

Regulatory Analysis Form

(Completed by Promulgating Agency)

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

(All Comments submitted on this regulation will appear on IRRC's website)

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(1) Agency
Pennsylvania Public Utility Commission

(2) Agency Number:

Identification Number: L-2013-2376902 57/298

IRRC Number: 3041

(3) PA Code Cite: 52 Pa. Code Chapters 3, 5, 23, 31, 32, and 41.

(4) Short Title: Final Rulemaking Amending Household Goods in Use Carrier and Property Carrier Regulations.

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

Primary Contact: John Herzog, (717)783-3714, P.O. Box 3265, Harrisburg, PA 17105-3265,
jherzog@state.pa.us

Secondary Contact:

(6) 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

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

The regulation intends to amend the application process for applicants for household goods authority by eliminating the requirement that an applicant establish that the proposed service is responsive to a public demand or need. The Commission believes that in light of increased competition in this industry, the market will determine whether a particular applicant's service is needed by the public. Additionally, the Commission will not consider the effect that a new carrier might have on existing carriers. The regulations accomplish this by limiting protests to applications to the fitness of the applicant, eliminating the requirement of supporting verified statements, and eliminating the service request evidentiary requirement.

The Commission is addressing regulatory changes only in this regard. It will issue a Policy Statement after the rulemaking becomes final as guidance.

Also, we will permit all household carriers, with qualifying operating ratios, to change rates without filing supporting financial justification with the Commission. We also will eliminate territorial restrictions for household goods carriers.

Finally, we will increase insurance requirements for property and household goods carriers to be consistent with federal requirements.

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

66 Pa.C.S. §§ 501, 1102, 1103, 1501.

(9) 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

No.

(10) 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.

The regulation is needed to better reflect the competitive marketplace in the household goods industry. The current application process is antiquated and serves to erect unnecessary barriers to entry. Prospective movers as well as the public will benefit from this change by removing unnecessary barriers to entry, thereby fostering a competitive marketplace. Additionally, the increased insurance levels will benefit the public by providing enhanced insurance coverage, consistent with Federal levels. The Commission is unable to quantify the exact number of prospective household goods carriers that will seek a certificate of public convenience under the new standards, nor the benefits to the public by increased competition and higher insurance limits.

(11) 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.

No.

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

This regulation reflects the current regulatory environment in a variety of states including New Jersey, Ohio, Maryland and New York, as well as interstate regulation under the Federal Motor Carrier Safety Administration. The regulation will not affect Pennsylvania's ability to compete with other states since the regulation only affects intrastate business, which must be licensed by the PUC.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Commission received input from the Pennsylvania Moving and Storage Association prior to issuing the proposed rulemaking. The Commission received input from eighteen (18) commentators, as delineated in the Final Rulemaking Order. Industry commentators generally qualify as small businesses.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The regulation will affect all current household goods and property carriers by increasing insurance requirements. The regulation will affect all current household goods carriers by changing tariff and territorial regulation. The regulation will affect applicants for household goods authority by eliminating barriers to entry. The regulation will affect consumers by providing increased competition for service, enhanced notice of a carrier's limitations regarding loss as well as providing enhanced insurance coverage. The type of businesses affected are household goods carriers, of which there are 278 licensed in Pennsylvania, as well as property carriers as far as insurance coverage. All household goods carriers qualify as small businesses. The Commission cannot determine how many of the 6,500 property carriers qualify as small business, but ventures to guess that the vast majority of the 6,500 are qualified as such.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

All current household goods carriers (278) and property carriers (approx. 6,500) will be required to comply with the increased insurance requirements.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The regulation will impact the industry, as noted above. The benefits of the regulation include enhanced insurance protection, increased consumer awareness, and a more competitive marketplace. Businesses may have slightly increased costs for increased insurance coverage. The regulation will impact small businesses economically and financially in that they will be subject to a more competitive marketplace. It is impossible to quantify, with certainty, the impact. For the consumer, the impact will be positive with more choice and market-driven pricing, as well as enhanced insurance protection. Given that the vast majority, if not the entirety, of currently certificated household goods carriers are properly labeled as small businesses, as defined within the context of this query, the above described economic and financial impacts will be applicable to them.

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

The benefits are explained above. The costs and adverse effects are minimal, if any. To the extent there may be increased costs associated with enhanced insurance coverage, this is a justifiable cost given the appropriateness of the coverage levels. Many carriers currently have insurance coverage in the new amount. Also, as with any industry, competition has both costs and benefits. To the entrenched monopoly or oligopoly, competition is not necessarily desirable. However, from a prospective entrant's or consumer's perspective, competition shepherds desirable changes in service, price, and market share.

(19) 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.

As noted, the costs to the regulated community are minimal and can't be quantified, and many carriers currently have insurance coverage in the new amount. Further, regarding the rulemaking's effect on the value of a certificate of public convenience, we first note that a certificate is not a property interest. *Western Pennsylvania Water Company v. Pa. PUC*, 311 A.2d 370 (Pa. Cmwlth. 1973). Any value associated with the certificate itself stems from its value as a barrier to entry for new carriers. The Commission is not able to quantify the value for any one certificate since that would be dependent on the market territory for which the certificate was issued. The Commission notes that as a stand-alone asset, the certificate has no inherent value as a property interest.

Savings to the regulated community will be found in that litigious application proceedings will no longer be the norm for entrants, resulting in savings for applicants as well as the current regulated community. However, these savings are impossible to quantify.

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

None

(21) Provide a specific estimate of the costs and/or savings to the **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.

There will be some minimal savings to state government given the elimination of need in the application process and the concomitant savings associated therewith; i.e., hearings, stenographers, appeals, etc. The specific amount of the cost savings is not readily estimated nor quantifiable.

In 2012, the Commission processed 11 applications for household goods authority. In 2013, the Commission processed 6 applications for household goods authority. In 2014, the Commission processed 12 applications for household goods authority.

(22) For each of the groups and entities identified in items (19)-(21) above, 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.

N/A

(23) 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 See 19, above						
Local Government See 20, above						
State Government See 21, above.						
Total Savings						
COSTS:						
Regulated Community See 19, above.						
Local Government	0	0	0	0	0	0
State Government	0*	0-1.0 mill	0-1.1 mill	0-1.2 mill	0-1.3 mill	0-1.4 mill
Total Costs						
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

The Commission is unable to quantify applicable costs/savings since that will be dependent on subjective factors unique to an individual applicant/carrier such as the size and location of the service area that would have been requested under the Commission's traditional application process. Also, the number of existing carriers serving a requested area would impact an applicant's cost and chances for success in applying for that area.

