

# Regulatory Analysis Form

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**INDEPENDENT REGULATORY  
REVIEW COMMISSION**

2017 FEB 23 AM 11:25

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IRRC

(1) Agency  
Pennsylvania Public Utility Commission

(2) Agency Number: 57-312  
Identification Number: L-2015-2507592

IRRC Number: 3135

(3) PA Code Cite: 52 Pa. Code Chapters 1, 3, 5, 23 & 29

(4) Short Title: Final Rulemaking to Amending Passenger Carrier Regulation to Reduce Barriers to Entry and Eliminate Unnecessary 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@pa.gov](mailto:jherzog@pa.gov)  
Secondary Contact:

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

<input type="checkbox"/> Proposed Regulation	<input type="checkbox"/> Emergency Certification Regulation;
<input checked="" type="checkbox"/> Final Regulation	<input type="checkbox"/> Certification by the Governor
<input type="checkbox"/> Final Omitted Regulation	<input type="checkbox"/> Certification by the Attorney General

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

In order to eliminate unnecessary barriers to entry, the regulation amends the application process for applicants for passenger carrier 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, 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 the scope of application protests 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, the Commission will permit all passenger carriers to change rates without filing extensive, supporting financial justification with the Commission. However, carriers will be required to support rate changes with basic operational and financial data, with the exception of taxi and limousine carriers, since those carriers have been exempted from this requirement. *Temporary Regulations for the Taxi and Limousine Industries*, Docket No. L-2016-2556432 (Order entered December 23, 2016).

(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 passenger carrier industry. The current application process is antiquated and serves to erect unnecessary barriers to entry. Prospective passenger carriers, as well as the public, will benefit from this change by removing unnecessary barriers to entry, thereby fostering a competitive marketplace.

The Commission receives an average of 260 applications each year from prospective passenger carriers. Of the 260 applications, approximately 70 are protested. Approximately 400 protests are filed each year, averaging approximately 5.7 protestants in each of the 70 protested applications.

Under current regulations, the process of receiving a certificate of public convenience can range from three to six months or more. In addition to the application filing fee, an applicant may spend an average of \$25,000 in legal fees for a protested application. This figure is derived from data received by the Commission from motor carrier financial statements. Additionally, each protestant may spend an average of \$7,000 in legal fees to challenge the application. The primary challenge lodged against an applicant is whether there is a public demand or need for the service. The proposed changes would eliminate protests based on need and thereby reduce processing time and money spent on legal fees.

There are approximately 1,127 certificated passenger carriers that will be affected, in that they would no longer be permitted to protest an application based on service area. Both existing and prospective carriers would benefit in that they would recognize savings in legal fees.

The benefit to the general public is greater choice in service and reduced fares as a result of a competitive marketplace. In particular, the general public will benefit from a greater number of service providers who will compete in terms of price, quality, reliability and innovation to meet the needs of the public. And, rather than an administrative determination by the Commission, "need" will be determined by consumer demand and preferences.

Additionally, the revision to the tariff provisions will streamline the ratemaking process, resulting in time and cost savings to the carrier. Carriers will no longer be required to file extensive supporting justification to support rate changes. Carriers will still be required to notify the Commission of tariff changes and to provide the basic operational and financial data enumerated at 52 Pa. Code §23.68, including the reasons for the proposed change, the effect of the change on the carrier's revenues, the gross intrastate revenue for the most recent fiscal year, the projected operating revenue and expense and the resulting operating ratio. Taxi and limousine carriers will not be required to file supporting financial justification for rate changes, consistent with the Temporary Regulations issued on December 23, 2016. *Temporary Regulations for the Taxi and Limousine Industries*, Docket No. L-2016-2556432 (Order entered December 23, 2016).

We note that academic studies on deregulation focusing on the taxi industry support open entry. Michael Farren, Christopher Koopman, and Matthew Mitchell, *Rethinking Taxi Regulations: The Case for Fundamental Reform*, Mercatus Center of the George Mason University, 2016, <https://www.mercatus.org>. Adrian T. Moore and Ted Balaker, *Do Economists Reach a Conclusion on Taxi Deregulation?* Economic Journal Watch, Vol. 3 No. 1, January 2006, pp 109-132.

While we recognize that there is authority supporting maintaining traditional entry standards, based on our expertise we are persuaded that open entry is desirable and in the public interest. This trend is evidenced in Pennsylvania by recent passage of Act 164 of 2016, which governs Transportation Network Company service. That particular service competes with existing types of passenger service, including taxi and limousine service, and is not bound by antiquated entry barriers such as a demonstration of public need. Indeed, Act 164 provides that TNC service will be a licensed service, which license will be granted upon demonstration by the applicant of fitness to provide the service safely and in accordance with required public protection matrices.

(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?

The regulation reflects the current regulatory environment in a variety of states, including Delaware, Maryland, New Jersey, and Ohio, as well as the Federal Motor Carrier Safety Administration. The regulation will not affect Pennsylvania's ability to compete with other states since the regulation affects only intrastate business, which must be licensed by the PUC. Further, Pennsylvania's passage of Act 164 (TNC legislation) is at the forefront of regulatory change affecting the passenger carrier industry. While we acknowledge the issues raised by IRRC and other Commentators, the rulemaking is consistent with this progression.

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

No. We acknowledge Commentator observations, but maintain tariff requirements will remain intact, albeit with less cumbersome financial justification requirements for any changes. Also, we note that tariff flexibility for the taxi and limousine industries already is in place. *Temporary Regulations for the Taxi and Limousine Industries*, Docket No. L-2016-2556432 (Order entered December 23, 2016).

(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 has relied on its own experience and expertise in issuing the proposed rulemaking. The Commission solicited and considered input from all concerned parties following comment to the proposal.

(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 of the approximate 1,127 current passenger carriers providing service in vehicles seating 15 passengers or less including the driver. Tariff streamlining and relaxation will affect these carriers. The approximately 260 applicants applying annually will be affected by the elimination of barriers to entry. The regulation's effect on consumers will be increased competition for service, resulting in better service and pricing options. All of the aforementioned passenger carriers qualify as small businesses.

(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 passenger carriers, as well as all future carriers, will be required to comply with the relaxed tariff regulations.

(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.

For consumers, the impact will be positive with more choice and market-driven pricing. Small businesses will be impacted economically and financially because they will be subject to a more competitive marketplace. Since all certificated passenger carriers are small businesses as defined within the context of this query, the above described economic and financial impacts will be applicable to them. While some small businesses will gain revenues, others who fail to meet consumers' demands and preferences may lose revenues. It is impossible to quantify, with certainty, the impact. However, the marketplace will be open for competition, and the extensive supporting financial justification for rate changes will be reduced. The net effect on small business revenue, assuming no aggregate change in demand, may be zero. Also, costs associated with the current application process will be reduced for existing and prospective carriers as described in paragraph 10.

We note in response to the concerns of IRRC and others, that with the advent of TNC service as well as the temporary regulations promulgated governing the taxi and limousine industries, market-driven response to service demands has been embraced.

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

Benefits are explained in the preceding sections. Costs and adverse effects will be minimal, if any. As with any industry, competition has costs as well as benefits. Competition and reduced barriers to entry are most often opposed by entrenched monopolies or oligopolies. From the perspective of a prospective entrant or consumer, competition enables desirable changes in service, price, and market share. Streamlined ratemaking will benefit the industry, removing unnecessary obstacles to proper pricing. An application process not encumbered with unnecessary delays will benefit the public and prospective carriers, with no attendant costs.

(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.

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. Most applications are protested by incumbent carriers who challenge the entry of another potential competitor. The average number of protests filed by incumbent carriers against new applications is over 400 per year. The procedures following those filings cost an applicant who is seeking to enter the market an average of \$25,000 in legal fees for a protested application. Additionally, each protestant spends an average of \$7,000 in legal fees and there are approximately 5.7 protestants in each of the 70 protested applications, averaging \$40,000 per protested application. Therefore, there will be approximately a \$4.55 million savings to the regulated community ( $\$25,000 + \$40,000 \times 70$ ). Dollar estimates were derived from financial statements filed by carriers in the course of filing requests for rate increases as well as interviews with carriers. These are the legal costs that can be avoided if the application can no longer be protested by incumbent carriers on the basis of need.

The costs to the regulated community result in those members assigning a value to a certificate of public convenience. It should be noted that a certificate of public convenience 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.

(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.

The specific amount of savings cannot be calculated; however, a reasonable estimate can be calculated. In 2014 there were 60 passenger application cases which resulted in hearings. The Commission's cost per hour is approximately \$150 (stenographer's fee, salaries of administrative law judge and incidental employee). The average length of these hearings is five hours, resulting in an average cost per hearing to state government of \$750. A judge must then prepare and issue a decision on the case, resulting in additional administrative costs.

Related to protested cases, there are additional savings which would be difficult to estimate. Many cases are mediated by administrative law judges, but are resolved prior to formal hearing. If any of the judges' decisions are appealed, there are additional costs incurred as Commission staff reviews each case and prepares orders.

The Commission notes that highly contested applications may result in hundreds of thousands of dollars of cost to the Commission, which may include appellate court costs and time.

Savings will also be realized in that applicants will no longer be required to submit affidavits testifying to the need for service nor witnesses in the event of a hearing. This paperwork averages 15 sheets of paper per application case, and with an annual average of 260 applications, this results in eliminating 3,900 sheets of paper. Elimination of those filings results in many hours of processing.

Additionally, the PUC Motor Carrier Enforcement Division would save a significant amount of time by not having to prosecute and issue Bureau Complaints for operating without the required passenger certificate. Most unlicensed carriers, once they are contacted by enforcement staff, are more than willing to comply with the regulations given the opportunity to operate legally. They can't afford to cease operations for 6 to 8 months while their application is being processed or protested by an existing carrier. An average unlicensed passenger carrier complaint investigation and prosecution could take up to 30 to 40 hours of an enforcement officer's time.

The annual savings to state government would be approximately \$500,000 or more. This figure was calculated using the 70 protested applications that may require hearings. These proceedings would involve time from the Office of Administrative Law Judge, the Office of Special Assistants, the Secretary's Bureau, and the Commissioners offices and their staff.

