

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

INDEPENDENT REGULATORY REVIEW COMMISSION

INDEPENDENT REGULATORY
REVIEW COMMISSION

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SECTION I: PROFILE

(1) Agency:

Pennsylvania Public Utility Commission

(2) Agency Number: Docket No. L-2008-2057661

Identification Number: 57-267

IRRC Number: 2825

(3) Short Title:

Streamlining the Rate Increase Procedures for Small Motor Carriers

(4) PA Code Cite: 52 Pa. Code §§ 23.1, 23.68 and 23.69

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: David E. Screven, Assistant Counsel, P.O. Box 3265 Harrisburg, PA 17105, 717-787-2126 dscreven@state.pa.us

Secondary Contact: Michael Hoffman, Bureau of Transportation and Safety, P.O. Box 3265, Harrisburg, PA 17105 (717) 783-5010 michoffman@state.pa.us

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The proposed regulations streamline or simplify the current procedures for rate increase requests submitted by motor carriers of passengers with gross operating revenues less than \$500,000. The proposed regulations permit a small motor passenger carrier to request a revenue increase each year without filing detailed, supporting financial information, other than 1) total gross annual intrastate revenue for the most recent fiscal year, 2) the dollar amount of increased revenue that the projected rate increase is expected to produce, 3) the total projected operating revenue after the revenue increase, 4) the total projected operating expenses, and 5) the resulting operating ratio. Lastly, the proposed regulations establish a 1-year stay-out provision for small motor passenger carriers that prohibits them from requesting another increase in rates for 1 year following a prior Commission-approved rate increase.

(9) Include a schedule for review of the regulation including:

- | | |
|---|---------------------------|
| A. The date by which the agency must receive public comments: | <u>30 days after pub.</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>n/a</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>mid 2010?</u> |
| D. The expected effective date of the final-form regulation: | <u>upon publication</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>upon publication</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>n/a</u> |

(10) Provide the schedule for continual review of the regulation.

Not applicable.

Regulatory Analysis Form

SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

66 Pa. C.S. §§1301 and 1308

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Not applicable.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Motor carriers are required to provide detailed financial information to support their applications for rate increases. The failure to have all of the appropriate operational and financial records in order to support the rate increase case often results in the outright denial of the rate increase because the carrier has failed to provide the required financial documentation. It appears that their unfamiliarity with the Commission's regulatory ratemaking process in general is one of the main obstacles for small motor passenger carriers when requesting rate increases. This lack of expertise with the ratemaking process generally results in lengthy delays in disposing of a carrier's proposed increase in rates. Many such carriers have had to contract with consultants or tariff agents in order to guide them through the process, which is an added expense for such carriers.

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(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

Not applicable.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

No person or entity will be adversely affected by this regulation. In short, the regulations just streamline the ratemaking process for small motor passenger carriers.

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

All motor carriers of passengers with gross operating revenues less than \$500,000 will be required to comply with this regulation, such as paratransit operators and taxicab operators. There are approximately six hundred jurisdictional small motor passenger carriers certificated to do business in Pennsylvania that will be subject to this rulemaking.

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SECTION III: COST AND IMPACT ANALYSIS

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There may be implementation and training costs incurred by jurisdictional utilities in relation to these provisions. However, such costs are expected to be minimal.

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Not applicable.

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Commission will not incur any incremental costs as a result of this regulation.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government	N/A					
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government	N/A					
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government	N/A					
State Government						
Total Revenue Losses						

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Not measurable at this time.

Program	FY -3	FY -2	FY -1	Current FY

Regulatory Analysis Form

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The benefits of the regulation to the competitiveness and operation of the small motor carriers outweigh any associated costs.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

Not applicable.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Not applicable.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

Not applicable.

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

Comparable regulations with other states were not found. However, the rulemaking should not put Pennsylvania at a competitive disadvantage with other states.

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(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Not applicable.

(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Not applicable.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General.

BY *Amy M. Elliott*
(DEPUTY ATTORNEY GENERAL)

DAN 25 2010

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-2008-2057661/57-267

DATE OF ADOPTION January 15, 2009

BY *James J. McNulty*

James J. McNulty

TITLE *Secy*
(SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

BY *Bohdan R. Pankiw*
Bohdan R. Pankiw
Chief Counsel

1-15-09
DATE OF APPROVAL

Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-2008-2057661/57-267
Proposed Rulemaking
Streamlining the Rate Increase Procedures for
Small Motor Passenger Carriers
52 Pa. Code, Chapter 23

The Pennsylvania Public Utility Commission on January 15, 2009, adopted a proposed rulemaking order which streamlines the current procedures for rate increase requests submitted by motor carriers of passengers with gross operating revenues less than \$500,000. The contact persons are Michael Hoffman, T&S, 783-5010 and David Screven, Law Bureau, 787-2126.