*Since the regulation will not be effective in the current fiscal year, there will be no effect.

(23a) Provide the past three year expenditure history for programs affected by the regulation. The Commission does not maintain separate records for expenditures for household goods carriers. Rather, these expenditures are combined with property carriers. Below is the Commission's expenditure totals recorded for both property and household goods carriers.

Program	FY -3	FY -2	FY -1	Current FY
Property/Household Goods	4,157,222	6,242,712	6,297,609	6,553,393

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 2 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
278 currently certificated household goods carriers. The majority of the currently certificated 6,500 property carriers. Future applicants for household goods and property authority.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
None.
- (c) A statement of probable effect on impacted small businesses.
The regulation will ease barriers to entry into the competitive marketplace. This will encourage small businesses to enter the industry. Existing carriers will see increased competition. This will provide a forward thinking business environment within Pennsylvania. The rulemaking facilitates a more open business climate that is not subject to the antiquated strictures of overly burdensome regulation.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.
None available.

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

As stated throughout the RAF, small businesses will enjoy a more open market, stripped of the outdated monopolistic application process. All consumers, but especially those that may be most subject and vulnerable to unethical or overreaching business practices, will enjoy increased awareness of the potential inadequacy of insurance coverage.

(26) 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.

No other alternative provisions were considered.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses: The regulation does not involve reporting requirements. Compliance requirements have been eased (tariff) and increased (insurance). These changes do not qualify as adverse.
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses: The regulation does not implement compliance schedules or deadlines that are burdensome.
- c) The consolidation or simplification of compliance or reporting requirements for small businesses: The regulation does not consolidate compliance or reporting requirements. It simplifies compliance requirements for insurance by making Pennsylvania law consistent with Federal law. Likewise, the regulation simplifies compliance requirements for tariff changes by eliminating unnecessary data submissions.
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation: The regulation does not establish performance standards nor does it replace designer operational standards.
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation: This was not possible given the content and context of the regulation.
- f)

There is no net adverse impact on small businesses. While existing carriers will be subject to increased competition, this is not necessarily an adverse impact. Competition spawns innovation and efficiency, certainly worthy goals of any business. Additionally, new entrants, many of which will be small businesses, will not be frustrated by artificial entry barriers.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

N/A

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

- | | |
|---|------------------|
| A. The date by which the agency must receive public comments: | N/A |
| B. The date or dates on which public meetings or hearings will be held: | N/A |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | Mid 2015 |
| D. The expected effective date of the final-form regulation: | Upon Publication |
| E. The date by which compliance with the final-form regulation will be required: | Upon Publication |
| F. The date by which required permits, licenses or other approvals must be obtained: | N/A |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The regulations will be reviewed on an on-going, as-needed basis.

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

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BY _____
(DEPUTY ATTORNEY GENERAL)

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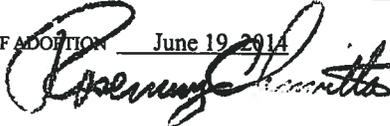
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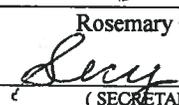
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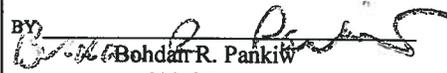
DOCUMENT/FISCAL NOTE NO. L-2013-2376902/57-298

DATE OF ADOPTION June 19 2014

BY 
Rosemary Chiavetta

TITLE 
(SECRETARY)

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

BY 
Bohdan R. Pankiw
Chief Counsel

6-19-2014
DATE OF APPROVAL

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

L-2013-2376902/57-298
Final Rulemaking
Amending Household Goods in Use Carriers
and Property Carriers Regulations
52 Pa Code, Chapters 3, 5, 23, 31, 32 and 41

The Pennsylvania Public Utility Commission on June 19, 2014, adopted a final rulemaking order amending existing regulations governing household goods carriers, eliminating the requirement that applicants for authority establish a public demand or need for the proposed service and modifying insurance requirements. The contact person is Assistant Counsel John Herzog, Law Bureau, 717 783-3714.

EXECUTIVE SUMMARY

L-2013-2376902/57-298
Final Rulemaking
Amending Household Goods in Use
Carriers and Property Carriers Regulations
52 Pa. Code, Chapters 3, 5, 31, 32, and 41

The Pennsylvania Public Utility Commission is vested with jurisdiction over common carriers, including household goods carriers, operating within Pennsylvania. Due to increased competition in this industry, the Commission proposed modifying its current regulations governing household goods carriers. The Proposed Rulemaking Order was published in the *Pennsylvania Bulletin* on November 23, 2013. 43 *Pa.B.* 6894. Comments to the Proposed Rulemaking were filed by numerous parties. Following a thorough review of the comments, the Commission issued a Final Rulemaking Order on June 19, 2014.

The evidentiary criteria governing applications for household goods in use authority historically required that an applicant establish that approval of the application would serve a useful public purpose, responsive to a public demand or need. Protests to applications for household goods applications were filed on this basis, often frustrating the applicant's successful prosecution of its case. In light of the competitive nature of the industry, we find that it is appropriate to eliminate the requirement that an applicant for household goods in use authority establish that approval of the application will serve a useful public purpose, responsive to a public demand or need. Further, the Commission will not consider the effect that a new carrier in the household goods industry might have on existing carriers.

As a corollary to the proposed elimination of public demand or need in the application process, we have modified our tariff regulations governing household goods carriers. 52 Pa. Code §23.67. Additionally, we will no longer restrict a carrier to a

jurisdictional operating territory, unless that carrier would indicate it desired such a limitation. Existing household goods carriers are deemed to have statewide authority, unless they advise the Commission otherwise.

Household goods applicants are still required to establish that they have the technical and financial ability to provide the proposed service safely and legally.

Our insurance requirements provided for \$300,000 minimum liability coverage for property and household goods carriers. 52 Pa. Code §32.12. We find this minimum is insufficient and therefore raise the minimum to \$750,000 for carriers operating commercial motor vehicles (vehicles weighing over 10,000 pounds). This coverage is consistent with federal requirements as well as numerous other states.