We note that since the Commission eliminated the need requirement for household goods authority applicants, there have been 44 applications and no protests. We estimate that prior to our elimination of need in that industry, 90% of applications were protested. Further, since we eliminated the need requirement for limousine authority applicants, we received approximated 534 applications since 2008, of which approximately 10 have been protested. Prior to elimination of need, virtually all limousine applications were protested.

(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. We note that the proposal will reduce these types of 'paperwork' given the streamlined tariff process and the elimination of need.

(22a) Are forms required for implementation of the regulation?

No, however some existing application forms will be modified to reflect the new regulations. No tariff forms are required.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

No forms are required for implementation of the regulation. To the extent anyone wishes to examine the Commission's current application forms, the forms are available at [http://www.puc.pa.gov/filing\\_resources/motor\\_carrier\\_online\\_forms.aspx](http://www.puc.pa.gov/filing_resources/motor_carrier_online_forms.aspx).

(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
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	-0-*	\$4.55M	\$4.55M	\$4.55M	\$4.55M	\$4.55M
<b>Local Government</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>State Government</b>	-0-*	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
<b>Total Savings</b>		\$5.05M	\$5.05M	\$5.05M	\$5.05M	\$5.05M
<b>COSTS:</b>						
<b>Regulated Community</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>Local Government</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>State Government</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>Total Costs</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	-0-	-NQ- (not quantifiable)	-NQ-	-NQ-	-NQ-	-NQ-
<b>Local Government</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>State Government</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>Total Revenue Losses</b>	-0-	-0-	-0-	-0-	-0-	-0-

\*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 provides the following expenditure history based on costs incurred during the most recent four (4) calendar years.

Program	FY -3	FY -2	FY -1	Current FY
Passenger Carriers	\$2,801,822	\$2,394,561	\$2,818,168	\$2,525,880


(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 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.

The approximately 1,127 currently certificated passenger carriers and future applicants for passenger carrier service.

- (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 and be economically motivated to improve their service and rate structures. 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 and is more responsive to market demand and pricing. The Commission will continue to ensure that carriers are technically, financially, and legally fit to provide service.

- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

None available. Acknowledging the comments of IRRC and others, we clarify that this regulation is targeted at our existing processes that are both cumbersome and costly, serving little public benefit.

(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. Additionally, a streamlined ratemaking process will be implemented.

(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. However, we do state that this regulation will be less burdensome and costly than the existing regulations.



(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 for tariff filings. 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 schedules or deadlines for compliance or reporting requirements.

- c) The consolidation or simplification of compliance or reporting requirements for small businesses;

The regulation does not consolidate compliance or reporting requirements. The regulation will simplify compliance requirements for tariff changes by eliminating unnecessary data submissions. Additionally, the application process will be simplified.

- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and

The regulation does not establish performance standards nor does it replace design or 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.

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. Also, all carriers will benefit from streamlined ratemaking.

(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.

While not technically “data,” support for the regulation is found at:

Michael Farren, Christopher Koopman, and Matthew Mitchell, *Rethinking Taxi Regulations: The Case for Fundamental Reform*, Mercatus Center of the George Mason University, 2016, <https://www.mercatus.org>

Adrian T. Moore and Ted Balaker, *Do Economists Reach a Conclusion on Taxi Deregulation?* Economic Journal Watch, Vol. 3 No. 1, January 2006, pp 109-132.

As noted, the Commission is relying on its extensive experience and expertise in this matter.

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

- |  |                                  |
|--|----------------------------------|
| A. The length of the public comment period:  | <u>N/A</u>                       |
| B. The date or dates on which public meetings or hearings will be held:              | <u>N/A</u>                       |
| C. The expected date of delivery of the final-form regulation:                       | <u>Early 2017</u>                |
| D. The expected effective date of the final-form regulation:                         | <u>Upon publication as final</u> |
| E. The date by which compliance with the final-form regulation will be required:     | <u>Upon publication as final</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u>                       |

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

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

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

**(Pursuant to Commonwealth Documents Law)**

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

BY \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

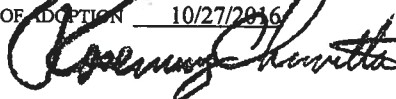
\_\_\_\_\_  
DATE OF APPROVAL

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)

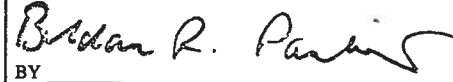
DOCUMENT/FISCAL NOTE NO. L-2015-2507592/57-312

DATE OF ADOPTION 10/27/2016  


BY \_\_\_\_\_  
Rosemary Chiavetta

TITLE Secretary  
(SECRETARY)

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

  
BY \_\_\_\_\_  
Bohdan R. Pankiw  
Chief Counsel

10/27/2016  
DATE OF APPROVAL

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

L-2015-2507592/57-312  
Final Rulemaking  
Reduce Barriers to Entry for  
Passenger Motor Carriers  
52 Pa Code, Chapters 1, 3, 5, 23, and 29

The Pennsylvania Public Utility Commission on October 27, 2016, adopted a final rulemaking order to reduce the current barriers to entry for qualified passenger motor carrier applicants by eliminating the requirement that an applicant for passenger motor carrier authority establish that approval of the application will serve a useful public purpose, responsive to a public demand or need. The contact person is Deputy Chief Counsel John Herzog, Law Bureau, 717-783-3714.

## EXECUTIVE SUMMARY

L-2015-2507592/57-312

### Final Rulemaking Amending 52 Pa. Code Chapters 1, 3, 5, 23, and 29 to Reduce Barriers to Entry for Passenger Motor Carriers and to Eliminate Unnecessary Regulations Governing Temporary and Emergency Temporary Authority

The Pennsylvania Public Utility Commission is vested with jurisdiction over passenger common carrier service in Pennsylvania. The Commission recognizes several distinct types of passenger common carriers in its regulations, including scheduled route carriers, call or demand (taxi) carriers, group and party carriers, limousine carriers, airport transfer carriers, paratransit carriers, and experimental service carriers. 52 Pa. Code §§ 29.301-29.356. Each of these carriers has unique equipment and operating characteristics.

Historically, the Commission has required applicants for passenger carrier 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 and 41.14. Upon consideration of the acknowledged benefits of increased competition among passenger motor carriers and advances in technology, the Commission believes that it is appropriate to reduce the current barriers to entry for *qualified* applicants by eliminating the requirement that an applicant for passenger motor carrier authority establish that approval of the application will serve a useful public purpose, responsive to a public demand or need. Rather than determining public need by means of a complex, costly and time consuming administrative process, public need or demand will be determined in the marketplace by competition among passenger carriers in 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. Passenger carrier applicants will continue to be required to establish, in the application process at 52 Pa. Code § 3.381, that they have the technical and financial ability to provide the proposed

service safely, reliably and legally, and that they are fully insured in accordance with the requirements of state law and Commission regulations.

As a corollary to the proposed elimination of public demand or need in the application process, the Commission envisions an industry that will grow even more competitive. Competition drives market pricing, obviating the need to engage in traditional ratemaking processes geared toward monopoly markets. The Commission proposes to permit all passenger carriers to change rates without filing the extensive supporting financial justification required by 52 Pa. Code § 23.64 by eliminating the threshold interstate revenue amount for passenger carriers in § 23.68. Passenger carriers will continue to be required to submit filings notifying the Commission of tariff changes and to provide the basic operational and financial data enumerated at 52 Pa. Code § 23.68 to support those filings.

We note that in the recent Temporary Regulations the Commission issued governing the taxi and limousine industries, we allowed rates be changed on one days' notice to the Commission, or alternatively, permitted flexible rates allowing rates to change in real time in response to supply and demand. *Temporary Regulations for the Taxi and Limousine Industries*, Docket No. L-2016-2556432 (Order entered December 23, 2016). Neither rate scenario required supporting financial justification to be filed with the tariff. We will not deviate from those Temporary Regulations here as far as the taxi and limousine industries are concerned and will address the issue more fully in a future rulemaking necessitated by the Temporary Regulations. Additionally, we note that the Temporary Regulations further support our action here of encouraging competition and removing entry barriers.

Another consequence of eliminating the public need requirement for passenger carrier applicants is that the current territorial restrictions that accompany a carrier's certificate may no longer be necessary. Therefore, the Commission proposed that

passenger carriers will be deemed to have statewide authority, unless otherwise requested. Following review of the comments on this issue, the Commission has determined that it will not advance this proposal at this time. Additionally, given the elimination of the public need requirement for passenger carrier applicants and the statewide authorization for all passenger carriers, the Commission proposed eliminating the regulatory provisions providing for Emergency Temporary Authority (ETA) and Temporary Authority (TA) for passenger carriers. 52 Pa. Code §§ 3.383- 3.385. Following review of the comments on this issue, the Commission has determined that it will not advance this proposal at this time.

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

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

Public Meeting held October 27, 2016

Commissioners Present:

Gladys M. Brown, Chairman  
Andrew G. Place, Vice Chairman  
John F. Coleman, Jr., Joint Statement  
Robert F. Powelson, Joint Statement  
David W. Sweet

Final Rulemaking Amending 52 Pa. Code Chapters 1, 3,  
5, 23 and 29 to Reduce Barriers to Entry for Passenger  
Motor Carriers and to Eliminate Unnecessary  
Regulations Governing Temporary and Emergency  
Temporary Authority

L-2015-2507592

**FINAL RULEMAKING ORDER**

**BY THE COMMISSION:**

On November 5, 2015, we issued a Proposed Rulemaking Order (PRO) seeking to amend various regulations governing passenger motor carriers. The proposal sought to modify our existing application process for passenger motor carriers by eliminating unnecessary barriers to entry for the various types of passenger carriers. Additionally, the proposal addressed other regulatory issues implicated by the change to the application criteria, including territorial restrictions, protest content, tariff filings and emergency authority considerations.

The PRO was published in the *Pennsylvania Bulletin* on February 27, 2016. 46 Pa.B. 1016. Comments to the PRO were filed by 13 public commentators as well as Representatives Daley, Godshall, Hanna, Harper and Murt. Additionally, the Independent Regulatory Review Commission (IRRC) filed comments, incorporating both public comments as well as the comments from the various legislators.

