

## ARTICLE 16. MOTOR CARRIERS

*NOTE: 45 IAC 16 was transferred from 170 IAC 2. Wherever in any promulgated text there appears a reference to 170 IAC 2, substitute 45 IAC 16.*

*NOTE: IC 8-2.1-18 was repealed by P.L.110-1995, SECTION 35, effective May 10, 1995.*

### Rule 1. Motor Carrier Department

#### 45 IAC 16-1-1 Definitions

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 1. DEFINITIONS. When used in these Rules, unless the context otherwise requires:

(a) Act shall mean the Motor Carrier Act of 1935, as amended.

(b) Commission shall mean the Public Service Commission of Indiana.

(c) Director shall mean the Director of the Motor Carrier Division of the Public Service Commission of Indiana.

(d) Division shall mean the Motor Carrier Division of the Public Service Commission of Indiana.

*(Department of State Revenue; No. 32257: Motor Carrier Department Rule 1; filed Jul 22, 1970, 9:15 am: Rules and Regs. 1971, p. 247) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-1) to the Department of State Revenue (45 IAC 16-1-1) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

#### 45 IAC 16-1-2 Insurance coverage

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 2. (a) General Filing Requirements. Every common and contract carrier of passengers and/or property for hire by motor vehicle over the highways of the state of Indiana, in intrastate and/or interstate commerce shall, subject to the approval of the commission, file with and keep in effect and on file Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance (commonly known as Form E Indiana) covering public liability, property damage, loss to cargo subject to the exceptions and minimum amounts hereinafter set out.

(b) Public Liability and Property Damage Coverage. The minimum amounts for public liability and property damage coverage shall be those contained in Title 49, Code of Federal Regulations, Part 387.

(c) Coverage for Loss or Damage to Cargo. The minimum amounts of coverage for loss or damage to cargo shall be those contained in Title 49, Code of Federal Regulations, Part 1043.

(d) Self-Insurers.

(1) Qualifications; Discretion of Commission. The commission may, in its discretion, allow common carriers to qualify as self-insurers, if such carriers furnish true and accurate verified statements of their financial condition and other evidence which will establish to the satisfaction of the commission the ability of such carriers to satisfy their obligations for public liability, property damage and loss or damage to cargo in not less than the respective minimum amounts set out in subsections (b) and (c) of this section without affecting the stability or permanency of the business of such carriers.

(2) Carriers Engaged Only in Interstate Commerce. A carrier engaged only in interstate commerce within the borders of the state of Indiana, who has been qualified as a self-insurer under the rules and regulations of the Interstate Commerce Commission shall, in lieu of the verified statement of financial condition required above, submit to this commission a certified copy of the currently effective Interstate Commerce Commission order authorizing such motor carrier to self-insure under the provisions of the Interstate Commerce Act.

(3) Annual Proof Required. Each motor carrier shall, on or before January 31 of each year, and prior to the purchase of P.S.C.I. identification stamps, file with the commission, evidence of its financial condition sufficient to establish continuing compliance with this rule. Failure to do so shall result in the immediate suspension of said carrier's authority, with revocation thereof to occur upon failure to comply within thirty (30) days of the date of the suspension order.

(e) Forms. Endorsements for certificates of insurance, bonds, indemnity undertakings, other surety agreements and applications to qualify as a self-insurer shall be on such forms as from time to time may be prescribed and approved by the commission.

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(f) Issuance in Name of Certificate or Permit Holder. Certificates of insurance, bonds, indemnity undertakings and all other securities and agreements shall be issued in the full and correct name of the individual, firm or corporation to the P.S.C.I. certificate, permit or license has been or is to be issued; in case of partnerships, all partners must be named.

(g) Cancellation. Agreements filed in compliance with 170 IAC 2-1 and the laws of the state of Indiana shall contain an endorsement that the same will not be cancelled or withdrawn until after the commission has been given thirty (30) days' notice in writing at its office in Indianapolis, Indiana, which thirty (30) day period shall commence to run from the date such notice actually is received by the commission.

(1) Forms. Cancellation shall be on such forms as from time to time may be prescribed and approved by the commission.

(2) Automatic Revocation of Prior Certification. Any certification of insurance coverage filed in compliance with this rule shall automatically revoke or terminate any such insurance certification previously made on behalf of the motor carrier and compliance with this rule shall be based solely on the last insurance certification filed on behalf of such carrier.

(3) Filings on an Until-Cancelled Basis. All filings pursuant to this rule shall be on an "until-cancelled" basis.

(h) Suspension and Revocation for Failure to Keep Insurance on File. Upon the failure or refusal of any motor carrier to keep surety bonds, certificates of insurance, indemnity undertakings or other securities or agreements on file with the commission as provided for in subsections (b) to (e) of this section, inclusive, the carrier's certificate or permit and all operations thereunder shall be suspended for a period of thirty (30) days by order of the commission. During said suspension period the certificates of insurance, indemnity undertakings or other securities or agreements shall be filed with and be subject to the approval of the commission, which filing and approval by the commission automatically shall act as a termination of the suspension and reinstatement of the certificate or permit of the carrier. If said filing and approval are not made during said thirty (30) day suspension period, then at the end of said period the certificate or permit of the carrier shall be permanently cancelled and revoked without further order of the commission, shall not be subject to reinstatement and appropriate entry shall be made on the records of the commission.

(i) Notification of Change of Address. Ten (10) days after a change of address a carrier shall notify the director of such change in writing on such form as from time to time may be adopted by the commission for such purpose. Failure to comply with the requirements set out in this paragraph may be grounds for suspension or revocation of the carrier's authority by the commission. *(Department of State Revenue; No. 32257: Motor Carrier Department Rule 2; filed Jul 22, 1970, 9:15 am: Rules and Regs. 1971, p. 247; No. 33612; filed Aug 5, 1974, 2:30 pm: Rules and Regs. 1975, p. 528; filed Nov 20, 1986, 1:24 pm: 10 IR 862) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-2) to the Department of State Revenue (45 IAC 16-1-2) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

### **45 IAC 16-1-3 Intrastate temporary or emergency temporary authority; application; issuance or denial**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 3. INTRASTATE TEMPORARY OR EMERGENCY TEMPORARY AUTHORITY. (a) Application for Temporary Authority.

(1) Granted Ex Parte—Time Limitation. To enable a carrier to render service for which there is an immediate need to a point or points within a territory having no adequate carrier service capable of meeting such need the Commission may, in its discretion and without hearing, grant temporary authority for such service by a common or contract carrier by motor vehicle, which authority, unless suspended or revoked for good cause, shall be valid for such time as the Commission shall specify, not exceeding 180 days, unless extended by further order of the Commission.

(2) Forms—Procedure. All applications for temporary authority shall be on such forms as from time to time may be prescribed and approved by the Commission. All such applications shall be subject to the procedure hereinafter set out.

(3) Immediate Necessity—Filing Coextensive Permanent Application. Temporary authority shall be granted only upon proof to the satisfaction of the Commission that the necessity for immediate service is such that it must be rendered before sufficient time for a determination on the merits of an application for permanent authority. No application for temporary authority shall be accepted unless there is filed therewith a coextensive application for permanent authority. The granting of an application for temporary authority shall create no presumption that corresponding permanent authority will be granted thereafter.

Applications for temporary authority must be accompanied by the necessary forms evidencing compliance with the insurance

and tariff filing requirements of this Commission as set out in Subparagraph (a) (5) of this Rule *[this section]*.

(4) Contents of Affidavits Supporting Immediate Necessity. Applications for temporary authority must be verified and accompanied by affidavits sufficient to prove to the satisfaction of the Commission the immediate necessity for transportation services. Such affidavits must include at least the following information:

- (A) Name, address and business of the affiant and his interest in supporting the temporary application;
- (B) Description of the specific points or territory in which transportation is required;
- (C) Description of the specific commodity or commodities to be transported;
- (D) Volume of anticipated traffic, frequency of movement and how transportation has been accomplished in the past year;
- (E) How soon the service must be provided, the reasons for the time limit and the anticipated duration of the transportation necessity;
- (F) Recital of the consequences if the authority requested is not granted;
- (G) The circumstances which created the immediate need for the authority requested; and
- (H) Recital of the efforts made to obtain services of existing certificated carriers.

(5) Compliance with Tariff and Insurance Filing Requirements Prior to Action Upon Temporary Authority. The Commission shall not consider or act upon any application for temporary authority unless and until the applicant has complied with the applicable provisions of the Act and the Rules and Regulations of the Commission governing the filing of proposed tariffs, schedules and contracts, the filing of acceptable insurance certification and, if a nonresident applicant, the designation of a resident agent for the service of process. Failure of the applicant to effect compliance with the aforesaid filing requirements at the time of the filing of its application for temporary authority shall result in the rejection of such application for filing with the Commission.

(b) Issuance or Denial of Temporary Authority.

(1) Entry of Application on Division Minutes. Upon receipt of an application for temporary authority in full compliance with the requirements set out in Paragraph (a) of this Rule *[this section]*, the Commission shall give notice of the filing of said application by making an entry on the next regular minutes of the Division, which entry shall include the name and address of the applicant carrier, the authority sought, the docket number assigned, the names of shippers who have submitted affidavits in support thereof and such additional information as the Commission from time to time in its discretion may determine to be relevant.

(2) Protest of Application—Contents. Any interested person who can and will provide all or any part of the transportation service for which authority is sought in the temporary application may file a protest against the temporary application. Such protest must be verified and must designate specifically:

- (A) What service the protestant can render;
- (B) The method in which the service will be rendered;
- (C) Under what authority from this Commission such service is authorized; and
- (D) The specific efforts, if any, made by the protestant to solicit the transportation.

(3) Filing of Protest—Service. Such protest must be filed within fifteen (15) calendar days of the date notice of the filing of the temporary application is given as herein provided and must consist of a signed and verified original and four (4) copies. One copy of such protest must be served on the applicant or its authorized representative, if any, by first class United States mail, or in person.

(4) Grant or Denial by Commission. After the expiration of such fifteen (15) day period, the Commission in its discretion may grant or deny the temporary application, giving such weight to affidavits submitted in support of said temporary application and protests filed in opposition to said temporary application as said Commission deems proper.

(5) Issuance of Certified Copy of Order. Upon compliance by the applicant with all the provisions set out in Paragraph (a) and (b) of this Rule *[this section]*, the Commission shall, provided it in its discretion determines to grant the application for temporary authority, issue to the applicant a certified copy of the order granting such authority, which order shall constitute authorization to the applicant to institute temporary service pursuant thereto.

(c) Application for Emergency Temporary Authority.

(1) General Requirements—Time Limitations; Forms. To enable a carrier to render service to meet an immediate and urgent need for service due to emergencies, in which time or circumstances reasonably do not permit the filing and processing of an application for temporary authority as provided by Paragraphs (a) and (b) of this Rule *[this section]*, the Commission, in its discretion and without notice or hearing, may grant emergency temporary authority for such service by a common or contract carrier by motor vehicle, which authority, unless suspended or revoked for good cause, shall be valid for such time as the

Commission shall specify, not exceeding thirty (30) days, unless extended by further order of the Commission. All applications for emergency temporary authority shall be on such forms as from time to time may be prescribed and approved by the Commission.

(2) Proof of Necessity—Coextensive Filing of Temporary and Permanent Applications. Emergency temporary authority shall be granted only upon proof to the satisfaction of the Commission that the necessity for emergency service is such that time or circumstances do not permit the determination of the merits of an application for temporary authority. No application for emergency temporary authority shall be accepted unless there are filed therewith coextensive applications for temporary and permanent authority, except in those circumstances where the emergency temporary authority application definitely states that the transportation necessity will exist only for a period of less than thirty (30) days. The granting of an application for emergency temporary authority shall create no presumption that corresponding temporary or permanent authority will be granted thereafter.

(3) Affidavits of Necessity to Accompany Application—Contents. Applications for emergency temporary authority must be verified and accompanied by affidavits sufficient to prove to the satisfaction of the Commission the emergency necessity for transportation services. Such affidavits must include at least the information required in Subparagraph (a)(4) of this Rule [*this section*] for affidavits in support of applications for temporary authority and, in addition thereto, an exact detailed statement of the circumstances of the emergency transportation necessity for which the applicant seeks authority.

(4) Compliance with Tariff and Insurance Filing Requirements Prior to Action upon Emergency Temporary Authority. The Commission shall not consider or act upon any application for emergency temporary authority unless and until the applicant has complied with the applicable provisions of the Act and the Rules and Regulations of the Commission governing the filing of proposed tariffs, schedules and contracts, the filing of acceptable insurance certification and, if a nonresident applicant, the designation of a resident agent for the service of process. Failure of the applicant to effect compliance with the aforesaid filing requirements at the time of the filing of its application for emergency temporary authority shall result in the rejection of such application for filing with the Commission.

(d) Issuance or Denial of Emergency Temporary Authority.

(1) Discretion of Commission. Upon receipt of an application for emergency temporary authority in full compliance with the requirements set out in Paragraph (c) of this Rule [*this section*], the Commission, in its discretion and without notice or hearing, may grant or deny said authority.

(2) Issuance of Certified Copy of Order. Upon compliance by the applicant with all the provisions set out in Paragraphs (c) and (d) of this Rule, the Commission shall, provided it in its discretion determines to grant the application for emergency temporary authority, issue to the applicant a certified copy of the order granting such authority, which order shall constitute authorization to the carrier to institute emergency temporary service pursuant thereto.

(e) Supporting Affidavits Unnecessary When Sale and Transfer Involved. The affidavits of supporting shippers required in Subparagraph (a)(4) and (c)(3) of this Rule [*this section*] shall not be required where the emergency temporary authority and/or the temporary authority sought is the same as that contained in a pending sale and transfer proceeding before this Commission. However, such applications for emergency temporary authority and/or temporary authority shall be accompanied by a verified affidavit of the applicant seller stating that the authority which is the basis of said temporary and/or emergency temporary authority has been continuously operated to date of said application. (*Department of State Revenue; No. 32257: Motor Carrier Department Rule 3; filed Jul 22, 1970, 9:15 am: Rules and Regs. 1971, p. 250; No. 33233; filed Jun 12, 1973, 9:30 am: Rules and Regs. 1974, p. 543*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-3) to the Department of State Revenue (45 IAC 16-1-3) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-1-4 Intrastate permanent authority application without coextensive application for temporary or emergency temporary authority; sale and transfer application**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 4. REQUIREMENTS FOR APPLICATIONS FOR INTRASTATE PERMANENT AUTHORITY OR APPROVAL OF SALE AND TRANSFER FILED WITHOUT COEXTENSIVE APPLICATIONS FOR TEMPORARY OR EMERGENCY TEMPORARY AUTHORITY. (a) Certificate of Supporting Shipper to Accompany Application for Contract Authority. In those instances where an application for permanent intrastate contract authority is filed with the Commission without a coextensive application for temporary or emergency temporary authority being filed therewith pursuant to Rule 3, such application shall be

accompanied by a certificate from each supporting shipper, in which the certificating party shall state that he or the corporation, association or partnership which he represents will:

- (1) Support the application;
  - (2) Attend the hearing on the application and testify on the applicant's behalf; and
  - (3) In the event the authority requested is granted, enter into a contract with the applicant to utilize the authority granted.
- This certificate shall be on such form as from time to time may be prescribed by the Commission. Failure to comply with this Paragraph shall result in the application being rejected as to every supporting contract shipper whose certificate is not filed coextensive with the application.

(b) Compliance with Insurance and Tariff Filing Requirements Prerequisite to Consideration of Application. In those instances where an application for permanent intrastate common or contract authority is filed with the Commission without a coextensive application for temporary or emergency temporary authority being filed therewith, the Commission shall neither consider nor act upon such application in any way unless within sixty (60) days after the final order of the Commission has been approved the applicant has fully complied with the applicable provisions of the Act and the Rules and Regulations of the Commission promulgated thereunder governing the filing of tariffs, schedules and contracts, the filing of acceptable insurance certification in compliance with Rule 2 and, if a nonresident applicant, the designation of a resident agent for the service of process. If full compliance is not achieved within the aforesaid sixty-day period, such order shall be revoked automatically and shall not be subject to reinstatement but must be refiled and treated as a new application.

(c) Applicability to Sale and Transfer Application. The requirements of Paragraph (b) of this Rule *[this section]* shall be applicable to all applications for the approval of sale and transfer of intrastate authority. (*Department of State Revenue; No. 32257: Motor Carrier Department Rule 4; filed Jul 22, 1970, 9:15 am; Rules and Regs. 1971, p. 254; No. 35095; filed Dec 29, 1977: Rules and Regs. 1978, p. 703*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-4) to the Department of State Revenue (45 IAC 16-1-4) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-1-5 Intrastate transportation of passengers; baggage, newspapers, express or mail included in authority; special or charter services as incidental right (Repealed)**

Sec. 5. (*Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722*)

**45 IAC 16-1-6 Registration of interstate commerce commission operating authority; application requirements; exemptions**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 6. REGISTRATION OF INTERSTATE COMMERCE COMMISSION OPERATING AUTHORITY WITH THE COMMISSION. (a) Forms. Application for the registration of Interstate Commerce Commission operating authority shall be on such forms as from time to time may be prescribed and approved by this Commission.

(b) Filing Requirements—Insurance; Resident Agent Designation. Each application therefor shall be filed in triplicate and each copy shall be accompanied by a true copy of the certificate or permit issued by the Interstate Commerce Commission sought to be registered. Each application must be accompanied by the necessary forms evidencing compliance with the insurance filing requirements of this commission as set out in Rule 2, unless such certification previously has been submitted. If insurance certification is not submitted with the application for registration of authority, such application shall be rejected. If the applicant is a nonresident of the State of Indiana, each application must be accompanied by the designation of resident agent for the service of process, which shall be on such form as the Commission from time to time may prescribe.

(c) Disposition of Application and Attached Exhibits. The original of the application form and one copy of the Interstate Commerce Commission operating authority attached thereto shall be retained by the Commission. One copy of the application shall be stamped (approved for filing), dated and transmitted to the motor carrier. This copy shall constitute an acknowledgment of the filing of such authority and no carrier may operate in interstate commerce within the borders of the State of Indiana until it has received from this Commission such acknowledgment of registration of operating authority. The third copy of the application shall be stamped (approved for filing) and forwarded by the Commission to the Indiana State Police.

(d) Registration of Each Subauthority; Separate Temporary Registration; Fee. Each subauthority which authorizes operation

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into or through the State of Indiana must be registered by the carrier before such operation may be commenced. Except as hereinafter provided, each temporary authority issued by the Interstate Commerce Commission must be registered by separate application. All applications shall be accompanied by the fee prescribed by law, except in those instances where such fee has been waived by reciprocal contract, agreement or arrangement with the State of Indiana.

(e) Exemption of Emergency or Temporary Authority—When. A motor carrier shall be required to file with the Commission only that portion of its authority permitting operation within the borders of the State of Indiana. A motor carrier shall not be required to file with the Commission an Interstate Commerce Commission emergency or temporary operating authority having a duration of thirty (30) consecutive days or less if such carrier has:

- (1) Registered its other authority and identified its vehicles or driveaway operation under these Rules and Regulations; and
- (2) Furnished to the Commission a telegram or other written communication in duplicate describing such emergency or temporary operating authority and stating that operation thereunder shall be in full accord with the requirements of these Rules and Regulations.

(f) Exemption of Authority Previously Registered. A motor carrier need not register under the provisions of these Rules and Regulations any authority issued by the Interstate Commerce Commission permitting operation within the borders of the State of Indiana when the same was properly registered with this Commission at the time these standards became effective.

(g) Special and Charter Service Exempt from Registration. This Rule [*this section*] shall not apply to the operation of special and charter bus service into or through the State of Indiana by any interstate common carrier transporting passengers over regular routes pursuant to a certificate of public convenience and necessity issued by the Interstate Commerce Commission.

(h) Registration Fee. Effective February 1, 1975, all applications for the registration of interstate authority, both temporary and permanent, to operate motor vehicles on the highways of Indiana in interstate commerce, which applications do not require a public hearing thereon, shall be accompanied by the following filing fee:

- (1) Twenty-five dollars (\$25) for a motor carrier which has not previously filed a currently effective application for the registration of interstate operating authority with this Commission; or
- (2) Ten dollars (\$10) for a motor carrier which has previously filed a currently effective application for the registration of interstate operating authority with this Commission.

For purposes of this Paragraph the registration fee shall be applicable to each certificate of public convenience and necessity or permit sought to be registered with this Commission. (*Department of State Revenue; No. 32257: Motor Carrier Department Rule 6; filed Jul 22, 1970, 9:15 am: Rules and Regs. 1971, p. 255; No. 33794; filed Nov 26, 1974, 10:25 am: Rules and Regs. 1975, p. 523; No. 33612; filed Aug 5, 1974, 2:30 pm: Rules and Regs. 1975, p. 528*) NOTE: Changed by ICC to read "90 consecutive days or less ..." in *State Registration of Emergency Temporary and Temporary Authority, Ex Parte No. MC-67, 119 MCC 327, on December 17, 1973, adopted 49 CFR Sec. 1131.7. Upheld in NARUC v. United States, 397 F Supp 591 (DCC1975), NARUC Bulletin No. 25-1975, p 22, affd. 46 L Ed(2d) 630 (1976), NARUC Bulletin No. 4-1976, p 13. NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-6) to the Department of State Revenue (45 IAC 16-1-6) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

### **45 IAC 16-1-7 Registration of interstate operations within interstate commerce commission exempt commercial zones; application; acknowledgment**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 7. REGISTRATION OF INTERSTATE OPERATIONS WITHIN THE INTERSTATE COMMERCE COMMISSION EXEMPT COMMERCIAL ZONES WITH THE COMMISSION. (a) Filing of Application Prior to Operation. Before any motor carrier operating pursuant to Section 203(b)(8) of the Interstate Commerce Act within the exempt commercial zones as defined by said Interstate Commerce Act or the Regulations of the Interstate Commerce Commission promulgated thereunder shall conduct any operations within the borders of the State of Indiana, said carrier shall execute the application in triplicate and submit the filing fees required of interstate carriers by the Motor Carrier Act of 1935, as amended, and by Rule 6 herein, on the form prescribed pursuant to said Act. In lieu of filing true copies of the interstate authority required by Rule 6, the carrier shall indicate by an exhibit attached to each copy of said application the nature of the operations which are to be conducted within the borders of the State of Indiana.

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(b) Acknowledgement Issued by Commission—Limitation. The Commission shall issue to the motor carrier an acknowledgement of the filing of the application; no carrier may commence operations within any exempt commercial zone until it has received such acknowledgement from this Commission. The issuance of such acknowledgement by this Commission shall not constitute a grant of authority for the intrastate transportation of property or persons for hire between any point of origin and point of destination, both of which are within that part of an exempt commercial zone within the borders of the State of Indiana. (*Department of State Revenue; No. 32257: Motor Carrier Department Rule 7; filed Jul 22, 1970, 9:15 am; Rules and Regs. 1971, p. 256*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-7) to the Department of State Revenue (45 IAC 16-1-7) by P.L.72-1988, SECTION 12, effective July 1, 1988.

### **45 IAC 16-1-8 Registration of regular route deviations in interstate commerce; procedure; fees (Repealed)**

Sec. 8. (*Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722*)

### **45 IAC 16-1-9 Allowed route deviations; application unnecessary**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 9. ROUTE DEVIATIONS ALLOWED WITHOUT APPLICATION. (a) On By-Passes Designated by State Highway Commission, Local Ordinance. All authorized common and contract carriers of property may operate over and upon the highways designated by the State Highway Commission of Indiana or by local ordinances as "By-Passes", and said carriers may deviate from their authorized route or routes as set forth in their certificates or permits in order to by-pass congested traffic and metropolitan areas.

(b) On Indiana East-West Toll Road for Operating Convenience. All authorized common and contract carriers of property who operate pursuant to certificates and/or permits over U. S. Highways 6, 20 and 30 or within twenty (20) miles of the Indiana East-West Toll Road may use said Toll Road for operating convenience only as an alternate or deviation route without obtaining additional operating authority from the Commission; provided that said carriers are destined to points on their regularly-authorized routes. (*Department of State Revenue; No. 32257: Motor Carrier Department Rule 9; filed Jul 22, 1970, 9:15 am; Rules and Regs. 1971, p. 257*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-9) to the Department of State Revenue (45 IAC 16-1-9) by P.L.72-1988, SECTION 12, effective July 1, 1988.

