

**Outline of Issues**  
**regarding**  
**Potential Freight Service between New Bedford and Martha’s Vineyard**

**I. Review of Prior Pilot Projects and Studies.**

A. 2000-2001 Pilot Freight Service between New Bedford and Martha’s Vineyard.

In 2000, the SSA implemented a one-year pilot program pursuant to which Hvide Marine Incorporated (Hvide) provided freight service between New Bedford and Martha’s Vineyard two times a day, five days a week (except legal holidays), from May 1, 2000 through October 31, 2000. The SSA subsequently exercised its option to have Hvide provide the freight service during 2001, beginning earlier in the year, on April 2, 2001, and continuing through November 30, 2001. In 2000, revenues from the freight service covered only around 15% of its cost, and the SSA lost almost \$680 per truck carried on the route; in 2001, revenues covered only around 22% of its cost, and the SSA lost around \$410 per truck carried on the route. Critics of the pilot program asserted that it was “designed to fail.” Therefore, the SSA should review that pilot program, see what contributed to its financial losses, and then use that information to help it decide the various policy questions posed in this Outline of Issues, *infra*.

B. 2012 Staff Analysis of the Financial Viability of Freight Service between New Bedford and Martha’s Vineyard.

In 2012, the staff analyzed the financial viability of the SSA providing freight service between New Bedford and Martha’s Vineyard and ultimately concluded that it would not be financially viable for the SSA to do so, not even during the peak summer months. The analysis was based on a number of different variables, including the number of days the service would operate per week, the length of the vessel’s operating day and the frequency of service. The total estimated incremental operating cost of the alternative New Bedford schedules from late June through early September ranged from \$412,000 to \$958,000 per year (not including any potential fees associated with the use of the New Bedford State Pier or any share of fixed costs such as marine insurance, depreciation or certain vessel maintenance expenses). The SSA should update and review that analysis and then similarly use that information to help it decide the various policy questions posed in this Outline of Issues, *infra*.

**II. Investigation of Existing Resources.**

- A. R. M. Packer Co., Inc. / Tisbury Towing & Transportation Co., Inc. (“Packer”) has existing facilities in both New Bedford and Vineyard Haven, as well as barges and tugs, that are capable of transporting containerized freight and vehicles between New Bedford and Martha’s Vineyard on a “roll-on/roll-off” basis.
1. Determine whether Packer is willing to provide a freight transportation service between New Bedford and Martha’s Vineyard and, if so, on what basis.
  2. All of the issues described in this Outline of Issues similarly would need to be addressed if Packer were to provide the service.
  3. The SSA may negotiate directly with Packer in an attempt to reach an agreement pursuant to which Packer would provide freight service between New Bedford and Martha’s Vineyard.
- B. The City of New Bedford is party to an operating agreement with the Commonwealth of Massachusetts for the New Bedford State Pier, which has a transfer bridge that allows vehicles to be loaded onto and off of vessels on a “roll-on/roll-off” basis. Through discussions with the New Bedford Harbor Development Commission, the SSA should determine:
1. the availability of the New Bedford State Pier in connection with a freight service between New Bedford and Martha’s Vineyard, including the State Pier’s physical condition, capabilities, and limitations;
  2. what role the City of New Bedford would like, or be willing, to play in the operation of a freight service between New Bedford and Martha’s Vineyard; and
  3. what funding may be available to the SSA and/or the City of New Bedford for a freight service between New Bedford and Martha’s Vineyard.

**III. Issues Regardless of Who Provides the Service (SSA or a Private Operator).**

A. Facilities in New Bedford.

1. The SSA should determine what facilities in New Bedford are suitable for providing freight service between New Bedford and Martha’s Vineyard. At the moment, the staff is aware of only the following facilities that might be suitable:
  - (a) New Bedford State Pier.
  - (b) Packer’s Facility in the North Port Area.
2. The SSA should then evaluate all of the suitable facilities to determine what advantages there would be if the service were provided from one of them rather than another.

B. Facilities on Martha’s Vineyard.

1. The SSA should determine what facilities on Martha’s Vineyard are suitable for providing freight service between New Bedford and Martha’s Vineyard. At the moment, the staff is aware of only the following facilities that might be suitable:
  - (a) SSA’s Vineyard Haven terminal.
  - (b) Packer’s Facility on Beach Road in Vineyard Haven.
  - (c) SSA’s Oak Bluffs terminal (extended summer season only).
2. The SSA should then evaluate all of the suitable facilities to determine what advantages there would be if the service were provided from one of them rather than another.