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held January 15, 2009

Commissioners Present:

James H. Cawley, Chairman
Tyrone J. Christy, Vice Chairman. Statement attached
Robert F. Powelson
Kim Pizzingrilli
Wayne E. Gardner

**Proposed Rulemaking for
Streamlining the Rate Increase
Procedures for Small Motor
Passenger Carriers**

Docket No. L-2008-2057661

PROPOSED RULEMAKING ORDER

BY THE COMMISSION:

The Commission acknowledges that some small motor carriers of passengers have had difficulty keeping the detailed business records needed in order to amend their tariffs for the purpose of raising rates and operating revenues. The Commission believes it is appropriate to streamline or simplify the current procedures for rate increase requests submitted by motor carriers of passengers with gross operating revenues less than \$500,000. Accordingly, the Commission proposes to amend our existing regulations at Chapter 23 of the *Pennsylvania Code*, which govern common carriers and establishes the procedures for rate increase filings.

BACKGROUND

The Commission, at its public meeting held April 24, 1987, issued an Order at Docket L-860014 adopting revisions to its existing regulations governing motor carrier filing requirements for proposed increases in rates and operating revenues at 52 Pa. Code §§ 23.63 and 23.64. The amendments required motor carriers to file additional information such as income and expense statements, total

interstate and intrastate passenger miles and statements generated from terminals and facilities for the preceding 12 months when proposed rate changes or proposed revenue increase requests were filed with the Commission. The Commission adopted these revised regulations in order to elicit information from carriers that would enable the Commission to process rate matters promptly.

DISCUSSION

The Commission notes that some "smaller" motor passenger carriers have had difficulty keeping the detailed business records needed in order to support their efforts to amend their tariffs for the purposes of raising rates and increasing carrier revenue. Motor carriers are required to provide detailed financial information to support their applications for rate increases. The failure to have all of the appropriate operational and financial records in order to support the rate increase case often results in the outright denial of the rate increase because the carrier has failed to provide the required financial documentation. It appears that their unfamiliarity with the Commission's regulatory ratemaking process in general is one of the main obstacles for small motor passenger carriers when requesting rate increases. This lack of expertise with the ratemaking process generally results in lengthy delays in disposing of a carrier's proposed increase in rates. Many such carriers have had to contract with consultants or tariff agents in order to guide them through the process, which is an added expense for such carriers.

Based upon our experience with small motor passenger carriers, and our recent analysis of rate increase cases filed by them, the Commission proposes to amend our existing regulations in order to simplify the rate process for small motor passenger carriers:

1. Define small motor carrier of passengers by gross operating revenue. The Commission opines that the gross intrastate operating revenue threshold for the classification of a "small" carrier shall be less than \$500,000.
2. Permit a small motor passenger carrier (i.e. gross intrastate operating revenue less than \$500,000) to request a revenue increase each year without filing detailed, supporting financial information, other than: 1) total gross annual

intrastate revenue for the most recent fiscal year, 2) the dollar amount of increased revenue that the projected rate increase is expected to produce, 3) the total projected operating revenue after the revenue increase, 4) the total projected operating expenses, and 5) the resulting operating ratio.

3. Establish a 1-year stay-out provision for small motor passenger carriers that prohibits them from requesting another increase in rates for 1 year following a prior Commission-approved rate increase. An exception to the 1-year stay-out provision permitting carriers to come in for an increase more often would be included for small carriers with operating ratios above 93%.

The Commission seeks input from interested parties and is requesting comments from them. The Commission requests that those submitting comments in this proceeding include specific section references to the Commission's proposed regulations. Interested parties will have 30 days from the publication of this Order in the *Pennsylvania Bulletin* to file their comments. The Commission informs all interested parties that it is committed to completing the revisions to its procedural regulations in a timely fashion and, therefore, no extensions will be granted for the filing of comments. Accordingly, pursuant to sections 501 of the Public Utility Code, 66 Pa. C.S. § 501, and the Commonwealth Document Law, 45 P.S. §§ 1201, et seq., and regulations promulgated thereunder at 1 Pa. Code §§ 7.1-7.4, we amend the regulations as noted above and as set forth in Annex A;

THEREFORE,

IT IS ORDERED:

1. That a Rulemaking proceeding is hereby initiated at this docket to consider the revisions to regulations appearing in Chapter 23 of Title 52 of the Pennsylvania Code as set forth in Annex A.
2. That the Secretary shall submit a copy of this order and Annex A to the Office of Attorney General for review as to form and legality.
3. That the Secretary shall submit a copy of this order and Annex A to the Governor's Budget Office for review of fiscal impact.

