one dollar a year. Additionally, TSI will be responsible for operations and regular maintenance while the Department of Public Works / VITRAN will provide for major repairs.

Local Government Assistance-Subsidy

In September, 2006 we, Transportation Services of St. John, Inc. made a request for subsidy funding to the Governor and the Department of Public Works. The Commission, in support of the request, forwarded a letter of request to the Budget Director to request an appropriation from the VI Legislature. This amount of subsidy was received in April, 2007.

The subsidy in the amount of \$530,000.00 was appropriated for FY 2008 to be divided between the two operators. Allotment is expected in the amount of \$265,000.00, but has not yet been received.

Transportation Services of St. John, Inc.

By law, from 1986 when the ferry companies were made a part of the VI Mass Transit System, the companies became eligible for government subsidies. Please note that the 2005 Transportation Authorization includes funding for the purchase of ferry boats that are part of the VI Mass Transit System, and for construction of ferry facilities.

Federal Funding

As Varlack Ventures, Inc., a franchisee, was included in the mass transit system of the Virgin Islands, it became eligible to receive local and federal funding. Research revealed that the Virgin Islands were never included in Federal Highway Administration funding of ferryboat. For this reason, there were correspondences to the Governor of the Virgin Islands, the Delegate to Congress and the President of the VI Legislature to pursue funds. As a result, funding became available in October of 2005. Since that time, Varlack Ventures, Inc. has made formal requests for new vessels and local subsidy. All was approved and support by the Commissioner of Public Works! With continued efforts the VI Legislature appropriated the subsidy.

Today, the company has received its first subsidy in the amount of \$500,000.00 back in March of 2007. It is in the process of executing an agreement with the Dept. of Public Works to receive a second subsidy in the amount of \$265,000.00. The subsidies received were expended for the sole purpose of maintaining the present fleet use for the execution of the franchise services. Likewise, upon the receipt of the second subsidy, it will be utilized for the upkeep of the vessels. But to present, there has not been a procurement of new vessels with the present administration. However, we continue to provide the inter island franchise service.

We have met with the present Administration's Department of public works but only for them to confirm that there were other priorities of the Department; thus not having the funding for new vessels available. However, the administration was going to actively pursue funding for ferryboat specific that was very competitive.

Appendix F

PSC Order 55/2008 – Schedule of Service

GOVERNMENT OF THE VIRGIN ISLANDS
OF THE UNITED STATES

Public Services Commission

IN RE:

Schedule of Service)
Varlack Ventures, Inc. and)
Transportation Services of St. John, Inc.)
_____)

ORDER NO. 55/2008

ORDER

WHEREAS, on June 19, 2008, the Virgin Islands Public Services Commission (hereinafter "PSC" or "the Commission") received an Emergency Motion for Rehearing regarding a Schedule Revision from Varlack Ventures, Inc., and Transportation Services of St. John, Inc. (hereinafter "Varlack Ventures" and "Transportation Services" respectively and collectively "The Ferry Franchisees") requesting a temporary reduction in ferry services; and

WHEREAS, on June 26, 2008 the Commission met in special session on St. Thomas, Virgin Islands in the PSC offices located in Barbel Plaza; and

WHEREAS, after deliberation and review, the Commission voted to implement a temporary reduction in scheduled ferry service to the Ferry Franchisees effective July 6, 2008 to November 1, 2008; and

WHEREAS, the new ferry schedule of service will operate as follows:

Cruz Bay—Charlotte Amalie

Weekdays: 7:15 a.m. Weekends: 11:15 a.m.
 3:45 p.m.

Charlotte Amalie—Cruz Bay

Weekdays: 9:00 a.m. Weekends: 1:00 p.m.
 5:30 p.m.

Red Hook—Cruz Bay

5:30 a.m.
6:30 a.m.
7:30 a.m.
8:00 a.m.

Then every hour on the hour until 12 midnight
(with the deletion of 8:00 p.m. and 10:00 p.m.)