## 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 several distinct types of common carriers in its regulations. 52 Pa. Code Chapters 21, 29, and 31. A passenger carrier is defined as “a motor common or contract carrier that transports passengers.” 52 Pa. C.S. § 21.1. Our regulations recognize several types of passenger carriers, including scheduled route carriers, call or demand (taxi) carriers, group and party carriers, limousine carriers, airport transfer carriers, paratransit carriers, and experimental service carriers. 52 Pa. Code §§ 29.301–29.356.

Each of these carriers has unique equipment and operating characteristics:

**Scheduled route carriers** operate over a scheduled route and pick up and discharge persons at points along that route, as authorized by their certificate. These carriers are obligated to provide printed time schedules for their routes, and must provide notice of any changes in routes or time schedules. In addition, these carriers must operate vehicles with seating capacities of six passengers or greater, excluding the driver. 52 Pa. Code §§ 29.301–29.305.



**Call or demand carriers**, or taxis, transport persons on an exclusive or nonexclusive basis in vehicles with seating of eight passengers or less, excluding the driver. These carriers must transport passengers by the shortest practical route unless otherwise directed by the passenger, and must maintain log sheets for each trip. The call and demand vehicle must also be equipped with a meter that records the fare. The meter must be plainly visible to the passenger and, if requested, the carrier must provide a receipt to the passenger. 52 Pa. Code §§ 29.311–29.316.

**Group and party carriers** transport persons in charter service, tour or sightseeing service, or special excursions, and operate vehicles with seating capacities of 10 passengers or greater, excluding the driver. Unless these carriers obtain a special permit from the Commission, they may not provide service that duplicates a direct or connecting service rendered by a scheduled route carrier or a public transportation system. 52 Pa. Code §§ 29.321–29.324.

**Limousine carriers** transport persons on an advance reservation basis in exclusive service provided by luxury vehicles with seating capacities of 10 passengers or less, excluding the driver. These carriers must provide service on an advance reservation service and not by street hail, must charge a single person or organization for the service and not by passengers as individuals, and must maintain trip logs for each vehicle. In addition, limousine carrier rates must be based solely upon time, and must be contained in tariffs. 52 Pa. Code §§ 29.331–29.335.

**Airport transfer carriers** transport persons on a nonexclusive, individual charge basis from points authorized by the certificate to the airport specified by the certificate, and *vice versa*. Airport transfer service may be offered on a scheduled basis serving specified points according to a published time schedule or on a request basis with the origin or destination of the transportation to or from the airport arranged between the

individual and the carrier, or on both bases. A material change in a time schedule shall be posted at terminals and in vehicles engaged in service affected by the change for a period of not less than seven days prior to the effective date of the change. 52 Pa. Code §§ 29.341–29.343.

**Paratransit carriers** transport persons on an advance reservation basis in nonexclusive service in vehicles with seating capacities of 15 passengers or less, excluding the driver. The paratransit vehicles used to transport handicapped persons must contain equipment necessary for the safety and comfort of handicapped passengers. The service must be provided on an advance reservation basis, and the rates charged must be contained in tariffs. 52 Pa. Code §§ 29.353–29.356.

**Experimental carriers** provide a new, innovative, or experimental type of service not encompassed within the other recognized categories of service. A certificate for experimental service is valid only until the service is abandoned, until two years have elapsed from the time the certificate was approved, or until the Commission enacts regulations covering the service, whichever occurs first. Carriers must abide by any regulations or requirements which the Commission prescribes. 52 Pa. Code § 29.352.

### **Summary of the PRO**

Historically, the Commission has required applicants for passenger carrier 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 and 41.14. Upon consideration of the acknowledged benefits of increased competition among passenger motor carriers and advances in technology, we proposed in the PRO reducing the current barriers to entry for *qualified* applicants by eliminating the requirement that an applicant for passenger motor carrier authority establish that approval of the application will serve a useful public purpose, responsive to a public demand or

need.<sup>1</sup> We found that rather than determining public need by means of a complex, costly and time consuming administrative process, public need or demand will be determined in the marketplace by competition among passenger carriers in 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.

We opined in the PRO that in a competitive market with reduced barriers to entry for qualified carriers, there is no reason to continue to protect, by an administrative process, passenger carriers whose services are no longer demanded by consumers who have chosen other carriers. Indeed, we noted that lowering outdated barriers to entry will further promote competition in this industry, which will, in turn, provide consumers with more choices and more competition among carriers as to price, quality and reliability.

Consistent with our policy statement and in light of the benefits of increased competition in the passenger carrier industry, we believed that it is appropriate to modify

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<sup>1</sup> In 2001, we adopted a final policy statement wherein we eliminated the requirement that applicants for limousine authority are required to establish that the proposed service is responsive to a public demand or need, and that the proposed service will not endanger or impair the operation of existing carriers. *Evidentiary Criteria Used to Decide Motor Common Applications*, Docket No. L-00980135 (Order entered March 22, 2001). Notwithstanding our adoption of this policy statement for these carriers, we recognized in the PRO that we still must address ancillary regulatory provisions that may be affected by our action. Additionally, we noted in our PRO that 49 U.S.C. § 14501(a) preempts state regulation of intrastate ‘charter bus service’ as far as rates, routes, and service requirements. This preemption was implemented in 1998. The Commission previously determined that “charter bus transportation,” per § 14501(a)(1)(C), is limited to group and party service provided in vehicles with seating capacities of 16 or more, including the driver. *Regulation of Group and Party Carriers*, Docket No. P-00981458 (Order entered January 11, 1999). *Regency Transportation Group, Ltd. v. Pa. Public Utility Commission*, 44 A.3d 107 (Pa. Cmwlth. 2012). In our January 11, 1999 Order we also determined that it was appropriate to extend the preemption to the ancillary tour and sightseeing and special excursion services. Therefore, per our January 11, 1999 Order, we bifurcated the group and party service category into ‘group and party 11-15’ and ‘group and party greater than 15,’ for regulatory purposes. Since that time, we have not required proof of public demand or need for processing of “group and party greater than 15” carrier applications, but maintained the public need requirement for “group and party 11-15” carrier applications. The PRO reflected these changes.

our regulations governing all passenger carrier applications by lowering the barriers to entry for qualified carriers who are technically and financially fit and who can provide service that is safe, reliable and fully insured.

We noted that our legal authority to eliminate the public need requirement has been considered and affirmed by the Pennsylvania Supreme Court. *Elite Industries, Inc. v. Pa. Public Utility Commission*, 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.

*Id.* at 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. Public Utility Commission*, 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 in the PRO that other jurisdictions, such as New Jersey, Ohio and Maryland, as well as the Federal Motor Safety Administration, do not require passenger carrier applicants to establish a public demand or need as a prerequisite to certification. We posited that at this juncture, it is appropriate and in the public interest to eliminate the need requirement from the passenger carrier application process, fostering further competition in this market.

As a corollary to the proposed elimination of public demand or need in the application process, we envisioned an industry that will grow even more competitive. Noting that since competition drives market pricing, the need to engage in traditional ratemaking processes geared toward monopoly markets will be obviated. Therefore, as barriers to entry are reduced and competition increases, we found that reducing and eliminating regulations that were adopted for a monopoly environment and are no longer necessary is appropriate.

Chapter 23 of our regulations, 52 Pa. Code Chapter 23, governs tariffs and ratemaking procedures for common carriers. Specifically, 52 Pa. Code § 23.68 provides that small passenger carriers with gross annual intrastate revenue of less than \$500,000 need not file the substantiating data required by 52 Pa. Code § 23.64, to support changes in rates. We proposed permitting all passenger carriers to change rates without filing the extensive supporting financial justification required by 52 Pa. Code § 23.64 by eliminating the threshold interstate revenue amount for passenger carriers in § 23.68. Passenger carriers would still be required to submit filings notifying the Commission of tariff changes and to provide the basic operational and financial data enumerated at 52 Pa. Code § 23.68, including the reasons for the proposed tariff change, the effect of the

change on the carrier's revenues, the gross intrastate revenue for the most recent fiscal year, the projected operating revenue and expense, and the projected operating ratio. We noted that the Commission will continue to review such filings to ensure that rates are just and reasonable based on the required submittal.<sup>2</sup> See 66 Pa. C.S. § 1301.

In our PRO, we noted that another consequence of eliminating the public need requirement for passenger carrier applicants is that the current territorial restrictions that accompany a carrier's certificate are no longer necessary.<sup>3</sup> Currently, passenger carriers generally demonstrate that their business will serve a useful public purpose, responsive to a public demand or need, by presenting witnesses who testify that the service is needed in a particular geographic territory. As such, the PUC routinely limits carriers' authority to the geographic territories where the carrier was able to demonstrate a need for the service. We noted that with the elimination of the need requirement, the corresponding limitation on carriers' certificates to specific service territories is no longer necessary. Therefore, we proposed that existing passenger carriers will be deemed to have statewide authority. Recognizing that a carrier may wish to limit its operating territory due to operational concerns, insurance costs, or other factors, we proposed allowing existing carriers to advise the Commission accordingly. We noted that new carriers will retain the ability to propose limitations on its operating territory at the time of application.

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<sup>2</sup> By Order entered October 16, 1997, the Commission allowed limousine and group and party carriers to engage in flexible ratemaking. *Investigation of Flexible Ratemaking for the Bus and Limousine Industries*, Docket No. I-00960063 (Order entered October 16, 1997). In that Order, the Commission allowed group and party and limousine carriers to establish initial rates and change existing rates with at least one (1) day notice to the Commission, with no supporting financial justification as provided at 52 Pa. Code §§ 23.62–23.64 for new tariffs or changes to existing tariffs. Finally, we waived the requirement that group and party and limousine carriers post a notice of changes in fares. 52 Pa. Code § 23.61. Since our 1997 Order establishing flexible ratemaking, we noted that we have not observed any reason to deviate from this practice. Market driven pricing, obviating the need to engage in traditional ratemaking processes geared toward monopoly markets, has been successful. We proposed modifying our regulations to reflect our 1997 order and current practice accordingly.

<sup>3</sup> We have followed this practice since 2001 in the limousine industry and have observed a functional marketplace without the strictures of unnecessary economic regulation. Likewise, large group and party carriers and property carriers have been operating with statewide authority since federal preemption in 1998 and 1994, respectively.