C. Vessel(s) Used to Provide the Freight Service.

1. The SSA should determine what types of vessels (*e.g.*, traditional freight boat, high- or mid-speed catamaran, tug and barge) are suitable for providing freight service between New Bedford and Martha’s Vineyard.
2. The SSA should then evaluate all of the suitable vessels to determine what advantages there would be if the service were provided with one of them rather than another.

D. Whether the Freight Service Should be Financially Self-Sustaining.

The SSA needs to decide as a policy matter whether the freight service between New Bedford and Martha’s Vineyard should be financially self-sustaining and, if the SSA decides that it need not be self-sustaining, to what extent it should be subsidized.

1. The staff should estimate what expenses would be attributable to the service, depending upon whether it was provided by a private operator or by the SSA. If the cost estimate is based upon the SSA providing the service or allowing any of its facilities to be used in connection with the service, the cost estimate should separately categorize:
  - (a) the SSA’s cash incremental expenses attributable to the service; and
  - (b) appropriate allocations of insurance, maintenance, depreciation and SSA administrative overhead expenses (depending upon what vessels and facilities are being use to provide the service and during what periods of the year they are being so used).
2. The staff should project what rates would need to be charged in order for revenues from the freight service to pay for its expenses (preparing separate projections for sufficient revenues to cover only the SSA’s cash incremental expenses attributable to the service, and then also appropriate allocations of insurance maintenance, depreciation and SSA administrative overhead expenses). The projected revenues also should be based on a range of use of the service, using different percentages of vessel occupancy.
3. The SSA should decide as a policy matter whether to include in this analysis any potential lost revenues from customers using the freight service who instead would travel on the SSA’s vessels between Woods Hole and Martha’s Vineyard if the freight service were not provided. If the SSA were to decide to include those potential lost revenues in this analysis, the SSA will also need to “net” from those lost revenues any expenses it can save due to those customers not traveling on its vessels between Woods Hole and Martha’s Vineyard.
4. If the SSA determines that the freight service will not be financially self-sustaining, the SSA should investigate what sources of funding might be available to cover any projected deficiency. Potential sources include not only federal and state funds, but also local funds (e.g., the Town of Falmouth’s passenger embarkation fees).

E. The Time Period for Providing the Freight Service.

The SSA should determine whether the freight service should be provided on a year-round basis or on a seasonal basis.

1. If the SSA were to provide the freight service, this decision will be based, at least in part, on the availability of SSA vessels during the year.
2. If a private operator were to provide the freight service, this decision may be based, at least in part, on the availability of the private operator's vessel(s) during the year and the private operator's willingness to operate the service on either an year-round basis or only a seasonal basis.

F. The Sailing Route for the Freight Service.

The SSA should confirm whether or not the vessel will be able to sail safely and reliably through Woods Hole Passage instead of having to go the longer way through Quick's Hole, which would add around one-half hour to each trip.

G. Other Services Necessary for the Freight Service's Success.

The SSA should investigate what other services may be necessary to help ensure the success of the freight service between New Bedford and Martha's Vineyard. For example, the SSA provides drive-on/drive-off services for vehicles it carries between Hyannis and Nantucket, and such services may be necessary on this route as well so that customers will use the freight service.

H. The Vehicles and Freight Allowed to be Carried by the Freight Service.

The SSA needs to decide what the freight service is allowed to carry.

1. The SSA needs to decide what types of vehicles will be allowed to be transported by the freight service and, correspondingly, whether passengers will be able to travel with the vehicles. For example, when the vessel is transporting any vehicles carrying hazardous cargo, it is not allowed to transport any passengers (except for one driver and helper for each vehicle) or any automobiles (unless they are carried without their drivers and passengers).
2. The SSA also needs to decide whether the freight service is allowed to include the carriage of "dolly" freight. If so, the SSA needs to ensure that appropriate facilities are provided for that "dolly" freight.