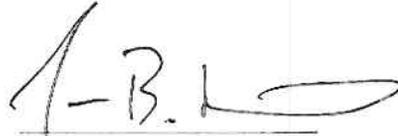
Cruz Bay—Red Hook

6:00 a.m.
Then every hour on the hour until 11:00 p.m.
(with the deletion of 7:00 p.m. and 9:00 p.m.)

NOW THEREFORE, it is hereby **ORDERED** that the above schedule of ferry service is **ADOPTED** effective July 6, 2008 to November 1, 2008.

SO ORDERED.

FOR THE COMMISSION

A handwritten signature in black ink, appearing to read 'J-B. L.' with a large flourish at the end.

Joseph B. Boschulte
Chair

DATED 07-30, 2008

Appendix G

PSC Order No. 54/2008 – Fuel Surcharge and Baggage fee

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

Public Services Commission

IN RE:

Varlack Ventures, Inc and Transportation Services of St. John, Inc.))))	ORDER NO. 54/2008
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ORDER

WHEREAS, on June 19, 2008 the Public Services Commission (hereinafter "PSC" or "the Commission") received an Emergency Motion for Rehearing from Varlack Ventures, Inc. and Transportation Services of St. John, Inc., (hereinafter "Varlack Ventures" and "Transportation Services" respectively and collectively "The Ferry Franchisees") requesting the implementation of a two dollar (\$2.00) Fuel Surcharge; and

WHEREAS, on June 26, 2008, the Commission met in special session on St. Thomas, Virgin Islands in the PSC offices located in Barbel Plaza; and

WHEREAS, the Commission finds that the cost of fuel has risen substantially and some interim relief to the Ferry Franchisees is appropriate to offset the cost of fuel; and

WHEREAS, the Ferry Franchisees are currently engaged in a rate investigation conducted by the Commission; and

WHEREAS, the Commission after deliberation and review voted unanimously to implement a one dollar and ten cents (\$1.10) fuel surcharge to all categories of tickets for the Franchisees effective July 6, 2008 to the completion of the franchisees' rate investigation; and

WHEREAS, the Commission after deliberation and review voted unanimously to implement a fifty cent (\$0.50) baggage fee increase on ferries travelling between downtown Charlotte Amalie, St. Thomas, and Cruz Bay, St. John effective July 6, 2008 to the completion of the ferry franchisees' rate investigation; and

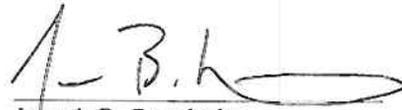
NOW THEREFORE, it is hereby **ORDERED** that a one dollar and ten cents (\$1.10) fuel surcharge be implemented to all categories of ticket prices for Ferry Franchisees effective July 6, 2008 to the completion of the Ferry Franchisees' rate investigation.

IT IS FURTHER ORDERED that a fifty cent (\$0.50) baggage fee be implemented for all travel between downtown Charlotte Amalie, St. Thomas and Cruz Bay, St. John effective July 6, 2008 to the completion of the Franchisees' rate investigation.

SO ORDERED.

