

The

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November 11, 2011

Secretary's Bureau  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

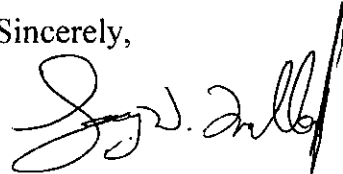
Re: Kleffel's Moving & Delivery Service, No.: A-2010-2202568

Dear Sir/Madam:

Enclosed please find the original and one (1) copy of the Post Hearing Brief in Support of Applicant in the above-mentioned matter. Kindly file the original and return a time-stamped copy in the enclosed postage paid envelope.

If you have any questions, please give me a call.

Sincerely,



Larry W. Miller, Jr., Esquire  
Miller Law Group, PLLC

LWM:tmh  
Enclosure

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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IN THE MATTER OF:  
APPLICATION OF  
BRADLEY A. KLEFFEL,  
T/A KLEFFEL'S MOVING & DELIVERY SERVICE  
NO.: A-2010-2202568

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

POST HEARING BRIEF IN SUPPORT OF APPLICANT

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Comes now, Bradley A. Kleffel, t/a Kleffel's Moving & Delivery Service, Applicant in the above captioned application proceeding, by and through his attorney, Larry W. Miller, Jr., Esquire, does hereby submit the following brief in support of the application filed by Bradley A. Kleffel:

Facts:

Applicant is currently licensed under the PUC as a common carrier of goods in the County of Berks. On or about September 30, 2010, Applicant filed an application with the PUC to expand his rights so as to permit Applicant to transport goods as a common carrier in, around, and out of the counties of Lehigh, Schuylkill, Lebanon, Lancaster, Carbon, and Montgomery as set forth in the application. Approximately ten companies filed objections to this application, but only two of these companies actually offered any substance on to the record in this matter.

On August 23, 2011 and October 4, 2011, the Honorable Angela T. Jones heard testimony on behalf of the PUC in this matter. The applicant supplied testimony that he has provided service in the County of Berks, and proposes to do the same in the applied for territory, under the following terms:

1. Applicant does not have any minimum charges, such as a two hour minimum.
2. Applicant honors estimates given by his company to prospective customers by waiving any charges over and above the estimated charges given to the customer before work began. In the event the move proves to require less time than previously estimated, Applicant charges a lesser amount consistent with the agreement for hourly charges with the customer.
3. Applicant does not charge any additional fees for the convenience of moving on a Saturday, Sunday, holiday, or on evening moves.
4. Applicant has had a strong record of customer satisfaction, having no complaints made to the PUC or Better Business Bureau, nor any claims made to the insurance company insuring the business activities of Applicant.

None of these facts were disputed by any of the protestants. Applicant submitted testimony from two individuals, Bradley Kleffel himself in addition to Nicki Kleffel, Applicant's wife who works with Applicant in his business. Nicki Kleffel testified that Applicant catered to individuals who required smaller moves, such as elderly citizens needing assistance picking up an appliance, although Applicant certainly accepts business from individuals or companies seeking services to assist them with much bigger moves in terms of the items being moved and the time required to complete the move. Ms. Kleffel further testified that Applicant expects to provide similar services in the applied for area, including providing services to individuals requiring smaller services. While it is impossible to confirm the future needs of residents, Ms. Kleffel testified that a similar need for smaller moves will be present in the new territory as with Applicant's current territory in Berks County.

While common sense mandates that every area will contain residents who require smaller moves, this position was confirmed by both individuals who testified on behalf of the protestants,

Robert Clemmer of Clemmer Moving and Storage, Inc., and Steven Posivak of Glose Moving and Storage, Inc. Both of these individuals confirmed they provide services actively to individuals who require services which would ultimately be less than two hours within the territory applied for by Applicant. Therefore it is beyond dispute that this need exists in the public.