Finally, we have delineated more clearly the minimum insurance coverage for loss and damage to consumers' goods. This information is provided to prospective consumers in the required "Information for Shippers" form prescribed by our regulations. 52 Pa. Code §31.121.

The contact person is John Herzog, Assistant Counsel, Law Bureau, (717) 783-3714.

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

Public Meeting held June 19, 2014

Commissioners Present:

Robert F. Powelson, Chairman
John F. Coleman, Jr., Vice Chairman
James H. Cawley
Pamela A. Witmer
Gladys M. Brown

Final Rulemaking Amending 52 Pa. Code
Chapters 3, 5, 23, 31, 32, and 41; Household
Goods in Use Carriers and Property Carriers

Docket No. L-2013-2376902

FINAL RULEMAKING ORDER

BY THE COMMISSION:

On September 12, 2013, we initiated a Proposed Rulemaking Order seeking to amend various regulations and a policy statement governing household goods carriers and property carriers. The proposal included changing the evidentiary criteria governing applications for household goods in use authority, eliminating the requirement that an applicant establish that approval of the application will serve a useful public purpose, responsive to a public demand or need. Given the elimination of public need requirement, we proposed eliminating territorial operating restrictions for household goods carriers. We also proposed eliminating the requirement that large household goods carriers, with qualifying operating ratios, file supporting financial justification for rate changes. Finally, we proposed increasing minimum insurance requirements for property and household goods carriers and enhancing various fitness criteria for applicants for household goods authority.

The Proposed Rulemaking Order was published in the *Pennsylvania Bulletin* on November 23, 2013. 43 *Pa. B.* 6894. Comments to the Proposed Rulemaking were filed

by Parks Moving & Storage, Inc., Representative Erin C. Molchany, Tristate Household Goods Tariff Conference, Inc., Weleski Transfer, Inc., J.H. Bennett Moving & Storage, Inc., Lytle's Transfer & Storage, Inc., Forest Hills Transfer & Storage, Inc., B.F. Fields, Inc., t/d/b/a B.F. Fields Moving and Storage, Canterbury International, Inc., d/b/a Two Men and a Truck, Advance Transportation Co., Inc., Reads Moving Systems, Inc., Connolly Options, LLC d/b/a Two Men and a Truck, International Franchise Association, Two Men and a Truck International, Inc., Lausch's Moving & Storage, Inc., Hughes Relocation Services, Inc., O'Brien's Moving & Storage-Glose Moving & Storage, Inc., Clemmer Moving & Storage, Inc., Pennsylvania Moving & Storage Associates, Williamsport Moving Company, Inc., Hoy Transfer, Inc., McNaughton Bros. Inc., M.F. Rockey Moving Co., and the Independent Regulatory Review Commission (IRRC).

Background

Pursuant to Section 1101 of the Public Utility Code (Code), 66 Pa.C.S. §1101, a public utility must obtain a certificate of public convenience from the Commission in order to offer, render, furnish, or supply public utility service in Pennsylvania. Section 1103 of the Code, 66 Pa.C.S. § 1103, establishes the procedure to obtain a certificate of public convenience. That provision provides, *inter alia*, that “[A] certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.”

Pursuant to Section 102 of the Code, 66 Pa.C.S. § 102, common carriers by motor vehicle are public utilities. The Commission recognizes distinct types of common carriers in its regulations. 52 Pa. Code Chapters 21, 29, and 31. One of these common carrier types is the household goods in use carrier, which is defined as a “motor common carrier or contract carrier that transports household goods in use.” 52 Pa. Code § 21.1.¹

¹ “Household goods in use” is defined at 52 Pa. Code § 21.1, as:

Historically, the Commission has required applicants for household goods in use authority to establish that they are technically and financially fit, can operate safely and legally, and that there is a public demand or need for the services. 52 Pa. Code §§3.381, 41.14.

In light of the increased competition in the industry, we proposed eliminating the requirement that an applicant for household goods in use authority establish that approval of the application will serve a useful public purpose, responsive to a public demand or need. We opined that rather than determining public need by means of an administrative process, competition among carriers with regard to price, quality, and reliability as well as the experienced demand for their services by consumers who may freely choose among those competing carriers, will determine whether a given carrier's service is needed by the public. In a competitive market with low barriers to entry, the Commission reasoned that there was no reason to continue to protect, by an administrative process, carriers whose services are no longer demanded by consumers who prefer and, therefore, have chosen other carriers. We believed the proposed changes are reflective of and consistent with the competitive environment that characterizes the household goods industry. Indeed, we stated that lowering these outdated barriers to entry will further promote competition in this industry, which will, in turn, provide

(i) As used in connection with transportation, the term means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of the dwelling, and similar property if the transportation of the effects or property is arranged and paid for by either the householder or by another party.

(ii) The term does not include:

(A) A motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely packed, loaded, unloaded or unpacked by an individual other than an employee or agent of the motor carrier.

(B) Transportation of property from a factory or store when the property is purchased by the householder with the intent to use it in the householder's dwelling.

consumers with more choices and more competition among carriers as to price, quality and reliability.

We noted that our authority to eliminate the public need requirement was considered and affirmed by the Pennsylvania Supreme Court. *Elite Industries, Inc. v. Pa. P.U.C.*, 832 A.2d 428 (Pa. 2003). In *Elite*, the Court posited:

Allowing the applicant to meet a less stringent evidentiary burden makes expansion of the market possible. This situation falls squarely within the PUC's area of expertise and is best left to the commission's discretion. (432)

The Court found that an agency may revise its policies and amend its regulations in interpreting its statutory mandates. Citing *Seaboard Tank Lines v. Pa. P.U.C.*, 502 A.2d 762 (Pa. Cmwlth. 1985), the Court reiterated that an agency's past interpretation of a statute, though approved by the judiciary, does not bind that agency to that particular interpretation. Moreover, the Court in *Elite* cited, with approval, the *Seaboard* description of the Commission's scope of authority, as follows:

The PUC's mandate with respect to the granting of certificates of public convenience is a broad one: "a certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public." The legislature, however, provided no definition of specifically what the criteria were to be in determining the propriety of granting a certificate, leaving the formulation of such criteria to the PUC. ...

Id. at 432 Accordingly, the *Elite* and *Seaboard* cases hold that the various and specific factors to be considered in determining whether to grant a certificate of public convenience to an applicant for motor carrier authority, beyond those expressly stated in the statute, are matters left to the administrative expertise, sound discretion, and good judgment of the Commission.