4. That the Secretary shall submit this order and Annex A for review and comments by the designated standing committees of both houses of the General Assembly, and for review and comments by IRRC.

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

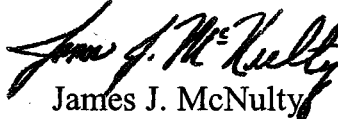
6. That a copy of this order and Annex A shall be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and all jurisdictional small motor passenger carriers.

7. That within 30 days of this order's publication in the *Pennsylvania Bulletin*, any interested person may submit an original and 15 copies of written comments to the Office of the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA., 17105-3265. One copy of a diskette containing the comments in electronic format should also be submitted. A copy of all written comments shall be served upon the Commission's Bureau of Transportation and Safety.

8. That comments should include, where appropriate, a numerical reference to the existing regulation(s) that the comment(s) address, the proposed language for revision, and a clear explanation for the recommendation.

9. The contact persons for this Matter are Michael Hoffman, Bureau of Transportation and Safety, (717) 783-5010 (technical) and David E. Screven, Law Bureau, (717) 787-2126 (legal).

BY THE COMMISSION


James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: January 15, 2009

ORDER ENTERED: **JAN 23 2009**

ANNEX A

TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart B. CARRIERS OF PASSENGERS OR PROPERTY
CHAPTER 23. TARIFFS FOR COMMON CARRIERS

GENERAL PROVISIONS

§ 23.1. Definitions and applicability.

(a) *Definitions.* The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Operating ratio—The operating ratio at present rates shall be calculated as a ratio of intrastate operating expenses to intrastate operating revenues, where the numerator shall include operations and maintenance expense, annual depreciation, applicable taxes, and the denominator shall consist of the utility's intrastate operating revenues at present rates, including all surcharges.

* * * * *

Small passenger carrier—A person or corporation holding out, offering or undertaking, directly or indirectly, service for compensation to the public for the transportation of passengers or any class of passengers, with gross intrastate operating revenues of less than \$500,000.

* * * * *

NOTICE OF CHANGES IN FARES

* * * * *

§ 23.68. Filing requirements for small passenger carriers.

Small passenger carriers with gross annual intrastate revenue of less than \$500,000 need not file the substantiating data required by §23.64 (relating to data required in

filing increases in operating revenues) when requesting an increase in rates, but shall submit a statement with the tariff or tariff supplement stating the following:

- (1) The information required by §23.63 (relating to data required in filing proposed rate changes).
- (2) The total gross annual intrastate revenue for the most recent fiscal year.
- (3) The dollar amount of increased annual revenue that the rate increase is expected to produce.
- (4) The total projected operating revenue after the revenue increase.
- (5) The total projected operating expenses.
- (6) The projected operating ratio.

§ 23.69. Stay-out provision.

A small passenger carrier may not be permitted to request another increase in rates or operating revenues from the Commission for 1 year following a prior Commission approved rate increase. A small passenger carrier with gross intrastate operating revenues of less than \$500,000, but with an operating ratio that is 93% or above, shall be excepted from this 1 year stay-out restriction.

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Proposed Rulemaking for Streamlining
the Rate Increase Procedures for Small
Motor Passenger Carriers

Public Meeting held January 15, 2009
2057661-LAW
Docket No. L-2008-2057661

STATEMENT OF VICE CHAIRMAN TYRONE J. CHRISTY

Today the Commission is issuing a Proposed Rulemaking for Streamlining the Rate Increase Procedures for Small Motor Passenger Carriers.¹ This Rulemaking will eliminate some of the highly detailed business records that small motor carriers of passengers currently are required to produce in order to receive a rate increase. In many cases, these small motor passenger carriers who demonstrated a true need for an increase were not able to receive one due to their inability to comply with our regulations.

I would like to thank the Commission Staff for its work on this important Proposed Rulemaking. I believe our actions here today are a first step toward increasing efficiency within the Commission and assisting small motor passenger carriers in timely receiving necessary rate increases.