FOR THE COMMISSION

Dated 07-30, 2008


Joseph B. Boschulte
Chair

Appendix H

Varlack Ventures and Transportation Services – Employee Listing

TRANSPORTATION SERVICES OF ST. JOHN, INC.
EMPLOYEE LISTING

4A

<u>Title</u>	<u>No. of persons in position</u>	<u>Description</u>	<u>Annual Salary/Wage Rate</u>
<u>EXECUTIVE</u>			
1 President	1	Board Member, Oversees the operations of the Company and its subsidiaries.	\$29,400 TO \$100,000
2 Vice President/Accounts Receivable	1	Board Member; Reports directly to the Controller and is responsible for all accounts receivable functions to include deposits, posting entries and basic schedules.	
3 Secretary	1	Board Member	
4 General Manager	1	Reports directly to the President on the operations of the Company and its subsidiaries.	
5 Controller	1	Reports directly to the General Manager and is responsible for all accounting functions of the Company and its subsidiaries.	
6 Vessel Security Officer	1	Reports directly to the General Manager and is responsible for the Maintenance Department and Seamen to include preparation of all required documentation by the US Coast Guard, ensure the proper training of Seaman, ensure Coast Guard rules and regulations are followed and ensure vessels have been properly maintained.	
<u>CLERICAL</u>			
7 Cashier	5	Report directly to the Head Cashier and are responsible for the sale of all tickets, collecting and securing cash on his or her shift.	\$8-\$10 per hour \$30,000 to \$45,000 per year
8 Head Cashier	1	Reports directly to Accounting Clerk (A/R) and is responsible for overseeing all cashiers to include reconciling cash and ticket sales from each cashier on each shift.	
9 Receptionist	1	Reports directly to the Controller and is responsible for answering the phone and passenger count reports	
10 Accounts Payable	1	Reports directly to the Controller on basic bookkeeping functions to include accounts payable, posting entries and basic schedules.	

TRANSPORTATION SERVICES OF ST. JOHN, INC.
EMPLOYEE LISTING
4A

	<u>BOATMAN/SEAMAN</u>			\$7-\$18 per hour
11	Captains	6	Report directly to the Vessel Security Officer and is responsible for securing his or her vessel during operation. He or she is responsible for his or her crew on the dock and during sail.	
12	1st Mates	2	Reports directly to the Captain/Master and is responsible for overseeing the crewmen on his or her shift. In addition to securing the boat during docking and sail and maintaining order on the boat during sail.	
13	Crew	7	Reports directly to the 1st Mate and is responsible for securing the boat during docking and maintaining order on the boat during sail.	
	<u>MAINTENANCE</u>			\$18 per hour \$31,200 to \$41,600 Salary
14	Maintenance Manager	1	Reports directly to the Vessel Security Officer and General Manager and is responsible for the maintenance of the vessels. He or she is responsible for his or her staff.	
15	Maintenance Staff	2	Reports directly to the Maintenance Manager and is responsible for the maintenance of the vessels.	
	TOTAL	32		

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FAX 340 693 8276 Varlack Venture INC

Varlack Ventures

Personnel Information

Position:	Description:	Number of person in position	Wage Rang	Hourly Salary
President	Chief Executive of coporation, general manager of all busine. of coporation, ensures all order and resolution of board is carried out, General duties to supervise.	1	\$3,000.00 Biweekly	Salary
Vice President	Execute all duties assigned by the board and or President, as CEO and general management in absense of President.	1	\$3,000.00 Biweekly	Salary
Captain	Safe and timely management operation of passengers ,vessr per USCG requirements, 100 ton license	8	\$13.00-\$24.00	Hourly
Senior Crew	Manning of vessel, authorized to operate vessel under super Captain, carries out order of Captain, responsible for loading and off loading of passenger and personal effects, cleaning and securing vessel, ticket collection. security screening, six pack license, 100 ton license	5	\$11.00-\$12.80	Hourly
Crew	Manning vessel,carry out order of Captain, responsible of loa loading of passengers and personal effects, cleaning and securing vessel, ticket collection	10	\$6.15-\$10.00	Hourly
Cashier	Responsible for all ticket sales and customer services,	6	\$8.00-\$11.50	Hourly
Payroll Clerk	Responsible for all payroll functions and personnel matters Cross Trained-Cashier, receivable clerk, customer Services	1	\$20.00	Hourly
Account Receivab Clerk	Responsible for all invoicing, manages all receiving accounts contracts, charters, daily activities, supervision of cashier Cross trained-cashier, payroll clerk, customer services	1	\$22.00	Hourly
Book Keeper	Responsible for computer data entry, Reconciliation, Compliances, Account Payables, Cross trained-Cashier Customer Services, Account Management		\$16.00	Hourly
Maintenance	Responsible for mechanical , structural management of vessel, facilitate all inspections of safety and Hull and licensing, Captain Licensed 100 ton	4	\$17.00-\$22.50	1 Salary 3 Hourly