

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DIVISION OF PUBLIC UTILITIES AND CARRIERS  
89 JEFFERSON BOULEVARD  
WARWICK, RHODE ISLAND 02888**

IN RE: **DOCKET NO. D-09-10**

FITNESS HEARING IN THE CASE OF PRUDENCE FERRY,  
INC., CHURCH STREET WHARF, BRISTOL, RHODE ISLAND  
02809 – CPCN NO. W-9.

**ORDER**

Whereas: On March 26, 2009, the Rhode Island Division of Public Utilities and Carriers (“Division”) provided written notice to Prudence Ferry, Inc. (“PFI”) that the Division would be conducting a “fitness hearing” to address several alleged violations committed by Company. The notice delineated the following alleged violations:

**“R.I.G.L. 39-1-24 – Certification, collection, and deposit of assessments:**

Specifically, the Division contends that PFI has failed to remit payment of assessments billed in calendar years 2007 and 2008 within 30 days from the date of receipt of the assessment as required by statute.

**R.I.G.L. 39-3-11 – Notice of change in rates – suspension of change – hearings:**

Specifically, the Division contends that PFI has been charging rates in excess of its approved tariff, without providing notice to, and receiving approval from, the Public Utilities Commission as required by statute, including, but not limited to the fares charged for transportation of adults, children and/or vehicles.

**R.I.G.L. 39-12-13(c): Alteration of common carrier rates by the Administrator:**

Specifically, the Division contends that PFI has been imposing a fuel surcharge inconsistent with that established under this statute through Division Report & Order No. 16701.

**Violation of Public Utilities Commission Rules:**

**Rule III (a) of the Rules and Regulations Governing the Filing of Annual Reports by Water Carriers:**

Specifically, the Division contends that PFI has failed to file its annual report in conformance with the above rule for 2003, 2004, 2005, 2006 and 2007.<sup>1</sup>

The March 26, 2009 notice of hearing additionally directed a representative of PFI to appear at an April 22, 2009 hearing at the Division's offices at 89 Jefferson Boulevard in Warwick.

Whereas: At the outset of the April 22, 2009 hearing, counsel for PFI, Cort Chappell, Esq., and counsel for the Division's Advocacy Section, William Lueker, Esq., jointly requested a postponement of the hearing in order to discuss the possibility of a settlement agreement in the matter. The hearing officer granted this request, and the matter was rescheduled to May 20, 2009.

Whereas: Subsequently, on May 12, 2009, the parties submitted an executed settlement agreement to the Division for consideration under Rule 27 of the Division's *Rules of Practice and Procedure*. The proposed settlement offer is attached to this order and incorporated by reference.

Whereas: The Division has examined the proposed settlement agreement and finds the agreement to be reasonable and an appropriate resolution to the regulatory matters in dispute.

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<sup>1</sup> See March 26, 2009 Notice of Hearing.

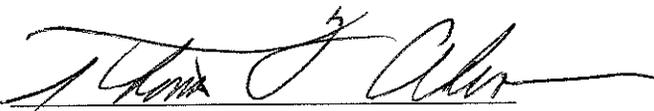
Accordingly, it is

(19651) ORDERED:

1. That the settlement agreement proffered by the parties in this docket, which is attached to this order and incorporated by reference, is hereby approved and adopted as a dispositive resolution to the instant "fitness" matter.
2. That PFI is placed on notice that a failure to adhere to the provisions of the approved settlement agreement shall result in further regulatory action by the Division.

Dated and Effective at Warwick, Rhode Island on May 21, 2009.

  
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John Spirito, Jr., Esq.  
Hearing Officer

APPROVED:   
\_\_\_\_\_  
Thomas F. Ahern, Administrator

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF PUBLIC UTILITIES AND CARRIERS

89 JEFFERSON BOULEVARD

WARWICK, RHODE ISLAND 02888

IN RE: FITNESS HEARING IN THE CASE OF )  
 )  
PRUDENCE FERRY, INC. ) Docket No. D-09-10  
CHURCH STREET WHARF )  
BRISTOL, RI 02809 )  
(CPCN W-9) )