### **45 IAC 16-1-10 Vehicle identification; numbering and lettering**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 10. NUMBERING AND LETTERING OF MOTOR VEHICLES. (a) Method of Identification of Motor Vehicles Operated in Intrastate Commerce. No intrastate common or contract carrier for hire shall operate motor vehicles over the public highways of the State of Indiana unless there shall be displayed on both sides of each vehicle operated under its own power the name or trade name of the motor carrier under whose authority the vehicle or vehicles is or are being operated and the certificate or permit number assigned to such operating authority by the Commission. The certificate or permit number shall be in the following form: "P.S.C.I. No.\_\_\_\_", but need not include any sub-numbers which may have been assigned. If the name of any person other than the operating carrier appears on a vehicle operated either alone or in combination under its own power, the name of the operating carrier shall be followed by the information required above and shall be preceded by the words "operated by".

(b) Size, Shape and Color. The display of name and number prescribed in this Rule [*this section*] shall be in letters and figures not less than one and three-fourths (1 3/4) of an inch in height nor shall said letters and figures be less than three-eighths (3/8) of an inch in letter-line or stroke width. All such letters and figures shall contrast in shape and color to the background on which they are displayed and shall be so located on each side of the motor vehicle as to be plainly visible to the traveling public at all times. If display is accomplished through use of a removable device, such device shall be firmly attached to the motor vehicle; it shall be constructed of durable material, such as wood, plastic or metal, and otherwise so prepared as to meet the identification and legibility requirements set out in this Rule [*this section*].

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(c) Passenger Vehicles—When Exempted; Procedure. Paragraphs (a), (b) and (e) of this Rule *[this section]* shall not apply to motor vehicles used in the transportation of passengers by common carriers when such vehicles are used in providing through transportation of passengers, in regular services, over the authorized routes of two or more of such carriers under a continuing interchange or lease of equipment arrangement between such carriers, if the vehicle owner's name and certificate numbers are displayed thereon in the manner provided in Paragraph (a) herein, and if there shall have been filed with the Director and posted in each terminal and ticket agency on the involved routes a published schedule of the carriers, clearly showing the points or places between which each carrier assumes and bears complete control and responsibility for the operation of the interchanged or leased vehicle.

(d) Method of Identification of Motor Vehicles Operated in Interstate Commerce. No interstate common or contract carrier for hire shall operate motor vehicles over the public highways in the State of Indiana unless there shall be displayed on each such motor vehicle such identification of carrier name and operating authority as required by the Rules and Regulations of the Interstate Commerce Commission.

(e) Method of Identification for Motor Vehicles Operated in Both Interstate and Intrastate Commerce. No common or contract carrier for hire which holds authority to operate in both intrastate and interstate commerce within the borders of the State of Indiana shall operate motor vehicles over the public highways of said State unless there shall be displayed thereon the intrastate P.S.C.I. identification required by Paragraph (a) of this Rule *[this section]*, as well as the interstate identification required by Paragraph (d) of this Rule. (*Department of State Revenue; No. 32257: Motor Carrier Department Rule 10; filed Jul 22, 1970, 9:15 am: Rules and Regs. 1971, p. 257*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-10) to the Department of State Revenue (45 IAC 16-1-10) by P.L.72-1988, SECTION 12, effective July 1, 1988.

### **45 IAC 16-1-11 Annual vehicle registration identification stamps; fee**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 11. (a) Pursuant to IC 8-2-7-50 *[Repealed by P.L.72-1988, SECTION 10, effective March 1, 1990.]*, and except as provided by paragraphs (e) and (g) of this section, no motor vehicles, except vehicles operated in driveaway or towaway service, or any motor bus carrier operating a foreign licensed vehicle in interstate commerce in special or chartered service under the provisions of IC 8-2-7-29(b) *[Repealed by P.L.108-1983, SECTION 13, effective September 1, 1983.]*, shall be operated under any certificate of public convenience and necessity, permit or acknowledgement of registration of interstate authority without the operating carrier having first obtained a valid annual vehicle registration identification stamp issued by the commission for the motor vehicle. A motor carrier may apply for such number of stamps as it anticipates will be sufficient to cover its motor vehicles that will be placed in operation during the period for which such identification stamps are effective by completion of such application form as from time to time may be prescribed by law. A motor carrier may, from time to time, apply for the purchase of additional stamps and cab cards as needed.

(b) Upon receipt of an annual vehicle registration identification stamp for a motor vehicle, the carrier shall complete and execute a uniform identification cab card for such vehicle, which uniform identification cab card for motor vehicles operated solely in intrastate commerce shall be in such form as from time to time may be prescribed and approved by the commission. The uniform identification cab card for motor vehicles, including a motor vehicle providing the motive power for vehicles operated in driveaway and towaway service, operated in interstate or interstate-intrastate commerce shall be in such form as from time to time may be prescribed and approved by the interstate commerce commission. Each uniform identification cab card shall be typed or printed in indelible ink and maintained in the cab of the motor vehicle for which prepared whenever the vehicle is operated under the authority of the carrier identified on the cab card. Such cab card shall not be used for any vehicle except the vehicle for which it was originally prepared, unless as otherwise authorized by the commission under paragraph (f) of this section; i.e., a cab card shall terminate at the termination of the lease of the vehicle for which it is prepared, or on January 31 of the following year, whichever occurs first. Any erasure, alteration or unauthorized use of a cab card other than provided for in paragraph (f) of this section shall render it void. If a motor carrier permanently discontinues the use of a vehicle for which a cab card has been prepared, it shall nullify the cab card at the time of such discontinuance, unless such cab card is transferred to a replacement motor vehicle pursuant to paragraph (f) of this section.

(c) Upon execution of a uniform identification cab card for a motor vehicle, the carrier executing said cab card shall affix



permanently thereon by use of the glue on the back of the identification stamp the proper annual vehicle registration identification stamp, which stamp may not thereafter be removed from said cab card or used on any other cab card. Any attempt to remove said identification stamp shall nullify both the identification stamp and the uniform cab card to which it is affixed.

(d) When a mailing or shipment of identification stamp(s) and/or cab card(s) by the commission is not received due to the failure of the U.S. Post Office or other carrier used by the commission to deliver such stamp(s) and/or cab card(s), the same will be replaced, provided the motor carrier advises the director of the motor carrier department of the nondelivery within thirty (30) days of the date of shipment by the commission; and further provided that an officer of said motor carrier, within three (3) days thereafter, executes a verified affidavit setting forth the circumstances of order and nondelivery of the stamp(s) and/or cab card(s) and forwards the same to the director of the motor carrier department.

In no other instance shall lost vehicle registration identification stamps be replaced by the commission.

(e) Any motor vehicle operated by any common or contract motor carrier under proper acknowledgement of registration of interstate authority issued by this commission may traverse the highways of the state of Indiana in interstate commerce without a registration stamp issued by this commission, provided that said vehicle so operated is properly licensed in the state where fully qualified and registered; and further provided that the state in which the vehicle is registered has entered into a contract, agreement or arrangement with the state of Indiana pursuant to which like reciprocal privileges are extended by that state to motor carriers of the state of Indiana.

(f) (1) Each authorized common or contract motor carrier (hereinafter referred to as "authorized carrier") shall destroy a cab card immediately upon its expiration, except as otherwise provided in (2) of this paragraph.

(2) An authorized carrier permanently discontinuing the use of a vehicle, for which a Uniform Form D (interstate) Cab Card or Uniform Form D-1 (intrastate) Cab Card has been prepared, shall nullify said Cab Card at the time of such discontinuance; provided, however, that if such discontinuance results from destruction, loss or transfer of ownership of a vehicle and such carrier provides a newly-acquired vehicle in substitution therefor within thirty (30) days of the date of such discontinuance, each identification stamp and number placed on the Uniform Form D Cab Card or Uniform Form D-1 Cab Card prepared for such discontinued vehicle, if such card is still in the possession of the carrier, may be transferred to the substitute vehicle by compliance with the following procedure:

(A) Such authorized carrier shall duly complete and execute the form of certificate printed on the front of a new Uniform Form D Cab Card or New Uniform Form D-1 Cab Card, so as to identify itself and the substitute vehicle and shall enter the appropriate expiration date in the space provided below such certificate;

(B) Such authorized carrier shall indicate the date it terminated use of the discontinued vehicle by entering same in the space provided for an early expiration date which appears below the certificate of the Cab Card prepared for such vehicle; and

(C) Such authorized carrier shall affix the Uniform Form D Cab Card or Uniform Form D-1 Cab Card prepared for the substitute vehicle to the front of the Cab Card prepared for the discontinued vehicle, by permanently attaching the upper left-hand corners of both cards together in such a manner as to permit inspection of the contents of both cards and, thereupon, each identification stamp or number appearing on the card prepared for the discontinued vehicle shall be deemed to apply to the operation of the substitute vehicle.

(g) A person engaged in bona fide motor vehicle leasing business within the state of Indiana may purchase thirty-day temporary registration-identification forms for motor vehicles used as substitutes for long-term leased vehicles, provided the following procedure is fully complied with:

(1) the verified affidavit of an officer, partner or sole proprietor of a certificated motor carrier authorizing the bona fide lessor to purchase thirty-day temporary registration-identification forms is submitted with the application for the purchase of such forms; and

(2) the verified affidavit of an officer, partner or sole proprietor of bona fide lessor containing a list of all substitute motor vehicles to be used by the lessor is submitted with such application. Such affidavit shall contain the type, make, year, serial number, state of registration and name of the owner of the motor vehicle.

Upon payment of the proper fees and compliance with the requirements set out in this paragraph, the commission shall issue to the bona fide lessor thirty-day temporary registration-identification forms. Motor vehicles so identified may be used on any certificated operation as a substitute for motor vehicles subject to a long term lease from the bona fide lessor to a certificated carrier; provided that a separate thirty-day temporary registration-identification form is completed and used in the name of each carrier under whose P.S.C.I. authority the short-term replacement vehicle will be operated.

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(h) Any common or contract motor carrier owning or operating a motor vehicle properly licensed in another state which is entitled to reciprocity with Indiana shall, when traversing the state of Indiana, display the Uniform Form D (Interstate) Cab Card required under paragraph (b) of this section and shall type or print in indelible ink the Indiana P.S.C.I. number issued to such carrier in the square bearing the name of the state of Indiana on the back of said Uniform Form D Cab Card. Said Uniform Form D Cab Card shall be carried on the vehicle, to be exhibited by the driver, upon demand, to any authorized officer of the Indiana state police or the commission.

(i) The annual registration fee required for motor vehicles operated by interstate carriers in Indiana shall be ten dollars (\$10) for all trucks, buses and tractors operated by common or contract carriers of passengers and/or property. All fees set out in this subsection shall be due and payable between October 1st and December 31.

(j) Checks that are returned to the commission because of insufficient funds, closed accounts, etc. will be handled in the following manner:

(1) If a person makes a payment for identification stamps with a check and the commission is unable to obtain payment on the check for its full face amount when the check is presented for payment through normal banking channels, a penalty of ten dollars (\$10) will be imposed.

(2) When a penalty is imposed under subparagraph (1), a certified letter will be sent to the company with a copy of the returned check requesting that the carrier pay the dishonored check and penalty by remitting a cashier's check, certified check, money order, or cash to the commission within ten (10) days of receipt of the letter.

(3) Upon failure or refusal of any motor carrier to remit a cashier's check, certified check, money order or cash in accordance with subparagraph (2) of this paragraph, the carrier's certificate or permit and all operations thereunder shall be suspended for a period of thirty (30) days by order of the commission. During said suspension period the proper cashier's check, certified check, money order or cash shall be remitted to the commission, which remittance automatically shall act as a termination of the suspension and as a reinstatement of the certificate or permit of the carrier. If said remittance is not made during said thirty (30) days suspension period, then at the end of said period the certificate or permit of the carrier shall be cancelled and revoked without further order of the commission.

*(Department of State Revenue; No. 32257: Motor Carrier Department Rule 11; filed Jul 22, 1970, 9:15 am: Rules and Regs. 1971, p. 259; No. 33233; filed Jun 12, 1973, 9:30 am: Rules and Regs. 1974, p. 543; No. 33233; filed Jun 12, 1973, 9:30 am: Rules and Regs. 1974, p. 544; No. 33794; filed Nov 26, 1974, 10:25 am: Rules and Regs. 1975, p. 523; No. 33612; filed Aug 5, 1974, 2:30 pm: Rules and Regs. 1975, p. 529; No. 33612; filed Aug 5, 1974, 2:30 pm: Rules and Regs. 1975, p. 530; No. 33612; filed Aug 5, 1974, 2:30 pm: Rules and Regs. 1975, p. 531; No. 33612; filed Aug 5, 1974, 2:30 pm: Rules and Regs. 1975, p. 532; No. 34223; filed Dec 4, 1975, 3:55 pm: Rules and Regs. 1976, p. 385; No. 35095; filed Dec 29, 1977: Rules and Regs. 1978, p. 703; filed Jan 3, 1983, 2:43 pm: 6 IR 319; errata, 6 IR 777) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-11) to the Department of State Revenue (45 IAC 16-1-11) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

### **45 IAC 16-1-12 Safety requirements; applicable federal regulations**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 12. SAFETY REQUIREMENTS. The Motor Carrier Safety Regulations prescribed and adopted by the Federal Highway Administration Bureau of Motor Carrier Safety not in conflict with the laws of the State of Indiana (except Part 394—Recording and Reporting of Accidents), and the laws of the State of Indiana are adopted as the Safety Rules and Regulations of this Commission. Provided, however, that where the laws of the State of Indiana recognize said Motor Carrier Safety Regulations as an alternative, compliance with said Regulations shall be sufficient. (Copies of said Motor Carrier Safety Regulations promulgated by the Federal Highway Administration Bureau of Motor Carrier Safety may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402.) *(Department of State Revenue; No. 33233: Motor Carrier Department Rule 13; filed Jun 12, 1973, 9:30 am: Rules and Regs. 1974, p. 545) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-12) to the Department of State Revenue (45 IAC 16-1-12) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

**45 IAC 16-1-13 Lease and interchange of vehicles; applicability of section; definitions; exemptions**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 13. (a) Applicability. This section applies to the augmenting of equipment by common and contract carriers of property by motor vehicles in intrastate commerce subject to the Act, IC 8-2-7 et seq. *[Repealed by P.L.72-1988, SECTION 10, effective March 1, 1990.]*, to the interchange of equipment between such common carriers of property by motor vehicle and to lease of equipment by common and contract carriers of property by motor vehicle, with or without drivers, to private carriers and shippers.

(b) Definitions. The following definitions are applicable to this section:

(1) Authorized Carrier. An authorized carrier shall mean a person or persons authorized to engage in the transportation of property as a common or contract carrier under the provisions of the Act, specifically IC 8-2-7-2(g), (h) and (i) *[Repealed by P.L.72-1988, SECTION 10, effective March 1, 1990.]*.

(2) Equipment. Equipment shall mean a motor vehicle, straight truck, tractor, semitrailer, full trailer, combination tractor-and-trailer, and or other type of equipment used by authorized carriers in the transportation of property for hire.

(3) Interchange of Equipment. Interchange of equipment shall mean the physical exchange of equipment between motor common carriers or the receipt by one such carrier of equipment from another such carrier, in furtherance of a through movement of traffic, at a point or points which such carriers are authorized to serve.

(4) Regular Employee. A regular employee shall mean a person who is not merely an agent but one who regularly is in exclusive full-time employment.

(5) Agent. An agent shall mean a person duly authorized to act for and on behalf of an authorized carrier.

(6) Owner. An owner shall mean a person: (1) to whom title to equipment has been issued; or (2) who as lessee has right to exclusive use of equipment for a period longer than 30 days; or (3) who has lawful possession of equipment and has the same registered and licensed in any State or States or the District of Columbia in his or its name.

(7) Shipper. A shipper shall mean a person who consigns or receives property which is transported in intrastate commerce.

(8) Private Carrier. The term "private carrier of property by motor vehicle" shall mean any person not included in the terms "common carrier by motor vehicle" or "contract carrier by motor vehicle," who or which transports by motor vehicle in intrastate commerce property of which such person is the owner, lessee or bailee, when such transportation is for the purpose of sale, lease, rent, bailment or in furtherance of any commercial enterprise.

(c) Exemptions. The provisions of Paragraph (d), except Subparagraphs (3) and (4) relative to inspection and identification of equipment, shall not apply in the following instances:

(1) Equipment used in the Direction of a Point Which Lessor is Authorized to Serve. To equipment owned or held under a lease of 30 days or more by an authorized carrier and regularly used by it in the service authorized, and leased by it to another authorized carrier for transportation in the direction of a point which lessor is authorized to serve: Provided, the two carriers first have agreed in writing that control and responsibility for operation of the equipment shall be that of the lessee from the time the equipment passes the inspection required to be made by lessee or its representative under Paragraph (d)(3) until such time as the lessor or its representative shall give to the lessee or its representative a receipt specifically identifying the equipment and stating the date and the time of day possession thereof is retaken, or until such time as the required inspection is completed by another authorized carrier taking possession of the equipment in an interchange of equipment where such use is contemplated. Such writing shall be signed by the parties or their duly authorized regular employees or agents and a copy thereof carried in the equipment while the equipment is in the possession of the lessee.

(2) Rail or Express Vehicles. To equipment utilized wholly or in part in the transportation of railway express traffic or in substituted motor-for-rail transportation or railroad freight moving between points that are railroad stations or railroad billing.

(3) Suburban Territory Operations. To equipment utilized in transportation performed solely and exclusively within any municipality or its suburban territory, as defined by IC 8-2-7-2(1) *[Repealed by P.L.72-1988, SECTION 10, effective March 1, 1990.]*.

(4) Vehicles Without Drivers From Rental Companies. To the lease of equipment without drivers by an authorized carrier from an individual, partnership or corporation whose principal business is the leasing of equipment without drivers for compensation.

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(5) Non-Powered Equipment. To equipment other than a power unit: Provided, That such equipment is not drawn by a power unit leased from the lessor of such equipment.

(d) Augmenting Equipment. Other than equipment exchanged between motor common carriers in interchange service as defined in paragraph (e) of this section, authorized carriers may perform authorized transportation in or with equipment which they do not own only under the following conditions:

(1) Contract Requirements. The contract, lease or other arrangement for the use of such equipment must comply with the following requirements:

(A) Parties. The contract shall be made between the authorized carrier and the owner of the equipment.

(B) Written Contract Required. The contract shall be in writing and signed by the parties thereto, or their regular employees or agents duly authorized to act for them in the execution of contracts, leases or other arrangements.

(C) Minimum Duration of 30 Days When Operated by Lessor. It shall specify the period for which it applies, which shall be not less than 30 days when the equipment is to be operated for the authorized carrier by the owner or employee of the owner; excepting:

(i) Equipment Used in Agricultural or Perishable Operations. That subject to the provision in (cc) herein such 30-day minimum period shall not apply to equipment with driver:

(aa) Farmer, Cooperative Association or Federation—When Exempt. Where the motor vehicle so to be used is that of a farmer or a cooperative association or federation of cooperative associations as specified in IC 8-2-7-3(g) [*Repealed by P.L.72-1988, SECTION 10, effective March 1, 1990.*], or is that of a private carrier of property by motor vehicle as defined in Paragraph (b) (8) herein and is used regularly in the transportation of property of a character embraced within IC 8-2-7-3(g) [*Repealed by P.L.72-1988, SECTION 10, effective March 1, 1990.*] and the Commodity List adopted by the Commission, and such motor vehicle is to be used by the motor carrier in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which such motor vehicle is based; or

(bb) After Completion of Exempt Movement. Where the motor vehicle is one which has completed a movement covered by IC 8-2-7-3(g) [*Repealed by P.L.72-1988, SECTION 10, effective March 1, 1990.*] and such motor vehicle is next to be used by the motor carrier in a loaded movement in any direction, and/or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which such motor vehicle is based; and

(cc) Statement Prerequisite to Movement. In either instance prior to the execution of the lease the authorized carrier shall receive and retain a statement signed by the owner of the equipment, or someone duly authorized to sign for the owner, authorizing the driver to lease the equipment for the movement or movements contemplated by the lessee certifying that the equipment so leased meets the qualifications enumerated in (aa) and (bb) herein and specifying the origin, destination and the time of the beginning and ending of the last movement which brought the equipment within its purview.

(ii) Automobile and Tank Truck Carriers. Such a 30-day minimum period shall not apply to equipment owned or held under lawful lease by an authorized automobile carrier or tank truck carrier and used in the transportation of motor vehicles or commodities in bulk, respectively, when leased or subleased to other such authorized carriers.

(iii) Ice and Snow Control Purposes. That such 30-day minimum period shall not apply to dump equipment leased or subleased for use in transporting [*sic.*] salt and/or calcium chloride, in bulk, for ice and snow control purposes, during the period from November 1 to April 30, both inclusive, of each year.

(D) Exclusive Possession and Responsibilities. The contract shall provide for the exclusive possession, control and use of the equipment, and for the complete assumption of responsibility in respect thereto by the lessee for the duration of the contract, lease or other arrangement, except:

(i) Lessee May be Considered as Owner. Provisions may be made therein for considering the lessee as the owner for the purpose of subleasing under this section to other authorized carriers during such duration.

(ii) Household Goods Carrier; Intermittent Operations Under Long-Term Lease. When entered into by authorized carriers of household goods for the transportation of household goods, as defined by IC 8-2-7-4(c) [*Repealed by P.L.72-1988, SECTION 10, effective March 1, 1990.*], such provisions need only apply during

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the period the equipment is operated by or for the authorized carrier-lessee.

(E) Compensation to be Specified. It shall specify the compensation to be paid by the lessee for the rental of the leased equipment. Subject to the right of the lessee to delete confidential business information shown thereon which may be used to the detriment or prejudice of the shipper or consignee, the contract shall provide that the lessee, on demand of a lessor whose compensation under such lease is based upon a percentage or division of revenue, will, at the lessee's [sic.] option, either provide the lessor a copy of each extended freight bill covering the transportation involved or make reasonable arrangements for the lessor to inspect the same. The contract also shall specify, regardless of the method or manner in which compensation of the lessor is determined, the terms and conditions as to when payment of compensation is due and payable to the lessor and the circumstances, if any, when such compensation, in whole or in part, will be withheld.

(F) Duration to be Specific. The contract, lease or other arrangement shall specify the time and date or the circumstances on which it begins and the time or the circumstances on which it ends. The duration of the contract, lease or other arrangement shall coincide with the time for the giving of receipts for the equipment as required by subsection (2) of this section.

(G) Copies of Lease and Their Distribution; Copy to be Carried on Vehicle. It shall be executed in triplicate. The original shall be retained by the authorized carrier in whose service the equipment is to be operated, one copy shall be [sic.] carried on the equipment specified therein during the entire period of the contract, lease or other arrangements unless a certificate as provided in paragraph (d)(4)(B) of this section is carried in lieu thereof.

(2) Receipts for Equipment to be Specific. When possession of the equipment is taken by the authorized carrier, or its regular employee or agent duly authorized to act for it, said carrier, employee or agent shall give to the owner of the equipment, or the owner's employee or agent, a receipt specifically identifying the equipment and stating the date and time of day possession thereof is taken. And when the possession by the authorized carrier ends, it or its employee or agent shall obtain from the owner of the equipment, or the owner's regular employee or agent duly authorized to act for it, a receipt specifically identifying the equipment and stating therein the date and the time of day possession thereof is taken.

(3) Safety Inspection of Equipment by the Authorized Carrier. It shall be the duty of the authorized carrier, before taking possession of equipment, to inspect the same or to have the same inspected by a person who is competent and qualified to make such inspection and who has been duly authorized by such carrier to make such inspection as a representative of the carrier, in order to insure that the said equipment complies with the Motor Carrier Safety Regulations of the Federal Highway Administration of the Department of Transportation. The person making the inspection shall certify the results thereof on a report in the form hereinafter set forth, which report shall be retained and preserved by the authorized carrier; and if his inspection discloses that the equipment does not comply with the requirements of the said Safety Regulations, possession thereof shall not be taken. When such an inspection has been made, the authorized carrier, an officer or partner thereof, a safety director or other supervisory employee responsible for safety compliance shall certify on the inspection report that the person who made the inspection, whether an employee or person other than an employee, is competent and qualified to make such inspection and has been duly authorized to do so by such carrier as its representative. When equipment other than a power unit is leased, a form of report applicable to such equipment may be used.

