

RECEIVED

MAY 30 1996

DOCKETING DIVISION

Public Utilities Commission of Ohio

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application)
for a Special Permission filed)
by Kelleys Island Ferry Boat) 96-540-WT-RSP
Lines, Inc.)

STAFF FINDINGS

NATURE OF PROCEEDINGS:

1) On May 7, 1996, the Transportation Staff received a complaint from Neuman Boat Line, Inc. (Neuman) regarding the rates being charged by Kelleys Island Ferry Boat Lines, Inc. (Kelleys) With the letter was a copy of Kelleys' 1996 schedule which showed basic passenger and automobile fares. Staff found that three of the advertised rates were higher than the tariff on file, PUCO 3, with the Public Utilities Commission (PUCO). PUCO 3 had been filed by Kelleys on March 7, 1996 effective April 7, 1996.

2) Discussions with Kelleys' management uncovered that they were under the impression that a new tariff, PUCO 4, had been filed. Kelley's management immediately produced the tariff dated April 10, 1996 effective May 10, 1996. Kelley's management understood that the tariff on file at the PUCO needed to be corrected but asked if something could be done to speed up the process. Section 4907.27 of the Ohio Revised Code requires 30 days notice for the boat company to change its tariff. Staff suggested that Kelleys file a request for a special permission to file on short notice. Staff also directed Kelleys to reduce its fares to the published rates until the special permission is granted.

3) Kelleys request for short notice special permission was received and filed with Docketing on May 23, 1996.

STANDARD OF REVIEW

Section 4907.27 of the Ohio Revised Code establishes the time frame under which tariff changes are normally made:

"After schedules are filed as provided in sections 4907.25 and 4907.26 of the Revised Code, no change shall be made in any schedule, including a schedule of joint rates, or in any

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician Ann M. Nijm Date Processed May 31, 1996

classification, except upon thirty days' notice to the public utilities commission."

This section also permits the commission to modify these requirements:

"The commission may, for good cause shown, allow changes upon less than the notice specified in this section, or modify the requirements of this section in respect to publishing, posing and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions."

STAFF FINDINGS:

Staff confirms that the publication received from Neuman indicated three rates higher than Kelleys' rates published with the Commission on the date the complaint was received. Within five minutes of staff's call, Kelleys' management faxed the new tariff to the Commission. Staff does not feel it was humanly possible for the tariff to be forth coming in this amount of time if the tariff had not already existed in the Kelleys' office. Staff feels PUCO 4 was simply lost in the mail and Kelleys' management was not aware of this fact.

Kelley's management has been totally cooperative in correcting this matter, including reducing its fares during the time needed to process the special permission. Staff feels Kelleys' actions of charging higher rates were not intentional fraud or in any way meant to deprive shippers of their right to file complaints. Therefore, staff does not feel this situation merits additional punitive action. Staff recognizes that the 30 days' notice required by statutes would be a hardship for the carrier given the shortness of the ferry boat season. Staff, therefore, recommends approval of the special permission to allow Kelleys Island Ferry Boat Lines, Inc. to correct its tariff on one days' notice.

In the future, staff recommends that Kelleys file two copies of a transmittal letter with its tariffs. This will provide the PUCO staff with a mechanism to give Kelleys an acknowledgment of its tariff filing. This practice should eliminate misunderstandings like this.

filed by Fran Netting, Chief, Economic Analysis
Transportation Department
May 30, 1996