Finally, given the elimination of the public need requirement for passenger carrier applicants and the statewide authorization for all passenger carriers, we believed that the regulatory provisions providing for Emergency Temporary Authority (ETA) and Temporary Authority (TA) are no longer applicable to passenger 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 or a change in rates, we believe that our regulations governing Emergency Relief in general, would suffice. 52 Pa. Code §§ 3.1–3.12.<sup>4</sup>

We stressed in the PRO that passenger carrier applicants are still required to establish, in the application process at 52 Pa. Code § 3.381, that they have the technical and financial ability to provide the proposed service safely, reliably and legally, and that they are fully insured in accordance with the requirements of state law and our regulations.<sup>5</sup>

## **Discussion**

The Commission has reviewed all of the comments filed in this proceeding. Based on those comments, the Commission has determined that it continue to proceed with the proposal in the PRO, with a few modifications. Specifically, the Commission will make the following changes to its proposal: (1) modify the application process for passenger

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<sup>4</sup> We noted in the PRO that ETA and TA are also available to broker and contract carriers. Our experience indicates that these provisions have not been utilized by either group in recent history. We believed that these groups can likewise avail themselves of our regulations governing emergency relief should it be required.

<sup>5</sup> We proposed limiting protests to passenger carrier applications to these criteria. 52 Pa. Code § 3.381(c). Also, we noted that 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 passenger authority. *See* 52 Pa. Code § 5.235.

motor carrier applicants to require more information at the beginning of the application process; (2) continue to require applicants to specify the territory in which they wish to operate, instead of defaulting to statewide authority; (3) keep the restrictive amendment regulation; and (4) retain the regulations providing for Temporary Authority and Emergency Temporary Authority. The Commission will address these changes, as well as other comments to the PRO below.

### **Commission Authority**

Initially, IRRC raises a jurisdictional issue in its comments, questioning whether the Commission has the authority to change its regulations governing application criteria, or whether the proposed regulatory change is so substantial that any changes would properly fall within the legislature's purview. IRRC Comments at 2,3. We recognize that our proposal eliminating the "public demand or need" standard is a significant change from our existing regulations and policy statement. However, the authority to make that change is squarely vested in the Commission.

The Pennsylvania Supreme Court confirmed this authority in its decision in *Elite Industries*, infra. There the Court held that the elimination of the public need requirement in the Commission's application process for limousine carriers was a decision that fell "squarely within the PUC's area of expertise and is best left to the Commission's discretion." *Elite*, 432. The Court specifically recognized that the Legislature provided no specific criteria in determining the propriety of granting a certificate of public convenience, leaving the formulation of the criteria to the Commission. *Elite*, 432.

We disagree with IRRC to the extent that it believes we do not have the authority to modify our regulations governing application criteria for motor carriers and need to seek legislative relief. In fact, we recently completed an identical modification to our regulations by eliminating the public demand or need application criteria for applicants



seeking authority to transport household goods. *Final Rulemaking: Household Goods in Use and Property Carriers*, Docket No. L-2013-2376902 (Order entered June 19, 2014). We also note that the rulemaking process itself incorporates legislative review of any proposed regulatory changes.

### **Disproportionate Impacts of Competition**

IRRC and other commentators also question whether introducing competition into the taxi industry will adversely affect persons in rural areas who rely on taxi service as a primary means of transportation. IRRC Comments at 2. We share this concern, but are confident that eliminating artificial entry barriers will best serve the public. We are cognizant of the ongoing evolution of the transportation industry, and believe that encouraging competition and open markets will ultimately provide superior service.

We are witnessing such a competitive transformation with the advent of Transportation Network Company (TNC) service. TNC service has been available in Pennsylvania for over two (2) years now, and that service is growing, meeting a pent-up demand and even creating an additional demand for that transportation service. We have been at the forefront of this movement, establishing sufficient regulatory safeguards and requirements and ensuring compliance. TNC service competes with traditional transportation modalities head-on. That increased competition has not adversely affected the public, but rather has enhanced customer choice and service. While the incumbent industry will have to respond to the TNC service in order to remain viable, we believe, that in itself is not sufficient reason to reject the necessary changes to our current regulations in order to increase competition. We continue to believe that increased competition is in the public interest for the transportation industry.

Here we proposed eliminating a barrier to market entry that will help foster competition and to allow for easier market entry for new and qualified carriers. We are

not abrogating all oversight, and applicants will still have to establish their technical and financial fitness and to document adequate insurance coverage in order to be qualified. Our experience over the last 50 years indicates that the “public need” application requirement has been increasingly utilized by existing carriers to quash competition to protect market share. Some commentators acknowledge this. We do not believe this is in the public interest. Through our statutory obligations in regulating transportation services, we have noticed significant shortcomings in transportation services where the market has been restricted. We believe that all markets, urban and rural, will benefit from choice. We do not believe it is beneficial to exclude qualified new businesses from the market.

IRRC cites to some studies<sup>6</sup> submitted by commentators which questioned the benefits of deregulation of the taxi industry, those studies did not unequivocally reject deregulation, finding that the effects of taxi deregulation have ranged from benign to adverse, depending on the local conditions and markets. Further, those studies included markets that were totally deregulated, including entry and rates. That is not what we are proposing here; this proposal is *not* deregulation. On the contrary, the Commission will continue to require that applicants establish fitness to serve the requested market. Additionally, we will require vehicles and drivers to comply with all prescribed regulatory safeguards, including maintaining minimum insurance requirements. Finally, we note that these studies were done nearly 20 years ago, prior to the advent of new technologies, such as TNC service. The viability of those studies should be viewed from the current transportation framework.

Additionally, we note that there has been a significant push toward open markets in the transportation industry over the last two decades. *Regulation of Motor Carriers of*

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<sup>6</sup> The studies are dated from 1993 to 1998.

*Property*, Docket No. P-00940884 (Order entered December 20, 1994), *Regulation of Group and Party Carriers*, Docket No. P-00981458 (Order entered January 11, 1999), *Final Rulemaking: Household Goods in Use and Property Carriers, infra, Elite Industries, infra.*

### **Monitoring the Success of the Rulemaking**

In response to IRRC's comment regarding monitoring the success of the proposal, we note that we have been at the forefront of regulatory changes in other industries, such as the telecommunications, electric and gas, and have successfully implemented and continue to implement those changes in Pennsylvania. IRRC Comments at 4. We will do the same here, monitoring the markets and utilizing our expertise to ensure the health of those markets and the provision of safe, reliable service.

### **Economic Impact**

IRRC seeks quantification of the economic impact of the proposed change. IRRC Comments at 2. We are hesitant to project future economic impacts because these projections may not supply precise numbers. However, this is not sufficient reason to reject the changes in this rulemaking which we continue to believe will enhance competition in transportation services. For example, experienced trip date from the early advent of TNC service has demonstrated a clear customer demand for new services. The Commission has extensive experience in managing market entry in the motor carrier industry, is vested with the lawful discretion to determine appropriate market entry standards, and is utilizing its extensive experience in proposing this change.

### **Impact on the Public Health, Safety and Welfare**

IRRC next questions how the Commission will protect the public health, safety and welfare by eliminating the public need application requirement. IRRC Comments at 2. The Commission will continue to examine an applicant's fitness, deciding whether

the applicant has the technical expertise and financial wherewithal to provide service. This determination is made in every case. One commentator, supporting our proposal, suggested that we require more information from an applicant in the initial application itself, rather than in the later stages of the application. Craig A. Doll Comments 1-4. This would enable existing carriers to make an informed decision regarding whether to protest the application on fitness grounds. We agree that this is a good idea and will modify the final regulation to require applicants to include verified statements with their initial application. 52 Pa. Code § 3.381(a)(3). This change will help the PUC be diligent in ensuring all applicants are fit to provide service.

### **Necessity**

IRRC also questions the necessity of eliminating the “public need” application criteria. IRRC Comments at 2. Again, we will cite to our expertise and experience, noting that the public need requirement has been used to stifle competition to the detriment of the public and that, as explained by the Pennsylvania Supreme Court in *Elite*, the Commission has the discretion under Pennsylvania law to eliminate this element of the various standards to be examined in determining whether to grant a certificate of public convenience under Section 1103 of the Public Utility Code. 66 Pa. C.S. § 1103.

### **Implementation Procedures**

IRRC comments on the implementation procedures to be utilized. IRRC Comments at 2. The procedures are not new or cumbersome. We have extensive experience in this regard for other industries where need is no longer an application criteria. We will follow our application procedure in place, as we currently do, with the exception of requiring proof of public need.

### **Data in Support**

IRRC also seeks data to support the proposal to eliminate the public need application criteria. We have previously addressed this issue in the context of IRRC's comment on the necessity and impact of the proposal. To reiterate, the PUC has significant experience and expertise in regulating the motor carrier industry and recognize that insulating that industry from competition is not in the public interest. Our experience in the economic deregulation of the property and group and party industries, as well as reducing entry barriers for the limousine and household goods carrier industries, supports this result. *Regulation of Motor Carriers of Property*, Docket No. P-00940884 (Order entered December 20, 1994), *Regulation of Group and Party Carriers*, Docket No. P-00981458 (Order entered January 11, 1999), *Final Rulemaking: Household Goods in Use and Property Carriers, infra, Elite Industries, infra.*

### **Less Costly Alternatives**

IRRC also questions if there are less costly and intrusive alternatives to our proposal to eliminate proof of public need in the application stage. IRRC Comments at 2. We believe that, at this time, the elimination of proof of public need is the most appropriate way to foster a competitive marketplace that will be more responsive to the public's needs. While this may adversely affect some existing carriers to the extent they will now have competition for their services, that in itself is not sufficient reason to abandon the rulemaking. Conversely, prospective small business carriers will be benefited by allowing them to compete for the public's business and not be barred from starting a business.

### **Negative Impact on Ambulance Services**

Both IRRC and members of the legislature commented on the potential negative effect competition will have on ambulance services, which also provide paratransit service to help subsidize their emergency operations. IRRC Comments at 3,4. Paratransit

service is a form of common carrier service regulated by this Commission. While we are cognizant that this subsidization of ambulance service may be occurring, this situation does not warrant continued market protection for all motor carriers. The provision of paratransit service should be available to a qualified applicant who wants to operate this type of common carrier service. We recognize that allowing competition in the paratransit industry may subject some ambulance companies to economic pressures that they will have to address on a going-forward basis.