1-15-08
DATE

Tyrone J. Christy
TYRONE J. CHRISTY, VICE CHAIRMAN

¹ The term "small passenger carrier" is defined as "[a] person or corporation holding out, offering or undertaking, directly or indirectly, service for compensation to the public for the transportation of passengers or any class of passengers, with gross intrastate operating revenues of less than \$500,000."

EXECUTIVE SUMMARY

L-2008-2057661/57-267
Proposed Rulemaking for
Streamlining the Rate Increase Procedures
for Small Motor Carriers
52 Pa. Code, Chapter 23

The Commission acknowledges that some small motor carriers of passengers have had difficulty keeping the detailed business records needed in order to amend their tariffs for the purpose of raising rates and operating revenues. The Commission believes it is appropriate to streamline or simplify the current procedures for rate increase requests submitted by small motor passenger carriers with gross operating revenues less than \$500,000. Accordingly, based upon our experience with small motor passenger carriers, and our recent analysis of rate increase cases filed by them, the Commission proposes to amend our existing regulations at Chapter 23 of the *Pennsylvania Code*, which govern common carriers and establish the procedures for rate increase filings.

The Commission proposes to amend our existing regulations in order to simplify the rate process for small motor passenger carriers in the following manner:

1. Define small motor carrier of passengers by gross operating revenue. The Commission opines that the gross intrastate operating revenue threshold for the classification of a "small" carrier shall be less than \$500,000.
2. Permit a small motor passenger carrier (i.e. gross intrastate operating revenue less than \$500,000) to request a revenue increase each year without filing detailed, supporting financial information, other than: 1) total gross annual intrastate revenue for the most recent fiscal year, 2) the dollar amount of increased revenue that the projected rate increase is expected to produce, 3) the total projected operating revenue after the revenue increase, 4) the total projected operating expenses, and 5) the resulting operating ratio.

3. Establish a 1-year stay-out provision for small motor passenger carriers that prohibits them from requesting another increase in rates for 1 year following a prior Commission-approved rate increase. An exception to the 1-year stay-out provision permitting carriers to come in for an increase more often would be included for small carriers with operating ratios above 93%.

The contact persons are Assistant Counsel David E. Screven, Law Bureau, (717) 787-2126 and Michael Hoffman, Director of the Bureau of Transportation and Safety (717) 783-5010.



PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG, PENNSYLVANIA

JAMES H. CAWLEY
CHAIRMAN

March 4, 2010

The Honorable Arthur Coccodrilli
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

Re: L-2008-2057661/57-267
Proposed Rulemaking
Streamlining the Rate Increase
Procedures for Small Motor
Passenger Carriers
52 Pa. Code, Chapter 23

Dear Chairman Coccodrilli:

Enclosed please find one (1) copy of the proposed rulemaking and the Regulatory Analysis Form prepared in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." Pursuant to Section 5(a) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission is submitting today a copy of the proposed rulemaking and Regulatory Analysis Form to the Chairman of the Senate Committee on Consumer Protection and Professional Licensure and to the Chairman of the House Consumer Affairs Committee.

The purpose of this proposal is to streamline the current procedures for rate increase requests submitted by motor carriers of passengers with gross operating revenues less than \$500,000. The contact persons are Michael Hoffman, T&S, 783-5010 and David Screven, Law Bureau, 787-2126.

The proposal has been deposited for publication with the Legislative Reference Bureau.

Very truly yours,

A handwritten signature in black ink that reads "James H. Cawley". The signature is written in a cursive style with a large, prominent initial "J".

James H. Cawley
Chairman

Enclosures

cc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Robert Godshall
The Honorable Joseph Preston, Jr.
Legislative Affairs Director Perry
Chief Counsel Pankiw
Assistant Counsel Screven
Mr. Hoffman
Regulatory Coordinator DelBiondo
Judy Bailets, Governor's Policy Office

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: L-2008-2057661/57-267

Subject: Rulemaking To Streamline the Rate Increase
Procedures for Small Motor Passenger Carriers


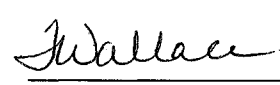
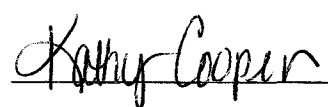
Pennsylvania Public Utility Commission

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted.
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

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FILING OF REPORT

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
3/4/10		<u>HOUSE COMMITTEE</u> (Preston) Consumer Affairs
3/4		<u>SENATE COMMITTEE</u> (Tomlinson) Consumer Protection and Professional Licensure
3/4/10		Independent Regulatory Review Commission Attorney General
3/4/10	NL	Legislative Reference Bureau