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## INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

May 19, 2010

Honorable James H. Cawley, Chairman  
Pennsylvania Public Utility Commission  
Keystone Building, 3rd Floor  
400 North Street  
Harrisburg, PA 17105

Re: Regulation #57-267 (IRRC #2825)  
Pennsylvania Public Utility Commission  
Streamlining the Rate Increase Procedures for Small Motor Carriers

Dear Chairman Cawley:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman  
Executive Director

wbg

Enclosure

cc: Honorable Robert M. Tomlinson, Majority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Joseph Preston, Jr., Majority Chairman, House Consumer Affairs Committee  
Honorable Robert W. Godshall, Minority Chairman, House Consumer Affairs Committee

## Comments of the Independent Regulatory Review Commission



### **Pennsylvania Public Utility Commission Regulation #57-267 (IRRC #2825)**

#### **Streamlining the Rate Increase Procedures for Small Motor Carriers**

**May 19, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the March 20, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Pennsylvania Public Utility Commission (PUC) to respond to all comments received from us or any other source.

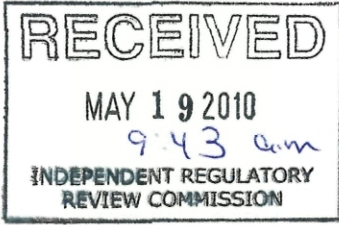
#### **Section 23.69. Stay-out provision. – Statutory authority.**

This section states:

A small passenger carrier will 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.

In response to the Regulatory Analysis Form question 11, the PUC cites 66 Pa. C.S. §§ 1301 and 1308 as the statutory authority for this regulation. Section 1301 requires rates to be just and reasonable. Section 1308 addresses voluntary changes in rates. Upon review of these statutory provisions, we did not find direct authority for the PUC to require a small passenger carrier to stay-out for one year. The PUC should explain its statutory authority to enforce this provision. If the PUC is unable to establish direct authority for this section, we recommend deleting it.

### Facsimile Cover Sheet



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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
 333 MARKET STREET, 14<sup>TH</sup> FLOOR, HARRISBURG, PA 17101

**To:** Sherri A. DelBiondo  
 Regulatory Review Coordinator  
 Law Bureau

**Agency:** Pennsylvania Public Utility Commission

**Phone:** 2-4597  
**Fax:** 3-3458  
**Date:** May 19, 2010  
**Pages:** 3

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the Pennsylvania Public Utility Commission's regulation #57-267 (IRRC #28250. Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: Sh DelB — Date: 5-19-2010