### **Pending TNC Legislation**

Additionally, we are cognizant that there is a legislative action (Senate Bill 984) pending regarding TNC service. IRRC Comments at 3. However, that action has no bearing on the implementation of our action here. SB 984 concerns TNC service and the attendant regulatory framework governing that service. It includes provisions establishing an application process for a TNC license, which process does not contain a need component. SB 984 does not pertain to other types of passenger service beyond TNC service. Regardless of the ultimate outcome of any pending legislation, we believe it is appropriate to eliminate the public need application criteria at this time. The need criterion is a vestigial item left over from the regulatory apparatus of prior generations. Current market conditions dictate that reducing entry barriers is in the public interest.

### **Impact of Increased Competition on Operational Investments**

Commentators argue that competition will discourage operational investments by existing carriers, since they will no longer enjoy market protection. IRRC Comments at 3,4. We understand that it may be the decision by some existing carriers to no longer invest in their operations if competition in the marketplace increases. However, many businesses across the Commonwealth and the United States operate in a non-protective market and nonetheless invest in their operations, even though they experience competition. In fact, competition often spurs investment in order for a business to ensure

its continued viability and relevance. For example, many companies across the United States are currently engaged in investing in driverless technology, including some TNCs. Competition is a catalyst for their investment.

Significantly, there is another side to the commentators' argument, which is that a monopolist does not necessarily have to invest and innovate, since there is a captive market, and a reduced level of investment will allow the company to maximize its profits. We live in a market based economy, which has proven itself superior to a centralized planning economy in terms of innovation, resource allocation, and responsiveness to public demand. We do not believe fostering competition in the passenger carrier industry will result in that industry's demise. To the contrary, we believe competition will encourage innovation and will benefit the public while, at the same time, the Commission monitors the industry in accordance with its statutory mandates and current regulations.

#### **Amount of Regulation Necessary**

Commentators next posit that there should be no tariff regulation in an open market. IRRC Comments at 4. We agree with this observation theoretically, however, the reality is that passenger motor carriers in Pennsylvania do not operate in an open market at this point and, as explained herein, the proposal in the PRO is not the equivalent of deregulation. Passenger motor carrier service is and remains a public utility service which necessitates rate oversight, as well as the statutory obligation to provide safe, reasonable and adequate service. 66 Pa. C.S. §§ 1301 and 1501. That being said, the Commission has previously approved flexible tariff structures for the limousine and TNC industries. That same flexibility may be appropriate for other passenger carrier types and is in keeping with our charge under 66 Pa. C.S. Chapter 13. Should this issue arise in the future, it can be addressed under our current tariff regulations.

### **Increase in Protests**

Commentators suggest that as a result of this rulemaking, there will be more protests based on fitness, thus diminishing projected administrative cost savings in the application process. IRRC Comments at 4. While this may or may not be the case, this is insufficient justification to maintain barriers to market entry. We will discourage existing carriers from filing specious protests based on fitness and we will address all pleadings in accordance with our regulations and due process provisions.

### **Geographic Territorial Restrictions**

IRRC next comments about the territorial component of the PRO. IRRC Comments at 4. In the PRO, we proposed eliminating geographic territorial restrictions for carriers unless a carrier would request to serve only a specified geographic area. IRRC questions whether this authorization would affect territories and service within the Philadelphia Parking Authority's (PPA) jurisdiction. To provide clarity on that issue, none of the regulatory changes proposed in the PRO will impact the jurisdiction of the PPA or the passenger motor carriers operating within the PPA's territory. A PUC certificated carrier cannot perform call or demand service within Philadelphia. As a matter of law, the PUC only has the powers given it by the legislature. The PPA has the statutory authority to regulate taxi and limousine service within Philadelphia, not the PUC. 53 Pa. C.S. §§ 5701–5745. Statewide authority would therefore be limited to that territory falling within the Commission's statutory jurisdiction, as is presently the case.

However, upon further consideration of the comments of IRRC and others, we will modify the PRO regarding service territories to the extent we would deem existing carriers to have state-wide authority. For reasons cited by the commentators, including the potential result of increasing protests as well as fitness issues attendant to unrestricted territorial service, we believe that at this juncture it is better to retain our existing territorial framework. Specifically, this means that the PUC will continue to require all



new applicants to specify the geographic territory they wish to service. If a carrier wishes to expand its operations to other territories, or would like statewide authority, in light of the changes in this rulemaking, the carrier can file an application requesting such a change.

### **Restrictive Amendments**

Furthermore, our discussion of the restrictive amendment process in the PRO, 52 Pa. Code § 5.235, drew comments questioning the role of the restrictive amendment process in encouraging settlements. We are persuaded by the comments to abandon our decision to delete the restrictive amendment process at this point. While our experience with that process is that it has been utilized exclusively as a form of market protectionism arising from the public need application criteria, there may be situations conceivable where it could be useful in resolving a contested application on fitness issues. While protests to applications will continue to be permitted, albeit limited to an applicant's fitness, fitness is not an issue to be settled away by agreement amongst the parties by a restrictive amendment. However, this is not to say that the parties cannot, via negotiation and settlement, bring the applicant's fitness into better focus for the Commission's consideration. Therefore, we will retain the restrictive amendment regulation.

### **Regulatory Analysis Form**

IRRC next comments that the Commission should review the Regulatory Analysis Form and public comments thereon and make any revisions deemed appropriate. IRRC Comments at 5. The Commission will review the Regulatory Analysis form and make the necessary changes, as IRRC requests.

### **Temporary Authority and Emergency Temporary Authority**

IRRC next comments on our proposed deletion of our regulations dealing with Temporary Authority (TA) and Emergency Temporary Authority (ETA). IRRC

Comments at 5. IRRC notes that the Public Utility Code provides that TA should be considered by the Commission “under such regulations as it shall prescribe...” 66 Pa. C.S. §§ 1103(d), 2509.

In our PRO, we indicated that the need for TA or ETA would be greatly diminished or extinguished in light of the elimination of entry barriers. This has been our experience in the property, group and party, and limousine industries. We cited our regulations concerning issuance of emergency orders as sufficient to meet our statutory obligations in this regard. We believe those regulations would satisfy our statutory requirements. However, at this point we are persuaded that maintaining these regulations, albeit with modifications to reflect the elimination of public need application criteria, is appropriate since the current ETA/TA regulations provide significant guidance regarding application content.

#### **Related Regulatory Updates**

Finally, IRRC comments on our tariff provisions at 52 Pa. Code §§ 23.1 and 23.69, suggesting they be amended to be consistent with changes made to § 23.68. IRRC Comments at 5. We agree with IRRC’s suggestion, and will make the necessary changes to those provisions; **THEREFORE,**

#### **IT IS ORDERED:**

1. That the regulations of the Commission are amended to read as set forth in Annex A.
2. That the Law Bureau shall submit this order and Annex A to the Office of Attorney General for review as to form and legality.

3. That the Law Bureau shall submit this order and Annex A, to the Governor's Budget Office for review of fiscal impact.

4. That the Law Bureau 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.

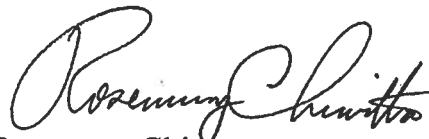
5. That the Law Bureau shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

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, Deputy Chief Counsel, Law Bureau, (717) 783-3714. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Alyson Zerbe, Regulatory Coordinator, (717) 772-4597.

**BY THE COMMISSION**



Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: October 27, 2016

ORDER ENTERED: October 27, 2016

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 1. RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

Subchapter E. FEES

§ 1.43. Schedule of fees payable to the Commission.

(a) *Fees for services.* The fees for services rendered by the Commission are as follows:

*Description*

*Fee (in dollars)*

\* \* \* \* \*

Filing an application for a certificate of public convenience for a motor common carrier of property or a group and party carrier of more than 15 passengers  
\$100

{Filing an application for emergency temporary authority as common carrier of passengers or household goods in use, contract carrier of passengers or household goods in use, or broker or for an extension thereof  
\$100

Filing an application for temporary authority as common carrier of passengers or household goods in use, contract carrier of passengers or household goods in use, or broker  
\$100}

\* \* \* \* \*

CHAPTER 3. SPECIAL PROVISIONS

Subchapter E. MOTOR TRANSPORTATION PROCEEDINGS

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

(a) *Applications.*

\* \* \* \* \*

(3) *Filing and verification.* An original application shall be filed by the applicant, or an authorized officer or representative, with the Secretary of the Pennsylvania Public Utility

Commission, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265. The application shall be verified under § 1.36 (relating to verification). An application by a common carrier for a certificate of public convenience authorizing the transportation of passengers or household goods in use may SHALL be accompanied by verified statements of the applicant ~~and supporting party or firm~~, as set forth in subsection (c)(1)(iii)(A)(II) ~~and (III)~~. An application by a contract carrier for a permit authorizing the transportation of passengers or household goods in use may be accompanied by a verified statement of the applicant, as set forth in subsection (c)(1)(iii)(A)(II) and a copy of the bilateral contract or statement of the shipper that it will enter into a bilateral contract with the carrier.

\* \* \* \* \*

(b) *Notice.* Applications will be docketed by the Secretary and, with the exception of motor common carrier property **and group and party carrier of more than 15 passengers** PASSENGER applications, thereafter forwarded for publication in the *Pennsylvania Bulletin*. No other notice to the public or to a carrier, forwarder or broker is required, except that an applicant filing an application for the discontinuance of the transportation of persons, on a scheduled basis, shall certify to the Commission that it has done the following:

(i) Notified the local government having jurisdiction over affected areas.

(ii) Posted notice of the proposed discontinuance in a conspicuous place in vehicles engaged in service on affected routes.

(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:

(I) The applicant's name and the docket number of the application.

(II) The name, business address and telephone number of the protestant.

(III) The name, business address and telephone number of the protestant's attorney or other representative.

(IV) A statement of the protestant's interest in the application[, including a statement of any adverse impact which approval of the application can be expected to have on the protestant].

(V) A list of all Commission docket numbers under which the protestant operates[, accompanied by a copy of any portion of the protestant's authority upon which its protest is predicated].

[(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) (VI) 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.

\* \* \* \* \*

(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.