SETTLEMENT AGREEMENT

Prudence Ferry, Inc., holder of Ferry Certificate of Public Convenience and Necessity (CPCN) W-9, and the Advocacy Section of the Division of Public Utilities and Carriers, the parties in this matter, make the following joint proposal for resolving the fitness issues raised by the Advocacy Section with respect to Prudence Ferry, Inc.:

1. Prudence Ferry, Inc., acknowledges its responsibility under Rule III(a) of the Rhode Island Public Utilities Commission's ("Commission") *Rules and Regulations Governing the Filing of Annual Reports by Water Carriers ("Rules")*, effective September 5, 2003, to file annual reports and acknowledges that past reports have not been filed timely. Prudence Ferry, Inc., shall continue to cooperate with the Commission to file reports in compliance with the Commission's *Rules* to the satisfaction of the Commission and recognizes its regulatory obligation to do so.
2. Prudence Ferry, Inc., acknowledges that the amount of adult fares charged by Prudence Ferry, Inc., from January 13, 2009, to April 22, 2009, exceeded the approved tariff for

Prudence Ferry, Inc., by the amount of a self-calculated fuel surcharge applied during that period during which authorization of such a fuel surcharge had been held in abeyance by the Division of Public Utilities and Carriers ("Division"). Prudence Ferry, Inc., recognizes prospectively its obligation to timely apply for such surcharges and to provide the required information for calculating the same. Prudence Ferry, Inc., further recognizes its legal obligation, under R.I.G.L. §§ 39-3-11 and 39-12-13(c), to charge only the tariff rates approved by the Commission and fuel surcharges approved by the Division, and not to round up or down to the extent that may have been done in the past.

3. Prudence Ferry, Inc., has paid the 2006 and 2007 assessments based on estimations calculated by the Division, and has now forwarded to the Commission actual revenue figures that the Division could use to calculate the actual assessments for 2006 and 2007. The actual assessment figures for 2006 and 2007, including interest, calculated by the Division based on Prudence Ferry, Inc., actual revenue figures, results in an additional total of two hundred sixty-seven dollars (\$267.00) due and owing for the 2006 and 2007 assessments, that shall be paid by Prudence Ferry, Inc., within 14 days of the date on which this agreement is submitted to the Division. Prudence Ferry, Inc., acknowledges its legal obligation under R.I.G.L. § 39-1-24 to pay its annual assessments to the Division in a timely fashion and to forward to the Division and Commission the information necessary for calculating that assessment in a timely fashion.
4. The Division and Prudence Ferry, Inc., have agreed to assess civil fines for the above infractions in the total amount of ten thousand dollars (\$10,000.00). Eight thousand dollars (\$8,000.00) of said fines shall be suspended for two years, with the remaining two thousand dollars (\$2,000.00) of fine due and payable as set out in paragraph 5, below. If

there are no additional violations of regulatory infractions, the eight thousand dollars (\$8,000.00) suspended portion of the total fine shall be permanently set aside.

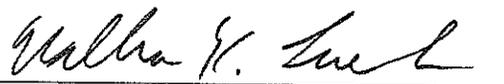
5. As noted above, the additional assessment amount set out in paragraph 3, above, is due and payable within 14 days of the date on which this Settlement Agreement is submitted to the Division. The civil fine in the amount of two thousand dollars (\$2,000.00) shall be paid five hundred dollars (\$500.00) per month until paid in full. The first civil fine payment shall be due on the first day of the first month following the date on which the Division issues the Order approving this Settlement Agreement.

ASSENTED TO:

Mr. Bruce Medley  
President  
Prudence Ferry, Inc. (CPCN W-9)  
By its Attorney

ADVOCACY SECTION OF THE  
DIVISION OF PUBLIC UTILITIES AND  
CARRIERS  
By its Attorney

  
Cort B. Chappell, Esq. (R.I. Bar # )  
Chappell & Chappell  
Attorneys at Law  
171 Chase Road  
Post Office Box 8  
Portsmouth, RI 02871-0008  
Tel. (401) 683-6900  
Fax (401) 683-6925

  
William K. Lueker (R.I. Bar # 6334)  
Senior Legal Counsel  
Division of Public Utilities and Carriers  
89 Jefferson Boulevard  
Warwick, RI 02888  
Tel. (401) 941-4500  
Fax (401) 941-9248

Submitted on this \_\_\_\_ day of May, 2009.