### REPORT OF VEHICLE INSPECTION

Description of vehicle:

Make \_\_\_\_\_ Year \_\_\_\_\_  
Model \_\_\_\_\_ Serial No. \_\_\_\_\_  
Type: Tractor \_\_\_\_\_ Trailer \_\_\_\_\_  
Semitrailer \_\_\_\_\_  
License plate: No. \_\_\_\_\_ State \_\_\_\_\_  
Owner's name \_\_\_\_\_  
Name of authorized carrier \_\_\_\_\_

Indicate in the proper column the result of the inspection of each item listed:

ITEM	NOT DEFECTIVE	DEFECTIVE	DESCRIPTION OF DEFECT
Body			
Brakes			
Cooling system			

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Drive line			
Emergency equipment			
Engine			
Exhaust			
Fuel system			
Glass			
Horn			
Leaks			
Lights (state which)			
Reflectors			
Speedometer			
Springs			
Steering			
Tires			
Wheels			
Windshield wiper			

Any other items requiring attention \_\_\_\_\_

I hereby certify that on the \_\_\_\_ day of \_\_\_\_ I carefully inspected the equipment described above and that this is a true and correct report of the result of such inspection.

\_\_\_\_\_  
(Signature of person making inspection)

I hereby certify that on the date stated above the person who made the inspection covered by this report was competent and qualified to make such inspection and was duly authorized to make such inspection as a representative of

\_\_\_\_\_  
(Name of authorized carrier)

\_\_\_\_\_  
(Signature of carrier, partner, officer, safety director, or other supervisory employee responsible for safety compliance.)

Date \_\_\_\_\_

(4) Identification of Equipment as that of the Authorized Carrier. The authorized carrier acquiring the use of equipment under this section shall properly and correctly identify such equipment during the period of the lease, contract or other arrangement in accordance with the Commission's requirements. If a removable device is used to identify the acquiring authorized carrier as the operating carrier, such device shall be on durable material such as wood, plastic or metal, and bear a serial number in the acquiring authorized carrier's own series so as to keep proper record of each of the identification devices in use.

(A) Identification to be Removed When Lease Terminated. The authorized carrier operating equipment under this section shall remove any legend showing it as the operating carrier displayed on such equipment and shall remove any removable device showing it as the operating carrier before relinquishing possession of the equipment.

(B) Certified Statement May be Carried on Vehicle in Lieu of Lease. Unless a copy of the lease, contract or other arrangement is carried on the equipment as provided in Subparagraph (d)(1)(G), the authorized carrier, its regular employee or agent shall prepare a statement certifying that the equipment is being operated by it, which shall specify the name of the owner, the date of the lease, contract or other arrangement, the period thereof, any restrictions therein relative to the commodities to be transported and the location of the premises where the original of the lease, contract or other arrangement is kept by the authorized carrier, which certificate shall be carried with the equipment at all times

during the entire period of the lease, contract or other arrangement.

(5) Driver of Equipment to be in Compliance With Safety Regulations. Before any person other than a regular employee of the authorized carrier is assigned to drive equipment operated under this section, it shall be the duty of the authorized carrier to make certain that such driver is familiar with, and that his employment as a driver will not result in, violation of any provisions of the Motor Carrier Safety Regulations of the Federal Highway Administration of the Department of Transportation.

(6) Record of Equipment to be Maintained; Shipping Documents to Identify the Authorized Carrier. The authorized carrier utilizing equipment operated under this section for periods of less than 30 days shall prepare and keep a manifest or other documents covering each trip for which the equipment is used in its service, containing the name and address of the owner of such equipment, the point of origin, the time and date of departure, the point of final destination and the authorized carrier's serial number of any identification device affixed to the equipment. During the time that equipment subject to this section is operated, there shall be carried with the equipment, bills of lading, waybills, freight bills, manifests or other papers identifying the lading, and containing the foregoing information, which shall clearly indicate that the transportation of the property carried is under the responsibility of the authorized carrier, which papers shall be preserved by the authorized carrier. This Paragraph also shall apply with respect to vehicles leased for periods of 30 days or more unless that required information is kept at a terminal or office as a part of the records of the authorized carrier.

(e) Interchange of Equipment. Authorized common carriers may, by contract, lease or other arrangement, interchange any equipment defined in Paragraph (b) with one or more other such common carriers, or one of such carriers may receive from another such carrier, any of such equipment, in connection with any through movement of traffic, under the following conditions:

(1) Interchange Agreement to be Specific. The contract, lease or other arrangement providing for interchange shall specifically describe the equipment to be interchanged, the specific points of interchange, the use to be made of the equipment and the consideration for such use. Further, it shall be signed by all the parties to the contract, lease or other arrangement, or their regular employees or agents duly authorized to act for them in the execution of such contracts, leases or other arrangements.

(2) Operating Authority of Carriers Participating in Interchange. The certificates of public convenience and necessity held by the carriers participating in the interchange arrangement must authorize the transportation of the commodities proposed to be transported in the through movement and service from and to the point where the physical interchange occurs.

(3) Through Bills of Lading Required. The traffic transported in interchange service must move on through bills of lading issued by the origination carrier, and the rates charged and revenues collected must be accounted for in the same manner as if there had been no interchange of equipment. Charges for the use of the equipment shall be kept separate and distinct from divisions of the joint rates or the proportions thereof accruing to the carriers by the application of local or proportional rates.

(4) Safety Inspection of Equipment. It shall be the duty of the carrier acquiring the use of equipment in interchange to inspect such equipment or to have it inspected in the manner provided in Subparagraph (d)(3). Equipment which does not meet the requirements of the Subparagraph shall not be operated in the respective services of the interchange carriers until the defects have been corrected. Where carriers interchanging equipment for a through movement of traffic are commonly controlled and jointly maintain and administer a uniform safety program, no such inspection at the point of interchange is required: Provided, That the equipment interchanged has been so inspected immediately prior to the start of the movement in which the interchange occurs and found to meet the requirements of Subparagraph (d)(3).

(5) Identification of Equipment as That of The Operating Carrier. Authorized carriers operating power units in interchange service shall identify such equipment in accordance with the Commission's requirements set out in 170 IAC 2-1-10. Any removable device used to identify the operating carrier shall be on durable materials, such as wood, plastic or metal, shall bear a serial number in the operating carrier's own series, and such carrier shall keep a proper record of each identification device in use. The authorized carrier operating equipment under this section shall remove any legend showing it as the operating carrier displayed on such equipment and shall remove any removable device showing it as the operating carrier before relinquishing possession of the equipment. Authorized carriers operating equipment in interchange service under this Paragraph shall carry with each vehicle so operated, except trailers and semitrailers, a copy of the contract or other arrangement while the equipment is being operated in the interchange service, unless a statement is carried in the vehicle while it is operated in interchange service, certifying that the equipment is being operated by it and identifying the equipment

by company or State registration number, showing the specific point of interchange, the date and time of the assumption of the responsibility for the equipment and the use to be made of the equipment. Such statement shall be signed by the parties to the contract or other arrangement or their employees or agents.

(6) Connecting Carriers Considered as Owner. An authorized carrier receiving equipment in connection with a through movement shall be considered the owner of the equipment for the purpose of leasing the equipment to other authorized carriers in furtherance of the movement to destination or the return of the equipment after the movement is completed.

(f) Rental of Equipment to Private Carriers and Shippers.

(1) Rental of Equipment with Drivers. Unless such service is specified in their operating authorities, authorized carriers shall not rent equipment with drivers to private carriers or shippers.

(2) Rental of Equipment Without Drivers. Authorized common and contract carriers shall not rent equipment without drivers to private carriers or shippers.

(g) Single Source Leasing. Nothing in these rules should be interpreted [*sic.*] to be in conflict with IC 8-2-7-52 [*Repealed by P.L.72-1988, SECTION 10, effective March 1, 1990.*] (Department of State Revenue; No. 35095: Motor Carrier Department Rule 14; filed Dec 29, 1977: Rules and Regs. 1978, p. 707; No. 35256; filed Apr 12, 1978, 11:25 am: Rules and Regs. 1979, p. 226; filed Oct 21, 1986, 10:40 am: 10 IR 391; errata filed Jun 22, 1989, 9:00 a.m.: 12 IR 2063) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-13) to the Department of State Revenue (45 IAC 16-1-13) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-1-14 Advertising by carriers of household goods**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 14. ADVERTISING BY MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS. (a) Contents of Advertisement. Every motor common carrier engaged in the transportation of household goods in intrastate commerce, including any carrier providing any accessorial service incidental to or part of such intrastate transportation, shall include, and shall require each of its agents to include, in every advertisement as defined in Paragraph (c) of this Rule [*this section*] the name or trade name of the motor carrier under whose operating authority the advertised service will originate, and the certificate or docket number assigned to such operating authority by the Commission.

(b) Form of Certificate or Docket Number. Such certificate or docket number shall be in the following form in every advertisement: "P.S.C.I. Certificate No. \_\_\_\_\_" but shall not include any subnumbers which may have been assigned.

(c) Advertisement Defined. The term "advertisement" means any communication to the public, in written or printed form, in connection with an offer or sale of any intrastate service, but shall not be construed to include a simple listing of a carrier's name, address and telephone number. (Department of State Revenue; No. 35014: Motor Carrier Department Rule 15; filed Sep 15, 1977, 11:06 am: Rules and Regs. 1978, p. 667) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-14) to the Department of State Revenue (45 IAC 16-1-14) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-1-15 Annual reports; filing requirements**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 15. FILING OF ANNUAL REPORTS. (a) General. On or before the 30th day of April of each year every motor carrier operating motor vehicles for hire, intrastate, over the public highways of the State of Indiana, under a certificate of public convenience and necessity or permit issued by the Commission, shall file with the Commission an annual report for the preceding calendar year. Said reports shall be filed on such forms as from time to time may be prescribed and approved by the Commission.

(b) Carriers Engaged in Both Intrastate and Interstate Commerce. Motor carriers engaged in both intrastate and interstate commerce required to file annual reports with the Interstate Commerce Commission may file copies thereof with this Commission, which will be considered in full compliance with this rule [*this section*].

(c) Carriers Engaged Solely in Interstate Commerce. Motor carriers engaged solely in interstate commerce shall not be required to file annual reports with the Commission.



(d) Carriers Engaged Solely in Urban Mass Transportation. Motor carriers of passengers, operating pursuant to the Urban Mass Transportation Act of 1965, I.C. 19-5-2 [*IC 19-5 was repealed by P.L.77-1982, SECTION 29, effective July 1, 1982.*], et seq., shall not be required to file annual reports with the Commission.

(e) Failure to File Annual Reports. Upon the failure or refusal of any motor carrier to file an annual report in accordance with Paragraphs (a) and (b) of this Rule [*this section*], the carrier's certificate or permit and all operations thereunder shall be suspended for a period of thirty (30) days by order of the Commission. During said suspension period the delinquent annual report shall be filed with and be subject to the approval of the Commission, which filing and approval by the Commission automatically shall act as a termination of the suspension and as a reinstatement of the certificate or permit of the carrier. If said filing and approval are not made during said thirty (30) day suspension period, then at the end of said period the certificate or permit of the carrier shall be cancelled and revoked without further order of the Commission. The Commission will not approve the sale and transfer of any such certificate or permit unless there has been full compliance with Paragraphs (a) and (b) of this Rule [*this section*]. (*Department of State Revenue; No. 35095: Motor Carrier Department Rule 16; filed Dec 29, 1977: Rules and Regs. 1978, p. 715*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-15) to the Department of State Revenue (45 IAC 16-1-15) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-1-16 Separability**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 16. SEPARABILITY. If any provision of these Rules or the application thereof to any person or circumstances is invalid, such invalidity shall not affect the other provisions or applications of these Rules, which can be given effect without the invalid provision or application, and to this end, the provisions of these Rules are declared to be separable. (*Department of State Revenue; No. 32257: Motor Carrier Department Rule 14; filed Jul 22, 1970, 9:15 am: Rules and Regs. 1971, p. 262; No. 33233; filed Jun 12, 1973, 9:30 am: Rules and Regs. 1974, p. 550; No. 35014; filed Sep 15, 1977, 11:06 am: Rules and Regs. 1978, p. 668*) NOTE: Renumbered Rule 16 by 1974 amendment. Renumbered Rule 18 by 1978 amendment. NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-1-16) to the Department of State Revenue (45 IAC 16-1-16) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **Rule 1.5. Motor Carrier Practice and Procedure Before the Commission**

NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2) to the Department of State Revenue (45 IAC 16-1.5) by P.L.72-1988, SECTION 12, effective July 1, 1988. Wherever in any promulgated text there appears a reference to 170 IAC 1-1.2, substitute 45 IAC 16-1.5.

#### **45 IAC 16-1.5-1 Application and scope; definitions**

Authority: IC 8-2.1-18-6

Affected: IC 8-2

Sec. 1. (a) These rules (170 IAC 1.2 [*sic.*, 170 IAC 1-1.2]) shall govern the practices and procedure in matters before the public service commission of Indiana, arising under Acts of the General Assembly of the state of Indiana conferring powers and duties upon said commission, IC 8-2, et. seq. These rules shall supersede totally 170 IAC 1-1.

(b)(1) "Commission" means the public service commission of Indiana.

(2) "Applicant" means any person or entity filing an application for a certificate or permit with the commission.

(3) "Protestant" means any person or entity opposed to the relief sought by any applicant, who has notified the commission and the applicant of its intention to appear at least five (5) days prior to the date of the hearing.

(4) "Interested party" means any person interested in such proceeding who may appear in person or by attorney and offer evidence in support of or in opposition to the relief requested. An interested party need not be represented by an attorney, and he/she is not entitled to cross-examine any witnesses.

(5) "Presiding officer" means any member of the commission or administrative law judge empowered to conduct proceedings before the commission.

(6) "Complainant" means any person or entity who initiates a formal complaint against any carrier pursuant to IC 8-2 et seq.

(7) "Respondent" means any person or entity who must respond to any order of the commission, or against whom a proceeding or investigation is initiated.

(8) "Pleading" means any application, petition, protest, answer, reply, motion or other similar document filed to initiate or in the course of any proceeding before the commission. (*Department of State Revenue; 45 IAC 16-1.5-1; filed Oct 21, 1986, 10:37 am; 10 IR 382*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-1) to the Department of State Revenue (45 IAC 16-1.5-1) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-1.5-2 Filings with motor carrier division of the commission**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 2. The filing of any pleading with the motor carrier division of the commission may be made through the United States mail or in person as follows:

(1) Filings made by mail shall be deemed to be filed on the date of receipt by the motor carrier division, except for exceptions to an order which are deemed to be received the date the document is deposited in the United States mail. All such filings shall be addressed to: Director of Transportation, Motor Carrier Division, Public Service Commission, 309 W. Washington Street, Suite 601, Indianapolis, IN 46204.

(2)(A) Filings made in person shall be deemed to be filed on the date of receipt by the director of transportation, except that no filing shall be accepted outside of the regular business hours of the commission, and (B) the presiding officer at any hearing may permit appropriate pleadings to be filed at that hearing.

(*Department of State Revenue; 45 IAC 16-1.5-2; filed Oct 21, 1986, 10:37 am; 10 IR 383*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-2) to the Department of State Revenue (45 IAC 16-1.5-2) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-1.5-3 Appearances and attorneys**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 3. (a) Any person may appear and represent his or her own interest before the commission. The interest of another person or entity shall be represented only by an attorney authorized to practice before the commission, pursuant to this section.

(b)(1) Any attorney admitted to practice before the Supreme Court of the state of Indiana, and in good standing, may practice in all proceedings before the commission.

(2) Upon verified written application to the commission, an attorney admitted to practice before the Supreme Court of the United States, or the highest court of any other state of the United States, and in good standing, may be admitted to practice before the commission. Pending approval of such application, an attorney may be permitted to appear, at the discretion of a presiding officer at any hearing.

(c) Any withdrawal of appearance by an attorney on behalf of any party shall be in writing and by leave of the presiding officer. Permission to withdraw shall be given only after the withdrawing attorney has given his client ten (10) days written notice of his intent to withdraw and has filed a copy of that letter with the commission; or upon simultaneous entering of appearance by new counsel for the party. The letter of intent to withdraw shall inform the client of any upcoming hearing date and explain that failure to secure new counsel may result in the party being unrepresented at hearing and for a petitioner or complainant may result in dismissal of its case. In no event will the presiding officer grant a request for withdrawal of appearance unless the request has been filed with the commission at least ten (10) days prior to any hearing date, except for good cause shown. (*Department of State Revenue; 45 IAC 16-1.5-3; filed Oct 21, 1986, 10:37 am; 10 IR 383*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-3) to the Department of State Revenue (45 IAC 16-1.5-3) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-1.5-4 Pleadings; general requirements**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 4. (a) All pleadings filed with the commission shall be signed either by an attorney eligible to practice before the commission or by each person joining therein in the manner following: by the person, if an individual; by a partner, if a partnership; by a corporate officer, if a corporation; if a municipal corporation, by an officer duly authorized to sign such pleading; and by a bona fide general officer, if an unincorporated association. In the case of a corporation having its principal office outside the state of Indiana, pleadings may be signed by an employee serving as managing agent of the corporation's Indiana operations.

(b) Petitions and complaints may be amended or supplemented only upon written or oral motion seeking leave of the presiding officer. Leave shall be granted upon a showing that little or no prejudice will result to any other party to the proceeding. Other pleadings may be amended, or supplemented so as to set forth matters occurring since filing upon such terms as the presiding officer deems proper.

(c) Except as required by law or otherwise provided herein, pleadings need not be verified. The signature of the party, if an individual, or by a duly authorized representative, if the party is an entity, or by the attorney for the party shall constitute a certificate that he has read the pleading that to the best of his knowledge, information and belief, that there is good ground to support it; and that it is not interposed solely for delay. Where a pleading, motion, supporting affidavit or other document of any kind is required to be verified, or where an oath is required to be taken, it shall be sufficient if a representative of the party and not the attorney simply affirms the truth of the matter to be verified. The party's affirmation shall be in the following language:

"I (we) affirm under penalties for perjury that the foregoing representation(s) is (are) true.

(Signed) \_\_\_\_\_"

(d) Any individual who knowingly falsified an affirmation or representation of fact shall be subject to the same penalties as are prescribed by law for perjury, pursuant to IC 35-44-2-1 [IC 35-44 was repealed by P.L.126-2012, SECTION 53, effective July 1, 2012.]. (Department of State Revenue; 45 IAC 16-1.5-4; filed Oct 21, 1986, 10:37 am: 10 IR 383) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-4) to the Department of State Revenue (45 IAC 16-1.5-4) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-1.5-5 Complaints**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 5. (a) In addition to the matters required by 170 IAC 1-1.2-4 complaints shall state the name of each respondent and of each other individual or entity, if any, who under any applicable statute or rule or form prescribed by the commission, is required to be named in the complaint because of his interest or possible interest in the subject matter. Such complaint shall state the address of each respondent, individual or entity if such address is known (or, if unknown, the fact that each of the parties joining in the complaint has been unable to ascertain such address upon reasonable inquiry).

(b) The caption of the complaint shall describe in general terms all the relief being sought in the petition.

(c) In addition to the matters required by 170 IAC 1-1.2-4, complaints shall contain:

(1) a plain and concise statement of the facts showing the interest of the complainant or each of the complainants, in the matters involved in the proceeding;

(2) a plain and concise statement of the facts which is deemed to necessitate or justify relief;

(3) a reference to the statutes by which the commission has jurisdiction and sections thereof or rules of the commission which are deemed applicable; and

(4) specific prayers for the relief which is deemed appropriate.

(d) A complaint shall comply with the requirements of the statute under which it is filed. (Department of State Revenue; 45 IAC 16-1.5-5; filed Oct 21, 1986, 10:37 am: 10 IR 384) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-5) to the Department of State Revenue (45 IAC 16-1.5-5) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-1.5-6 Answers**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 6. (a) In addition to all matters required by 170 IAC 1-1.2-4, answers to any complaint must conform to the following:

- (1) Answers shall be filed with the commission within twenty (20) days after the date of receipt of service unless a different time is prescribed by law or by the commission.

- (2) The answer to a complaint shall set forth, in paragraphs numbered to correspond with the complaint, the facts upon which the respondent relies. All answers shall be in writing, and so drawn as fully and completely to advise the parties and the commission of the nature of the defense. They shall admit or deny specifically and in detail each material allegation of the pleading answer, and state clearly and concisely the facts and matters of law relied upon.

- (3) Any respondent failing to file an answer within the applicable period shall be deemed to be in default, and all relevant basic facts stated in such complaint or petition may be deemed admitted.

- (b)(1) In its answer, a respondent may seek relief against other parties in a proceeding by reason of the presence of common questions of law or fact. The respondent shall set forth in the answer the facts constituting the grounds of complaint, the provisions of the statutes, rules, regulations, or orders relied upon, the injury complained of, and the relief sought. The answer shall in all other respects conform to the requirements of 170 IAC 1-1.2 for answers generally.

- (2) Unless otherwise ordered by the commission, replies to answers seeking affirmative relief shall be filed with the commission within ten (10) days after receipt of service of the answer, but not later than five (5) days prior to the date set for the commencement of the hearing, if any.

- (c) Any person upon whom an order to show cause has been served pursuant to IC 8-2-7-6 [*IC 8-2-7 was repealed by P.L. 72-1988, SECTION 10, effective March 1, 1990.*] shall, if directed to do so, respond to the same by filing with the commission, within the time specified in said order, an answer in writing. Such answer shall be drawn so as to specifically admit or deny the allegations or charges which may be made in said order, set forth the facts upon which respondent relies, and state concisely the matters of law relied upon. Mere general denials of the allegations of an order to show cause which are unsupported by specific facts upon which respondent relies, will not be considered as complying with this section and may be deemed a basis for entry of a final order without hearing, unless otherwise required by statute, on the ground the response has raised no issues requiring a hearing or further proceedings. Any respondent failing to file an answer within the time allowed shall be deemed in default, and all relevant facts stated in the order to show cause may be deemed admitted.

- (d) Any participant may file an answer to any amendment, modification or other pleading. If made, the answer shall be filed with the commission within ten (10) days after the date of receipt of service of the amendment, modification or supplement, unless for cause the commission or presiding officer with or without motion shall prescribe a different time. (*Department of State Revenue; 45 IAC 16-1.5-6; filed Oct 21, 1986, 10:37 am: 10 IR 384*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-6) to the Department of State Revenue (45 IAC 16-1.5-6) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-1.5-7 Petitions**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 7. (a) In addition to the matters required by 170 IAC 1-1.2-4 petitions shall contain:

- (1) a plain and concise statement of the facts showing the interest of the petitioner, or each of the petitioners, in the matters involved in the proceeding;

- (2) a plain and concise statement of the facts which are deemed to necessitate or justify relief;

- (3) a reference to these statutes by which the commission has jurisdiction and sections thereof or rules of the commission which are deemed applicable; and

- (4) specific prayers for the relief which is deemed appropriate.

- (b) The caption of the petition shall describe in general terms all the relief being sought in the petition.

- (c) A petition shall comply with the requirements of the statute under which it is filed.

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## MOTOR CARRIERS

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(d) A petition to the commission for the issuance, amendment, or repeal of a regulation shall set forth clearly and concisely the interest of the petitioner in the subject matter, the specific regulation, amendment, or repeal requested, and shall cite by appropriate reference the statutory provision or other authority thereof. Such petition shall set forth the purpose of, and the facts claimed to constitute the grounds requiring such regulation, amendment, or repeal. Petitions for the issuance or amendment of a regulation shall incorporate the proposed regulation or amendment. (*Department of State Revenue; 45 IAC 16-1.5-7; filed Oct 21, 1986, 10:37 am: 10 IR 385*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-7) to the Department of State Revenue (45 IAC 16-1.5-7) by P.L.72-1988, SECTION 12, effective July 1, 1988.

### 45 IAC 16-1.5-8 Service

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 8. (a) When service is effected by mail, first class mail shall be used.

(b) Orders, notices, and other documents originating with the commission, including all forms of commission action and similar process, and other documents designated by the commission for this purpose, shall be served by the commission by mail, except when service by another method shall be specifically required by the commission, by mailing a copy thereof to the person to be served, addressed to the person or persons designated in the initial pleading, submittal or notice of appearance at his or its principal office or place of business. When delivery is not accomplished by mail, it may be effected by any one [*sic.*] duly authorized by the commission.

(c) All pleadings, submittals, briefs, and other documents, filed in proceedings pending before the commission, by any party, when filed or delivered to the commission for filing, shall be served upon all participants in the proceeding.

(d)(1) In any proceeding where any attorney has filed a pleading or submittal on behalf of a client or has entered an appearance pursuant to 170 IAC 1-1.2-2, any notice or other written communication required to be served upon or furnished to the client shall be served upon or furnished to the attorney in the same manner as prescribed for his client.

(2) When any participant has appeared by attorney, service upon such attorney shall be deemed service upon the participant and separate service on the participant may be omitted.