I. Possibly Requiring Freight Shippers to Use the Freight Service.

The SSA needs to decide whether it will require any freight shippers to use the freight service. For example:

1. The SSA could stop designating trips of its own vessels between Woods Hole and Martha’s Vineyard as “hazardous cargo” trips, thereby requiring vehicles carrying hazardous cargo to instead use the freight service between New Bedford and Martha’s Vineyard. Before considering this, the SSA should:
  - (a) determine how many “hazardous cargo” trucks travel to and from Martha’s Vineyard to see whether they represent a sufficient customer base, in and of themselves, to cover the cost of their own trips; and
  - (b) determine whether trucks carrying “hazardous cargo” are required to have their drivers (and helpers) with them at all times, which would impose greater costs and operational problems on these customers than would be imposed on other customers who can utilize drive-on/drive-off services.
2. The SSA could reduce the amount of freight deck space it makes available to trucks on its vessels between Woods Hole and Martha’s Vineyard, thereby requiring freight shippers who are unable to obtain truck reservations on those vessels to instead use the freight service between New Bedford and Martha’s Vineyard.

J. Whether the Freight Service is Incremental Service or Substitute Service.

The SSA needs to consider whether any freight service between New Bedford and Martha’s Vineyard should be in addition to the service provided between Woods Hole and Martha’s Vineyard or should be a substitute for some of that service.

1. If the freight service is additional service, the SSA needs to consider what impact it will have on terminal operations and traffic congestion in the area around the terminal, as the freight service will probably generate more vehicular traffic at the terminal and in the surrounding area during already busy mornings.
2. The SSA also needs to analyze to what extent the additional morning traffic will be incremental traffic to and from Martha’s Vineyard or will include vehicles that otherwise would have traveled at other times of the day.

3. If the SSA’s Oak Bluffs terminal is used in connection with the freight service, the SSA needs to ensure that all of the freight trips can be accommodated at the Vineyard Haven terminal when trips need to be diverted to Vineyard Haven from Oak Bluffs due to weather and sea conditions.

K. Cost/Benefit Analysis of the Freight Service.

The SSA should prepare a cost/benefit analysis of the freight service, including:

1. A comparison of the traffic counts on Woods Hole Road (both current counts and projected counts after the initiation of the freight service) compared to traffic counts on other roads in Falmouth.
2. The projected net fuel savings (or increased fuel consumption) resulting from the freight service (the amount of fuel saved by vehicles traveling to New Bedford instead of Woods Hole, compared with the amount of fuel used by the vessel providing the freight service).
3. The cost of other measures that might be taken to mitigate the impact of vehicular traffic on Woods Hole Road.
4. The potential impact on customers currently traveling between Woods Hole and Martha’s Vineyard who in the future might travel (or be required to travel) between New Bedford and Martha’s Vineyard.

IV. Issues to be Addressed if the SSA were to Provide the Freight Service.

If the SSA were to consider providing freight service between New Bedford and Martha’s Vineyard itself, it would need to address the following issues:

A. Whether to Acquire an Additional Vessel or Use the SSA’s Spare Vessel.

The SSA would need to decide whether to acquire an additional vessel to provide the freight service or to use the spare vessel it has during the summer (and at other times of the year, if the SSA were to provide the freight service beyond the summer season).

1. Factors to be considered in deciding whether to acquire an additional vessel include:
  - (a) Whether the SSA can incorporate the cost of acquiring an additional vessel into its long-range capital planning, including projections of the acquisition’s impact on the SSA’s cost of service

(and the necessary fare increases to cover the increase in the cost of service) and on the SSA's bonding capacity;

- (b) Whether the SSA can obtain outside funding for the acquisition of an additional vessel, possibly with state funding through a state transportation bond bill;
  - (c) Whether, by acquiring an additional vessel, the SSA may be able to obtain and use a vessel that is more suitable for providing the service than one of its existing freight boats (e.g., a high- to mid-speed catamaran);
  - (d) Where the additional vessel can be berthed during the off-season;
  - (e) Whether the additional vessel can be used to provide other service or can be otherwise utilized during the off-season;
  - (f) Whether the SSA can charter an additional vessel instead of buying or constructing one.
2. If the SSA were to use its spare vessel during the summer (the M/V Katama) to provide the freight service:
- (a) It may not be able to use the spare vessel to provide additional trips on the Woods Hole-Martha's Vineyard route or the Hyannis-Nantucket route when needed; and
  - (b) in the event another vessel has to be taken out of service, the SSA might have to suspend the freight service to substitute for that other vessel. During those times, the SSA would try to find space for its New Bedford-Martha's Vineyard customers on its vessels traveling between Woods Hole and Martha's Vineyard.
3. Theoretically, the SSA could retain a spare vessel during the summer by instead using the freight boat that is now scheduled to be in repair during the summer (the M/V Sankaty). However, by using the M/V Sankaty to provide the service during the summer instead of having the vessel undergo its annual overhaul and repair period during that time:
- (a) the limitation of the repair schedule for all of the freight boats to the off-season would have a material adverse impact on the SSA's ability to maintain its vessels; and
  - (b) the SSA would no longer have a spare vessel available during the non-summer months of the year.

