

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Original: 1944

Public Meeting held May 11, 2000

Commissioners Present:

John M. Quain, Chairman
Robert K. Bloom, Vice Chairman
Nora Mead Brownell
Aaron Wilson, Jr. , Statement attached
Terrance J. Fitzpatrick

Rulemaking Re: Passenger Carrier :
Insurance Regulation to Clarify : Docket No.
Coverage Requirements : L-00970124
52 Pa. Code §32.11 :

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PUBLIC UTILITY COMMISSION

FINAL RULEMAKING ORDER

BY THE COMMISSION:

By order adopted October 28, 1994, Docket No. L-940087, we issued a final policy statement interpreting the minimum insurance requirements for passenger carriers transporting fewer than 16 passengers. The final policy statement was published in the Pennsylvania Bulletin on February 25, 1995, 25 Pa. B. 681. 52 Pa. Code §41.21.

The issuance of the policy statement was the culmination of a request to issue a declaratory order in Petition of Damone Clayter, Docket No. P-00930722. In Damone Clayter, petitioner was a passenger in a taxi owned by Jenny Cab Company and said cab was involved in a motor vehicle accident. Clayter was injured in the accident and was at risk of losing rights to underinsured motorist coverage because of a controversy as to the

amount of liability coverage required by Section 32.11 of the Commission's regulations, 52 Pa. Code §32.11. Clayter petitioned this Commission requesting a declaratory order which detailed the third party insurance limits that a cab company must maintain in Pennsylvania and approved as valid the liability policy of Jenny Cab Company. In response to Clayter's petition, the Commission ordered an investigation into insurance claims, state liability coverage requirements and driver safety records.

At the conclusion of the investigation, the Commission issued a policy statement detailing its interpretation of section 32.11 of its regulations. 52 Pa. Code §41.21; 52 Pa. Code §32.11. In issuing the policy statement, it was this Commission's intent to put to rest any confusion or controversy regarding third party insurance coverage as required by Section 32.11(b).¹

Unfortunately, as evidenced by the recent federal case Adams v. Clarendon, confusion and controversy remains. Adams v. Clarendon, Civil Action No. 95-6392 (U.S. District Ct. (E.D. Pa.)). Adams, who was injured in a Philadelphia taxicab insured by Clarendon Insurance Co., filed a class action suit against Clarendon charging, inter alia, that Clarendon had issued policies at less than the minimum amounts required by 52 Pa. Code §32.11(b). The Courts have found that insurance carriers may be liable for more than the policy limits if the carrier issued insurance at less than the minimum amount required by law. Metro Transp. Co. v. North Star Reinsurance Co., 912 F.2d 672 (3rd. Cir. 1990).

¹ Specifically not addressed in the policy statement was any interpretation of first party benefits.

Adams argued that Section 32.11(b) requires a minimum of \$35,000 in third party liability coverage for each individual passenger/pedestrian injured in a taxicab accident, regardless of the number of individuals injured in a particular accident or of the aggregate required minimum amount of insurance coverage.² Such an interpretation is at odds with our interpretation as set forth in the policy statement at 52 Pa. Code §41.21.

To avoid future controversies regarding the minimum amount of insurance required by this Commission, we proposed to amend the existing regulation covering motor vehicles capable of carrying fewer than 16 passengers in an attempt to remove doubt as to the required minimum amount of insurance coverage and how it is applied. By amending the existing regulation, we will formalize our intent as expressed in the policy statement.

The proposed rulemaking was published in the Pennsylvania Bulletin on May 9, 1998 at 28 Pa. B. 2146. Following publication, the Commission received one formal comment from the Independent Regulatory Review Commission (IRRC) which raised two questions. In its comment, IRRC noted that the required coverage may be inadequate when considering that the minimum \$35,000 per accident could conceivably need to provide coverage for up to 15 passengers.

In responding to this comment, the Commission notes that in addition to ensuring that the public is adequately covered in the event of an accident, the Commission must also take into consideration the high cost of insurance for taxicab companies. We are

² Although the federal suit settled, Clarendon Insurance Co. has petitioned the Commonwealth Court of

mindful that our goal is not to make getting and maintaining insurance an insurmountable burden on taxicab companies. We must balance the interest of protecting the public with the interests of making it financially feasible for taxicab companies to continue providing adequate, safe and reasonable service to the public. To that end, we do not believe that raising the established minimum requirements is in the best interest of all parties concerned.

IRRC also raised a clarification concern. IRRC noted that the first sentence in Annex A of Section 32.11(b) makes reference to “liability insurance maintained by a common carrier of passengers.” However, the existing text in Section 32.11(b) references “liability insurance maintained by a common or contract carrier of persons.” The omission of the word “contract” is a typographical error. Annex A will be corrected to include the word “contract” in the first sentence of Section 32.11(b).

The purpose of this rulemaking is to clarify the Commission’s intent that third party benefits refer to “split” coverage. That is, the \$35,000 minimum amount of coverage required for bodily injury, death or property damage must be split in the amounts of \$15,000 bodily injury per person, \$30,000 bodily injury per accident and \$5,000 property damage per accident.

We believe that the changes will promote ease of application as well as fairness while greatly reducing the confusion evidenced in the recent Adams lawsuit.

Accordingly, pursuant to Sections 501 and 512 of the Public Utility Code, 66 Pa. C.S. §§501 and 512, and the Commonwealth Documents Law, 45 P. S. §§1201 et seq., and the regulations promulgated thereunder, we hereby amend the regulations at 52 Pa. Code §32.11; **THEREFORE,**

IT IS ORDERED:

1. That Title 52 of the Pennsylvania Code (Public Utilities) is amended consistent with this order by amending the reporting requirements at 52 Pa. Code §32.11 as set forth in Annex A of this order.