We noted that other jurisdictions, such as New York (New York Transportation Law Article 9), New Jersey (N.J. Statutes 45:14D-1 *et seq.*), Maryland, and Ohio (O.R.C. Chapter 4921), as well as the Federal Motor Safety Administration, do not require household goods applicants to establish a public demand or need as a prerequisite to certification.

We envisioned an industry that will grow even more competitive, driving market pricing and obviating the need to engage in traditional ratemaking processes geared toward monopoly markets. Chapter 23 of our regulations, 52 Pa. Code Chapter 23, governs tariffs and ratemaking procedures for common carriers. Specifically, 52 Pa. Code § 23.67 provides that household goods carriers, with gross intrastate operating revenues of less than \$200,000, and with operating ratios of no less than 93%, need not file substantiating data to support changes in rates. By order entered October 14, 2011, we waived the \$200,000 threshold, on a case by case basis as appropriate, and increased it to \$500,000.² *Petition of Tristate Household Goods Tariff Conference, Inc.* Docket No. P-2011-2257808. In our proposed rulemaking order, we proposed eliminating the threshold amount completely, permitting all household goods carriers, with qualifying operating ratios, to change rates without filing supporting financial justification.

Additionally, we proposed eliminating the current territorial restrictions that accompany a household goods carrier's certificate. We proposed no longer restricting a carrier to a jurisdictional operating territory, unless that carrier would indicate it desired such a limitation.³ Also, existing household goods carriers would be deemed to have statewide authority, unless they would advise the Commission otherwise. We note that there are no regulatory provisions governing territorial restrictions. Rather, the territorial

² Of the 278 currently certificated household goods carriers, only 38 have revenues above the \$500,000 threshold.

³ A carrier may wish to limit its operating territory due to operational concerns, insurance costs, etc.

restrictions were found in the application for authority in response to the public demand or need requirement.

Given the elimination of the public need requirement for applicants as well as the statewide authorization for all household goods carriers, we proposed that the regulatory provisions providing for Emergency Temporary Authority (ETA) and Temporary Authority (TA) are no longer required for household goods carriers. 52 Pa. Code §§ 3.383- 3.385. The regulations governing ETA and TA are designed to meet emergency situations when there is an immediate need for service that cannot be met by existing carriers. These provisions would not be relevant in a competitive market served by carriers that are not constrained by artificial territorial restrictions. To the extent an emergency would arise requiring service, we believed that our regulations governing Emergency Relief in general, would suffice. 52 Pa. Code §§ 3.1-3.12.

We stressed that household goods applicants will still be required to establish that they have the technical and financial ability to provide the proposed service safely and legally.⁴ We proposed that applicants should have at least two (2) years of experience with a household goods carrier, or the equivalent. Additionally, we proposed that all applicants who do not have a satisfactory safety rating by the United States Department of Transportation be required to successfully complete a Safety Fitness Review conducted by Commission staff. This requirement is currently in place for property carriers. 52 Pa. Code § 3.381(f). In addition to the Safety Fitness Review, we also proposed that, after 18 months of operation, new carriers must successfully complete a Household Goods Audit conducted by Commission staff. The Audit ensures ongoing compliance and identifies any deficiencies of a carrier.

⁴ Protests to household goods applications would be limited to these criteria. 52 Pa. Code § 3.381(c). Given the limited scope of any protests, the provisions providing for restrictive amendments to applications for motor carrier authority would be no longer applicable to applications for household goods authority. See 52 Pa. Code § 5.235.

We noted that in our review of regulations governing household goods carriers, our insurance requirements provide for \$300,000 minimum liability coverage. 52 Pa. Code § 32.12. We proposed raising the minimum to \$750,000 for carriers operating commercial motor vehicles (vehicles weighing over 10,000 pounds), consistent with federal requirements as well as numerous other states. The proposed increase would apply to both property carriers and household goods carriers.

Finally, we proposed delineating more clearly the minimum insurance coverage for loss and damage to consumers' goods. This information is provided to prospective consumers in the required "Information for Shippers" form prescribed by our regulations. 52 Pa. Code § 31.121. The minimum base coverage, provided as default coverage, is 60 cents per pound, per article. This is consistent with federal requirements. Additional coverage may be secured by the consumer for a fee, if requested. We believed that given the potential inadequacy of the default rate, the "Information for Shippers" form should be modified to better alert consumers of this issue.

Discussion

1. Elimination of Public Demand or Need

The proposal to eliminate proof of public demand or need from the application process generated numerous comments, both in support and in opposition. Commentators opposing the elimination of this requirement cited various reasons, including: encouraging unscrupulous operators to provide service; inviting out-of-state operators to take business from existing in-state, local movers; creating a more difficult marketplace in which to operate due to increased competition; increasing off-season competition for scarce business; increasing competition for large, more profitable moves; eliminating the value of existing carriers' certificates of public convenience; and hurting small businesses in favor of larger carriers. Commentators supporting the elimination of the need requirement cited increased competition, consumer choice, and job creation as

reasons to eliminate need. We note that industry commentators both supported and opposed this proposal.

As noted in our proposal, we believed that the public demand or need requirement in the application process is an unnecessary barrier to entry, limiting competition in the marketplace. From the comments, it appears that it is uncontested that removing the need requirement will promote competition. The issue raised by those opposing the proposal is that increased competition may not be desirable. While we are cognizant that increased competition, and the concomitant increased number of carriers, may present challenges not associated with a protected marketplace, we are not persuaded that those challenges warrant continuation of entry barriers. The various allegations of harm to the industry and the public cited by commentators due to, for example, unscrupulous operators, inviting out-of-state-operators to take business from existing in-state movers, creating a more difficult marketplace in which to operate, increasing off-season competition for scarce business, etc., are speculative and, in the Commission's judgment, insufficient to justify the maintenance of outdated barriers to entry in the household goods market. To the extent that the industry will be a more competitive environment in which to operate, we do not believe this dictates maintaining a protected market so long as the Commission maintains appropriate standards as to fitness and insurance, which is the case here.

Some commentators argue that we should not lower barriers to entry because this may diminish the market value of a current carrier's certificate of public convenience. However, this in itself is not sufficient justification to abandon the movement toward a competitive marketplace. We note that a certificate of public convenience is a privilege and not a property interest under which a holder acquires vested rights. *Western Pennsylvania Water Co., v. Public Utility Commission*, 311 A.2d 370 (Pa. Cmwlth. 1973).