(e) The date of service shall be the day when the document served is deposited in the United States mail, or is delivered in person, as the case may be.

(f) There shall accompany and be attached to the original of each pleading, submittal, or other document filed with the commission when service is required to be made by the parties, a certificate of service.

(g) The form of a certificate of service shall be as follows:

I hereby certify that I have this day served a true copy of the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 170 IAC 1-1.2-8.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Signed \_\_\_\_\_

Counsel for \_\_\_\_\_

(*Department of State Revenue; 45 IAC 16-1.5-8; filed Oct 21, 1986, 10:37 am: 10 IR 385*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-8) to the Department of State Revenue (45 IAC 16-1.5-8) by P.L.72-1988, SECTION 12, effective July 1, 1988.

### 45 IAC 16-1.5-9 Subpoenas

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 9. (a) Subpoenas for the attendance of witnesses and subpoenas duces tecum shall be issued at the request of any party. Subpoenas shall be signed by the secretary, or a member of the commission, and shall be issued under the seal of the commission.

(b) Parties shall prepare subpoenas for issuance and shall be responsible for service, which shall be shown by the return of the sheriff or the affidavit of the party or attorney serving the same. Such return of affidavit shall be promptly filed with the commission.

(c) Upon motion made at or before the time specified for compliance in any such subpoena, the commission may quash or modify the subpoena if it is unreasonable, untimely, or seeks no relevant evidence. (*Department of State Revenue; 45 IAC 16-1.5-9; filed Oct 21, 1986, 10:37 am: 10 IR 386*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-9) to the Department of State Revenue (45 IAC 16-1.5-9) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-1.5-10 Discovery**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 10. (a) Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things. It is not grounds for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(b) All discovery requests shall be made in writing and served upon all parties. Discovery may be conducted without filing such requests with the commission.

(c)(1) Any party against whom discovery is directed shall satisfy the request within (30) days following receipt thereof or reach an agreement with the requesting party as to the nature, scope and time schedule for the requested discovery. An evasive or incomplete answer, if made in bad faith, shall be considered a failure to answer.

(2) Any party against whom discovery is directed may object to a discovery request. The objection must be made in writing and specifically enumerate which items of the discovery request are objectionable and why. Any objection to a discovery request shall be made within ten (10) days of receipt of the request or such objection shall be deemed waived.

(3) If a party against whom discovery is directed fails to satisfy the request within the required or agreed time schedule or objects to the discovery request, the party seeking discovery may file with the commission a written motion to compel discovery attaching a copy of the discovery request and any objections and setting forth the reasons why such discovery shall be filed within seven (7) days following receipt of service of the motion, unless the presiding officer shall prescribe a different time. Any reply to responses shall be filed within five (5) days of receipt of service of the response, unless the presiding officer shall prescribe a different time.

(4) The party against whom discovery is directed may file a motion for protective order seeking protection from unduly burdensome, oppressive or unreasonably duplicative discovery or seeking to establish reasonable guidelines for the discovery sought.

(5) In order to serve the public interest and expedite the discovery process, the presiding officer, with or without motion, may call an informal attorneys' conference to be conducted off the record of the proceeding, for the purpose of discussing, hearing argument on, and resolving discovery disputes. The presiding officer shall have authority to participate in the discussions and assist the parties in resolving discovery disputes. The rulings of the presiding officer made at such conference shall be reduced to writing in the form of a docket entry and shall be binding upon all the parties.

(d) A party who has responded to a request for discovery with a response which was complete when made, is under no duty to supplement his response to include information thereafter acquired unless that party later learns that his response is incorrect, in which case such party is under a duty to reasonably correct the response.

(e) Protestants should make every attempt to properly coordinate discovery so as to avoid duplication. Accordingly, all requests for discovery shall be served upon all parties to a proceeding. In addition, all responses made to discovery requests shall be served upon all of the parties to the proceeding. In the event that requests for discovery nonetheless become overly duplicative, the responding party may consolidate answers so as to avoid unnecessary duplication. However, the responding party is still under the obligation to adequately respond in good faith to the substance of all of the requests of each of the parties to the proceeding.

(f) In accordance with Rule 28(F) of the Indiana Rules of Trial Procedure, any situation not specifically addressed by this section shall be governed by Rules 26 through 37 inclusive of the Indiana Rules of Trial Procedure, insofar as said Rules do not conflict with the provisions of IC 8-1-2-29. (*Department of State Revenue; 45 IAC 16-1.5-10; filed Oct 21, 1986, 10:37 am: 10 IR 386*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-10) to the Department of State Revenue (45 IAC 16-1.5-10) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-1.5-11 Motions**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 11. (a) Motions shall set forth the ruling or relief sought, and shall state the grounds therefor and the statutory or other authority relief *[sic.]* upon.

(b) Motions may be made in writing at any time, and motions made during hearings may be stated orally upon the record, or the presiding officer may require that such oral motions be reduced to writing and filed separately.

(c) Any party may respond to any motion. Responses to motions made during hearings may be stated orally upon the record, or the presiding officer may require that such oral responses be reduced to writing and filed separately. Responses to written motions shall be filed with the commission within ten (10) days after the date of the receipt of service of the motion, unless the presiding officer shall prescribe a different time.

(d) The party originally making or filing any such motion to which another party responds may reply to such response. Replies may be made orally during hearings or if made in writing, shall be filed with the commission within seven (7) days after the date of receipt of service of that response, unless the presiding officer shall prescribe a different time.

(e) The presiding officer is authorized to rule and shall rule upon any motion not formally acted upon by the commission prior to the commencement of the hearing where immediate ruling is essential in order to proceed with the hearing, and upon any motion filed or made after the commencement of the hearing and prior to the submission of a decision in the proceeding. The presiding officer by initial decision may render a final determination with regard to any motion prior to the termination of hearing including a question of jurisdiction, the establishment of a prima facie case, or standing. Motions made during the course of hearing, which if granted would otherwise dispose of a party's rights, should be acted upon by the presiding officer prior to taking further testimony if, in the opinion of the presiding officer, such action is warranted. (*Department of State Revenue; 45 IAC 16-1.5-11; filed Oct 21, 1986, 10:37 am: 10 IR 387*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-11) to the Department of State Revenue (45 IAC 16-1.5-11) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-1.5-12 Motor carrier protestants**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 12. (a) Any individual or entity opposed to relief sought in any motor carrier case may become a party protestant at the hearing provided he has notified the commission and the applicant or applicant's attorney in writing of his intention to protest the application, at least five (5) days prior to the date of the initial hearing.

(b) A party who files timely notice of intention to protest in accordance with the provisions of subsection (a) of this section hereof shall be considered a party of record and shall be served with all pleadings, notices or orders thereafter issued or filed in this cause.

(c) When no protests are filed, the initial hearing shall be summary in nature, and it shall be sufficient for the applicant to present verified testimony or affidavits necessary to meet its burden of proof pursuant to Indiana law.

(d) When protests have been filed pursuant to subsection (a) of this section, the initial hearing shall be a prehearing conference for the purpose of:

- (1) the simplification of issues;
- (2) amending the pleading either for the purpose of clarification, amplification or limitation;
- (3) making admissions of certain averments of facts or stipulations concerning the use by any party of matters of public record, to the end of avoiding the unnecessary introduction of proof;
- (4) determining the procedure at the hearing;
- (5) limiting the number of witnesses;
- (6) determining the propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits;
- (7) discussing such other matters as may aid in the simplification of the evidence and disposition of the proceeding, including but not limited to, matters regarding discovery.

(e) Action taken at the prehearing conference including a recitation of the amendments allowed to the pleadings, and the

agreements made by the parties shall be in writing unless the parties enter upon a written stipulation as to such matters, or agree to a statement thereof to be made on the record by the presiding officer at the hearing.

(f) If the presiding officer determines that only procedural issues need to be determined at the prehearing conference, the parties need not appear at the initial hearing and the presiding officer at his/her discretion may issue a docket entry setting forth the procedural schedule and said entry shall be binding on all parties of record.

(g) If the prehearing conference results in the withdrawal of all protestants, a summary hearing as described in subsection (c) of this section will be held either at that time or at a subsequent summary hearing.

(h) If an application for the sale and transfer of operating authority is pending before the commission and an individual or entity alleges that the operating authority being transferred has not been continuously operated, that party shall notify the commission and each of the joint applicants of that allegation at least five (5) days prior to the initial hearing on such sale and transfer. Any party alleging such dormancy, in whole or in part, shall have the burden of proof of such allegation. The matter of dormancy must be determined prior to a determination on the issue of approval or denial of the sale and transfer application. *(Department of State Revenue; 45 IAC 16-1.5-12; filed Oct 21, 1986, 10:37 am: 10 IR 387) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-12) to the Department of State Revenue (45 IAC 16-1.5-12) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

#### **45 IAC 16-1.5-13 Hearing procedure**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 13. (a) Hearings will be conducted by the commission, a commissioner, or administrative law judge.

(b) The presiding officer before whom the hearing is held shall cause to be entered upon the record all appearances, with a notation in whose behalf each appearance is made.

(c) In hearings upon applications, formal complaints, or petitions, the applicant, complainant, petitioner, or other party having the burden of proof, as the case may be, shall open and close, unless otherwise directed by the presiding officer. In hearings on investigations and in proceedings which have been consolidated for hearing, the presiding officer may direct who shall open and close. However, in proceedings where the evidence is peculiarly within the knowledge or control of another participant, the order of presentation may be varied by the presiding officer.

(d) When objections to the admission or exclusion of evidence before the commission or the presiding officer are made, the grounds relied upon shall be stated briefly.

(e) The presiding officer may, during the hearing, permit a party to furnish designated exhibits after the close of the hearing with copies to all parties of record. Any such exhibit shall be specifically described and assigned an identifying exhibit number at the time of hearing and may be admitted into the record of the proceeding with physical production at a later time, provided no party objects or if objected to, the presiding officer shall direct the mode of admissibility, including granting the objecting party reasonable opportunity to question the preparer of the exhibit regarding its contents. Provided, however, that this section in no way makes evidence admissible, which would otherwise be inadmissible.

(f) The prepared testimony of a witness for any party need not be in question and answer form but must be coherently outlined in relatively short paragraphs to facilitate objections. It shall have attached any related exhibits. Unless otherwise provided by the presiding officer, an original and one (1) copy of such prepared testimony and exhibits must be received by the commission and served on all parties to the proceeding at least five (5) days prior to the date of the hearing.

(g) Unless otherwise directed by the commission, pre-filed testimony, when properly authenticated by the witness under oath or affirmation, may be transcribed into the record or marked as an exhibit. Such written testimony shall be subject to the same rules of admissibility and cross-examination of the sponsoring witness as if the testimony were being presented orally.

(h) Any party to a proceeding may move for an extension of time in which to pre-file testimony. However, at the discretion of the presiding officer, the hearing may be rescheduled to a later date, and the extension of time in which to pre-file such testimony fixed, to avoid undue delay and provide opportunity for all parties to properly prepare their cases. If the protestants late file their prefiled testimony without just cause, the protests shall be stricken and they shall remain in the proceeding as interested parties.

(i) Due legal notice of the initial public hearing in any proceeding having been given and published as required by law, notice of further hearing or other matters in such proceeding need not be published. The commission may, but shall not be required to,



mail written notice of such further hearings or proceedings to the attorney of record for each party.

(j) After being duly notified, any party who fails to be represented at a scheduled conference or hearing in any proceeding shall be deemed to have waived the opportunity to participate in such conference or hearing, and shall not be permitted thereafter to reopen the disposition of any matter accomplished at such conference or hearing, or to recall for further examination any witnesses who were excused unless the presiding officer determines that the failure to be represented was unavoidable and that the interests of the other participants and of the public would not be prejudiced by permitting such reopening of further examination.

(k) With the approval of the commission, corrections or changes in the stenographic record may be made upon the written agreement of all parties of record filed with the commission within ten (10) days after the stenographic record has been completely transcribed.

(l) Parties may obtain copies of the stenographic record from the official reporter upon payment of the appropriate charges fixed by the commission. (*Department of State Revenue; 45 IAC 16-1.5-13; filed Oct 21, 1986, 10:37 am: 10 IR 388*) *NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-13) to the Department of State Revenue (45 IAC 16-1.5-13) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

#### **45 IAC 16-1.5-14 Evidence**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 14. (a) Relevant and material evidence is admissible subject to objection on other grounds, but there shall be excluded such evidence as is unduly repetitious or cumulative.

(b) Any participant shall move the admission of evidence into the record upon presentation of the sponsoring witness and authentication.

(c) The presiding officer shall have all necessary authority to control the receipt and admissibility of evidence, including:

(1) ruling on the admissibility of evidence; and

(2) confining the evidence to the issues in the proceeding and impose, where appropriate:

(A) limitations on the number of witnesses to be heard;

(B) limitations of time and scope for direct and cross-examinations;

(C) limitations on the production of further evidence; and

(D) any other necessary limitations.

The presiding officer shall actively employ these powers to direct and focus the proceedings consistent with due process.

(d)(1) Applications, complaints, orders to show cause and answers thereto and similar formal documents upon which hearings are fixed shall, without further action, be considered as part of the record as pleadings.

(2) Such pleadings, or any part thereof, shall not be considered as evidence of any fact which is in dispute.

(e) Except as otherwise provided in 170 IAC 1-1.2, when exhibits of a documentary character are offered in evidence, copies shall be furnished to the presiding officer and to the participants present at the hearing, unless the presiding officer otherwise directs. Additional copies of exhibits of documentary character may be required to be furnished as the presiding officer may direct.

(f) An offer to prove may be requested when a ruling has been made holding that the witness was not competent to testify or that the evidence to be offered as [*sic.*] inadmissible. An offer to prove also may be made when the presiding officer has sustained an objection to the admission of tangible evidence. If the proper evidence is tangible, it shall be marked for identification purposes and shall constitute the offer to prove. If the proper evidence is oral testimony, the offer to prove shall consist of a summary of the evidence which counsel contends would be adduced by such testimony. The presiding officer may also request a statement of the basis for admissibility of such evidence. (*Department of State Revenue; 45 IAC 16-1.5-14; filed Oct 21, 1986, 10:37 am: 10 IR 389*) *NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-14) to the Department of State Revenue (45 IAC 16-1.5-14) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

#### **45 IAC 16-1.5-15 Post hearing briefs and proposed orders**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 15. (a) The presiding officer may require post hearing briefs or proposed orders, or both, to be filed by the parties. Where either or both are ordered to be filed, such briefs or proposed orders shall be filed simultaneously by all parties no later than fifteen (15) days following the closing of the evidentiary record unless otherwise provided by the presiding officer.

(b) Following the filing of all post hearing briefs and proposed orders, the presiding officer shall prepare a final order for consideration by the commission. (*Department of State Revenue; 45 IAC 16-1.5-15; filed Oct 21, 1986, 10:37 am; 10 IR 389*) *NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-15) to the Department of State Revenue (45 IAC 16-1.5-15) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

#### **45 IAC 16-1.5-16 Post hearing relief**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 16. (a)(1) At any time after the record is closed, but before a final order is issued, any party to the proceeding may file a petition to reopen the proceeding for the purpose of taking additional evidence. A petition to reopen shall set forth clearly the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or law alleged to have occurred since the conclusion of the hearing, shall show that such evidence will not be merely cumulative, and shall be verified or supported by affidavit.

(2) Within ten (10) days following the service of such petition to reopen upon all parties to the proceeding, any other party may file an answer to the petition.

(3) The presiding officer or the commission, before issuance of the presiding officer's decision and commission approval, and upon notice to the parties, may reopen the proceeding for the receipt of further evidence if there is reason to believe that conditions of fact or of law have so changed as to require, or that the public interest requires, the reopening of the proceeding.

(b)(1) Following a final order, any party to a proceeding may file a petition for rehearing and/or reconsideration within twenty (20) days of the entry of the final order. Such petition shall be concise, stating the specific grounds relied upon, with appropriate record references and specific requests for the findings or orders desired. If the petition seeks rehearing, it shall set forth the nature and purpose of the evidence to be introduced at rehearing, shall show that such evidence will not be merely cumulative and shall be verified or supported by affidavit.

(2) Petitions for rehearing and/or reconsideration shall be served upon all parties to the proceeding and the commission.

(3) Replies to such petitions shall be filed and served within ten (10) days after service of the petition.

(4) In response to such a petition, the presiding officer or the commission may reconsider the final order and uphold it without modification or correct errors by modifying or clarifying it without further hearing based upon the existing record, or may upon notice to the parties reopen the proceeding for the receipt of further evidence on particular issues. (*Department of State Revenue; 45 IAC 16-1.5-16; filed Oct 21, 1986, 10:37 am; 10 IR 389*) *NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-16) to the Department of State Revenue (45 IAC 16-1.5-16) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

#### **45 IAC 16-1.5-17 Dismissal of cases**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 17. (a) The commission may, in its discretion, dismiss any proceeding which has been pending upon the commission docket for six (6) months which is not currently set for hearing and upon which no action has been taken by any party.

(b) Prior to such dismissal, the commission shall notify all parties to the proceeding by certified mail of its intention to dismiss. Notice shall be served at least ten (10) days prior to the entry of dismissal. (*Department of State Revenue; 45 IAC 16-1.5-17; filed Oct 21, 1986, 10:37 am; 10 IR 390*) *NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-17) to the Department of State Revenue (45 IAC 16-1.5-17) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

**45 IAC 16-1.5-18 Effect of other rules**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 18. (a) Indiana statutes and rules of the Indiana Supreme Court governing civil practice and procedure shall apply in all cases not specifically provided for by 170 IAC 1-1.2.

(b) 170 IAC 1-1.2 shall be subject to any special rules, regulations, or orders of the commission in effect from time to time, under or pursuant to the provisions of any statute of the state of Indiana or the United States of America or of the regulations of any agency of the United States government. (*Department of State Revenue; 45 IAC 16-1.5-18; filed Oct 21, 1986, 10:37 am: 10 IR 390*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 1-1.2-18) to the Department of State Revenue (45 IAC 16-1.5-18) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**Rule 2. Construction and Filing of Passenger Fare Publications and Schedules; Express Tariffs and Time Tables**

**45 IAC 16-2-1 Publications must conform to regulations; definitions**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 1. All publications filed, on and after January 1, 1946, must conform with these regulations except as otherwise provided herein. Publications filed prior to January 1, 1946, which do not conform to these regulations shall be brought into conformity therewith on or before July 31, 1946.

The Commission may reject any publication which does not comply with these regulations. The Commission may, for reasons deemed sufficient, direct the re-issue of any publication, Power of Attorney, or concurrence.

The term "tariff" as used herein means a publication stating the fares and charges of a common carrier, and all rules which it applies in connection therewith.

The term "schedule" as used herein means a publication stating the minimum fares and charges of a contract carrier, and all rules which it applies in connection therewith.

The term "time table" as used herein means a publication stating the time of arrival and departure of buses. (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1741*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-1) to the Department of State Revenue (45 IAC 16-2-1) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-2-2 Common carrier tariffs; form; filing**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 2. Construction and Filing of Tariffs. (a) All tariffs and supplements thereto must be in book, pamphlet, or loose-leaf form of size 8 by 11 inches. They must be plainly printed, mimeographed, planographed, stereotyped, or reproduced by other similar durable process on paper of good quality.

No alteration in writing or erasure shall be made in any tariff or supplement thereto.

A margin of not less than five-eighths of an inch without any printing thereon must be allowed at the binding edge of each tariff and supplement.

(b) Except as provided in rule 4, and unless otherwise authorized by the Commission, all tariffs and supplements must be filed and posted at least 10 days prior to the effective date thereof.

(c) Issuing carriers or their agents shall transmit to the Commission three copies of each tariff, supplement, or revised page. All copies shall be included in one package accompanied by a letter of transmittal listing all tariffs enclosed and addressed to the Public Service Commission of Indiana, 401 State House, Indianapolis 4, Indiana. All postage, etc., must be prepaid. (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 1, Rule 1; filed Jan 2, 1946, 10:00*)

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MOTOR CARRIERS

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*am: Rules and Regs. 1947, p. 1742) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-2) to the Department of State Revenue (45 IAC 16-2-2) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

**45 IAC 16-2-3 Title page of tariff and supplement**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 3. Title Page of Every Tariff and Supplement Shall Show in the Order Named. (a) On upper right-hand corner each tariff shall be numbered beginning with No. 1. Such number shall be shown as follows:

PSCI No. B-\_\_\_\_\_

When tariffs are issued cancelling a tariff or tariffs previously filed the PSCI number or numbers of the tariff or tariffs cancelled must be shown in the upper right-hand corner immediately under the PSCI number of the new tariff.

Example:

PSCI No. B-2

Cancels

PSCI No. B-1

(b) Supplements to a tariff in addition to showing the PSCI number of the tariff amended thereby shall be numbered beginning with the number 1 and such information shall be shown in the upper right-hand corner. Supplements shall also show in the upper right-hand corner the number of any previous supplement cancelled thereby and also the numbers of the supplements containing all changes from the tariff.

Example:

Supplement No. 3

to

PSCI No. B-1

Cancels Supplement No. 2

Supplements Nos. 1 and 3 contain all changes

(c) Name of carrier or name of agent issuing tariff. Whenever two or more carriers join in a through fare or charge the names of all such carriers must be shown. The name of a carrier must be the same as that appearing in its application for a certificate. In the event of a successor its name must be shown as "Successor to\_\_\_\_\_" as follows:

Example:

John Doe and William Doe

(Successors to A.B.C. Transportation Co.)

If the carrier is not a corporation, and a trade name issued, the name of the individual or partners must precede the trade name.

Example:

John Doe and William Doe

doing business as

A.B.C. Transportation Co.

Whenever two or more carriers join in a through fare or charge, authority by means of proper power of attorney or concurrence, as provided in rule 15, must be given the agent or carrier publishing the tariff.

(d) A brief description of the territories in which, or points from and to or between which, the tariff applies briefly stated.

(e) Date of issue and date effective.

(f) Name, title and street address of officer or agent by whom tariff is issued. (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 1, Rule 2; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1742) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-3) to the Department of State Revenue (45 IAC 16-2-3) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

**45 IAC 16-2-4 Contents**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 4. Tariffs Shall Contain in the Order Named. (a) Table of contents, arranged in alphabetical order showing the number of the page on which each subject may be found. If a tariff contains so small a volume of matter that its title page or interior arrangement plainly discloses its contents, the table of contents may be omitted.

(b) Explanation of all abbreviations, symbols, and reference marks used in the tariff.

(c) Table of fares.—An explicit statement of the fares in cents or in dollars and cents, together with the names or description of the points from and to which they apply.

Tariffs containing tables of fares based on distances from point of origin to destination must show the mileages or indicate a definite method by which such mileages shall be determined.

(d) Carriers or their agents may not publish fares or charges which duplicate or conflict with fares or charges published by or for account of such carriers. (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 1, Rule 3; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1744*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-4) to the Department of State Revenue (45 IAC 16-2-4) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-2-5 Round-trip excursion fares**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 5. Round-Trip Excursion Fares. (a) Fares for round-trip excursions may be established, without further notice, upon posting tariffs in advance in a public and conspicuous place where tickets for such round-trip excursions are to be sold, and filing three copies thereof with the Commission, as follows:

For a round-trip excursion limited to a designated period of not more than three days, including the first date any ticket to be sold under the tariff may be used for the going journey and the last date any ticket to be sold under the tariff may be used for the return journey, upon posting notice of one day;

For a round-trip excursion limited to a designated period of more than three days but not more than thirty days, including the first date any ticket to be sold under the tariff may be used for the going journey and the last date any ticket to be sold under the tariff may be used for the return journey, upon posting notice of three days;

For a series of round-trip excursions, such series covering a period not to exceed thirty days, including the first date any ticket to be sold under the tariff may be used for the going journey and the last date any ticket to be sold under the tariff may be used for the return journey, upon posting notice of three days as to the entire series.

(b) The term "round-trip excursion" as used in this rule [*this section*] means an excursion between points on the regularly operated route or routes of a common carrier, and is not intended to embrace so-called special or charter operations.

(c) No supplement may be issued to any tariff which is published under this rule [*this section*] except for the purpose of cancelling the tariff.

(d) Each tariff issued under this rule [*this section*] must bear on its title page the following notations:

Issued under the authority of Rule 4, Public Service Commission of Indiana, Indiana Order No. \_\_\_\_.

(*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 1, Rule 4; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1744*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-5) to the Department of State Revenue (45 IAC 16-2-5) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-2-6 Amendment, cancellation or withdrawal of tariffs**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 6. Tariff Changes. (a) Except as provided in rule 4 and unless otherwise authorized by the Commission, fares and

charges which have been filed with the Commission must be allowed to become effective and remain in effect for a period of at least 10 days before being changed, cancelled, or withdrawn.