\* \* \* \* \*

[(III) Verified statements of the supporting party or firm shall be in paragraph form and shall contain the following information, as applicable:

(-a-) The legal name and domicile of the supporting party or firm.

(-b-) The identity and qualifications of the person making the statement for supporting party or firm.

(-c-) A general description of the supporting party, organization or operations.

(-d-) The volume and frequency of intended use.

(-e-) Specific or representative origins and destinations, or both.

(-f-) The type of service required—persons, group movements, tours, call or demand, scheduled, and the like.

**(-g-) Similar applications supported—pertinent docket numbers.**

**(-h-) Other information deemed pertinent.**

**(IV)] (III)** 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.

**(2)** *Applications for motor common carrier of property and group and party service for more than 15 passenger authority.* No protests to applications for motor common carrier property and group and party carrier more than 15 passenger authority may be filed.

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

**(1)** *Applications for passenger, excluding group and party service more than 15 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)]-(A)** *Applications for passenger and household goods in use authority.* Applications for passenger and 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.

(iii) *Prehearing conferences.* The presiding officer may, in his discretion or at the written request of any party of record, set any protested application for prehearing conference, to simplify the issues prior to hearing.

(2) *Applications for motor common carrier of property and group and party service for more than 15 passenger authority.*

(i) *Scheduling hearings.* If the [Bureau of Transportation and Safety prosecutory staff determine] Commission's prosecutory staff determines that conditional or unsatisfactory safety ratings from other jurisdictions or adverse decisions in safety related proceedings before other tribunals exist, [the Bureau of Transportation and Safety shall enter its] prosecutory staff shall enter an appearance and refer the matter to the Office of Administrative Law Judge for hearing on the applicant's safety fitness. A determination by the Commission, after hearing, that the applicant possesses the necessary safety fitness will result in the application being processed as though the applicant possessed a satisfactory safety rating.

\* \* \* \* \*

(f) *Compliance: conditions for approval for motor common carrier property and group and party more than 15 passenger authority.* If the [Bureau of Transportation and Safety] Commission's prosecutory staff determines that a hearing is not required, as provided in subsection (d)(2), the Commission will act on applications as follows:

(1) A compliance letter will be issued directing that the applicant file a Form E Uniform Motor Carrier Bodily Injury and Property Liability Certificate of Insurance and a Form H Uniform Cargo Insurance Certificate, if applicable. Temporary evidence of insurance may be filed in the form of an insurance identification card for vehicles registered in this Commonwealth, a copy of the declaration page of the insurance policy, a copy of a valid binder of insurance or a copy of a valid application for insurance to the Pennsylvania Automobile Insurance Plan. The temporary evidence of insurance shall be replaced by the required certificates within 60 days. A carrier may begin operations upon filing acceptable evidence of insurance.

(2) Once acceptable Form E and Form H certificates of insurance have been filed, a certificate of public convenience will be issued authorizing the transportation of property, not including household goods in use or group and party more than 15 passenger authority, between points in this Commonwealth.

\* \* \* \* \*



§ 3.382. Evidentiary guidelines for applications for passenger, excluding group and party more than 15 passenger, and household goods in use authority.

**[(a) *Service request evidence.* Evidence of requests received by an applicant for passenger 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:**

**(1) The date of each request.**

**(2) The name, address and phone number of the person or company requesting service.**

**(3) The nature of the service requested on each occasion, including the commodities or persons to be transported, and the origin and destination of the requested transportation.**

**(4) The disposition of the request, that is, whether the applicant provided the service or, if not, whether the requesting shipper was referred to another carrier and, if there was a referral, to which carrier was the shipper referred.**

**(b) *Prospective rate evidence.*** An applicant for a motor carrier certificate or permit for the transportation of passengers or household goods in use, though not required to offer testimony as to the rates proposed to be charged, may do so if it is otherwise competent. The weight to be attributed to the evidence will depend upon the extent to which it is accompanied by cost evidence demonstrating that the prospective rates would be compensatory, that is, that the prospective rates would be adequate to enable the applicant to recover its costs and realize a reasonable return either on investment or under operating ratio standards. The demeanor and credibility of a witness offering the evidence will also be considered in evaluating the weight to be attributed to the evidence.

§ 3.383. ~~{Applications for temporary authority and emergency temporary authority}~~ (Reserved).

**{(a) *Controlling legislation.* The provisions of 66 Pa.C.S. §§ 1103(d) and 2509 (relating to procedure to obtain certificates of public convenience and temporary permits and licenses) are as follows:**

**"§ 1103(d) Temporary authority—Except during the threat or existence of a labor dispute, the commission under such regulations as it shall prescribe may, without hearing, in proper cases, consider and approve applications for certificates of public convenience, and in emergencies grant temporary certificates under this chapter,**

pending action on permanent certificates; but no applications shall be denied without right of hearing thereon being tendered to the applicant."

"§ 2509 Temporary permits and licenses—The commission, under such regulations as it shall prescribe, may, without hearing, in proper cases, consider and approve applications for permits and licenses, and in emergencies grant temporary permits and licenses under this chapter, pending action on permanent permits or licenses; but no application shall be denied without right of hearing thereon being tendered the applicant."

**(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 and motor contract carriers of passengers, 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 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 to meet an emergency situation.

(2) ETA and TA are not available to motor common carriers of property, and household goods in use, AND GROUP AND PARTY CARRIERS TRANSPORTING MORE THAN 15 PASSENGERS.

**(c) *Filing of applications.*** An application shall be filed as follows:

(1) *How and where filed.* An original of each application for TA or ETA (Form C) is to be filed with the Secretary, Pennsylvania Public Utility Commission, Harrisburg, Pennsylvania 17105-3265. The envelope containing the application shall be clearly marked: "TA" APPLICATION or "ETA" APPLICATION.

(2) *Filing fees.* An application for TA, ETA and extensions of ETA shall be accompanied by a filing fee, as prescribed under the fee schedule in § 1.43 (relating to schedule of fees payable to the Commission).

(3) *Supporting statements.* An application shall be accompanied by supporting statements of the applicant [and shippers or other witnesses which establish an

immediate need for service]. A statement shall contain a certification of its accuracy and shall be signed by the person submitting the statement.

(i) *Applicant's statement.* The applicant's statement, which shall be prepared by the applicant or an authorized representative of the applicant, shall contain the following information:

(A) A description of the equipment which will be used to render service, including a statement of whether it is specialized equipment.

(B) A description of the applicant's terminal facilities and personnel.

(C) A statement of whether the filing of the application resulted from a warning, road check or investigation by the Commission.

(D) A telephone number at which the applicant or an authorized representative of the applicant may be contacted.

(E) A statement of the proposed rates, fares or charges and schedule provisions.

(F) A statement of whether there are under suspension rates, fares or charges published for its account or whether an application for special permission to file its rates, fares or charges on less than 30 days' notice in connection with another ETA, TA or permanent authority application covering the same territory has been granted or denied.

(G) Proof of ability to comply with the Commission's insurance requirements, or in the case of an authorized carrier, a statement indicating that it currently has evidence of insurance on file with the Commission.

(H) Names and addresses of labor unions which represent, or which within the past 12 months have represented, or which have filed a petition to represent the employes of the applicant with the National Labor Relations Board or the Pennsylvania Labor Relations Board. If the application seeks the temporary approval of a transfer of rights under a certificate of public convenience, this information shall be supplied for the transferor and the transferee.

[(ii) *Statements of supporting shippers or witnesses.* The statement of a supporting shipper or witness, which shall be prepared by the shipper or witness, or an authorized representative of the shipper or witness, shall contain the following information:

(A) Points or areas to, from or between which the transportation will be provided.

**(B) A statement of the shipper's current and recent needs concerning volume of traffic, frequency of movement and manner of transportation.**

**(C) A statement indicating when the service shall be provided.**

**(D) A statement indicating how long the need for service will continue and whether the supporting shipper or witness will support the permanent authority application.**

**(E) An explanation of the consequences of not having the service made available.**

**(F) A description of the circumstances which created an immediate need for the requested service.**

**(G) A statement of whether efforts have been made to obtain the service from existing carriers, including the data and results of these efforts.**

**(H) Names and addresses of existing carriers who have failed or refused to provide the service and the reasons given for the failure or refusal.**

**(I) A statement of whether the supporting shipper or witness has supported a recent application for permanent, temporary or ETA covering all or part of the requested service, the carrier's name, address and docket numbers, if known, and whether the application was granted or denied and the date of the action, if known.**

**(J) Names and addresses of labor unions which represent, or which within the past 12 months have represented, or which have filed a petition to represent the employes of the supporting shipper with the National Labor Relations Board or the Pennsylvania Labor Relations Board.]**

**(4) *Procedures for filing ETA application.* Procedures for filing ETA applications are as follows:**

**(i) An ETA application may normally be filed only when a corresponding application for permanent authority has been filed and emergency conditions exist which do not permit sufficient time to afford the notice required by paragraph (5)(i). If the application demonstrates the existence of emergency conditions, the Bureau of [Transportation] TECHNICAL UTILITY SERVICES will make a reasonable effort to identify and communicate with those carriers who may hold the authority to provide the emergency service being sought by the applicant and those unions described in paragraph (3)(i)(H) and ~~(ii)(K)~~. An ETA application will be granted for an initial period not to exceed 60 days.**

**(ii) [If the urgency of the situation warrants, the supporting statement of those having the immediate need for service may be furnished by telegram. The telegram**

shall contain substantially the factual information described in paragraph (3). The telegram shall be sent to the Director, Bureau of Transportation and Safety.

(iii)] The filing of ETA applications by [telegram or] telephone shall be acceptable in exigent circumstances. Confirmation shall be made by filing written application—Form C—with the supporting statements, within 5 working days from the filing by telephone [or telegram].

[(iv)] (III) If an emergency continues beyond the initial 60-day period, the ETA may be extended pending disposition of the TA application. Extensions of ETA may be obtained in the following ways:

(A) *Filing the ETA application simultaneously with the corresponding applications for TA and permanent authority.* The simultaneous filing of ETA, TA and permanent authority applications automatically extends the grant of ETA pending disposition of the TA application. No filing fee for ETA extension is required under these circumstances.