Other commentators suggest that the proposal will favor large carriers at the expense of small carriers. On the contrary, we believe that by lowering barriers to entry, the proposal will encourage small businesses to enter the marketplace, businesses that would have otherwise been reluctant to do so due to the costs in time and litigation expenses associated with entering a protected market.

We note that commentators suggested that we establish a domiciliary requirement for all household goods carriers operating within Pennsylvania. At this point, we decline to implement this requirement. Currently, no such domiciliary requirement exists in Pennsylvania. While we recognize that some neighboring states have such a requirement, we did not include such a requirement in our proposal and are not inclined to establish this requirement in the final rulemaking order. We note that we will address this issue at an appropriate time if circumstances warrant.

We further note that our proposal to eliminate geographic operating restrictions dove-tails with the elimination of need. Geographic operating restrictions make no sense in a competitive environment, where carriers can readily augment their operating authority. While we recognize this territorial expansion will create increased competition, this is consistent with the purpose of eliminating entry barriers.

Finally, we note that IRRC commented on the elimination of need requirement *vis-à-vis* our policy statement at 52 Pa. Code § 41.14. IRRC Comments at 1. To be clear, we included the policy statement in this Rulemaking Order in order to provide clarity to the regulated community. However, as noted by IRRC, the policy statement also included some provisions that are regulatory in nature. Therefore, we will delete the proposed changes to the policy statement from this rulemaking order, instead addressing

the policy statement changes in a separate, companion order.⁵ Those mandatory provisions previously proposed in the policy statement will now be contained in the regulation itself, as suggested by IRRC. The two-year experience requirement is now found at 52 Pa. Code §3.381(c)(1)(iii)(A)(II)(-1-). The provisions for the Safety Fitness Review are at 52 Pa. Code §3.381(e)(1)-(3). We are not incorporating the Household Goods Audit reference from the policy statement since the audit is a matter of agency discretion in terms of how it conducts its business and enforces its regulations. The audit itself does not create any substantive requirements, but rather is simply a device to ensure that certificated carriers are compliant with existing Commission regulations.

2. Fitness Requirement

Commentators generally supported our proposal regarding increasing standards for technical and financial fitness for applicants. We note that we have historically examined each application for authority on the merits of the individual application.

However, IRRC questioned the criteria that the Commission will use to determine if an applicant lacks the propensity to operate safely and legally. 52 Pa. Code §3.381(c)(1)(i)(A)(VII). IRRC Comments at 2. In this regard, Commission staff will examine a carrier's financial records and supporting documentation to ensure that the applicant has the requisite qualifications to provide service. To the extent that a determination cannot be made on the basis of the supporting documentation, the application will be referred to the Office of Administrative Law Judge for hearing and decision, which decision will be subject to Commission review. We note that it is not possible to delineate exacting, quantifiable standards of what constitutes *safely and legally*. Each case stands on its own merits, left to the evidence presented and the Commission's sound discretion. However, in *Rosemont Taxicab Co., Inc., v. Philadelphia Parking Authority*, 68 A.3d 29, 36 (Pa. Cmwlth, 2013), the Court reiterated

⁵ We will issue the policy statement order after the regulatory changes effected by this rulemaking become final.

that the “phrase ‘lacks a propensity to operate safely and legally’ means that the applicant has shown a persistent disregard for, flouting or defiant attitude, i.e., a natural inclination or innate or inherent tendency, to operate outside of safety and the law.”

IRRC also commented on the Safety Fitness Review (SFR) proposal at 52 Pa. Code §3.381(e)(1), inquiring who will determine if the safety regulations of another state are comparable to the Commission’s. IRRC Comments at 2. In performing the SFR, the Commission’s staff will make an initial determination if an applicant is compliant with the safety regulations of another state that would be comparable to the Commission’s, subject to Commission final review.⁶ Again, this determination is ultimately made by the Commission since each and every application for household goods authority will be formally approved by the Commission via order adopted at public meeting. The SFR proposal will be implemented similar to the SFR requirement already existing at 52 Pa. Code § 3.381(f)(3) for motor common carrier property authority.

IRRC also questions why the SFR is not conducted prior to issuance of the certificate of public convenience. IRRC Comments at 2. Since the application is for a new carrier, there is no in-state record to examine. Rather, the information to be gathered in the course of an SFR is a track record of subsequent operations to ensure compliance. To conduct the SFR prior to a carrier’s compilation of that information would serve little purpose. Therefore, the SFR is conducted **after** a carrier has initiated operations. It is only upon receipt of a carrier’s operating history that the Commission can make a valid judgment, through its separate prosecutory arm, the Bureau of Investigation and Enforcement, whether that particular carrier is operating in compliance with Commission regulations. If there are any lapses in compliance, the prosecutory staff has authority to seek fines and other remedies to secure compliance and protect the public.

⁶ The Commission does not maintain a list of states with comparable safety regulations. That determination is made by staff based on the application under consideration. We note that other states may change their standards and regulations and therefore each case needs to be examined on its own merits.

3. Other Comments

Commentators generally supported our proposal to increase the minimum insurance to \$750,000 for carriers operating commercial motor vehicles (vehicles weighing over 10,000 pounds.). Some commentators proposed that we increase those limits beyond the proposal. We decline to do this at this juncture. However, we will continue to monitor appropriate insurance levels for the industry.

Commentators also suggested that we implement background checks for all employees. We note that 52 Pa. Code § 31.134 requires carriers to obtain criminal history records for all persons providing moving services in a shipper's dwelling.

One commentator suggested we eliminate the operating ratio requirement of 93% established at 52 Pa. Code § 23.67, since it is antiquated. In a protected marketplace, the inclusion of the base operating ratio serves as a guard against a carrier changing rates with no supporting financial data, where that carrier may enjoy a monopolistic market position and the proposed rates may be unjust or unreasonable. In light of our action today, it would appear that maintaining the operating ratio requirement may be unnecessary. However, we are not inclined to delete this provision at this juncture. Rather, we can revisit this issue after the industry has adjusted to the elimination of entry barriers.