(b) All tariffs, supplements, and revised pages shall indicate changes from preceding issues by use of the following symbols:

● or (R) to denote reductions.

◆ or (A) to denote increases.

▲ or (C) to denote changes, the result of which is neither an increase nor a reduction.

The proper symbol must be shown directly in connection with each change. (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 1, Rule 5; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1745*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-6) to the Department of State Revenue (45 IAC 16-2-6) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-2-7 Posting of tariffs and supplements**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 7. Posting Regulations. Each carrier must post and file at each of its stations or offices at which an exclusive agent is employed all of the tariffs or schedules applying from, or at, such station or office and must also post and file at its principal place of business all of its tariffs or schedules. All tariffs or schedules must be kept available for public inspection or examination at all reasonable times. (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 1, Rule 6; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1746*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-7) to the Department of State Revenue (45 IAC 16-2-7) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-2-8 Contract carrier tariffs; form, filing and posting**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 8. Construction and Filing of Schedules. All schedules of contract carriers of passengers must conform to the requirements set forth to govern the construction, filing, and posting of common carriers' tariffs and supplements in rules 1, 2, 3, 4, 5, and 6 of Section 1.

One copy of each contract shall accompany schedules filed, for the Commission's confidential file.

Wherever in such rules the words "tariff" or "tariffs" appear, substitute the words "schedule" or "schedules." Wherever in such rules the words "fares or charges" appear, substitute the words "minimum fares or charges."

Wherever in such rules there appears reference to "certificate" substitute the word "permit." (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 2, Rule 7; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1746*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-8) to the Department of State Revenue (45 IAC 16-2-8) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-2-9 Contract filed by mutual consent**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 9. Filing of Contracts. Section 18, of the Motor Vehicle Act, Chapter 222, of Acts 1941, provides that the filing of copies of contracts containing the minimum charges of contract carriers for the transportation of passengers/or property is permitted by consent of contracting parties. (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 2, Rule 8; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1746*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-9) to the Department of State Revenue (45 IAC 16-2-9) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-2-10 Express tariffs and schedules; form, filing and posting**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 10. Construction, Filing, and posting of express tariffs and Schedules. (a) Tariffs and schedules of common and contract carriers of passengers containing rates and charges for the transportation of express or express classifications must conform to the requirements set forth to govern the construction, filing, and posting of common and contract carriers' passenger tariffs and schedules in rules 1, 2, 3, 5, 6, 7, and 8 of sections 1 and 2, subject to the modifications, exceptions, and additional requirements set forth in the following rules.

(b) Wherever in the above rules and in rules 14 and 15 of section 4 the words "fares or charges" appear, substitute the words "rates or charges."

When express tariffs are published separately, substitute the abbreviation PSCI No. E\_\_\_\_\_ wherever there appears in the above rules and in rules 14 and 15 of section 4 the abbreviation PSCI No. B\_\_\_\_\_. (See also rule 13.) (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 3, Rule 9; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1747*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-10) to the Department of State Revenue (45 IAC 16-2-10) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-2-11 Dimensions of publication**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 11. Size of Tariffs and Schedules. The size of tariffs may be either 8 by 11 or 9 1/2 by 11 1/2 inches. (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 3, Rule 10; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1747*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-11) to the Department of State Revenue (45 IAC 16-2-11) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-2-12 Contents of publication**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 12. Tariffs and Schedules shall Contain. (a) Immediately following the table of contents, a complete index of all the commodities on which specific rates are named therein, together with reference to the page or items in which they are shown. No index need be shown in tariffs of less than five pages or if all the rates to each destination are alphabetically arranged by commodities.

(b) When a tariff names rates by classes, a classification of articles must be published in the tariff or in a separate tariff. When a classification is published in a separate tariff, reference must be made thereto on the title page of the rate tariff as follows:

Governed, except as otherwise provided herein, by the (here name) classification (show issuing agent), PSCI No. E\_\_\_\_\_ (or PSCI No. \_\_\_\_\_), supplements to or successive issues thereof.

All carriers shown as originating carriers in a rate tariff which is governed by a separate classification must be named as participating carriers in such separate classification.

(c) Table of rates.—All rates must be explicitly stated in cents or in dollars and cents per 100 pounds, per barrel, per package, per bundle, or other definable measure.

Where rates are stated in amounts per package or bundle, definite specifications of the packages or bundles must be shown.

(d) Carriers or their agents may not publish class or commodity express rates which duplicate or conflict with express rates published by or for account of such carriers. (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 3, Rule 11; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1747*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-12) to the Department of State Revenue (45 IAC 16-2-12) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-2-13 Commodity rates**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 13. Commodity Rates. Commodity rates may be established on any commodity or commodities. (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 3, Rule 12; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1748*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-13) to the Department of State Revenue (45 IAC 16-2-13) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-2-14 Express rates, charges and rules; publication**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 14. Express Rates, Charges and Rules. (a) Carriers of passengers by motor vehicle may publish the rates, charges, and rules covering the transportation of express in their tariffs or schedules containing passenger fares and charges, provided such express matter is included in a separate section of such tariff. When this is done it will not be necessary for such passenger carrier to publish a separate tariff covering express. However, both the PSCI No. B\_\_\_\_\_ and the PSCI No. E\_\_\_\_\_, must be shown.

(b) When passenger tariffs contain express rates, charges, and rules, five copies of such issues shall be transmitted to the Commission. (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 3, Rule 13; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1748*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-14) to the Department of State Revenue (45 IAC 16-2-14) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-2-15 Changes in fares and charges; application for special permission**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 15. Application for Special Permission. (a) The Motor Vehicle Act, 1941, authorizes the Commission in its discretion and for good cause shown to permit changes in fares and charges on less than statutory notice, and also to permit departure from the Commission's regulations. The Commission will exercise this authority only in cases where actual emergency and real merit are shown. Desire to meet the fares and charges of a competing carrier that has given statutory notice of change in fares and charges will not of itself be regarded as good cause for permitting changes in fares and charges or other provisions on less than statutory notice. Clerical or typographical errors in tariffs constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the error, together with a full statement of the attending circumstances and must be presented with reasonable promptness after issuance of the defective tariff, supplement or revised page.

(b) When a formal order of the Commission requires publication on a stated number of days' notice, a request addressed to the Tariff Bureau for authority to file on less notice will not be granted. In any such instance a petition for modification of the order should be filed on the formal docket.

(c) Applications for permission to establish fares, charges, rules, or other provision on less than statutory notice, or for waiver of the provisions of this tariff circular must be made by the carrier or agent that holds authority to file the proposed publication. If the application requests permission to make changes in joint tariffs, it must state that it is filed for and on behalf of all carriers parties to the proposed change.

(d) Two copies of applications (including amendments thereto and exhibits made a part thereof) shall be addressed to the Public Service Commission of Indiana, Room 401, State House, Indianapolis 4, Indiana.

Applications shall be made on paper 8 by 10 1/2 inches, and shall give all the information required by this rule together with any other pertinent facts. They shall be numbered consecutively and must bear the signature of the carrier or its agent or officer, specifying title.

(e) Applications shall show the following information:

(1) The proposed tariff provisions shall be set forth clearly and completely. An accompanying exhibit may be used if



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identified by letter, such as Exhibit A, and so referred to in the application. If the proposed provisions consist of fares or charges, all points of origin and destination must be shown or definitely indicated; if permission is sought to establish a rule, the exact wording of the proposed rule must be given.

(2) The application shall show the tariffs and PSCI No. B\_\_\_\_\_ numbers of the publications in which the proposed fares, charges, ratings, rules or other provisions will be published. If the publication is to be made in supplements to tariffs already referred to, this fact shall be shown.

(3) The application shall set forth the fares, charges, or tariff provisions which it is desired to change. Where the matter to be shown is voluminous or for other reasons difficult of presentation, it may be included in an accompanying exhibit, properly identified and referred to in the application. Reference shall be made by PSCI No. B\_\_\_\_\_ and supplement number to the tariffs or supplements in which fares, charges, or provisions to be superseded are published. If such provisions are published in numbered items or other units, reference shall be made thereto by number, or, if not so published, the pages of the publication on which the provisions appear shall be shown. The extent to which cancellation will be made must be definitely indicated.

(4) The application shall state the names of carriers known to maintain competitive fares, charges, classification ratings, or rules between the same points or points related thereto, together with the PSCI No. B\_\_\_\_\_ numbers of the tariffs and supplements thereto containing such provisions.

(5) The application shall state whether such carriers have been advised of the proposed fares, charges, classification ratings, or rules and whether they have been advised that it is proposed to establish such provisions on less than statutory notice. If competitive carriers have expressed their views in regard to the proposed provision, a brief statement of their views shall be given.

(6) The application shall state the special circumstances or unusual conditions which are relied upon as justifying the requested permission together with any related facts or circumstances which may aid the Commission in determining whether the statutory notice is sought, the petitioner shall state why the proposed provisions could not have been established upon 10 days' notice.

(f) If the authority granted by special permission is used, it must be used in its entirety and in the manner set forth in the order of special permission. If it is not desired to use all of the authority granted and less or more extensive or different authority is desired, a new application complying with the provisions of this rule in all respects and referring to the previous permission must be filed. (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 4, Rule 14; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1749*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-15) to the Department of State Revenue (45 IAC 16-2-15) by P.L.72-1988, SECTION 12, effective July 1, 1988.

### **45 IAC 16-2-16 Powers of attorney and concurrences; issuance; filing; cancellation**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 16. Powers of Attorney and Concurrences. (a) Whenever a carrier desires to give authority to an attorney and agent to issue and file tariffs and supplements thereto in its stead a power of attorney in the following form shall be used. Size 8 by 10 1/2 inches:

PSCI No. B\_\_\_\_\_  
Cancels PSCI No. B\_\_\_\_\_  
(Name of carrier),  
(Post Office Address),  
\_\_\_\_\_, 19\_\_\_\_.

Know all men by these presents:

That the (name of the carrier) has made, constituted, and appointed, and by these presents does make, constitute, and appoint (name of principal agent appointed) its true and lawful attorney and agent for the said carrier, and in its name, place and stead, (1) for it alone and (2) for it jointly with other carriers, to publish and file tariffs naming (here specify whether fares and charges and/or rules applying from, to, or at points on or via route or routes, or express classifications) as required of common carriers of passengers by the Motor Vehicle Act, 1941, and by regulations established by the Public Service

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Commission of Indiana, thereunder. (If the authority granted runs only to a specific tariff, so state and describe such issue as follows):

(Here give exact description of title page of tariff, including PSCI number and the name of series. When date of issue and/or effective date are determined such date or dates must be shown.)

And the said (name of carrier) does hereby give and grant unto its said attorney and agent full power and authority to do and perform all and every act and thing above specified as fully to all intents and purposes, as if the same were done and performed by the said carrier, hereby ratifying and confirming all that its said attorney and agent may lawfully do by virtue hereof, and assuming full responsibility for the acts and neglects of its said attorney and agent hereunder.

And further, that the (name of the carrier) has made, constituted, and appointed, and by these presents does make, constitute, and appoint as alternate (name of alternative agent appointed) its true and lawful attorney and agent, for said carrier and in its name, place, and stead, (1) for it alone and (2) for it jointly with other carriers in case and only in case of the death or disability of the said (here insert name of principal agent) to do and perform the same acts and exercise the same authority as hereinabove granted to (here insert name of agent first hereinabove named).

In witness whereof the said carrier has caused these presents to be signed in its name by its (here give title of person signing) at (name of city or town) in (name of county) State of (name of State) on this (date) day of (month), 19\_\_\_\_.

\_\_\_\_\_  
(Name of carrier in full)

By \_\_\_\_\_  
(Name and title of person signing)

Attested \_\_\_\_\_

(Witness)

(Corporate seal if any)

(b) Whenever a carrier desires to concur in tariffs issued and filed by another carrier or its agent a concurrence in the following form shall be issued in favor of such other carrier. Size 8 by 10 1/2 inches.

PSCI No. B\_\_\_\_\_.

Cancels PSCI No. B\_\_\_\_\_.

(Name of Carrier)

(Post Office Address)

\_\_\_\_\_, 19\_\_\_\_\_.

To Public Service Commission of Indiana,  
Tariff Bureau,  
401 State House,  
Indianapolis 4, Indiana.

This is to certify that the (name of carrier) assents to and concurs in the publication and filing of any tariff or supplement thereto which (name of carrier to whom concurrence is given) or its agent may publish and file and in which this carrier is shown as a participating carrier and hereby makes itself a party thereto and bound thereby, insofar as such tariff or supplement contains (here specify whether fares or charges applying from, to or at points on or via its route or routes or express classifications), until this authority is revoked by formal notice of revocation filed with the Public Service Commission of Indiana and sent to the carrier to which this concurrence is given. (If the authority granted runs only to a specific tariff, so state and describe such issue as follows):

(Here give exact description of title page of tariff, including PSCI No. B\_\_\_\_\_ and name of series. When date of issue and/or date effective are determined, such date or dates must be shown.)

\_\_\_\_\_  
(Name of carrier in full)

By \_\_\_\_\_  
(Name and title of person signing)

Attested \_\_\_\_\_

(Witness)

(Corporate seal if any.)

(c) The original of all powers of attorney and concurrences shall be filed with the Commission and a duplicate of the original sent to the agent or carrier in whose favor such document is issued.

(d) Whenever a carrier desires to cancel the authority granted an agent or another carrier by power of attorney or concurrence, this may be done by a letter addressed to the Commission revoking such authority on 60 days' notice. Copies of such notice must also be mailed to all interested parties. (*Department of State Revenue; No. 17686: Construction and Filing of Common Carrier Passenger Fares Sec 4, Rule 15; filed Jan 2, 1946, 10:00 am; Rules and Regs. 1947, p. 1751*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-2-16) to the Department of State Revenue (45 IAC 16-2-16) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-2-17 Time tables and supplements; form; filing (Repealed)**

Sec. 17. (*Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722*)

#### **45 IAC 16-2-18 Title page of time tables and supplements (Repealed)**

Sec. 18. (*Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722*)

#### **45 IAC 16-2-19 Contents (Repealed)**

Sec. 19. (*Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722*)

#### **45 IAC 16-2-20 Time table changes (Repealed)**

Sec. 20. (*Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722*)

### **Rule 3. Motor Carrier Freight Tariffs and Classifications**

#### **45 IAC 16-3-1 Common carrier freight tariffs and classifications; compliance with regulations; reissuance of tariffs, powers of attorney or concurrences**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 1. COMMON CARRIER FREIGHT TARIFFS AND CLASSIFICATIONS. Except as otherwise provided herein, all tariffs and supplements thereto filed by common carriers of property by motor vehicle and agents on or after Jan. 1, 1973, unless otherwise authorized by special permission of the Commission, shall conform to these regulations.

The Commission may reject any tariff or supplement thereto which does not comply with these regulations.

The Commission may, for reasons deemed sufficient, direct the reissue of any tariff, power of attorney, or concurrence at any time. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PTA; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 457*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-1) to the Department of State Revenue (45 IAC 16-3-1) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-2 Definitions**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 2. DEFINITIONS. (1) The term "Tariff" means a publication containing the rates, charges, classification ratings, rules, and regulations (or any of them) published for a common carrier, and it may be in the form of a rate tariff, classification of articles or commodities, or a tariff containing rules and regulations or incidental charges.

(2) The term "Local Rate" means a rate that applies over the lines or routes of one carrier only. "Local Tariffs" are those

which contain local rates.

(3) The term "Joint Rate" means a rate that applies over the lines or routes of two or more carriers and that is made by arrangement or agreement between such carriers evidenced by concurrence or power of attorney. "Joint Tariffs" are those which contain joint rates.

(4) The term "Through Rate" means the total rate from point of origin to destination. It may be a local rate, a joint rate, or combination of separately established rates.

(5) The term "Commodity Rate" means a rate published to apply on a commodity or commodities which are specifically named or described in the tariff in which the rate is published or in a separate commodity list. "Commodity Tariffs" are those which contain commodity rates.

(6) The term "Classification" means a publication containing a list of articles or commodities and the class ratings to which they are assigned for the purpose of applying class rates, together with governing rules and regulations.

(7) The term "Class Rate" means a rate which applies on any one or more of various articles according to the class rating to which they are assigned in a classification or tariff of exceptions thereto or in the class rate tariff. "Class Tariffs" are those which contain class rates.

(8) The term "Regular Route Carrier" means one operating over a specified route between fixed termini, as set forth in the carrier's certificate.

(9) The term "Irregular Route Carrier" means one operating within a specified and defined territory, as set forth in the carrier's certificate, but not over specified route or routes between fixed termini. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PTA, Definitions; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 458*)  
*NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-2) to the Department of State Revenue (45 IAC 16-3-2) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

#### **45 IAC 16-3-3 Form and preparation of tariffs and supplements**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 3. FORM AND PREPARATION OF TARIFFS. (a) Form and size of tariff. All tariffs and supplements thereto shall be in book, pamphlet, or loose-leaf form of size either 8 x 11 inches or 8 1/2 x 11 inches, and shall be plainly printed, planographed, stereotyped, or prepared by other similar durable process on paper of good quality. All tariffs and supplements thereto which are filed and posted shall be clearly legible. Typewritten or proof sheets shall not be used for filing or posting.

(b) Size of type. The type used shall be of size not less than 8 point bold or full face, except that 6 point bold or full face type may be used for explanation of reference marks and for column headings. No alteration in writing or erasure shall be made in any tariff or supplement thereto.

(c) Margin on binding edge. A margin of not less than five-eighths of an inch, without any printing thereon, shall be allowed at the binding edge of each tariff or supplement thereto.

(d) Tables of rates to be ruled and spaced. When rates, rate basis numbers, numerals, or letters for other purposes are shown in tables, the tables shall be ruled from top to bottom. When not more than three figures or letters, including reference characters, are employed, the columns shall be not less than one-fourth of an inch in width with a correspondingly greater width when more than three figures or letters, including reference characters, are employed. Such tables shall not contain more than six horizontal lines without a break in the printed matter by a ruled line or at least one blank space across the page.

(e) Loose-leaf tariffs. Pages of loose-leaf tariffs shall be printed on thin paper of strong texture on one side only, must be consecutively numbered in the upper left-hand corner and designated as "Original Page 1", "Original Page 2", etc. Each page must show at the top of the page the name of the carrier or agent, the page number, and the P.S.C.I. number of the tariff. At the bottom of the page shall be shown, the date of issue, the effective date, and the name, title, and street address of the issuing carrier or agent. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PTA, Rule 1; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 458*) *NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-3) to the Department of State Revenue (45 IAC 16-3-3) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

**45 IAC 16-3-4 Title page**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 4. TITLE PAGE. (a) Title page shall show. The top cover of every tariff or supplement shall consist of durable but flexible paper of sufficient weight and strength to withstand hard usage and shall be prepared as a title page containing the following information in the order named:

(1) P.S.C.I. numbers and cancellations. Each tariff shall have a title page which will show prominently on the upper right-hand corner a P.S.C.I. number and prefix TR. Numbers shall run consecutively beginning with the next consecutive number in the existing series or, if no tariffs shall have been issued previously, beginning with P.S.C.I. No. TR-1. Immediately under this number there shall be shown the P.S.C.I. number or numbers of the tariff or tariffs cancelled thereby. When cancellations are so numerous that it is inconvenient to show a list of the cancelled publications on the title page, it may be shown immediately preceding the table of contents, in which event a reference thereto shall be shown under the P.S.C.I. number on the title page.

(2) Name of carrier or name of agent. On the upper central portion of the title page shall be shown the name of the issuing carrier or agent. When an individual carrier or a partnership operates under a trade name, the individual name or names shall precede the trade name. The names of carriers shall each be followed by the carrier's certificate number. On agency publications, when the agent is a corporation, the name of the corporation shall be shown, but, when the agent is an individual the name of the association (if any) for whom the agent acts may also be shown. If this is done, the name of the agent shall be preceded by the name of the association in substantially the following form:

A.B.C. TARIFF BUREAU

John Doe, Agent

Only one such agent may be thus shown.

(3) Kind of tariff. There shall be shown a statement indicating whether the rates are: (i) local, (ii) joint, (iii) proportional, (iv) distance rates, or (v) a combination of any such rates, and (vi) whether class or commodity or both. When a tariff contains both distance rates and other rates a concise statement of the extent of the application of each kind of rates shall be given. If the tariff is a classification or if it contains rules or other governing provisions, this fact shall be shown.

(4) Territory. A brief but reasonably complete statement of the territory within which or the points from and to or between which the rates or other provisions apply shall be given.

(5) Governing tariffs. Reference to the item and page number of the tariff containing a statement of the publications governing the tariff in substantially the following form (this reference need not be shown on the title page of supplements):

For reference to governing classification, and other governing publications see Item No.\_\_\_\_ Page\_\_\_\_, or as amended.

(6) Effective and issued dates. (i) The date on which the rates or other provisions will become effective shall be shown on the lower right-hand side. (For exceptions, see Rule 10 and the following paragraph of this rule.) The date on which the publication is issued should be on the lower left-hand side.

(ii) Every publication which contains rates, rules, or other provisions effective upon a date different from the general effective date of such publication shall show on its title page a notation in substantially the following form:

Effective\_\_\_\_ 19\_\_\_\_ (except as otherwise provided herein) or (except as provided in Item\_\_\_\_) or (except as provided on Page\_\_\_\_).

(7) When issued by permission or order of Commission on less than statutory notice. On every tariff or supplement in which all rates, rules or regulations are made effective on less than 30 days' notice under authority of the Commission, a notation in substantially the following form shall be shown:

Issued on\_\_\_\_ days' notice under authority of\_\_\_\_ of the Public Service Commission,\_\_\_\_ No.\_\_\_\_ date\_\_\_\_.

(8) Name of individual or agent issuing. (i) The name, title, and address of the person issuing the tariff shall be shown near the bottom of the title page except that when the tariff is issued by a corporation as publishing agent, the name and title of the official of such corporation who has been appointed by the corporation to handle all tariff matters with the Commission shall be shown at the bottom of the title page.

(ii) There may be shown if desired, the name and address of a joint agent, (if any) in substantially the following form:

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Richard Roe, Agent  
XYZ FREIGHT TARIFF BUREAU  
40 Central Avenue  
Indianapolis, Indiana

Issued by:  
John Doe, Agent  
101 Fifth Street  
Washington, D.C.

(iii) Tariffs filed in the P.S.C.I. No. TR-series of individual carriers shall show in the lower left-hand corner the principal address of the carrier, where such address is different from that of the individual filing the tariff for such carrier.

(9) Expiration notice. (i) A provision in a tariff or supplement that the same, or any part thereof, will expire with a given date, is not a guaranty that the tariff, or supplement, or such part thereof, will remain in effect until and including that date. Such provision, if used, will be held to mean that the tariff or supplement, or specified part thereof, will expire with the date named, unless the date is changed on statutory notice, or under special permission of the Commission. In such tariffs and supplements the following notation shall be used to indicate the date upon which the publication will expire:

Expires with\_\_\_\_\_, unless sooner canceled, changed, or extended.

(ii) If the entire publication is to expire with the specified date, the notation shall be placed near the bottom of the title page. If only a portion of the published rates or other provisions will expire with the specified date, the notation shall be shown in connection with the particular item, rate, or other provision which will expire in such a way as to clearly indicate the matter affected thereby.

*(Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 2; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 459) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-4) to the Department of State Revenue (45 IAC 16-3-4) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

### 45 IAC 16-3-5 Contents

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 5. CONTENTS OF TARIFFS. Tariffs shall contain in the order named:

(a) Table of contents. A table of contents containing a full and complete statement, in alphabetical order, of the exact location where information under general headings, by subject, will be found, specifying page or item numbers. If a tariff contains so small a volume of matter that its title page or its interior arrangement plainly discloses its contents, the table of contents may be omitted.

(b) Participating carriers. (1) The individual names and firm names or (in the case of corporations) corporate names of participating carriers, with city and State in which their principal offices are located and certificate numbers, shall be shown alphabetically arranged together with the form and number of power of attorney or concurrence of each. If the carrier consists of an individual or individuals operating under a trade name, the trade name shall precede the name of the individual operator or names of partners (or the name of the individual operator or names of partners may precede the trade name, provided the trade name is shown in alphabetical sequence and in a prominent manner with the individual name or names shown above being indented). When reference to concurrences is shown in agency issues, there shall be included information indicating the carriers to whom such concurrences are given.