2. That the Secretary shall duly certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

3. That the Secretary shall submit this order and Annex A to the Office of Attorney General for review as to form and legality.

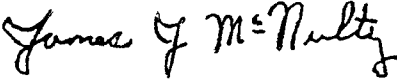
4. That the Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

5. That the Secretary shall submit this order and Annex A for review by designated standing committees of both Houses of the General Assembly, and for review and approval by the Independent Regulatory Review Commission.

6. That a copy of this order and Annex A shall be served upon the Pennsylvania Insurance Department, the Pennsylvania Taxicab & Paratransit Association, the Delaware Valley Limo Association, the Northeastern Limo Association, the Western Pennsylvania Limousine Association, and the Radio Associations in the Commonwealth.

7. The contact person for this matter is Rhonda L. Daviston, Law Bureau
(717) 787-6166.

BY THE COMMISSION



James J. McNulty

Secretary

(SEAL)

ORDER ADOPTED: May 11, 2000

ORDER ENTERED: **MAY 18 2000**

ANNEX A
TITLE 52. PUBLIC UTILITIES
PART 1
PUBLIC UTILITY COMMISSION
SUBPART B. CARRIERS OF PASSENGERS OR PROPERTY
CHAPTER 32. MOTOR CARRIER INSURANCE
SUBCHAPTER B. INSURANCE REQUIREMENTS

* * * * *

§32.11. Passenger Carrier Insurance

(a) No common carrier or contract carrier of passengers may engage in intrastate commerce and no certificate or permit will issue, or remain in force, except as provided in § 32.15 (relating to applications to self-insure) until there has been filed with and approved by the Commission a certificate of insurance by an insurer authorized to do business in this Commonwealth, to provide for the payment of valid accident claims against the insured for bodily injury to or the death of a person, or the loss of or damage to property of others resulting from the operation, maintenance or use of a motor vehicle in the insured authorized service.

(b) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting fewer than 16 passengers shall be in an amount not less than \$35,000 to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. The \$35,000 minimum coverage is split coverage in the amounts of \$15,000 bodily injury per person, \$30,000 bodily injury per accident and \$5,000 property damage per accident. This coverage shall include first party medical benefits in the amount of \$25,000[,] and first party wage loss benefits in the amount of \$10,000 for passengers and pedestrians. Except as to the required amount of coverage, ~~first party~~ THESE benefits shall conform to 75 Pa. C.S. §§ 1701--[1798] 1799.7 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the driver of certificated vehicles shall meet the requirements of 75 Pa. C.S. § 1711 (relating to required benefits).

(c) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting 16 to 28 passengers shall be in an amount not less than \$1 million to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. Except as to the required amount of liability coverage, this coverage shall meet the requirements of 75 Pa.C.S. §§ 1701--[1798] 1799.7.

(d) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting more than 28 passengers shall be in an amount not less than \$5 million to cover liability for

bodily injury, death or property damage incurred in an accident arising from authorized service. Except as to the required amount of liability coverage, this coverage shall meet the requirements of 75 Pa.C.S. §§ 1701--~~[1798]~~ 1799.7.

(e) The limits in subsections (b) -- (d) do not include the insurance of cargo.

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Rulemaking to Amend Passenger Carrier
Insurance Regulations to Clarify Coverage
Requirements

Public Meeting – May 11, 2000
L-78
Docket No. L-00970124

STATEMENT OF COMMISSIONER AARON WILSON, JR.

Today's final regulations establish the minimum insurance requirements for Call or Demand and Group or Party service providers. The regulations require split coverage minimums. The regulations do not require single/combined coverage. With split coverage, all injured consumers obtain compensation from a single amount – in this case everyone gets a portion of \$30,000. With single/combined coverage, every injured consumer could obtain compensation on an individual basis – in this case \$30,000 per person.

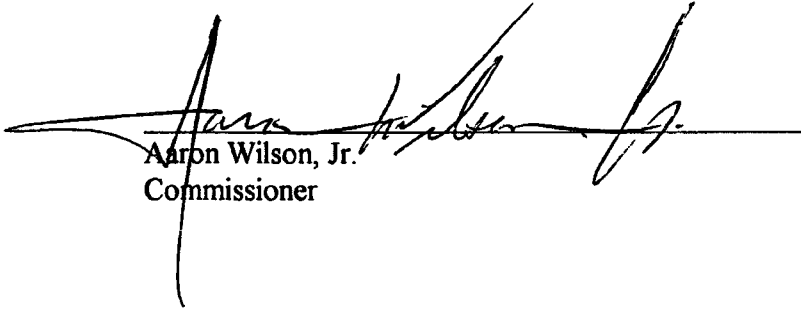
The split coverage required by our regulations could, in instances where a service provider has severely injured more than one consumer, provide insufficient recovery.

Nevertheless, this regulation is in the public interest. This regulation creates a binding regulatory obligation in place of the current non-binding insurance expectations set forth in the Commission's earlier policy statement on insurance coverage.

I support this regulation because it creates an enforceable insurance requirement.

I also think there may be instances where this split coverage is inadequate. In such cases, single/combined coverage, which allows each injured consumer to recover the minimum without any sharing requirement, may be more appropriate. The Commission needs to examine the issue of insurance coverage requirements on a single/combined basis with due consideration for any resulting cost impacts.

5-11-00
Date


Aaron Wilson, Jr.
Commissioner