Finally, commentators indicated that they would encourage the Commission to increase fines and penalties for movers operating without the proper operating authority. Citing the required level of trust and responsibility between a shipper and carrier, commentators indicate that there is no room for rogue movers and they should be dealt with severely. While not technically a part of this rulemaking, we agree with this comment. A marketplace protected by artificial barriers to entry will encourage a certain level of clandestine activity by its very nature. On a macro-economic level, the

disruption of supply and demand by artificial restrictions to the supply component has historically given rise to black market activity.

In light of our easing entry requirements by eliminating the protectionist component of public demand or need, we believe that the household goods industry will benefit from fewer incidents of improperly licensed movers. We stress that we will be vigilant in this regard as well as in the area of consumer protection.

Moreover, as we stated in the proposed rulemaking, we will not hesitate to bring enforcement actions against carriers that fail to maintain proper levels of insurance, fail to operate safely and lawfully, fail to be transparent in their prices and contract terms with consumers, fail to adequately protect consumers' household goods in transit, or otherwise fail to meet their fundamental duty to provide safe, reasonable, and adequate service to the public. 66 Pa. C.S. § 1501. The Commission has statutory authority to fine carriers up to \$1,000 per violation and, for carriers in a competitive industry, the Commission has ample authority and practical ability to revoke a carrier's certificate of public convenience to operate in Pennsylvania.

The attached Annex A, final regulations, is permitted by sections 501, 1102, 1103, and 1501 of the Public Utility Code. Accordingly, under section 501 of the Public Utility Code, 66 Pa.C.S. § 501, and the Commonwealth Documents Law, 45 P.S. §§ 1201 *et seq.*, and regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5, we amend our regulations as set forth in Annex A; **THEREFORE,**

IT IS ORDERED:

1. That the regulations of the Commission are amended to read as set forth in Annex A.

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

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

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

6. That a copy of this order shall be served on commentators to the proposed rulemaking order.

7. That this final-form rulemaking shall become effective upon final publication in the Pennsylvania Bulletin.

8. The contact person is John Herzog, Assistant Counsel, Law Bureau, (717) 783-3714. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, regulatory coordinator, (717) 772-4597.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is fluid and cursive, with a large initial "R" and "C".

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: June 19, 2014

ORDER ENTERED: June 19, 2014

ANNEX A

TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart A. GENERAL PROVISIONS
CHAPTER 3. SPECIAL PROVISIONS
Subchapter E. MOTOR TRANSPORTATION PROCEEDINGS

§ 3.381. Applications for transportation of property, household goods in use and persons.

* * * * *

(c) *Protests*

(1) *Applications for passenger or household goods in use authority.*

(i) *Content and effect.*

(A) A person objecting to the approval of an application shall file with the Secretary and serve upon the applicant and the applicant's attorney, if any, a written protest which shall contain the following:

* * * * *

(VI) A statement of any restrictions to the application which would protect the protestant's interest, including a concise statement of any amendment which would result in a withdrawal of the protest. This provision is not applicable to applications for household goods in use authority.

(VII) A protest to a household goods in use application is limited to challenging the fitness of the applicant, including whether the applicant possesses the technical and financial ability to provide the proposed service and whether the applicant lacks a propensity to operate safely and legally.

(B) Upon the filing of a timely protest, the protestant will be allowed to participate in the proceeding as a part intervenor.

* * * * *

(iii) *Failure to file protests.* If no protest is filed with the Commission on or before the date specified in the *Pennsylvania Bulletin* or if all protests have been withdrawn at or prior to the hearing, the Commission may take either of the following actions:

(A) Consider the application without holding an oral hearing if it deems the facts are sufficient as in the application or as determined from additional information as the Commission may require of the applicant. An application processed under this section, without oral hearing, will be determined on the basis of verified statements submitted by the applicant and other interested parties.

(I) Verified statements will be filed with the Secretary within 30 days of the Commission's request therefor. Failure to file additional information as requested by the Commission may result in dismissal of the application for lack of prosecution.

(II) The applicant's verified statement shall be in paragraph form and shall contain the following information, as applicable:

* * * * *

(-I-) A STATEMENT THAT THE APPLICANT HAS A MINIMUM OF 2 YEARS OF EXPERIENCE WITH A LICENSED HOUSEHOLD GOODS CARRIER, OR THE EQUIVALENT. THIS REQUIREMENT SHALL BE APPLICABLE TO ALL APPLICATIONS FOR HOUSEHOLD GOODS, WHETHER PROTESTED OR NOT.

(M) * * *

* * * * *

(IV) There will be the following extensions of time to file verified statements. When extenuating circumstances exist, the Commission will grant up to 45 days to file verified statements. Requests for extensions of time may be granted by the Commission based upon a written request giving reasons for the extension.

(V) Verified statements of supporting parties are not required for applications for household goods in use authority.

(B) Schedule the unprotested application for oral hearing at a time, date and place to be set, thereafter notifying the applicant by letter of the scheduling.

* * * * *

(d) *Hearings on protested applications and applications for motor carrier of property authority when safety issues are raised.*

(1) *Applications for passenger or household goods in use authority.*

(i) *Scheduling hearings.*

(A) Applications for passenger authority. The applications to which timely protests were filed will not be acted on by the Commission for 20 days after the closing date for filing of

protests, to permit the applicant to make restrictive amendments leading to the withdrawal of protests. If all protests are withdrawn upon amendment, the Commission may dispose of the application in accordance with subsection (c). If the application is still subject to protest, then after the expiration of the 20-day waiting period, the Commission will set the application for hearing and will notify all parties thereof. Absent good cause shown, no further amendments to the application will be considered after expiration of the 20-day period or the commencement of hearings.

(B) Applications for household goods in use authority. Applications for household goods in use authority to which timely protests were filed will be set for hearing with notice to the parties.

(ii) *Requests for postponements.* If any scheduled hearing is postponed for any reason prior to the date thereof, notice of postponement and the date, time and place of the continued hearing will be given by the presiding officer of the Commission to all parties. Requests for hearing postponements shall be submitted in writing to the Secretary of the Commission and the presiding officer with copies to parties of record, no later than 5 days prior to hearing. Hearings will not be postponed absent good cause.