4. The SSA instead could redirect one of its current freight boats to New Bedford instead of using it between Woods Hole and Martha’s Vineyard. However:
  - (a) if the freight boat were operated to and from New Bedford even during only a portion of its regular operating day, the reduced level of service for Martha’s Vineyard would not be adequate for the island’s transportation needs; and
  - (b) while the SSA could instead operate the freight boat overnight (24 hours per day) to provide service between New Bedford and Martha’s Vineyard without losing as much service capacity between Woods Hole and Martha’s Vineyard, the operation of a terminal on Martha’s Vineyard during the middle of the night would result in additional expense and disruption to the surrounding community, and there might not be a slip available for the vessel due to the need to berth other vessels there overnight.

B. Determining the Vessel’s Operating Schedule.

The staff would need to develop alternative proposed operating schedules for the vessel. Differences in the proposed schedules would include:

1. The number of days per week the service is provided, and the number of hours per day the vessel is operated. These differences are dependent, in part, on the SSA’s contractually allowable vessel watch arrangements (one single crew vs. two single crews vs. a double crew vs. a triple crew vs. a quad crew).
2. Having the vessel make one or more trips during the operating day between Martha’s Vineyard and Woods Hole instead of between Martha’s Vineyard and New Bedford.

C. The So-Called “Pacheco” Law.

If the SSA were to provide the freight service itself with its regular employees and later were to decide that it should instead license a private operator to provide the service, it could not do so unless it complied with Mass. G.L. c. 7, §§ 52-55. Those statutes would require the SSA to, among other things:

1. Solicit competitive sealed bids for the service.
2. Restrict the length of the license agreement to no more than five years.

3. Specify the minimum wage rates to be paid by the private operator for each position whose duties are substantially similar to duties performed by the SSA's regular employees.
4. Require the private operator to offer available employee positions to qualified regular SSA employees whose employment is terminated because of the agreement and who satisfy the private operator's hiring criteria.
5. Prepare a comprehensive written estimate of the costs of providing the freight service with the SSA's regular employees in the most cost-efficient manner. For the purpose of this estimate, any union representing any of the SSA's employees may, at any time before the final day for the SSA to receive sealed bids for the freight service, propose amendments to any relevant collective bargaining agreement to which it is a party. Any such amendments shall take effect only if necessary to reduce the cost estimate pursuant to this paragraph below the cost of the proposed license agreement.
6. Prepare a comprehensive written analysis of the contract cost of the proposed license agreement based upon the designated bid, specifically including the costs of transition from public to private operation, of additional unemployment and retirement benefits, if any, and of monitoring and otherwise administering contract performance.
7. Together with the Commissioner of Administration of the Executive Office of Administration and Finance, certify in writing to the State Auditor that, among other things, the SSA has complied with all provisions of this law and of all other applicable laws and the contract cost of the proposed license agreement pursuant to paragraph (6) will be less than the estimated cost pursuant to paragraph (5), taking into account all comparable types of costs.
8. Not receive a written objection to the license agreement from the State Auditor, based upon the State Auditor's finding that the SSA has failed to comply with one or more requirements of the statutes based upon the State Auditor's independent review of all of the relevant facts.

V. **Issues to be Addressed if a Private Operator were to Provide the Freight Service.**

If the SSA were to consider licensing a private operator to provide freight service between New Bedford and Martha’s Vineyard itself, it would need to address the following issues:

A. **Whether to Issue a Request for Proposals to Provide the Freight Service.**

The SSA is not legally required to issue a request for proposals (“RFP”) from private operators to provide the freight service. Instead, it may negotiate directly with one or more potential operators of the service in an attempt to reach an agreement with one of them. Considerations that would argue in favor of, or against, issuing an RFP include:

1. An RFP is usually advertised through notices in newspapers and trade publications, thereby increasing the probability of notifying potentially interested operators of the opportunity to provide the service. But the SSA may still place such notices in newspapers and trade publications without issuing an RFP.
2. An RFP publicly establishes the criteria upon which proposals will be evaluated, increasing the transparency and perceived fairness of the selection process. But the SSA may achieve similar transparency by publicly reporting the results of its discussions with all potential operators of the service.
3. Direct negotiations with potential operators of the service allow the SSA more flexibility to tailor the service to the particular needs and equipment of each potential operator, thereby increasing the possibility of reaching an agreement with an operator to provide the service.