(2) Initial, intermediate, and terminal participation, may be indicated by any or all of the following reference marks, which must be explained on each page on which they are used: "X" to indicate carriers participating as initial lines; "Y" to indicate intermediate carriers; and "Z" to indicate terminal or delivering line. If there be not more than four participating carriers, they may be shown on the title page.

(c) Index of commodities. (1) A complete index, alphabetically arranged, of all articles upon which commodity rates are named therein together with reference to each item (or Page) where a particular article is shown. When nouns are not sufficiently explicit, articles shall be indexed also under the names of descriptive adjectives. All of the entries relating to different kinds or species of the same commodity shall be grouped together. For example, "Paper, building; paper, printing; paper, wrapping."

(2) When articles are grouped together in one list under a generic heading as authorized in Rule 4(e), such generic name shall be shown in the index and opposite thereto shall be shown reference to each item (or Page) where the generic term is used. Each article in the generic list must be shown separately in its proper alphabetical order in the index together with

reference to each item (or Page) where such article is shown by name, but when such article appears only in a generic list, reference to the item (or Pages) containing rates may be omitted, provided reference is given to the generic name as it appears in the index.

(3) If all of the commodity rates to each destination in a general commodity tariff or a combined class and commodity tariff are arranged in alphabetical order by commodities, the index of commodities may be omitted from the tariff.

(d) Index of points. (1) Indexes of points of origin and destination. Tariffs of regular route carriers which name specific point to point rates shall provide an alphabetical index of all points from which rates apply and a separate alphabetical index of all points to which rates apply and, when the tariff names rates for account of more than one carrier, the carrier or carriers serving such points. Where desirable the rate tariff may refer to a separate publication (not a rate tariff) for the name or names of carriers serving the points appearing in such rate tariff. When all or substantially all of the rates named in a tariff apply in both directions between the points shown therein, the points of origin and destination may be shown in one index. If there be not more than 12 points of origin or 12 points of destination, the names of such points may, if practicable, be shown in alphabetical order on the title page of the tariff, in which event the index of such points of origin or destination or both, as the case may be, may be omitted.

(2) If rates are shown in a tariff by rate bases or by named or numbered territorial groups, indexes of points of origin, and destination shall show the basis or group to which such point is assigned, except that, when reference is made to a separate publication as provided in Rule 14 for list of points in such groups, such points may be omitted from the indexes: Provided, That (1) there is shown in the table of contents the item or page giving reference by P.S.C.I. No. TR-number to the separate publication and (2) there is shown at beginning of the index of points (if the tariff contains any such index) P.S.C.I. No. TR-reference to the separate publication.

(3) If rates in a tariff are so arranged that grouping of points is by geographical arrangement, the alphabetical indexes of points of origin and of destination shall show index numbers corresponding to those assigned to the points in the rate tables and, unless the rate tables themselves indicate that all points shown therein are arranged in geographical order for the carriers shown, there shall be included also a geographical list of points or reference shall be made by P.S.C.I. No. TR-number to a separate publication filed in accordance with Rule 14 containing such a geographical list of points with corresponding index numbers. The index numbers shall follow the names of the points in the alphabetical index of points and shall precede the names of the points in the geographical list where tariffs contain such lists of points.

(4) If rates are published in numbered items, indexes of points shall show the numbers of items in which rates from or to such points appear, except that, if points are arranged in commodity items in alphabetical order or in numerical sequence by index numbers and such commodity items are referred to in the commodity index prescribed in paragraph (c) of this rule, such item numbers may be omitted from the indexes of points. When rates are not published in numbered items, indexes shall show the pages on which rates from or to such points will be found, as well as index numbers of the points, except that, when the points are arranged in rate tables in numerical sequence of index numbers, the page numbers may be omitted from the index. If points of origin or of destination are shown in the rate or rate basis tables in continuous alphabetical order throughout the tariff, no index of such points of origin or destination, as the case may be, will be required provided that, when the tariff names rates for more than one carrier, information be included showing the carrier or carriers serving the various points. When points are arranged in rate tables in alphabetical order and indexes of points of origin and destination are not included in the tariff, the table of contents shall refer to the pages on which the rate tables showing an alphabetical list of points are to be found.

(5) Tariffs of irregular route carriers are required to define clearly the territory within which such carriers operate or to contain reference to a separate publication (not a rate tariff) on file with this Commission and bearing a P.S.C.I. No. TR-number, similar to publications authorized in Rule 14, clearly defining such territory.

(e) Reference marks and abbreviations. (1) Explanation of symbols, reference marks, and abbreviations of technical terms used in the tariff shall be shown. If the explanation of a reference mark or symbol does not appear on the page on which it is used, the particular page on which the character is used shall show where the explanation is given.

(2) The following symbols shall be used for the purposes indicated and shall not be used for any other purpose in any tariff:

- or (R) to denote reductions.
- ◆ or (A) to denote increases.
- ▲ or (C) to denote changes in wording which result in neither increases nor reductions in charges.

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● to denote no change in rate. (See Rule 7(b).)

+ to denote intrastate application only.

G to denote reissued matter. (See Rule 7(e).)

(f) Governing tariffs. (1) An item containing reference by name of the carrier or publishing agent and P.S.C.I. number to any separately published classification, tariff of classification exceptions, tariff of rules, or similar publication affecting the provisions of the tariff shall be shown in substantially the following form:

This tariff is governed, except as otherwise provided herein, by \_\_\_\_\_ Classification P.S.C.I. No. \_\_\_\_\_ issued by \_\_\_\_\_, by exceptions thereto \_\_\_\_\_ P.S.C.I. No. \_\_\_\_\_, issued by \_\_\_\_\_, by Rules Tariff, P.S.C.I. No. \_\_\_\_\_, and by supplements to or subsequent issues of these publications.

(2) A rate tariff may not refer to another rate tariff for classification ratings, exceptions to the classification, rules, or other governing provisions.

(3) Exceptions to classification ratings or rules which apply only in connection with the rates published in a single tariff shall be included in the tariff to which they apply and shall be shown in a separate section under the heading "Exceptions to the Governing Classification" or "Exceptions to the Governing Classifications and Tariffs of Exceptions Thereto." Classification exceptions when published in a rate tariff are subject to the provisions of Rule 13(d).

(g) Explanatory statements. Such explanatory statements as may be necessary to remove all doubt as to the proper application of the rates and rules contained in the tariff. When rates are published for account of any carrier under authority of a concurrence or of a limited power of attorney, there shall be included in this section of the tariff an explicit statement clearly indicating to what extent the published rates apply for account of such carrier. Only such specific statements as are required to indicate the application with respect to particular carriers should be included in this section. General rules relating to the application of the rates should be published under Paragraph (h) of this rule *[this section]*.

(h) Rules governing the tariffs. (1) Rules and other provisions which govern the tariff. Under this head all of the rules or provisions stating conditions which in any way affect the rates named in the tariff shall be entered, except as otherwise provided in this section or in Paragraph (g) of this rule *[this section]*. A special rule affecting a particular item or rate must be specifically referred to in such item or in connection with such rate, except that provisions affecting more than one but not all of the rates contained in the tariff or applying to only a portion of the carriers for whom the rates are published may be included in the explanatory statements authorized in Paragraph (g) of this rule *[this section]* provided that reference is made thereto in such a way as to leave no doubt as to the application of the rates.

(2) Each rule or similar provisions should be given a separate number. Such rules or provisions may, if desired, be designated "Items" in which even numbers shall be in the same series as those of other items and amendment shall be made as provided in Rule 9(e).

(3) Except as provided in Rule 4(f), (k) and Rule 8, no rule or other provisions shall be included which in any way or in any terms authorizes substituting for any rate named in the tariff a rate found in any other tariff, or a rate made up by means of a combination of rates nor shall any rule be provided to the effect that traffic of any nature will be "Taken only by special agreement" or other provisions of like import.

(4) Where it is not desirable or practicable to include the governing rules and regulations in the rate tariff, such rules and regulations may be separately published in tariffs filed by a carrier or an agent, provided specific reference is made in the rate tariff to such separate publication in the manner set forth in Rule 13(f).

(5) Tariffs which contain rates for the transportation of explosives, inflammable or corrosive materials, or other dangerous articles shall also contain the rules and regulations promulgated by the Department of Transportation governing the transportation thereof, or must bear specific reference to the P.S.C.I. number of the separate publication which contains such rules and regulations. (See Rule 13(f), (g).)

(i) Rates. A statement of rates applicable for transportation of the articles or class of articles on which rates are named therein, arranged as set forth in Rule 4.

(j) Routes. A clear and explicit statement of routes over which the published rates apply prepared in accordance with the provisions of Rule 5.

(k) Operating authority. Tariffs must contain only rates, charges, and related provisions that cover services in strict conformity with each carrier's operating authority. No provision may be published in tariffs, supplements, or revised pages which results in restricting service to less than the carrier's full operating authority or which exceed such authority. Tariff



publications containing such provisions are subject to rejection or suspension for investigation.

*(Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 3; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 461) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-5) to the Department of State Revenue (45 IAC 16-3-5) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

#### **45 IAC 16-3-6 Statement of rates**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 6. STATEMENT OF RATES. (a) Explicit statement. (1) All rates shall be clearly and explicitly stated in cents or in dollars and cents (lawful money of the United States), per 100 pounds, per ton of 2,000 pounds, per ton of 2,240 pounds, per stated truckload, or other defined unit, except unit of time (however, charges for terminal and special services (see Rule 11(a) may be published in cents or dollars and cents per unit of time), together with the names or other proper designation of the places from and to which they apply. If all rates in a tariff are stated in the same unit, the fact may be indicated on the title page in connection with the application of the tariff.

(2) It must be clearly shown whether the named rates apply from, to, or between the named points and all rates must be arranged in a simple and systematic manner. Complicated plans or ambiguous terms must not be used. Insofar as possible such rates should be subdivided into small sections (by Items, index numbers or similar methods) to each of which should be assigned an identifying number to facilitate reference thereto.

(3) Where rates are stated in amounts per package, definite specifications showing size, capacity, or weight of the packages on which such rates apply must be shown or reference must be made by P.S.C.I. number to a publication, on file with this Commission, containing such specifications.

(b) Arbitraries or differentials. A tariff may provide rates from or to designated points by the addition or deduction of arbitraries or differentials from or to rates shown therein from or to base points, but provision for the addition or deduction of arbitraries or differentials shall be shown either in connection with the base rate or in a separate item which must specifically name the base point and clearly and definitely state the manner in which such arbitraries or differentials shall be applied.

(c) Percentages of class rates. When articles are made subject to percentages of class rates (for example, 110 percent of first class 83 1/3 percent of fifth class, etc.), whether in a tariff of rates, a classification, or exceptions thereto, the rates applicable under such provisions must be shown in the class tariffs just as if those percentages were additional numbered or lettered classes, or reference must be made to an appropriate table, published in the tariff containing the class rates or in a governing publication which will show in one column the class rates and in succeeding columns the actual rates representing the various specified percentages of class rates. Unless one of these methods is used, specific commodity rates must be published.

(d) Minimum quantities. When truckload or volume commodity rates are published, the minimum quantities on which the rates apply shall be specifically stated in the tariff naming the commodity rates, except as provided in paragraph (e) of this rule. When rates on mixed truckload or quantity shipments of two or more articles are published, the tariff shall show the minima on which the rates apply, and if the various articles are not made subject to the same rate, or if different minima are provided for different articles, the tariff shall show how the minimum charge per shipment shall be determined.

(e) Grouping of articles under generic head. (1) A commodity item may, by use of a generic term, provide rates on a number of articles without naming such articles, provided such commodity item contains reference to an item (not a rate item) in the tariff which contains a complete list of such articles, or contains reference to the P.S.C.I. number of a separate tariff (not a rate tariff) containing such a list of articles. Example: "Packing-house products, as described under heading 'Packing-house products', as described in Item\_\_\_\_\_, or successive issues thereof," or "Packing-house products, as described under heading 'Packing-house products' in P.S.C.I. No.\_\_\_\_\_, supplements thereto or successive issues thereof." Such reference to a separate item or tariff may not be made unless a definite and complete list of the articles under the same generic term is shown in the item or tariff to which reference is thus made.

(2) A separate tariff, not containing rates, may be filed by a carrier or an agent, showing lists of the commodities and minimum quantities, on which rates published by reference to generic terms will apply and rate tariffs may be made subject thereto as provided above. The title page of such separate publication shall contain the following: (i) In large type the words, "List of commodities upon which the rates are provided in tariffs making reference hereto," and (ii) in smaller type, "This tariff may be

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used only in connection with tariffs making specific reference hereto by P.S.C.I. number." In the separate publication, the generic terms shown must be the same as those used in the tariffs making reference thereto and under each heading the different commodities shall be alphabetically arranged. Except as provided in Rule 13(e), a separate publication issued for the purpose of publishing generic lists shall contain no information other than that authorized in this rule. Only one such publication may be in effect at any time in a carrier's or agent's file and it shall list only generic terms which refer to 10 or more commodities, otherwise the tariff of rates shall specify each commodity upon which the rates therein apply. A tariff of rates may not refer to another tariff of rates for lists of commodities.

(f) Commodity rates must be specific. (1) When commodity rates are established, the description of the commodity must be specific and the rates thereon may not be applied to analogous articles. As far as possible uniform commodity descriptions should be used in all tariffs.

(2) If a commodity rate (distance or otherwise) is published, such commodity rate, except as otherwise provided in these rules, is the applicable rate and the only rate that may be applied from and to the same points over the route or routes over which the commodity rate applies, even though a class rate (except as provided in subparagraphs (5) of this paragraph, paragraph (k) of this rule *[this section]* and in Rule 8) may make a lower charge.

(3) Different rates based on different minimum quantities may be published, provided the lowest charge resulting from any such rate applied in connection with its published minimum (or actual quantity shipped, if greater) is made applicable by publishing such rates in the same item or in different columns on the same page and by providing in connection with such items or rate columns a rule to the effect that the lowest charge obtainable under the different rates and minima applicable thereto (or actual quantities, if greater) will be applied.

(4) Commodity rates may be established on different articles for mixed truckload or mixed quantity shipments. Minimum quantities shall be specified together with a statement in connection with the commodity description that the rates apply in mixed truckload or mixed quantity shipments. Such rates may also be made applicable upon straight shipments of one or more or all of the articles by a provision to that effect in connection with the commodity description. When more than one article is included in an item or commodity description the tariff shall specifically state whether or not the rates apply on straight or mixed shipments.

(5) When because of differences in minimum weights, package requirements, mixed quantity provisions, or other conditions the charges accruing under commodity rates result in higher charges than those accruing under the class rates published in other tariffs, provision may be made in a tariff containing commodity rates only, for the alternation of such rates with class rates published in not more than three other tariffs, provided that the commodity tariff contains specific reference to the P.S.C.I. number or numbers of the class tariffs and shows in connection with each P.S.C.I. number a complete description of the origin and destination territory shown in that tariff. The following notation must be shown in the commodity tariff under the application of rates:

If the charges accruing under the class rates published in the following tariffs, including supplements to or successive issues thereof, from and to the same points via the same routes are lower than the charges accruing under the commodity rates published in this tariff, the lower charges resulting from such class rates will apply. (Here show P.S.C.I. numbers of the class tariffs and the required description of each.)

(6) If a commodity tariff contains only a few rates which result in higher charges than would accrue under the class rates, the reference to the class tariffs prescribed herein should be shown immediately in connection with such commodity rates or may be shown in a separate item shown under an appropriate heading and reference to such item shown immediately in connection with the commodity rates.

(7) Great care should be exercised in describing the scope of the class tariffs in order that users of the commodity tariff may determine without examining the class tariffs, which of such class tariffs is to be used in connection with any commodity rate. It also should be understood that the alternative application of commodity rates in one tariff with class rates in another tariff should be resorted to only where there is real necessity therefor, and that wherever possible the commodity rates should be revised so that they will not exceed the class rates between the same points.

(8) The continuance of the authority to alternate rates in a commodity tariff with class rates in not more than three other tariffs as contained in the subparagraphs (5), (6), and (7) of this paragraph will depend upon the progress made by carriers in revising commodity rates in order to avoid unnecessary alternations, and upon the accuracy used in describing the class rate tariffs.

(g) Tariff must contain all rates on same commodities. (1) A tariff naming rates on a single commodity or a group of related commodities shall contain all of the commodity rates (other than distance or mileage rates; however, such tariffs may contain

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distance or mileage rates) on the same commodity or commodities published to apply for the same carriers from and to points in the same origin and destination territory except that, when only local commodity rates are named in a tariff published by or for a carrier, that carrier may also participate in tariffs of other carriers naming rates from or to points on the line of the issuing carrier and may participate in not more than one agency issue naming rates on the same commodity or commodities between points or over routes not covered by carrier's issues.

(2) A general commodity tariff or a combined class and commodity tariff shall contain reference to any other tariffs published by the same carrier or agent in which rates on other commodities are published from any point of origin to any point of destination named therein over the same route. Such reference shall include the P.S.C.I. number or numbers of such other tariff or tariffs with a description of the commodities and territory or points of origin and of destination. The reference shall be shown in a separate list arranged alphabetically by commodities immediately following the table of contents. For example: "For rates on textiles from \_\_\_\_\_ to \_\_\_\_\_, see P.S.C.I. No. \_\_\_\_\_ of \_\_\_\_\_, Agent."

(h) Conflicting or duplicating rates prohibited. The publication of class or commodity rates which duplicate or conflict with the rates published in the same or any other tariff over the same route is not permissible, and except as otherwise authorized in these rules, the publication of a statement in a tariff to the effect that the rates published therein take precedence over the rates published in some other tariff, or that the rates published in some other tariff take precedence over or alternate with the rates published therein, is hereby prohibited.

(i) Through rate applies. When a carrier or carriers establish a local or joint rate for application over any route from point of origin to destination such rate is the applicable rate of such carrier or carriers over the authorized route, notwithstanding that it may be higher than the aggregate of intermediate rates over such route.

(j) NOT USED.

(k) Intermediate application of rates. (1) Tariffs containing rates of regular route carriers may provide for the application of class or commodity rates from or to intermediate points on the lines of such carriers by incorporating in such tariffs the rule or rules set forth below, or in paragraph (m) of this section, subject to the limitations contained herein. An intermediate point rule may not be published which will result in establishing from or to an intermediate point a joint rate from or to a more distant point unless the tariff naming the rate from or to the more distant point contains specific routing instructions or refers to a routing guide containing such routing instructions. (See Rule 5.)

(2) The wording of the rules shall not be varied. Tariffs may, however, by appropriate provision published in connection with any of such rules, provide that it will apply only in connection with the rates or routes making reference thereto, or may provide for nonapplication of any such rule to particular rates or routes.

(3) The rules applicable in connection with commodity rates shall read as follows:

(i) Commodity rates applicable from intermediate points. When any point of origin is not provided in this tariff with a commodity rate on a given article to a particular destination over a particular route, and such origin is between the considered destination and a point from which a commodity rate on the article is published herein over the same route to such destination, apply on such article the commodity rate from the next more-distant point from which a commodity rate is named thereon over the considered route through the intermediate point, except as provided in Notes 1, 2, 3 and 4.

NOTE 1: When, by reason of branch or diverging routes, there are more than one more-distant points from which commodity rates on the article to the considered destination are named herein, apply the rate from the more distant point which on that article to the same destination over the same route results in the lowest charge.

NOTE 2: If the intermediate point is located between two points from which commodity rates on the same article are published in this tariff to the same destination over the same route, apply that one of such rates which results in the higher charge. If due to branch or diverging routes, there are two or more next more distant points in the same direction, only that one of such points from which the lowest charge results will be considered in applying the provisions of this note.

NOTE 3: If the class rate on the same article to the same destination over the same route from the intermediate point produces a lower charge than would result from applying the commodity rate under this section, such commodity rate will not apply.

NOTE 4: If there is in any other tariff a commodity rate (not made by use of an intermediate point rule) published for account of the same carrier or carriers on the same article from the considered intermediate point, applicable to the same destination over the same route, the provisions of this section will not be applied from such intermediate point.

(ii) Commodity rates applicable to intermediate points. When any point of destination is not provided in this tariff with a

commodity rate on a given article from a particular origin over a particular route and such destination is between the considered origin and a point to which a commodity rate on the article is published herein over the same route from such origin, apply on such article the commodity rate to the next more distant point to which a commodity rate is named thereon over the considered route through the intermediate point, except as provided in Notes 1, 2, 3 and 4.

NOTE 1: When by reason of branch or diverging routes, there are more than one more distant points to which commodity rates on the article from the considered origin are named herein, apply the rate to the more distant point which on that article from the same origin over the same route results in the lowest charge.

NOTE 2: If the intermediate point is located between two points to which commodity rates on the same article are published in this tariff from the same origin over the same route, apply that one of such rates which results in the higher charge. If, due to branch or diverging routes, there are two or more next more distant points in the same direction, only that one of such points to which the lowest charge results will be considered in applying the provisions of this note.

NOTE 3: If the class rate on the same article from the same origin over the same route to the intermediate point produces a lower charge than would result from applying the commodity rate under this rule, such commodity rate will not apply.

NOTE 4: If there is any other tariff a commodity rate (not made by use of an intermediate point rule) published for account of the same carrier or carriers on the same article to the considered intermediate point, applicable from the same origin over the same route, the provisions of this section will not be applied to such intermediate point.

(l) NOT USED.

(m) Class rates from and to intermediate points. (1) Class rates should be provided between practically all points and there appears little occasion for the employment of intermediate point rules in connection with class rates except for the purpose of establishing rates from and to new points. For this purpose only the following clause may be shown in tariffs for use in connection with class rates.

(2) The rule applicable in connection with class rates shall read as follows:

(i) Class rates from and to intermediate points. From or to any point not named in this tariff which is intermediate to a point from or to which class rates are published herein through such unnamed point, the class rate published herein over the same route from or to the next more distant point will be applied.

(n) "From" and "to" rules may apply in connection with the same rate. When the rules providing application "from" and "to" intermediate points are both shown in connection with any class or commodity rate, they establish class or commodity rates from intermediate points of origin to intermediate points of destination on such classes or commodities. Unless otherwise provided in the tariff, intermediate application rules establish rates from or to intermediate points on the routes of carriers parties to the tariff without regard to the concurrence forms and numbers under authority of which carriers are shown as participating carriers. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 4; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 465*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-6) to the Department of State Revenue (45 IAC 16-3-6) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-7 Routing guide**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 7. ROUTING. (a) Routing to be specified. (1) All tariffs containing joint rates shall specify routing over which such rates apply, stated in such manner that such routes may be definitely ascertained. This must be accomplished, insofar as may be practicable, by providing that the rates in the tariff apply only over the routes specifically shown therein.

(2) Subparagraph (1) of this paragraph has reference to the names of carriers and transfer points via which such joint rates apply, and does not mean that highway numbers must be shown.

(b) Routing guide. (1) Instead of showing in rate tariffs the routes over which rates apply, such routes may be published in a separate publication (or publications) filed with this Commission either by a carrier or by an agent, provided specific P.S.C.I. reference be made in the rate tariff to such publication. Such a separate publication may be designated as a "Routing Guide" and may be used only in accordance with the provisions of the following subparagraphs of this paragraph.

(2) When it is desired to refer to a routing guide or guides for all of the routes, the following notation shall be used:

The rates herein apply only over the routes of the carriers parties to this tariff specified in P.S.C.I. No. TR-\_\_\_\_.

supplements thereto or successive issues thereof.

(3) When it is desired to refer to a routing guide or guides for routes in connection with some but not all of the rates in a tariff, or for routes for account of some but not all of the carriers parties to the tariff, an appropriate notation shall be used. When it is desired to provide that certain rates published in a tariff will not apply over all the routes shown in a routing guide to which the rate tariff is made subject, the rate tariff shall show clearly what routes in the routing guide are not applicable, or are the only routes applicable, as the case may be, in connection with such rates.

(4) When a tariff which refers to a routing guide also shows routes, it shall show clearly whether the routes named therein are in addition to the routes shown in the routing guide or are the only routes over which the rates making reference to such routes will apply. No one rate may be made subject to more than one routing guide for account of any initial carrier except that interterritorial rates may be made subject to one guide for each of such territories in which such guide is published for that territory alone.

(c) Form of routing guide. (1) A routing guide shall contain three sections containing (i) an alphabetical list of all of the points from and to which routes are provided, with the name of the carrier serving each point, together with an index number for each of such points; (ii) a table indicating the points from which routes apply, the points to which routes apply (or between which routes apply), and the numbers assigned in the routing guide to routes provided from and to (or between) such points; and (iii) a table containing all such route numbers in numerical order with a full explanation thereof together with names of the interchange (transfer) points.