Ms. Kleffel further testified that no one within the territory applied for by the Applicant provides services without requiring a two hour minimum fee. In support of Ms. Kleffel's testimony, Ms. Kleffel provided the fee policies of all of the protestants in this case, which she obtained from the Tristate Household Goods Tariff Conference, Inc. This conference includes among its membership each of the protestants, and consistent with the conference's policies each of the members submitted their fee policies to be of record with the conference.

Only two of the protestants submitted any evidence disagreeing with the position that no current company provides services without a two hour minimum fee. Those individuals were Robert Clemmer of Clemmer Moving and Storage, Inc., and Steven Posivak of Glose Moving and Storage, Inc. They testified that despite what was submitted to the Tristate Household Goods Tariff Conference, Inc., their companies only charge a one hour minimum charge. Because no evidence was given disputing Ms. Kleffel's testimony regarding the two hour minimum charges other than the two individuals previously stated, it can be assumed that the statements were accurate for all of the companies licensed in the proposed new territory except the two companies that provided testimony. Of those two companies, Applicant disputes their testimony, as it is inconsistent with the charges they have submitted as accurate to the Tristate Household Goods Tariff Conference, Inc.. However, even if their testimony is considered by the Commission to be true, there is still no dispute that no company in the proposed area has less

than a one hour minimum charge, and all but two have a two hour minimum charge. This is prima facie evidence that a need exists in the proposed territory for a carrier willing to do small moves without a minimum charge. There was testimony provided by three different parties to this action that there is a need for small moves taking less than two hours, and no testimony was given disputing that such a need exists. The issue of whether any company provides such services without charging the customer for time that wasn't performed if the services last less than an hour was and is uncontroverted. Therefore, the issue that a need exists and no company currently licensed in this territory meets that demand is a settled issue.

Ms. Kleffel went on to testify as to additional facts that were not disputed in any fashion by any of the protestants. They were that the Applicant does not surcharge customers for moves on Saturdays, Sundays, holidays and evenings, and no company currently licensed in the proposed new territory for Applicant will provide services during those times without charging a larger fee. A need for these services was confirmed by the two protestants that testified that they in fact do services during these times. Therefore, it is undisputed that a need exists for services during Saturdays, Sundays, holidays, and evenings, and no company provides such services to customers without charging higher fees. Applicant will provide an answer to this need by providing such services without a higher fee.

Applicant, through Ms. Kleffel's testimony, further testified that they essentially stand behind their estimate by waiving any charge in excess of the estimated charges provided before the move. Ms. Kleffel testified that no other company will stand behind their estimates in such a manner. No testimony was given whatsoever to dispute this testimony. To say that there is not a need in the marketplace for a company to agree not to charge more than the estimate provided is to defy basic human logic. Applicant, if approved, would fill this need.

## Argument

The PUC is charged with the task of determining if granting an application for an applicant to service a particular area is consistent with the common good, if granting such an application provides a useful public service or is responsive to a public demand or need. Applicant provided testimony and evidence citing several reasons why Applicant's services would provide a useful public service AND is responsive to a public demand or need. Those reasons are: (1) Applicant will provide the services described in the application without charging higher services for the convenience of moving on a Saturday, Sunday, holiday, or evening. No company currently licensed in the proposed new territory provides such services without charging higher fees for services provided during these times. Applicant would fill this need. (2) Applicant will provide customers with services requiring less than two hours without requiring a two hour minimum charge. No company currently licensed in the proposed new territory provides these services without these minimum charges, except two companies if their testimony is to be believed. Applicant disputes the testimony provided by these two protestants in that respect, as it is contradicted by the fees submitted to the Tristate Household Goods Tariff Conference, Inc. Regardless, those two companies still admit to requiring a one hour charge, which still doesn't address the issue of a person needing only a small service requiring less than one hour's minimum charge. (3) Applicant stands behind his estimates given to his customers by waiving any charges over and above the estimate given so long as the work scope does not differ from the scope discussed in the estimate. No company currently licensed in the Applicant's proposed new territory provides such a guarantee. (4) Applicant's customer satisfaction record, as discussed during the first hearing in this matter, confirms he provides excellent service to his customers and he is an added benefit to any service area because the customers will be provided with excellent service.

