



STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0016

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GOVERNOR

David Bernhardt  
COMMISSIONER

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May 17, 2018

Dear Ms. Costigan:

The Commissioner has asked me to respond to your May 11, 2018 letter regarding Tariff 8 and the rates for the Maine State Ferry Service. For the reasons set forth below, your request for a stay is denied, and the new rates will become effective Monday, May 21, 2018.

Suffice it to say that I disagree with your assessment of your chances of success on the merits of any appeal. Leaving aside those arguments about the merits of any appeal, the request for a stay is denied primarily because there has not been a showing of irreparable harm where rates for services are the issue. This is a classic case for money damages rather than injunctive relief: if you are successful on appeal anyone who has overpaid for a ticket could be refunded any difference in fare. It seems highly unlikely that anyone on Islesboro is going to undergo irreparable injury for paying a few dollars more per ferry ticket while this case is pending for a matter of months.

In addition, you give short shrift to the public interest in getting the rates finalized and implemented promptly. Any stay or change in the rates at this point affects every other type of rate, the other islands, the citizens of Maine, and other users of the overall ferry system.

Finally, there seems to be some confusion about further discussions about rates. The rates were set by the Commissioner's decision after a fair and thorough public process. That decision is final agency action. It would be completely inappropriate to now engage in closed door meetings with interested parties, while representatives from the other islands are excluded, in order to come up with a new rate that Islesboro deems a "fair and equitable solution".

For all these reasons, your request for a stay pending appeal is denied.

Respectfully,

Jim Billings  
Chief Counsel, Maine Department of Transportation



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