(2) The names of the points from, to, or between which routes are provided shall be shown in Section 2, arranged in geographical order by carriers, unless names of points arranged in geographical lists by carriers, are included in Section 1 of the guide.

(d) Application of routing guide. (1) A routing guide must be concurred in by all carriers over whose lines routes are provided therein. Such guides shall not contain exceptions to the routes provided therein. All exceptions thereto, if any, shall be published in the tariffs making reference thereto.

(2) Routing guides shall show on their title pages the following notation:

The routes provided herein may be used only in connection with rates made subject thereto by specific P.S.C.I. reference to this guide in the tariffs containing such rates. Its use in connection with any tariff is restricted to the carriers and to the application provided in such tariff.

(3) If desired, the following tariff provision may be incorporated under the heading "Routing Instructions" in rate tariffs: The rates named in this tariff will apply only over the routes and through transfer points authorized herein except that when in the case of pronounced traffic congestion (not an embargo), detours or other similar emergency, or through carriers' error, carriers forward shipments by other transfer points of the same carriers or over the lines of other carriers parties to the tariff, the rate specified in this tariff (but not higher than the rate applicable over the actual route of movement) will be applied.

NOTE: If desired, the words "or over the lines of other carriers parties to the tariff" may be omitted from the emergency routing clause. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 5; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 471*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-7) to the Department of State Revenue (45 IAC 16-3-7) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-8 Supplements**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 8. SUPPLEMENTS. (a) Amendments and supplements. (1) When it is desired to make changes in the rates, ratings, rules, or other provisions of a tariff, other than a looseleaf tariff, this may, except as provided in paragraph (d) of this rule [*this section*], be accomplished by issuing a supplement to the tariff constructed generally in the same manner as is the tariff which it supplements (a supplement must be the same size in length and width as the tariff it amends. See Rule 1(a)).

(2) The first supplement to a tariff shall be designated on the upper right-hand corner of the title page as follows:

Supplement No. 1  
to  
P.S.C.I. No. TR-\_\_\_\_\_

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(3) Subsequent supplements shall be numbered consecutively in like manner. Each supplement shall specify on its title page, immediately under the supplement number and P.S.C.I. number of the tariff supplemented, the publications which the supplement cancels, and shall also specify the supplements that are in effect. The statement that the supplement cancels conflicting portions of the tariff or prior supplements shall not be used; cancellations must be specific.

(4) The matter contained in each supplement shall be arranged in the same general manner and order as in the tariff which it amends and when points in a tariff are given index numbers the same index number must be assigned to the same point in all supplements to the tariff.

(b) Participating carriers; how shown in supplement. (1) A supplement shall contain either a list of carriers participating in the tariff as amended or shall state that the list of participating carriers is "as shown in tariff," or "as shown in tariff and effective supplements," to which may be added "except (here show corrections in additions to, or eliminations from the original list that are effected by that supplement)." Changes in or additions to the list of participating carriers in the tariff or previous supplements shall be listed alphabetically as provided in Rule 3(b).

(2) When a participating carrier is eliminated by supplement, such supplement must also provide for cancellation of rates in connection with that carrier. This cancellation of rates should be accomplished by amending the individual items or provisions affected or by the publication of a blanket cancellation notice specifically indicating that all rates in the tariff applying for account of the carrier are cancelled.

(c) Index to supplement. (1) A supplement of 5 or more pages must be properly indexed, and a supplement of more than 23 pages must also contain a table of contents. In view of the provision of Rule 9(e) which requires that cancellation in a supplement of a numbered item must be made under the same item number as is given to that item in the tariff, and the requirement of paragraph (a) of this rule, which provides that the index number assigned to a point in a supplement must be the number assigned to that point in the tariff, the table of contents and indexes in a supplement of 5 or more pages need not contain entries which are shown in the table of contents or indexes in the tariff, provided that, in connection with the index of points of origin (or destination) the following notation shall be shown:

The index numbers of points in this supplement correspond with the index numbers of the same points shown on pages \_\_\_\_\_ to \_\_\_\_\_, inclusive, of the tariff, with the following additions and exceptions.

(2) The table of contents to such a supplement may be omitted if Rule 3(a) does not require the tariff to which the supplement is issued to contain a table of contents.

(d) Number of supplements effective at any time. (1) Except as otherwise authorized in these rules, tariffs of 4 pages or less may have no supplement; not more than 1 supplement may be in effect at any time to a tariff containing 5 and not more than 16 pages; not more than 2 supplements may be in effect at any time to a tariff containing 17 and not more than 80 pages; not more than 3 supplements may be in effect at any time to a tariff containing 81 and not more than 200 pages; and not more than 4 supplements may be in effect at any time to a tariff containing more than 200 pages.

(2) Except as otherwise authorized in these rules, tariffs containing 5 and not more than 12 pages may have not more than 4 pages of supplemental matter, and tariffs containing more than 12 pages may have supplemental matter aggregating not more than 33 1/3 percent of the number of pages in the tariff except that if the number of pages in the supplement which brings the volume of matter up to that authorized by this paragraph is not evenly divisible by 4, it may exceed the volume authorized to the extent necessary to bring the number of pages of such supplement to the next multiple of 4. The smallest of 3 effective supplements to a tariff of more than 80 but not more than 200 pages shall contain not more than 8 pages, and the smallest of 4 effective supplements to a tariff of more than 200 pages shall contain not more than 16 pages.

(e) Additional supplement to establish rates, under rule or order of Commission. (1) Except in the case of loose-leaf tariffs and tariffs containing less than 13 pages, one additional supplement may be issued to any tariff without regard to the requirements of paragraph (d) of this rule *[this section]* for the purpose of establishing rates, classifications, rules and other provisions in compliance with a decision or order of the Commission in a formal case. Only one such supplement may be in effect at any time and may contain no other matter.

(2) If the volume of supplemental matter is not exceeded by the issuance of such additional supplement it shall bear on its title page the following notation in addition to showing reference to the opinion, or order, as the case may be:

This supplement is issued under authority of Rule 6(e), of these regulations, and will be included in and cancelled by the next regular supplement filed to this tariff.

(3) The next regular supplement filed shall bring the number of effective supplements within the requirements of paragraph

(d) of this rule.

(4) If the volume of supplemental matter is exceeded by the issuance of the additional supplement authorized by this section, the next regular supplement filed shall bring the volume of supplemental matter with the requirements of paragraph (d) of this rule [this section], and, further, the volume of supplemental matter shall be brought within the requirements of that paragraph by the issuance of a new supplement filed within 120 days from the effective date of the additional supplement, or a new issue of the tariff shall be filed within that period.

(5) Such additional supplement, in addition to showing reference to the opinion or order as the case may be, shall bear on its title page a notation in substantially the following form:

This supplement is issued under authority of Rule 6(e). It will be cancelled by a new supplement or the tariff will be reissued, the new supplement or tariff to be filed on or before (here name a date which will observe the period of time provided above).

(f) Supplement to tariff that is filed and not yet effective. (1) In an instance where a tariff is filed on statutory notice cancelling another tariff and it is desired to issue a supplement to the tariff to be cancelled, effective prior to the effective date of the new tariff, a supplement may be issued which makes the same changes in or additions to both tariffs and which is indicated as a supplement to both the tariff to be cancelled and the cancelling tariff (being given supplement numbers running in proper sequence to both P.S.C.I. numbers). In other words, such a supplement shall be numbered and treated as a supplement both to the old and new tariffs and shall be filed and posted as such. The matter contained in such a supplement shall be confined to additions or to changes in rates or provisions which were brought forward in the new tariff without change. It is not required that the provisions of paragraph (d) of this rule [this section] be observed in connection with such a supplement to the old tariff, but only one such supplement may be in effect at any time.

(2) If the matter to be changed is not arranged or numbered in the same way in both tariffs the changed provision shall be shown in the proper manner to indicate the change made in the old tariff and also to indicate the change in the new tariff. For example, if the changed provision is indicated as Item 40-B in the old tariff and as Item 50 in the new tariff, the amended provision shall be shown as follows:

Item 40-C Cancels Item 40-B of P.S.C.I. NO. TR-\_\_\_\_\_.

Item 50-A Cancels Item 50 of P.S.C.I. NO. TR-\_\_\_\_\_.

(3) Rates or other provisions may be changed upon lawful notice by supplement effective on or after the general effective date of the tariff supplemented, provided the matter amended has been in effect for 30 days or more either in the supplemented issue or in a former issue. Where such matter was in effect in a former issue, a notation in connection with the revised matter, shall show that it has been in effect 30 days or more. Example: "Item 40-A Cancels Item 40. Item 40 effective \_\_\_\_\_, brought forward without change from Item No. \_\_\_\_\_ of P.S.C.I. No. TR-\_\_\_\_\_ (former issue)." Rates or provisions which effect changes in rates or provisions not contained in either the former tariff or a reissue thereof may be established upon lawful notice by supplement to such new tariff, effective not earlier than the general effective date of the tariff, by showing in the following manner, in connection with the new rates or provisions that the rates or provisions previously applicable have been in effect 30 days or more in a different issue. Example: "Addition. Changes class rates which became effective \_\_\_\_\_ in P.S.C.I. No. TR-\_\_\_\_\_." Unless the provisions of this paragraph are complied with no supplement to a tariff that has been filed and has not become effective may be issued to become effective within 30 days from the effective date of the tariff without special permission.

(4) This rule does not waive the requirements of Rule 18. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 6; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 473*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-8) to the Department of State Revenue (45 IAC 16-3-8) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-9 Amendments**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 9. AMENDMENTS. (a) How made. (1) Any change in or addition to a tariff shall be known as an amendment. Amendment of a bound tariff shall be made by reissue of the tariff or by issue of a supplement as provided in Rule 6. Amendment of a loose-leaf tariff shall be made by reissue of the tariff or of a page or pages as provided in paragraph (f) of this rule. (See also Rule 10(g) and Rule 17.)

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(2) When an amendment is made in a numbered item or other unit in a supplement, such item or other unit shall be published in the supplement in its entirety as amended. When rates or other provisions are published in numbered items, cancellation shall be made as prescribed in Rule 9(e). When rates or rules are published in numbered units other than items, the supplement changing the rates or other provisions shall specifically provide for the cancellation of such matter by reference to the page of the tariff and number of the rule or other unit which it cancels. Numbered units other than items shall not be given suffix letters when amended. When such a change is made in matter previously published in a supplement in a numbered unit other than an item, the new supplement shall also give reference by number to the previous supplement.

(3) In any instance where matter is not published in a numbered unit, the changed provision shall be published in the supplement in its entirety and reference shall be made to the page or pages of the tariff on which the matter to be cancelled is shown clearly indicating the matter which is cancelled. If the matter to be amended has been amended by a previous supplement, specific cancellation shall be made of the corresponding matter in the "tariff as amended" and specific reference shall be made by number to the page or pages of the previous supplement containing the matter to be changed, and, when corresponding matter originally was effective in the tariff, to the page or pages of the tariff formerly containing the matter amended.

(b) Changes indicated. (1) All tariff publications shall indicate changes made in existing rates, charges, classifications, rules or other provisions by use of the following uniform symbols in connection with such change:

● or (R) to denote reductions.

◆ or (A) to denote increases.

▲ or (C) to denote changes in wording which result in neither increases nor reductions in charges.

(2) Explanation of such symbols shall be provided (see Rule 3(e)) in the publication in which they are used, and these symbols shall not be used for any other purpose.

(3) When a change of the same character is made in all or in substantially all rates in a tariff or supplement, or a page thereof, that fact and the nature of such change may be indicated in distinctive type at the top of the title page of such issue, or at the top of each page as the case may be, in the following manner: "All rates in this issue are increases"; or "All rates on this page are reductions"; or there may be added, when appropriate, "except as otherwise provided in connection with particular rates." In complying with this paragraph a bold-faced dot "●" shall be used to symbolize a rate or other provision in which no change has been made and the proper symbol shall be used for the purpose of denoting any other change not indicated by the general statement referred to above.

(c) Omissions from previous tariff. When a tariff or supplement cancelling a previous issue omits points of origin or destination, routes, ratings, rules or other provisions contained in the previous issue, the new tariff or supplement shall indicate the cancellation in the manner prescribed in paragraph (a) of this rule, and if such omission effects changes in charges or services that fact shall be indicated by the use of the uniform symbols prescribed in paragraph (b) of this rule [*this section*].

(d) Notation; matter (part) established on short notice. Every publication which consists partly but not wholly of matter established upon less than statutory notice shall show in connection with each change made effective on less than statutory notice a notation that such matter is issued on \_\_\_\_ days' notice under authority of (here give specific reference to the special permission, decision, order, rule, or other authority).

(e) Reissued matter. (1) Matter brought forward without change from a tariff which has not been in effect 30 days, also matter brought forward without change from one supplement to another, must be designated "Reissued" in distinctive type and must show the original effective date and the number of the supplement or tariff from which it is reissued, or must be uniformly indicated by the letter T in a square when reissued from another tariff or from a supplement to another tariff and by numerals, commencing with 1, in squares when reissued from a prior supplement to the same tariff, printed in distinctive type and shown in a conspicuous manner, and the explanation thereof must be made in the tariff or supplement in which the symbols are used. Example: "T Reissued from P.S.C.I. No. TR-\_\_\_\_ (or Supplement No.\_\_\_\_, to P.S.C.I. No. TR-\_\_\_\_), effective \_\_\_\_, (date upon which item became effective in former tariff, or supplement to another tariff)." "[1] Reissued from Supplement No. 1, effective \_\_\_\_, " and so on numerically, the figures of the symbols representing the number of the supplement to the same tariff from which the reissued item is brought forward. If items in a tariff or supplement are made effective on dates other than the general effective date shown on the title page, reissue of such items may be indicated in later publications by showing a letter suffix or other symbol in connection with, and as a part of, the letter T or the numerals in squares as herein authorized. If the reissued items have become effective in a supplement to another tariff, the P.S.C.I. number of that tariff shall also be given.

(2) The letter T in a square and numerals commencing with 1 in a square shall not be used as reference marks or symbols



for any other purpose in any tariff or supplement.

(f) Loose-leaf tariffs. (1) Amendment of loose-leaf tariffs shall be made by reprinting the page upon which a change or addition is made, and such changed page shall be designated as a revised page. For example, "First Revised Page 1 Cancels Original Page 1", or "Second Revised Page 2 Cancels First Revised Page 2", etc. When a revised title page is issued, the following notation shall be shown in connection with and immediately under the effective date:

Original tariff effective (here show effective date of the original tariff).

(2) If, on account of expansion of matter on any page, it becomes necessary to add an additional page in order to take care of the additional matter, such additional page (except when it follows the final page) shall be given the same number with a letter suffix; for example, "Original page 4-A", "Original page 4-B", etc. If it is necessary to change matter on Original Page 4-A, it may be done by issuing First Revised Page 4-A, which shall indicate the cancellation of Original Page 4-A.

(3) When a revised page is issued which omits rates, rules, or other provisions previously published on the page which it cancels, and such rates, rules or provisions are published on a different page, the revised page shall make specific reference to the page on which the rates, rules, or provisions will be found and the page to which reference is so made shall contain the following notation in connection with such rates, rules or other provisions, etc.:

For (here insert rates, rules, other provisions, etc., as case may be) in effect prior to the effective date hereof, see Page \_\_\_\_\_. Subsequently revised pages of the same number shall omit this notation insofar as this particular matter is concerned.

(4) If, after a loose-leaf tariff has been filed with the Commission, it is desired to file additional pages at the end of the tariff they shall be numbered consecutively with the last page of the tariff, and shall be designated as original pages. For example, when the tariff as filed has 150 pages, page 151 when filed shall not be designated as an "additional" page but shall be designated as "Original Page 151." Such a page may be filed only for the purpose of adding new provisions which do not change the rates, rules, or provisions on other pages of the tariff.

(5) One of the following methods shall be used in identifying and checking revised pages filed for the purpose of amending loose-leaf tariffs:

(i) When the original tariff is filed, the page next to the title page shall be designated as "check sheet" which shall show the number of pages contained in the tariff. When pages of the tariff are revised or when new pages are added, the check sheet shall be correspondingly revised to include the amended and added pages. The revised check sheet listing the added or revised pages shall accompany such pages when forwarded to the Commission for filing; or

(ii) Instead of a revised check sheet issued each time revised pages are filed, such revised pages may show, in the lower left-hand corner, correction numbers running in consecutive order beginning with No. 1, all revised pages issued and filed at the same time being given the same correction number. If this method is adopted, a permanent check sheet containing in numerical order a list of correction numbers beginning with No. 1 shall be filed with the original tariff in order to permit the checking of correction numbers on this sheet and thus to maintain a permanent record by number of all corrections received.

(6) Changes shall be indicated as required by paragraph (b) of this rule [*this section*]. Items which have been in effect 30 days or more need not be shown as reissued items on revised pages but may be republished as effective on 30 days' notice. Items which have not been in effect 30 days when brought forward on revised pages shall be shown as reissued in the manner prescribed in paragraph (e) of this rule [*this section*].

(7) When protective covers for loose-leaf tariffs are used, only such information should appear thereon as will remain constant and in use during the life of the tariffs.

(8) Supplements shall not be issued to loose-leaf tariffs, except for the purposes authorized by Rule 10 and Rule 17. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PTA, Rule 7; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 476*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-9) to the Department of State Revenue (45 IAC 16-3-9) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-10 Sectional tariffs; alternative use of rates**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 10. SECTIONAL TARIFFS. (a) Alternative use of rates in sectional tariffs. (1) The alternative use of rates may be

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provided by publishing such rates in different sections of the same tariff. The first page of each section, which shall be known as the title page of the section, shall contain the number of the section and the application of the rates published in that section. The title page of each section containing alternating rates shall also contain the following rule:

If the charge accruing under section \_\_\_\_\_ or \_\_\_\_\_ of this tariff is lower than the charge accruing under this section on the same shipment over the same route, the charge accruing under section \_\_\_\_\_ or \_\_\_\_\_ whichever is lower, will apply.

(2) Each succeeding page of the section shall also bear the section number. Unnecessary alternation of rates must be avoided by checking the rates in one section against those in other sections and omitting rates which would clearly result in charges higher than those in other sections. Alternating reference should not be given to another section unless the section actually contains rates which alternate.

(b) Nonalternating section. (1) Each commodity tariff arranged in sections for alternative use shall contain a nonalternating section and each class and commodity tariff similarly arranged for alternative use shall contain a commodity section which does not alternate with other sections of the tariff.

(2) When an exclusive commodity tariff is issued under authority of this section, Section 1 of the tariff shall not have alternative application with other sections. In the portion of the tariff containing rules, under the heading "Application of Rates," the following shall appear:

The rates in Section 1 are specific commodity rates and do not alternate with rates in other sections of the tariff. See application of that section.

(3) The title page of Section 1 shall contain the following notation:

When rates are published in this section on the commodity transported from point of origin to destination, rates named in this section will apply regardless of rates between the same points over the same routes, published in other sections.

(4) The title page of each other section containing commodity rates shall contain the following notation preceding that prescribed in paragraph (a) of this rule:

When rates are published in Section 1, the rates named in this section on the same commodity from and to the same points over the same route, will not apply.

(c) Position of sections. (1) When both class and commodity rates are published in separate sections of a tariff, under authority of this section, the class rates shall be published in a section preceding the commodity sections. Commodity rates which do not alternate with the rates in other sections shall be published in the first commodity section. Under the heading of "Application of Rates," in the rules portion of the tariff, the following notation shall appear:

The rates in Section 2 are specific commodity rates and do not alternate with rates in other sections of the tariff. See application of that section.

(2) The title page of the nonalternating commodity section shall contain the following notation:

When rates are published in this section on the commodity transported from point of origin to destination, rates named in the section will apply regardless of rates between the same points, over the same routes, published in other sections.

(3) The title page of each section containing commodity rates shall also contain the following notation preceding that prescribed in paragraph (a) of this rule:

Where rates are published in Section 2, the rates named in this section on the same commodity from and to the same points, over the same route, will not apply.

(d) Restrictions, publication of alternating rates. (1) Publication of alternative rates in different sections, of a tariff, is subject to the following restrictions:

(i) Only one alternation of class rates against class rates may be provided, and not more than two alternating sections of commodity rates, which may alternate with each other, will be permitted.

(ii) Rates published in another tariff may not be reproduced for alternative purposes;

(iii) One section of a tariff may not alternate with more than three other sections;

(iv) Except as otherwise authorized in Rule 4(f), a rate in one section may not alternate with a rate in the same section; and

(v) Alternating sections may not be subdivided.

(2) A tariff which, as originally filed, does not contain alternating sections may not be changed into one with alternating sections except by reissue; nor may another section be added by supplement to a tariff already containing alternating sections.

*(Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 8; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 479) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-10)*

to the Department of State Revenue (45 IAC 16-3-10) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-3-11 Partial cancellation of tariff; transfer of rates; item adjustment**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 11. TRANSFER OF RATES; ITEM ADJUSTMENT. (a) Transfer of rates from one tariff to another. If a tariff or supplement to a tariff or a revised page is issued which cancels another tariff in part only, such tariff, supplement, or revised page shall specifically state the portion of such other tariff which is thereby cancelled, and the tariff to be cancelled in part shall at the same time be correspondingly amended, effective on the same date, in the regular way; that is, by reissue if tariff contains four pages or less, by reissue or supplement if tariff contains more than four pages, and by revised pages if tariff is a loose-leaf tariff. Such reissue, supplement, or revised page of the tariff cancelled in part shall state where rates will thereafter be found and shall be filed at the same time and in connection with the tariff or supplement which contains the new rates. Cancellation notice on the title page of the new issue shall read substantially as follows: "Cancels P.S.C.I. No. TR-\_\_\_\_, to the extent shown in Supplement No.\_\_\_\_ thereto."

(b) Cancellation when tariff reissued. (1) If a tariff is cancelled in full by another tariff, cancellation notice may be printed in the cancelling tariff as provided in Rule 2(a)(1), or the cancellation may be accomplished by issuing a supplement to the tariff to be cancelled. When a rate is cancelled by a supplement under this rule, such supplement shall refer to the P.S.C.I. number of the tariff in which the rates or other provisions will thereafter be found. The new issue and the cancellation supplement shall be made effective on the same date, and the new issue shall contain a cancellation notice reading substantially as follows: "Cancels P.S.C.I. No. TR-\_\_\_\_, to the extent shown in Supplement No.\_\_\_\_ thereto."

(2) When a tariff is cancelled in full by another tariff which does not contain all of the rates superseding those formerly in the cancelled tariff, the cancelling tariff shall show where rates not appearing therein will thereafter be found, or what rates thereafter will apply. For example: "Rates formerly published in P.S.C.I. No. TR-\_\_\_\_ and not appearing herein are published in P.S.C.I. No. Tr-\_\_\_\_ or \_\_\_\_," or it may be stated that such rates are cancelled and that "Class rates will apply," or "Combination rates will apply." (See Rule 7(c)).

(3) When the rates which are not brought forward in the cancelling issue are transferred to another tariff or tariffs, such publication or publications shall show directly in connection with the rates appearing therein for the first time where such rates were formerly published, shall state that such formerly published rates were cancelled by P.S.C.I. No. TR-\_\_\_\_, effective\_\_\_\_ (here show reference to the tariff which cancelled the rates).

(4) When a tariff is cancelled in full and numerous rates are transferred to two or more other issues, cancellation of the superseded issue may be made by supplement thereto, in which event each of the superseding issues shall show the notation in paragraph (a) of this rule and the cancelling supplement shall specifically indicate the rates or provisions thereafter to be published in each of the superseding issues, and shall state that the issue supplemented thereby is cancelled in full.

(5) When a joint agency tariff is to be cancelled in full and the rates therein are to be transferred to an agency tariff not issued by the same joint agents, the cancellation shall be accomplished by supplement. The cancelling supplement shall give reference by P.S.C.I. number and the name of agent or agents to the tariff in which future rates will be found and the new tariff shall show that rates from and to the points named therein were formerly published in P.S.C.I. No. TR-\_\_\_\_ (here show the P.S.C.I. numbers and names of agents appearing on the joint agency tariff that is cancelled by the supplement required in this paragraph).

(c) Cancellation notice must be by supplement. (1) If a tariff is cancelled with the purpose of discontinuing the rates named therein, or when, through error or omission, a tariff failed to cancel the previous issue and such previous tariff is cancelled for the purpose of perfecting the records the cancellation notice shall not be given a new P.S.C.I. number, but shall be issued as a supplement to the tariff (including loose-leaf tariffs) which it is desired to cancel. In the issuance of such supplement the provisions of Rule 6(d) need not be observed.