(B) *Filing corresponding TA and permanent authority applications within 15 days of the date of filing the ETA application.* The filing of corresponding TA and permanent authority applications within 15 days of the filing of the ETA application automatically extends the grant of ETA pending disposition of the TA application, if the applicant states the following on the ETA application: "Applicant certifies that, within 15 days of the date of filing this application, corresponding TA and permanent authority applications will be filed, and hereby requests that an automatic extension be granted of the ETA." No filing fee for ETA extension is required under these circumstances.

(C) *If the corresponding TA and permanent authority applications are neither filed simultaneously with nor within 15 days of the date of filing the ETA application.* A request for an extension of ETA which does not comply with subparagraph [(iv)] (III)(A) or (B) shall be accompanied by corresponding applications for TA and permanent authority and a filing fee, as prescribed under the fee schedule in § 1.43 in addition to the appropriate filing fees for TA and permanent authority applications, and shall be filed with the Bureau of [Transportation] TECHNICAL UTILITY SERVICES, prior to the expiration date of the ETA.

(5) *Procedures for filing TA applications.* An application for TA shall be accompanied by a corresponding application for permanent authority. Unless otherwise specified in the TA application, it will be considered as proposing service pending disposition of the permanent authority application.

(i) *Notice to interested persons.*

**(A) *Publication in Pennsylvania Bulletin.*** Notice of the filing of a TA application and an application for permanent authority will be given by simultaneous publication in the *Pennsylvania Bulletin*.

**(B) *Service on unions.*** Service of temporary authority applications shall be made by certified mail upon the unions described in paragraph (3)(i)(H) and (ii)(J).

**(ii) *Filing of protests.***

**(A)** A person who can and will provide all or part of the proposed service may file a protest to the TA application. Protests shall be consistent with § 3.381 (relating to applications for transportation of property and persons). The protest shall indicate whether it protests the application for TA or for permanent authority, or both.

**(B)** A union which represents the employes of a motor carrier or supporting shipper, which may be affected by the approval of an application for TA, may file a protest to the application. The protest shall be limited to the issue of whether a threatened or existing labor dispute precludes Commission consideration and approval of the TA application.

**(C)** Protests shall be filed with the Secretary of the Public Utility Commission.

**(iii) *Revocation of ETA upon approval of TA applications.*** Approval of a TA application is effective upon compliance with the Commission order, which results in the automatic revocation of corresponding ETA.}

§ 3.384. {Disposition of applications for ETA and TA} ~~(Reserved)~~.

**{(a) *General.*** Initial determination of ETA and TA applications will be made by the Bureau of 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. 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.

**(2) *Immediate need.*** A grant of TA or ETA will be made when it is established that there is or soon will be an immediate transportation need. A showing of immediate need may involve passenger service to a new or relocated plant, an origin or destination not presently served by carriers, a discontinuance of existing service, failure of existing carriers to provide service or comparable situations which require new carrier service before an application for permanent authority can be filed and

processed. An immediate need will not normally be found to exist when there are other carriers capable of rendering the service unless it is determined that there is a substantial benefit to be derived from the initiation of a competitive service.

(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 to meet an immediate transportation need.

(4) *General bases for disapproval.* Applications for TA or ETA may be denied for the following reasons:]

(1) **GENERAL. GRANTS OF TA OR ETA SHALL BE MADE UPON THE ESTABLISHMENT OF AN EMERGENCY AS DEFINED IN 52 PA. CODE §3.1 (RELATING TO DEFINITIONS) WHICH REQUIRES NEW CARRIER SERVICE BEFORE AN APPLICATION FOR PERMANENT AUTHORITY CAN BE FILED AND PROCESSED.**

(2) **GENERAL BASES FOR DISAPPROVAL. APPLICATIONS FOR TA OR ETA MAY BE DENIED FOR THE FOLLOWING REASONS:**

(i) **Failure to meet statutory standards and this title.**

(ii) **Unfitness of the applicant.**

(c) *Determination of fitness issues in motor carrier applications.* The following standards shall be used in the initial or appellate determination of fitness issues in applications by motor carriers for TA or ETA:

(1) **Unless there is a particularly urgent transportation need, an application will normally be denied when the applicant has been found unfit or in substantial noncompliance with Chapter 37 (relating to safety code for transportation of property and passengers) or 67 Pa. Code Part I (relating to Department of Transportation). An application may, however, be approved if the carrier has reestablished compliance or if the application contains sufficient evidence to establish that the carrier has taken significant steps to remedy its deficiencies and is now in substantial compliance.**

(2) **Alleged violations of statute or regulations or a pending fitness investigation when no formal proceeding has been instituted may not be used as grounds for denial unless the Commission has evidence that the carrier applicant has a history of willful or flagrant violation of the statute or regulations. If authority is denied for lack of fitness on this basis, the decision will state the basis for denial.**

(3) **The granting of ETA or TA will not give rise to a presumption regarding the applicant's fitness.**

(4) A grant of authority may be later revoked by the Commission if it determines that the applicant is unfit under this subsection. The Commission may revoke a carrier's ETA or ETA extension. The denial of a TA application will have the effect of automatically revoking the corresponding ETA or ETA extension.

[(5) Allegations of unfitness in these proceedings will be considered in light of the urgency of the shipper's needs.]]

§ 3.385. ~~{Rates, fares and charges for TA and ETA authorities}~~-(Reserved).

{(a) *Rates requirements of motor carriers—publish on less than 30 days' notice.* Under § 23.42 (relating to establishment of new rates), rates, fares, charges and related provisions may be established by motor carriers upon not less than 1 day's notice to apply on shipments transported under TA.

(b) *Insurance—motor carriers.* A carrier may not render transportation services until it has complied with the provisions concerning the filing of evidence of insurance.

(c) *Publication of rates and charges.* A motor carrier who has been granted ETA or TA may not render transportation services until it has complied with the rate filing requirements as stated in the Commission order.}

\* \* \* \* \*

## CHAPTER 5. FORMAL PROCEEDINGS

### Subchapter B. HEARINGS

#### SETTLEMENT AND STIPULATIONS

§ 5.235. ~~{Restrictive amendments to applications for motor carrier of passenger authority}~~-(Reserved).

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

- (1) Be in writing.
- (2) Explain why the stipulation is in the public interest.
- (3) Be signed by each party to the stipulation.
- (4) Be submitted to the Secretary for insertion into the document folder.

(b) Restrictive amendments shall be binding on the parties but not on the Commission if it is determined they are not in the public interest. If a restrictive



amendment is not accepted by the Commission, it may remand the matter for appropriate proceedings.}

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## 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:

*Common carrier or 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 household goods in use, or both, or any class of passengers or household goods in use, between points within this Commonwealth by, through, over, above or under land, water or air, including forwarders, but not motor common carriers of property, **group and party carriers of more than 15 passengers**, contract carriers, brokers or any bona fide cooperative association transporting property exclusively for the members of the association on a nonprofit basis.

\* \* \* \* \*

~~*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.~~

\* \* \* \* \*

(b) *Applicability.* This chapter applies to motor carriers except common carriers of property **and group and party carriers of more than 15 passengers**.

\* \* \* \* \*

#### NOTICE OF TARIFF CHANGES

##### § 23.41. Notice requirements for filing changes in rates.

(a) [In order to] To establish uniformity in the rules, regulations[, ] and practices of common carriers subject both to the jurisdiction of the Interstate Commerce Commission and the Commission, and so that common carriers subject to the exclusive jurisdiction of the Commission may not be unreasonably prejudiced or burdened, all common carriers, except as specified in subsection (c), are, unless otherwise directed, permitted to file changes in existing and duly established rates upon 30 days' notice to the Commission and

the public. This subsection is not applicable to group and party carriers of 11 to 15 passengers and limousine carriers, which carriers are permitted to change rates on 1 day's notice to the Commission.

(b) Except by specific authority of the Commission, no change shall be made in any existing and duly established rate, except as specified in subsection (c), unless [such] the rate has been in operation and effect for at least 30 days. This limitation [shall] does not, however, apply to tariffs on schedules containing rates for excursions limited to certain designated periods under authority of § 23.43 (relating to excursion fares). This subsection is not applicable to group and party carriers of 11 to 15 passengers and limousine carriers.

(c) Railroads and their agents operating in Pennsylvania intrastate transportation are permitted to file decreased rates on 10 days' notice and increased rates on 20 days' notice.

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### NOTICE OF CHANGES IN FARES

#### § 23.61. Posting of changes in passenger fares.

\* \* \* \* \*

(c) Carriers, except railroads and aircraft, shall also post in every car or other means of conveyance employed by them for the transportation of passengers, over the line affected, a notice similar to that prescribed in subsection (a) for the period indicated, the notice to be of a size and type appropriate to the vehicle involved.

(d) Subsections (a)—(c) are not applicable to group and party carriers of 11 to 15 passengers and limousine carriers.

#### § 23.62. Notification to the Commission of proposed rate changes.

In order that the Commission may be concurrently advised of the net effect of a proposed change in rates upon the patrons and the revenues of common carriers of passengers other than railroad and aircraft, as well as the prima facie reasonableness of the proposed rate changes, the data called for in §§ 23.63 and ~~23.64~~ (relating to data required in filing proposed rate changes; ~~and data required in filing increases in operating revenues~~), as appropriate, shall accompany the filing of the proposed rates, and shall be submitted in triplicate, and under oath of a responsible officer. Tariffs or tariff supplements not accompanied by the data, but required to be so accompanied, will be returned to the sender as not acceptable for filing. This section is not applicable to group and party carriers of 11 to 15 passengers and limousine carriers.

**§ 23.63. Data required in filing proposed rate changes.**

**(a)** If a common carrier of passengers, other than railroad and aircraft, files a tariff or tariff supplement which will increase or decrease fares to any of its patrons, it shall submit to the Commission, with the tariff or tariff supplement, statements showing all of the following:

- (1) The changes in rates proposed, stating the effective and proposed fares.
- (2) The specific reasons for each increase or decrease.
- (3) The estimated effect of each rate increase or decrease on the carrier's annual revenues.
- (4) The calculations by which the estimates in paragraph (3) were determined.