B. **What Involvement the SSA Should Have in the Freight Service.**

If a private operator were to provide the freight service, the SSA needs to decide whether it should be involved in the freight service and, if so, how much involvement it should have. For example, the SSA would need to decide:

1. Whether to provide reservation and ticketing services for the freight service; and
2. Whether to allow the private operator the use of the SSA’s Vineyard Haven terminal facilities and/or Oak Bluffs terminal facilities to load and unload vehicles from its vessel(s).
3. If the financial success of the service also depends on the private operator’s ability to redirect its vessel(s) to Woods Hole for all or part of

an operating day, whether to allow the private operator the use of the SSA's Woods Hole terminal facilities.

The SSA would also need to decide whether to charge for such services and the use of its facilities and, if so, how much. Further, if a potential operator wants to use the SSA's facilities, the SSA must take into consideration the impact that such additional use of its facilities will have on its own operations (as it may need separate staging areas for vehicles with reservations to Woods Hole and vehicles with reservations to New Bedford, as well as vehicles traveling standby), and will need to have more control over the timing and frequency of trips made by the private operator so that they are not incompatible with the SSA's own schedules. In addition, the private operator will need to comply with MTSA facility regulations, including the screening of vehicles and cargo that are transported through the SSA's facilities.

C. What Requirements the SSA Should Impose on the Freight Service.

The SSA similarly would need to decide what requirements it should impose on the freight service. For example, the SSA would need to decide:

1. Whether to allow the private operator to establish its own fares (which would be potentially problematic if the SSA, in order to promote the freight service, were to reduce the truck capacity on its ferries between Woods Hole and Martha's Vineyard or otherwise were effectively to require shippers carrying certain commodities (such as hazardous cargo) to use the freight service between New Bedford and Martha's Vineyard;
2. Whether to charge the private operator any license fees in connection with the service.

D. How Long the License Agreement Should Be.

There are many factors to consider when deciding how long any license agreement should be. For example, if a private operator plans to acquire or construct a vessel to provide the service, it will need a longer license agreement in order to help ensure an adequate return on its investment.

E. Assumption of the Financial Risk/Reward of the Freight Service.

In 2000 and 2001, the SSA assumed almost the entire financial risk of the pilot freight service between New Bedford and Martha's Vineyard, paying the private operator an established amount of compensation to operate the trips regardless of the amount of revenues derived by the service. The SSA established the fares that were charged for the service and collected all of the ticket revenue.

1. If the SSA were to enter into a similar arrangement with a private operator for a new freight service between New Bedford and Martha’s Vineyard, thereby assuming most (if not all) of the service’s financial risk, it would be more appropriate for the SSA to establish the private operator’s fares and operating schedules, the length of the license agreement, and other material aspects of the freight service (including what types of vehicles can be carried between New Bedford and Martha’s Vineyard).
2. To the extent the private operator assumes more of the financial risk for the service, it would be more appropriate to allow the operator to establish its own fares and operating schedules (to the extent they do not conflict with the SSA’s schedules), the length of the license agreement, and other aspects of the freight service.

F. Evaluation of Different Proposals.

If more than one private operator is interested in providing the freight service, the SSA should consider the following aspects of their different proposed services (as well as their financial condition and experience) when evaluating them:

1. The desirability of a private operator not using the SSA’s facilities.
2. The types of vessel(s) proposed to be used by the private operators.
3. The private operators’ proposed operating schedules, which should have two or more trips a day that will allow the truck drivers traveling to Martha’s Vineyard as well as the truck drivers traveling to the mainland, after their arrival at their respective destination ports, sufficient time to travel to their ultimate destinations and return to those ports to be carried back to their respective ports of origination within a twelve-hour day.
4. The length of the private operators’ proposed operating seasons.

G. Vineyard Haven Harbor DCPC Regulations.

In 2000, the Town of Tisbury adopted the Vineyard Haven Harbor District of Critical Planning Concern (DCPC) Regulations. The SSA is not subject to those regulations, but the staff has not yet researched whether a private operator licensed by the SSA to provide ferry service to and from Vineyard Haven Harbor similarly would not be subject to them. If the regulations were to apply to a licensed private operator, it should be noted that they prohibit “[m]aneuvering a ferry of more than 150 feet in length in an arc of 180 degrees or more within the District.”