* * * * *

(e) Compliance: conditions for approval for passenger and household goods in use authority. When the Commission approves operation by a motor common carrier of passengers or household goods in use, forwarder, broker or motor contract carrier of passengers or household goods in use, the applicant will be notified of the approval by registered or certified mail. The applicant shall file with the Commission within 60 days of receipt of the notice, a certificate of insurance or other security required by this title, relating to insurance and security for the protection of the public. In addition, motor common carriers of passengers or household goods in use shall file tariffs of their applicable rates and charges, and contract carriers of passengers or household goods in use shall file schedules of actual charges. When all of these requirements have been met, the Commission will issue the certificate, permit or license as the case may be. Failure by an applicant to comply with this section within the 60-day period may result in the dismissal of the application and rescission of prior approval, unless the Commission has, upon written request demonstrating good cause, extended the time for compliance.

(1) An applicant for household goods in use authority that does not possess a current satisfactory safety rating issued by the United States Department of Transportation or by a state with safety regulations comparable to the Commonwealth shall complete a safety fitness review conducted by Commission staff. The safety fitness review must be scheduled and completed within 180 days of the date of approval of the application. If the applicant fails to attain a satisfactory safety evaluation within the 180-day period, the applicant will be given an additional 90 days to correct the deficiencies. Failure to achieve a satisfactory evaluation within the 90-day period will result in immediate suspension of the certificate of public convenience and in proceedings to revoke the certificate.

(2) Safety fitness reviews shall take place at the applicant's primary place of business in this Commonwealth. Out-of-State carriers without facilities in this Commonwealth shall have reviews conducted at the nearest Commission office. Out-of-State carriers shall provide Commission enforcement officers with sufficient records to enable meaningful examination of the applicant's safety related programs.

(3) In the course of a safety fitness review, Commission enforcement staff will examine an applicant's management policies, records and equipment to ensure that the applicant understands and will comply with Chapter 37 (relating to safety code for transportation of property and passengers).

(f) *Compliance: conditions for approval for motor common carrier property authority.* If the Bureau of Transportation and Safety determines that a hearing is not required, as provided in subsection (d)(2), the Commission will act on applications as follows:

* * * * *

§ 3.382. Evidentiary guidelines for applications for passenger and household goods in use of authority.

(a) *Service request evidence.* Evidence of requests received by an applicant for passenger [or household goods in use] service may be offered by the applicant in a transportation application proceeding relevant to the existence of public necessity for the proposed service. The credibility and demeanor of a witness offering evidence will be considered in evaluating the evidence. The weight which will be attributed to the evidence will depend upon the extent to which the alleged requests are substantiated by evidence such as the following:

* * * * *

§ 3.383. Applications for temporary authority and emergency temporary authority.

* * * * *

(b) *Definitions and applicability.*

(1) The following words and terms, when used in relation to applications for temporary authority and emergency temporary authority, have the following meanings:

Carrier—Includes motor common carriers of passengers [or household goods in use] and motor contract carriers of passengers [or household goods in use], brokers and forwarders.

ETA—Emergency temporary authority—Limited duration operating authority issued under 66 Pa.C.S. § § 1103(d) and 2509 to authorize the transportation of passengers [or household goods in use] to meet an emergency situation and when time or circumstances do not reasonably permit

the filing and processing of an application for TA.

TA—Temporary authority—Limited duration operating authority issued under 66 Pa.C.S. § § 1103(d) and 2509 to authorize the transportation of passengers [or household goods] to meet an emergency situation.

(2) ETA and TA are not available to motor common carriers of property and household goods in use.

* * * * *

§ 3.384. Disposition of applications for ETA and TA.

(a) *General.* Initial determination of ETA and TA applications will be made by the Bureau of [Transportation and Safety] Technical Utility Services with the approval of the Commission.

(b) *Standards for determination of need.*

(1) *General.* Grants of TA or ETA shall be made upon the establishment of an immediate need for the transportation of passengers [or of household goods in use]. Requests involving service to cities, counties, townships or other defined areas warrant approval when supported by evidence that there is a need for service to or from a representative number of points in each city, county, township or areas and that there is a reasonable certainty that the service will be used.

* * * * *

(3) *Failure to provide equipment.* TA or ETA may be granted when existing authorized carriers are unable or refuse to furnish equipment necessary to move passengers [or household goods in use] to meet an immediate transportation need.

* * * * *

CHAPTER 5. FORMAL PROCEEDINGS

Subchapter B. HEARINGS

SETTLEMENT AND STIPULATIONS

§ 5.235. Restrictive amendments to applications for motor carrier of passenger [and household goods in use] authority.

(a) Parties to motor carrier applications for passenger [and household goods in use] authority may stipulate as to restrictions or modifications to proposed motor carrier rights. Stipulations in the form of restrictive amendments or modifications must:

* * * * *

Subpart B. CARRIERS OF PASSENGERS OR PROPERTY
CHAPTER 23. TARIFFS FOR COMMON CARRIERS
NOTICE OF CHANGES IN FARES

* * * * *

§ 23.67. Financial data.

(a) The Commission will not[, on or after the effective date of this section,] permit a tariff filing increasing rates by a common carrier of household goods in use [with gross annual intraState revenues of \$200,000 or more,] or making a general increase in rates published by a rate bureau, conference or similar organization of carriers, which will increase gross annual revenues by more than 1%, unless financial justification in support of the proposed increase is filed with the tariff.

(b) Household goods in use carriers [referred to in subsection (a),] shall be governed by the following procedures in the filing of tariffs or tariff supplements:

* * * * *

(c) Common carriers of household goods in use[, with gross annual intraState revenues of less than \$200,000, and] with operating ratios of no less than 93%, before income taxes,* need not file substantiating data required by subsection (b)(2), but shall submit a statement with the tariff, or tariff supplement, stating that [gross annual intraState revenues did not exceed \$200,000 in the 12-month period preceding the tariff filing together with a statement that] its operating ratio before income taxes for the same period is no less than 93%. The tariffs, or tariff supplements, shall be published to become effective on no less than 30 days' notice. Nothing in this subsection precludes the Commission from requiring supporting financial data in instances when increases in rates appear to be excessive.

* Operating ratio is operating expenses, excluding income taxes, divided by operating revenue.

CHAPTER 31. MOTOR CARRIER PROPERTY AND
HOUSEHOLD GOODS TRANSPORTATION

TRANSPORTATION OF HOUSEHOLD GOODS IN USE

§ 31.121. Information for shippers.