**(b) Subsection (a) is not applicable to group and party carriers of 11 to 15 passengers and limousine carriers.**

**§ 23.64. [Data required in filing increases in operating revenues] (Reserved).**

**[If a common carrier of passengers, other than railroad or aircraft, files a tariff or tariff supplement which will increase the operating revenues of the carrier for the latest 12-month period, it shall submit to the Commission with the tariff or tariff supplement, in addition to the statements required in § 23.63 (relating to data required in filing proposed rate changes), the following information in the detail required to be maintained in the records under the system of accounts applicable to the operation of the carrier:**

- (1) A detailed balance sheet of the carrier at the end of a month not more than 45 days prior to such filing.**
- (2) A summary, by primary accounts, of the book value of the property of the carrier devoted to passenger transportation at the date of the balance sheet required by paragraph (1).**
- (3) A statement showing the amount of the depreciation reserve, at the date of the balance sheet required by paragraph (1), applicable to the property referred to in that paragraph.**
- (4) A statement showing passenger motor vehicles owned at the date of the balance sheet required by paragraph (1), setting forth the make, date of purchase, the cost of each vehicle, the depreciation accrued on each vehicle and the basis for allocation of depreciation to interstate or intrastate operations, or both, if applicable.**

- (5) A statement of operating income derived from passenger transportation, setting forth the operating revenues and expenses by detailed accounts, by months, for the 12-month period which ended on the date of the balance sheet referred to in paragraph (1). Expenses claimed to be variable costs shall be designated as such.**
- (6) A statement of the salaries paid to and the duties performed by the owners and officers of the carrier.**
- (7) A statement to the effect that in the event of any proceedings before the Commission with respect to the proposed rates it is agreed that the tariff and the financial data submitted therewith will be offered in evidence by the utility respondent as an exhibit.**
- (8) A map or sketch of the operation indicating zones, if any.**
- (9) An income and expense statement for Commonwealth operations for the 12 months preceding the tariff filing. Expenses claimed to be variable costs shall be designated as such. If expenses are allocated between interstate and intrastate operations, include a description of the method of allocation.**
- (10) Total passenger miles systemwide and total passenger miles intrastate in this Commonwealth for the 12 months preceding the tariff filing.**
- (11) Costs of capital improvements within this Commonwealth for the 3 years previous to the tariff filing with a detailed explanation of how the costs were allocated between interstate and intrastate operations, whether the costs were included in justifications for previous tariff filings and allocation of depreciation—if any—taken on the capital improvements.**
- (12) A statement of revenues derived from terminals and similar facilities—not actual passenger fares—in this Commonwealth for the 12-month period preceding the tariff filing with a detailed explanation of how the revenues are allocated between intrastate and interstate operations or why such an allocation is not performed.**
- (13) An explanation of the methodology used to determine the rates attributed to interstate and intrastate routes provided in a passenger fare comparison.**
- (14) A statement of rate reductions filed with the Interstate Commerce Commission concerning points in this Commonwealth for the 6-month period preceding the tariff filing.**
- (15) A statement of the last approved rate increase from the Interstate Commerce Commission, including the corresponding document filing and the order approving the increase.]**

**§ 23.65. Exemptions from filing.**

The filing requirements of § ~~§~~ 23.63 and 23.64 (relating to data required in filing proposed rate changes; and data required in filing increases in operating revenues) do not apply to rate changes pertaining solely to temporary or excursion traffic.

\* \* \* \* \*

**§ 23.68. Filing requirements for [small] passenger carriers.**

**[Small passenger carriers with gross annual intrastate revenue of less than \$500,000 do not need to file the substantiating data required under § 23.64 (relating to data required in filing increases in operating revenues) when requesting an increase in rates. Small passenger carriers shall submit a statement with the tariff or tariff supplement stating the following:]**

**(a) Passenger carriers shall submit a statement with the tariff or tariff supplement stating the following:**

- (1) The information required under § 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.

**(b) Subsection (a) is not applicable to group and party carriers of 11 to 15 passengers and limousine carriers.**

**§ 23.69. Stay-out provision.**

A small passenger carrier will not be permitted to request another increase in rates or operating revenues under § 23.68 (relating to filing requirements for small passenger carriers) from the Commission for 1 year following a prior Commission-approved rate increase under § 23.68. 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.

\* \* \* \* \*

## CHAPTER 29. MOTOR CARRIERS OF PASSENGERS

### Subchapter B. COMMON CARRIERS

#### PRELIMINARY PROVISIONS

\* \* \* \* \*

#### § 29.13. Scheme of classification.

The following standard classification of types of service furnished by common carriers of passengers is adopted, and the following is hereby recognized as a standard class of common carrier service. The rights and conditions pertaining to a standard class of service are specified in Subchapter D (relating to supplemental regulations). A certificated service which does not completely correspond to a standard class may be governed, where practicable, by the regulations for the standard class to which it most nearly corresponds:

\* \* \* \* \*

(3) *Group and party service.* Common carrier service for passengers, rendered on an exclusive basis as charter service for groups or rendered on a nonexclusive basis for tour or sightseeing service and special excursion service. There are 2 classes of group and party service, group and party carriers of 11 to 15 passengers, including the driver, and group and party carriers of more than 15 passengers, including the driver.

\* \* \* \* \*

### Subchapter D. SUPPLEMENTAL REGULATIONS

#### GROUP AND PARTY SERVICE

\* \* \* \* \*

#### § 29.323. Vehicle and equipment requirements.

A group and party service may be operated only in vehicles with seating capacities of ten passengers or greater, excluding the driver. There are 2 classes of group and party service, group and party carriers of 11 to 15 passengers, including the driver, and group and party carriers of more than 15 passengers, including the driver.

#### § 29.324. Tariff requirements.

The rates charged and collected shall be contained in the tariff filed, posted and published under the statute and this title. **This section is not applicable to group and party carriers of more than 15 passengers, including the driver.**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17120**

**Final Rulemaking Amending 52 Pa.  
Code Chapters 1, 3, 5, 23 and 29 to  
Reduce Barriers to Entry for  
Passenger Motor Carriers and to  
Eliminate Unnecessary Regulations  
Governing Temporary and  
Emergency Temporary Authority**

**Public Meeting October 27, 2016  
2507592-LAW  
Docket No. L-2015-2507592**

**JOINT STATEMENT OF  
COMMISSIONER ROBERT F. POWELSON  
AND COMMISSIONER JOHN F. COLEMAN, JR.**

Before the Pennsylvania Public Utility Commission (Commission) today for consideration and disposition is the Final Rulemaking Order (Rulemaking Order) amending several of the Commission's Regulations to reduce barriers to entry for passenger motor carriers. The Rulemaking Order specifically reduces current barriers to entry by eliminating the requirement that an applicant for passenger motor carrier authority establish that approval of the application will serve a useful public purpose, responsive to a public demand or need (*i.e.*, the "need" requirement).<sup>1</sup>

The elimination of the need requirement for passenger carriers highlights the Commission's efforts to ensure regulatory flexibility in light of the changing transportation industry. Due to increased competition in the motor carrier industry, the need requirement had become outdated. Instead of serving a useful purpose, this requirement posed an obstacle to otherwise viable applications and served to protect monopoly interests to the detriment of healthy competition.

It is important to note that with the elimination of the need requirement, the Commission will continue to ensure that passenger carriers are technically and financially fit and can operate safely and legally. Passenger carriers must provide service that is safe, reliable, and fully insured. The elimination of the need requirement will simply provide consumers with more choices and more competition among passenger carriers as to price, quality, and reliability.

We want to recognize our legal and technical staff for their work in crafting today's Rulemaking Order. The elimination of the need requirement together with our Transportation 2.0 initiatives to undertake a comprehensive examination of all of our transportation regulations,

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<sup>1</sup> The Commission similarly issued a Final Rulemaking Order on June 19, 2014 to eliminate the need requirement for household goods carriers. *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 (June 19, 2014). The Independent Regulatory Review Commission (IRRC) approved the rulemaking on April 16, 2015, stating that the regulation is consistent with the statutory authority of the PUC and the intention of the General Assembly. *IRRC Approval Order for Pennsylvania Public Utility Commission Household Goods in Use Carriers and Property Carriers*, Regulation No. 57-298 (#3041) (April 16, 2015).



will result in a current set of rules that will ensure the transportation industry in Pennsylvania not only operates safely and reliably, but continues to innovate.

Date: October 27, 2016

  
ROBERT F. POWELSON  
COMMISSIONER

  
JOHN F. COLEMAN, JR.  
COMMISSIONER

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COMMONWEALTH OF PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
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HARRISBURG, PA 17120

GLADYS M. BROWN  
CHAIRMAN

February 23, 2017

The Honorable George D. Bedwick  
Chairman  
Independent Regulatory Review Commission  
14th Floor, Harristown II  
333 Market Street  
Harrisburg, PA 17101

**Re: L-2015-2507592/57-312**  
**Final Rulemaking**  
**Reduce Barriers to Entry for Passenger Motor Carriers**  
**52 Pa. Code, Chapters 1, 3, 5, 23, and 29**

Dear Chairman Bedwick:

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 February 10, 2016, 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 46 *Pa.B.* 1016 on February 27, 2016. 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,

Gladys M. Brown  
Chairman

Enclosures

pc: The Honorable Robert M. Tomlinson  
The Honorable Lisa Boscola  
The Honorable Robert Godshall  
The Honorable Thomas R. Caltagirone  
June Perry, Legislative Affairs Director  
Bohdan Pankiw, Chief Counsel  
John Herzog, Deputy Chief Counsel  
Alyson Zerbe, Regulatory Coordinator

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT  
TO THE REGULATORY REVIEW ACT

ID Number: L-2015-2507592/57-312

Subject: Final Rulemaking to Reduce Barriers to Entry for  
Passenger Motor Carriers  
52 Pa. Code, Chapters 1, 3, 5, 23 and 29

Pennsylvania Public Utility Commission

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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

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
<u>2/23/17</u>	<u>Sean Suggs</u>	<u>HOUSE COMMITTEE (Godshall)</u> Consumer Affairs
<u>2/23/17</u>	<u>Tammy N. Blauch</u>	<u>SENATE COMMITTEE (Tomlinson)</u> Consumer Protection and Professional Licensure
<u>2/23/17</u>	<u>K Cooper</u>	Independent Regulatory Review Commission
_____	_____	Attorney General
_____	_____	Legislative Reference Bureau