The protestants themselves confirmed the need for the services and related charges in their own testimony when they confirmed they do work for various customers while charging minimum charges Applicants would not. In fact, the only defense seemingly offered by any of the protestants was that due to the economy, none of the protestants wanted added competition during these times. Such an argument is not an appropriate argument to support denying an application such as the one at issue in this matter. As P.U.C. Supplemental Report and Order in Re: Application of Fischer-Hughes Transport, Inc., states, "Included in the definition of "public utility" is any person or corporation transporting persons or property, "providing a useful public purpose or responsive to a public demand or need." "If we strictly limit the availability of potential carriers, we frustrate both the need for reliable transportation capacity for Pennsylvania's shippers and the competitive wishes of the state legislature." *Supp. Report and Order, In the matter of the Application of Fischer-Hughes Transport, Inc., Application Docket # 00103976, January 9, 1992.* (P.U.C.)

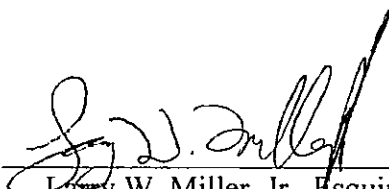
It is clear from the testimony that Applicant, if approved, would provide a quality service for customers while charging a fee appropriate for the customer regardless of time involved with the move within the proposed new territory. Common sense in addition to the testimony of the very protestants themselves confirm that such a service at the prices proposed by the Applicant would benefit the public and be responsive to a need of the public to be charged only for the services they need, particularly in this economy. It is uncontroverted that Applicant would provide services to the customers in the proscribed new territory that meets a need for the public. On cross examination, protestants asked Applicant's witnesses if they would also provide services to individuals or companies requiring a much larger service time. The answer was "of course". Of course Applicant will also take on bigger clients as they present themselves to Applicant. And when they do, Applicant will be providing them a useful public service, as

evidenced by Applicant's track record to date. Providing useful public services does not diminish the Applicant's case, but rather improves it, as having a useful public purpose is one of the factors the PUC is to consider when evaluating an application such as the one at issue in this case. However, Applicant is also meeting a public demand and need for the reasons stated herein.

Conclusion

For all the reasons discussed, granting the Applicant's application would permit a quality company to provide customers with a useful public purpose within the proscribed area, as evidenced by the testimony regarding Applicant's quality of work. Granting the application would further be responsive to a public demand or need, as the uncontroverted testimony given in this matter shows that the proscribed area described in Applicant's application is in need of a company to provide the services Applicant will provide at the prices Applicant will charge. For the benefit of the public within the proscribed area, Applicant respectfully asks this Commission to approve the application of Applicant.

Dated: 11/11/11

By:   
Larry W. Miller, Jr., Esquire  
Attorney for Applicant  
Miller Law Group, PLLC  
25 Stevens Avenue  
West Lawn, PA 19609  
(610) 670-9000



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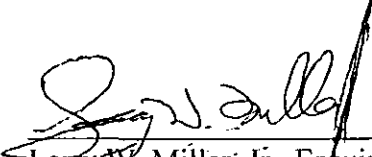
**CERTIFICATE OF SERVICE**

I, Larry W. Miller, Jr., Esquire hereby certify that I have this day served a true and correct copy of this Post Hearing Brief in Support of Applicant, via first class mail, postage prepaid, and via email upon the following:

William H. R. Casey, Esquire  
99 East Court Street  
Doylestown, PA 18901

Angela T. Jones, Administrative Law Judge  
Pennsylvania Public Utility Commission  
Suite 4063  
801 Market Street  
Philadelphia, PA 19107

Respectfully Submitted,



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Larry W. Miller, Jr., Esquire  
Miller Law Group, PLLC  
25 Stevens Avenue  
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(610) 670-9000

Date: November 11, 2011

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