(a) When a prospective shipper requests moving service and before an order for service is prepared, the household goods carrier shall furnish the prospective shipper with the following Commission supplied form entitled "Information for Shippers":

INFORMATION FOR SHIPPERS

* * * * *

LOSS AND DAMAGE COVERAGE

If you sustain a loss or damage to your goods, you are protected only up to but not exceeding 60 cents per pound, per article. THIS MINIMUM COVERAGE MAY NOT BE ADEQUATE PROTECTION. If you desire protection greater than 60 cents per pound, per article, you may secure increased coverage by paying a higher tariff rate applicable to the coverage you desire. You may also protect yourself to the full valuation of your goods by taking out a policy of transit insurance with an insurance agent.

* * * * *

CHAPTER 32. MOTOR CARRIER INSURANCE.

Subchapter B. INSURANCE REQUIREMENTS.

§ 32.12. Property carrier and household goods in use carrier insurance.

(a) No common carrier or contract carrier of property or household goods in use may engage in intrastate commerce and no certificate will be issued, 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 persons, or the loss or damage to property of others resulting from the operation, maintenance or use of a motor vehicle in the insured authorized service. The liability of the insurance company on each motor vehicle operated in common or contract carrier service shall be in amounts not less than \$300,000 per accident for a vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of 10,000 pounds or less, in the case of an articulated vehicle. The liability of the insurance company on each motor vehicle operated in common or contract carrier service shall be in amounts not less than \$750,000 per accident for a vehicle with a manufacturer's gross vehicle weight rating over 10,000 pounds, in the case of a single vehicle, or a manufacturer's gross combination weight rating over 10,000 pounds, in the case of an articulated vehicle.

* * * * *

(c) Insurance coverage of motor carriers of property and household goods in use shall meet the requirements of 75 Pa.C.S. §§ [1701—1798] 1701-1799.7 (relating to Motor Vehicle Financial Responsibility Law).

§ 32.13. Cargo liability insurance.

(a) A common carrier of property or household goods in use by motor vehicle shall file with the Commission, in addition to the public liability and property damage certificate of insurance

required by § 32.12 (relating to property carrier insurance), certificates of insurance in an amount satisfactory to the Commission, but not less than \$5,000 to provide payment for loss or damage to cargo carried on a motor vehicle. No motor vehicle may be operated unless the insurance policy or other approved method of protection is in effect at the time of operation. This section may not be modified or abrogated by tariff filings. The Commission may approve another method of cargo protection in specific cases.

* * * * *

CHAPTER 41. GENERAL ORDERS, POLICY STATEMENT AND GUIDELINES ON TRANSPORTATION UTILITIES.

TRANSPORTATION

§ 41.14. Evidentiary criteria used to decide motor common carrier applications—statement of policy.

* * * * *

(b) An applicant seeking motor common carrier authority has the burden of demonstrating that it possesses the technical and financial ability to provide the proposed service. In addition, authority may be withheld if the record demonstrates that the applicant lacks a propensity to operate safely and legally. In evaluating whether a motor carrier applicant can satisfy these fitness standards, the Commission will ordinarily examine the following factors, when applicable:

* * * * *

(2) Whether an applicant and its employees have sufficient technical expertise and experience to serve the territory requested. ~~For an applicant requesting authority to provide household goods service, the applicant is required to have a minimum of 2 years of experience with a licensed household goods carrier or the equivalent.~~

* * * * *

(6) Whether an applicant or its drivers have been convicted of a felony or crime of moral turpitude and remains subject to supervision by a court or correctional institution.

~~(7) An applicant for household goods authority that does not have a satisfactory safety rating issued by the U.S. Department of Transportation or by a state with safety regulations comparable to the Commonwealth, shall successfully complete a Safety Fitness Review conducted by Commisison staff.~~

~~(8) After 18 months of operation, a new household goods carrier shall successfully complete a Household Goods Audit conducted by Commission staff. Failure to pass the audit may result in proceedings to revoke the carrier's certificate.~~

(c) The Commission will grant motor common carrier authority commensurate with the demonstrated public need unless it is established that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers to an extent that, on balance, the granting of authority would be contrary to the public interest.

(d) Subsections (a) and (c) do not apply to an applicant seeking authority to provide motor carrier of passenger service under §§ 29.331—29.335 (relating to limousine service) ~~or household goods in use service under §§31.121-31.134 (relating to household goods in use).~~

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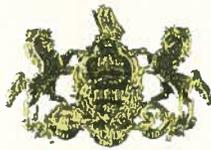
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COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION
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ROBERT F. POWELSON
CHAIRMAN

February 27, 2015

The Honorable John F. Mizner
Chairman, Independent Regulatory Review Commission
14th Floor, Harrisstown II
333 Market Street
Harrisburg, PA 17101

Re: L-2013-2376902/57-298; Amending Household Goods in Use Carriers and Property Carriers Regulations; 52 Pa. Code, Chapters 3, 5, 23, 31, 32 and 41

Dear Chairman Mizner:

Enclosed please find one (1) copy of the regulatory documents concerning the above-captioned rulemaking. Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission, on November 7, 2013, submitted a copy of the Notice of Proposed Rulemaking to the Senate Committee on Consumer Protection and Professional Licensure, the House Consumer Affairs Committee and the Independent Regulatory Review Commission (IRRC). This notice was published at 43 *Pa.B.* 6894 on November 23, 2013. The Commission also provided the Committees and IRRC with copies of all comments received in compliance with Section 745.5(b.1).

In preparing this final form rulemaking, the Commission has considered all comments received from the Committees, IRRC and the public.

Sincerely,


Robert F. Powelson

Enclosures

cc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Robert Godshall
The Honorable Peter J. Daley, II
Legislative Affairs Director Perry
Chief Counsel Pankiw
Assistant Counsel Herzog
Regulatory Coordinator DelBiondo

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: L-2013-2376902/57-298

Subject: Final Rulemaking Amending Household Goods in Use Carriers
and Property Carriers Regulations
52 Pa. Code Chapters 3, 5, 23, 31, 32 and 41

Pennsylvania Public Utility Commission

2015 FEB 27 AM 10:32

RECEIVED
IRRC

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

FILING OF REPORT

Date

Signature

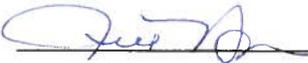
Designation

2/27/15



HOUSE COMMITTEE (Godshall)
Consumer Affairs

2-27-15



SENATE COMMITTEE (Tomlinson)
Consumer Protection and
Professional Licensure

2/27/15



Independent Regulatory
Review Commission

Attorney General

Legislative Reference Bureau