(2) When any tariff is cancelled in whole or in part by a supplement thereto, the supplement shall show where the rates will thereafter be found or what rates will thereafter apply.

(3) A tariff cancelling more than one tariff in whole or in part shall include a brief description of such tariffs.

(d) Transfer of rates from carriers' to agents' tariff and from agents' to carriers' tariff. (1) An agent, when publishing rates in his tariffs which are to supersede the rates in his principals' tariffs, shall cancel the rates in his principals' tariffs as directed in

paragraph (a) or paragraph (b) of this rule, as the case may be. When cancellation of rates in the individual issue is made by supplement thereto in pursuance to this rule, such supplement must be issued by the individual carrier.

(2) A carrier may not publish in its individual tariff rates which are to supersede the rates published in a tariff of duly authorized agent unless the tariff is accompanied by a supplement issued by the agent cancelling the rates in his tariff effective on the same date, and indicating where rates superseding those cancelled will thereafter be found.

(3) As a concurrence does not confer authority upon either a carrier or an agent to cancel tariffs of the concurring carrier, tariffs issued under concurrence may not assume to cancel tariffs of concurring carriers. Such cancellations shall be made by the carrier or agent who issued the tariff which is to be cancelled, but the tariff or supplement containing the provisions formerly published in the issue of the concurring carrier may bear a notation stating where such provisions were formerly published.

(e) Definition of items. (1) The rates, rules, regulations, or other provisions of a tariff may, for convenience, be divided into relatively small and distinct portions which may be given individual numbers and designated "Items." The numbers of items as published in an original tariff should run in regular sequence but need not be consecutive; for example, items may be numbered, 5, 10, 15, 20, etc. Only one series of item numbers may be used.

(2) When any provision contained in an item, other than those contained in a classification, is amended, the revised item showing the amended provision shall be given the same item number with a letter suffix; for example: Item 40-A Cancels Item 40; Item 40-B Cancels Item 40-A; and so on.

(3) When any rate or provision contained in an item designated by an item number is amended resulting in the cancellation of all or a portion thereof, the cancelled matter shall not be reproduced in the new item effecting the cancellation except to the extent necessary to identify the item.

(4) If an item is withdrawn in its entirety, or expires by its own terms, leaving no rates or provisions in effect in that item, a statement of the cancellation or expiration shall be brought forward in subsequent supplements as a reissued item, bearing the same item number and the appropriate letter suffix.

(5) If the matter in an item or any part thereof is transferred to another tariff or another portion of the same tariff, the original item shall be revised (being given the same number with proper letter suffix) in order to show the revised provision or, when no effective provision is continued in the item, to indicate cancellation of the item and also to show where the transferred rates or provisions will thereafter be found. For example: "Item 10-A Cancels Item 10; rates formerly appearing in Item 10, but not shown herein will be found in Item \_\_\_\_\_ (or in P.S.C.I. No. TR-\_\_\_\_\_)."

(6) When provisions of an item have been eliminated by cancellation or expiration they may not be reinstated except by republication in a revised item bearing a new number or the same number with a new letter suffix, and in either case bearing a new effective date. In other words, republication of the expired or cancelled matter, except when the item is in a classification as provided in the next succeeding subparagraph of this paragraph, may be under the same item number only when the new item cancels the former item and is given the next letter suffix. For example: If the cancelled item is 40-A the new item shall read "Item 40-B Cancels Item 40-A."

(7) The items in each supplement to a classification shall be numbered consecutively, commencing with Item 1 on each page, shall cancel the item superseded and shall show where the cancelled item appears; for example: Item 6 Cancels Item 3, Page 2 of Supplement 2; Item 10 Cancels Item 1, Page 2, of classification. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 9; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 481*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-11) to the Department of State Revenue (45 IAC 16-3-11) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-12 Suspension of publication**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 12. SUSPENDED MATTER. (a) Supplement announcing suspension. (1) Upon receipt of an order suspending any publication in part or in its entirety, the carrier or agent who filed such publication shall immediately file with the Commission, and post in accordance with Rule 18, a consecutively numbered supplement, which shall not bear an effective date, containing a notice of suspension specifically indicating the portion of the publication that is under suspension and the date to which such matter is suspended, also stating that rates and provisions under suspension may not be used during the period of suspension and giving

specific reference by P.S.C.I. number or numbers to the tariff or tariffs or supplements thereto or revised pages thereof in which rates, charges, classifications, rules, or provisions respecting practices continued in effect will be found. Such supplement shall quote the portions of the order which describe the suspended matter contained in the publication, the paragraph of the order naming the date to which such matter is suspended and the paragraph prohibiting changes in the matter continued in effect during the period of suspension.

(2) Upon receipt of an order resuspending any publication in part or its entirety beyond the date to which originally suspended the carrier or agent who filed such publication shall immediately issue and file with the Commission a supplement to each suspended tariff, which shall not bear an effective date, quoting in full the resuspension order and showing on the title page thereof a statement to the effect that the provisions suspended by the original suspension order in Investigation and Suspension Docket No. \_\_\_\_\_ as indicated by Supplement No. \_\_\_\_\_ (here show the number of the supplement announcing the original suspension under the same I. and S. Docket number) are further suspended until \_\_\_\_\_ (here show the date to which the suspended matter is further suspended, as indicated in the resuspension order).

(b) Reissue of suspended matter to be cancelled. If, prior to the filing of the supplement announcing suspension, a carrier or agent files a later supplement which contains as reissues the matter suspended in the previous supplement, the suspension supplement required by this section shall also specifically cancel from the later supplement such reissued matter, and by amendment to the title page of said later supplement shall eliminate the cancellation of the suspended supplement when the latter is suspended in full, and when a supplement is suspended in part shall provide that such later supplement cancels such previous supplement, except portions under suspension. Tardiness in filing supplements announcing suspension may result in the rejection by the Commission of the later supplement which cancels the suspended matter.

(c) Reissue of effective tariff when suspended tariff is ordered cancelled. (1) When the Commission suspends an entire tariff, any tariffs which would have been cancelled by the suspended tariff are continued in effect and will remain in force during the period of suspension or until lawfully cancelled or reissued. Except in the case of loose-leaf tariffs or tariffs of less than five pages, supplements to tariffs thus continued in effect containing additions to and changes in matter not sought to be changed by the suspended tariff, may be filed without regard to the volume of supplemental matter which the effective supplements in the aggregate contain. If the volume of supplemental matter permitted by Rule 6(d) is exceeded under authority of this paragraph and the Commission orders the cancellation of the suspended tariff, the volume of supplemental matter in the tariff continued in effect by such suspension shall be brought within the requirements by Rule 6(d) by supplement filed within 120 days, or such tariff shall be reissued within that time.

(2) Suspension of portions of a tariff or of matter contained in a supplement does not authorize disregard of Rule 6(d) relative to the permissible volume of supplemental matter in and the number of effective supplements to such tariff, except that a supplement containing volume of supplemental matter permitted of such tariff under Rule 6(d) provided the effective matter in such supplement is reissued and the supplement itself, except the suspended portions thereof is cancelled.

(3) When a tariff (or supplement) which is suspended in part is reissued, such reissue shall cancel the tariff (or supplement) containing the suspended matter "except portions under suspension in I. and S. Docket No. \_\_\_\_\_." If a supplement is suspended in whole or in part and the tariff is thereafter reissued, the reissue shall cancel the tariff "Except portions under suspension in Supplement No. \_\_\_\_\_ (or in Item No. \_\_\_\_\_ or Supplement No. \_\_\_\_\_) in I. and S. Docket No. \_\_\_\_\_" and, if the matter continued in effect by the suspension is contained in the tariff being reissued, such matter shall be brought forward. When a tariff which is suspended in part is reissued, such reissue shall cancel the tariff containing the matter which is continued in effect by reason of the suspension when such tariff contains no other effective matter.

(d) No change may be made in suspended provisions not in provisions left in effect by reason of suspension. A suspended rate, charge, classification, rule or provision respecting practices may not be changed or withdrawn or the effective date thereof further deferred except by order or special permission of the Commission, nor may any change be made in a rate, charge, classification, rule or provision respecting practices which is continued in effect as a result of such suspension except under order or special permission of the Commission.

(e) When Commission's order of suspension vacated. (1) When the Commission vacates an order of suspension effective on a date earlier than the date to which the matter is suspended, the carrier or agent who filed the suspended tariff, supplement, or revised page may file with the Commission, and post in accordance with Rule 18, on not less than 1 day's notice, unless otherwise provided by the order, a supplement stating the date upon which, under authority of the vacating order, the tariff, supplement, revised page, item, rate, charge, classification, rule or provision respecting practices will become effective. Unless the supplement

announcing vacation is filed naming a date earlier than the date to which it is suspended, the suspended matter will become effective on that date.

(2) When an order which suspended a tariff in its entirety is vacated, the vacating supplement, if made effective on or before the date to which the tariff is suspended, may also include as reissues, any changes or additions lawfully established in supplements to the tariff which remained in effect during the period of suspension. If a new tariff is filed during the period of suspension, cancelling the tariff sought to be cancelled by the suspended tariff, any changes or additions published in the new tariff which are not included in the suspended tariff may be included in vacating supplement as reissued matter, provided the vacating supplement also cancels such new tariff. When reissued matter is published in a vacating supplement the vacating notice shall be printed in not less than 10-point type, either on the title page or immediately following indexes of points and commodities, if any.

(3) When a tariff containing suspended matter is cancelled during the period of suspension, except portions under suspension, by a new tariff, and the Commission vacates its suspension order in its entirety effective on a date subsequent to the effective date of the new tariff, a supplement to the new tariff effective on not less than 1 day's notice republishing and establishing the suspended matter and cancelling the matter which was effective during the period of suspension also cancelling the matter under suspension in the former issue, shall be filed and posted in accordance with Rule 18. When the Commission vacates its suspension order effective on a date prior to the effective date of the new tariff, a vacating supplement to the old tariff should be filed and posted and a supplement to the new tariff should also be filed and posted on not less than 1 day's notice, establishing therein on the effective date of such new tariff, matter which was under suspension in the old tariff. A common supplement to both tariffs as authorized by Rule 6(f) may be filed and posted upon not less than 1 day's notice to accomplish this purpose.

(f) Cancellation of suspended matter. When the Commission orders the cancellation of a tariff, supplement, revised page, item, rate, charge, classification, rule or provision respecting practices previously suspended by it, the cancellation shall be effected by filing with the Commission and posting upon not less than 1 day's notice, unless otherwise provided by the order, a supplement stating the date upon which in accordance with the Commission's order said rate, charge, classification, rule or provision respecting practices is cancelled; except that, when desired, such cancellation may be accomplished in a new tariff cancelling the tariff containing the suspended matter.

(g) Notation on supplement. (1) Every suspension, vacating and cancellation supplement issued under authority of this rule shall bear on its title page the following notation: "Issued under authority of Rule 10, Part A, Tariff Regulations, and in compliance with order of the Public Service Commission of Indiana, in Investigation and Suspension Docket No. \_\_\_\_ of \_\_\_\_." (Date)

(2) Such supplements will not be counted against the number of effective supplements or the volume of supplemental matter permitted under Rule 6(d) but they must list effective supplements as required by Rule 6(a).

(3) The provisions of this rule relating to suspension, vacating and cancellation supplements will also govern in connection with tariffs issued in loose-leaf form, except that such supplements shall not contain rates, charges, classifications, rules, or provisions respecting practices. All changes made in loose-leaf tariffs shall be published on revised pages.

(4) Supplements issued under authority of this rule shall contain nothing except matter permitted thereunder. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 10; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 484*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-12) to the Department of State Revenue (45 IAC 16-3-12) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-13 Terminal and special service tariffs**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 13. TERMINAL AND SPECIAL SERVICES. (a) Terminal and special services. Each carrier or its agent shall publish, post, and file tariffs which shall contain in clear and explicit terms all of the rates and charges for rules governing detention of vehicles, storage, weighing diversion, reconsignment, icing, refrigeration, heat, C.O.D. services, transit services, absorptions, allowances, and other terminal services, and all other charges and rules which in any way increase or decrease the amount to be paid on any shipment, or which increase or decrease the value of the service to the shipper. Tariffs authorizing such services or providing charges therefor, shall clearly show their application.

(b) Method of publication. The performance of special services and the charges therefor, in addition to those based on line-

haul rates lawfully on file with the Commission, shall be provided for in one of the following three ways:

(1) By including in the tariff which contains the rates on which charges are based the specific authority for the extra service, the rules under which such extra service is to be performed, and the charge, if any, for the service; (2) by specific reference, in the tariff which contains the rates on which charges are based, to the P.S.C.I. number of a separate publication containing the provision for such service and the charge, if any, for it; or (3) by including in the tariff which contains the rates on which charges are based, a clause providing that shipments made under the rates contained therein are entitled to the following services (naming specifically the services which will be permitted in connection with such rates) and that shipments are subject to the charges for such services, if any, of participating carriers performing the services "as shown in tariffs lawfully on file with the Public Service Commission of Indiana."

(c) Intermediate drayage or transfer. (1) Joint through rates from points on the line of one carrier to points on the line of another carrier include drayage or other transfer services at intermediate transfer points, and no part of such charges may be added to the joint rates on shipments handled through and not stopped for special service at such intermediate transfer points.

(2) All tariffs containing joint rates shall contain the following provision:

The joint rates published herein include all charges for drayage or other transfer services at intermediate transfer points on shipments handled through and not stopped for special services at such intermediate transfer points.

(d) Pick-up and delivery service. (1) All tariffs containing rates for the transportation of property shall specify whether such rates do or do not include pick-up and delivery service at all points within the limits of the cities, towns, or villages from, to or between which the rates apply.

(2) If pick-up and delivery service will be performed also in an area beyond or outside the limits of the cities, towns, or villages, from, to or between which the rates apply, such area shall be described in the tariffs. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PTA, Rule 11; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 487*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-13) to the Department of State Revenue (45 IAC 16-3-13) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-14 Distance or mileage rates**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 14. DISTANCE RATES. (a) Distance rates may be used when no other rates provided. (1) A carrier or an agent acting for a carrier or carriers, may file tariffs containing distance or mileage class or commodity rates, or both. Except as otherwise provided in these rules, distance or mileage class rates may be used only when no through class rates (other than distance class rates) are published to apply from and to the same points over the same route, and distance or mileage commodity rates may be used only when no through commodity rates (other than distance commodity rates) are published to apply from and to the same points over the same route. Except as otherwise provided in these rules, distance or mileage commodity rates will apply even though through class rates are published to apply from and to the same points over the same route.

(2) Tariffs containing distance or mileage rates shall clearly and definitely show the application of the rates. Distance tariffs of regular route carriers shall contain an alphabetical list of points between which the rates apply and shall also show in proper arrangement the distances between such points, or shall make reference by P.S.C.I. number to a separate tariff, constructed in accordance with one of the plans set forth in paragraph (c) of this rule, for such list of points and distances. Tariffs of irregular route carriers naming mileage rates may either contain a list of points served together with distances or may refer by P.S.C.I. number to a distance guide or guides issued by such carriers or their duly authorized agents clearly and accurately indicating distances between all points served.

(b) Notation on distance class rate tariff. (1) Each tariff that contains only distance or mileage class rates must bear on its title page the following rule:

Distance or mileage class rates shown herein may be used only when no commodity rates or class rates (other than distance class rates) have been published to apply from and to the same points over the same route.

(2) Each tariff that contains only distance or mileage commodity rates must bear on its title page the following rule:

Distance or mileage commodity rates shown herein may be used only when no commodity rates (other than distance commodity rates) have been published to apply from and to the same points over the same route.

(3) Each tariff that contains only distance or mileage class and commodity rates must bear on its title page the following rule: Distance or mileage class rates shown herein may be used only when no commodity rates or class rates (other than distance class rates) have been published to apply from and to the same points over the same route, and distance or mileage commodity rates shown herein may be used only when no commodity rates (other than distance commodity rates) have been published to apply from and to the same points over the same route.

(4) If distance or mileage rates without alternative application are published in a tariff which also contains rates other than distance rates, the notations for class, or commodity, or both class and commodity rates, as the case may be, prescribed by this section shall be shown immediately in connection with such distance or mileage rates.

(c) Local distance table must be filed. (1) Each regular route carrier that maintains local distance or mileage rates published in a tariff which does not contain a list of points between which such rates apply together with distance between such points shall publish, post, and file, individually or through an agent, a tariff containing a list of points served and the distances over its line between such points, arranged in one of the following four ways:

(i) Showing the distance from each point to each point.

(ii) Showing the distance from each point to each transfer point with another carrier or with a branch of the same carrier.

(iii) Showing the distance from each transfer point with another carrier or with a branch of its own line to each other such transfer point, and the distance from each local point to the nearest transfer point in each direction.

(iv) Until further notice, carriers may comply with this rule by including in each tariff naming distance rates a map, specially prepared and made an integral part of the tariff, indicating clearly and accurately the distances between all points between which rates are published. Instead of including separate maps in rate tariffs, reference may be made in the rate tariff to a separate distance guide constructed on the principle of maps, or combination of tables and maps, definitely and clearly indicating distance between the points covered by the rate tariff making reference thereto. All carriers parties to rate tariffs making reference to separate distance guides must be parties also to the distance guide referred to in the rate tariff.

(2) Each of such tariffs shall clearly indicate the transfer points at which the carrier interchanges traffic and shall name the connecting carrier with which transfer is made at each such transfer point.

(d) Joint distance or mileage tables. (1) Carriers, operating over regular or irregular routes, that participate in joint distance or mileage rates must either (i) publish in the tariff containing such joint distance or mileage rates or in a separate duly authorized publication an alphabetical list of all points between which such distance or mileage rates apply and the distances from each of such points to every other point, indicating in an appropriate manner which of such points are transfer points at which it is possible to interchange traffic and naming the connecting carriers at each such transfer point with which such transfer is possible; or (ii) file through an agent, duly authorized, a separate joint publication which shall contain an alphabetical list of all the transfer points on their respective lines at which it is possible to interchange traffic in the area embraced by the application of such joint distance or mileage rates, together with the names of the connecting carriers at each transfer point with which transfer is possible, and the distance from each such transfer point to each other transfer point; and they shall, in the tariffs containing such joint distance or mileage rates, give reference by P.S.C.I. number to such separate joint publication. The latter shall also contain the distance from each local station to the nearest transfer point in each direction over the line of the same carrier, or the tariff containing the joint distance or mileage rates shall refer by P.S.C.I. number to the tariff or tariffs of each carrier containing the distances between points on its line and such junction points.

(2) Until further notice, a method of publication of distances similar to that authorized in paragraph (c) (1) (iv) of this rule [this section] may be used instead of the methods of publication specified in paragraph (1) (i) and (ii) of this paragraph.

NOTE: It is not intended by the two preceding paragraphs to require carriers to have a separate publication for each rate tariff containing joint distances or mileage rates but all the distances over which joint rates in which such carrier participates may be included in one publication. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 12; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 488*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-14) to the Department of State Revenue (45 IAC 16-3-14) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-15 Tariffs containing classifications, exceptions, rules**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18



Sec. 15. CLASSIFICATION, EXCEPTIONS, AND RULES TARIFFS. (a) Classification. A tariff may be filed containing a classification of the articles or commodities upon which the rates named in other tariffs making reference thereto will apply. The various articles or commodities shall be listed in the classification in an orderly manner and a rating indicating the class rate to be applied shall be shown in connection with each item or items containing a description of the articles. Such a tariff shall contain an alphabetically arranged index of all of the articles or commodities so listed. It is not permissible to state that the rating or rate on any article will be that applying upon another article. For example: The classification may not state that "Fire clay, crude or ground," will take "Fire-brick rates." If it is intended that fire clay take the same rating as is designated for fire brick, the same rating shall be shown in connection with the item listing fire clay.

(b) Rule in classification. (1) Each classification shall contain the following rule:

The establishment of a commodity rate removes the application of the class rate on the same article between the same points over the same route, except when and insofar as alternative use of class and commodity rates is specifically provided in the tariff containing such commodity rates.

(2) In applying the rule in subparagraph (1) of this paragraph, a local commodity rate will take precedence, on traffic originating or destined beyond, over a proportional class rate between the same points over the same route whether higher or lower.

(c) Rules. Rules which have a general application in a classification territory, or throughout the state, may be published in a classification tariff. Such rules must precede the list of articles shown in the classification and must be consecutively numbered and separately indexed.

(d) Exceptions to classification. (1) A separate tariff may be filed containing exceptions to the classification for application in connection with tariffs or rates making reference thereto. Each classification exceptions tariff shall contain the rule above provided for a classification tariff. Exceptions published therein must not be restricted to a small number of points in order to avoid the publication of commodity rates between such points. One rate tariff may be governed for account of any one carrier by not more than one tariff of exceptions to each classification governing the tariff, published either individually or by an agent. A tariff of exceptions may not contain any matter which is not in fact an exception to a rule, rating, or other condition published in a classification, except as provided in paragraph (e) of this rule, nor will it be permissible to state that the rating or rate on any article will be that applying to another article. When tariffs naming joint rates make reference to separate publications containing exceptions to the classification, the tariffs of exceptions must be concurred in by all of the carriers participating in the joint rates.

(2) Different classification ratings on the same article, or articles, based on different minimum quantities may be published in an exceptions tariff provided the lowest charge resulting from any such rating applied in connection with its published minimum (or actual quantity shipped, if greater) is made applicable by publishing such ratings in the same item and by providing in connection with such item a rule to the effect that the lowest charge obtainable under the different rating a minima applicable thereto (or actual quantities if greater) will be applied.

(3) Tariffs containing exceptions to the classification may not provide for the alternation of such exceptions with the classification proper.

(e) To be arranged same as classification. (1) The matter in a tariff of exceptions shall be arranged in the same order as in the classification and separate and complete alphabetical indexes of the rules and of the articles listed therein shall be shown. Each general rule published in the exceptions to the classification shall be given a number and shall refer to the rule in the classification to which it is an exception. The following notation shall be shown on the title page of each tariff of exceptions:

Applicable only in connection with tariffs making reference to the P.S.C.I. number hereof.

(2) When desired, rules and regulations covered by Rule 3(h) may be included in the same publication with classification exceptions. In such cases, the classification exceptions tariff will be counted in applying the provisions of paragraph (f) of this rule [this section]. Lists of commodities authorized in Rule 4(e) may also be included with classification exceptions, in which case carriers may not have other tariffs publishing commodity lists exclusively. Where classification exceptions are published in the same tariff with rules, or commodity lists, the publication should be divided into sections, the first containing the classification exceptions, the second containing the rules and similar provisions, and the third containing the lists of articles. Such a publication shall contain a complete index.

(f) Rules may be published in separate tariffs. (1) If it is not desirable or practicable to include the governing rules and similar provisions in the rate tariff, such rules and similar provisions may be separately published in tariffs filed by an individual carrier or by an agent. Except as noted below, any carrier may not apply more than two such rules tariffs, one of which shall be published by such carrier itself, and the other by an agent. The following tariffs will not be counted in applying the provisions of this

paragraph. Tariffs containing exclusively rules and charges applying to the special services covered by Rule 11; classification and classification exceptions tariffs authorized by paragraphs (a) and (d) of this rule; rate basis books authorized by Rule 14; and tariffs containing rules and regulations governing the transportation of explosives and other dangerous articles.

(2) When rules or regulations are thus separately published, rate tariffs may be made subject thereto only by specific P.S.C.I. reference in the rate tariff. This reference should be made in substantially the following form:

Governed, except as otherwise provided herein, by rules (or regulations) shown in P.S.C.I. No.\_\_\_\_\_, supplements thereto or successive issues thereof. (When issued by an agent, add "Issued by\_\_\_\_\_, Agent.")

(g) Explosives regulations. Tariffs which name rates for the transportation of explosives, inflammable or corrosive materials, or other dangerous articles shall, as required by Rule 3(h), contain the hazardous materials regulations promulgated by the Department of Transportation governing the transportation of such articles or give reference to a separate publication filed with this Commission by the carrier or by an agent containing such regulations. When the latter method is adopted, the tariff to which reference is made shall contain nothing except the regulations promulgated by the Department for handling such articles and necessary provisions for the application of such regulations.

(h) Participation in governing publications. All carriers parties to tariffs making reference to separate publications for classification ratings, exceptions thereto, rules, or other provisions affecting the rates or the services rendered, except such carriers as indicated by restrictions published in the tariffs making reference to such separate publications that they will not apply the provisions therein, shall also be participating carriers in such separate governing publications. This section does not require participation in local drayage tariffs or tariffs containing other provisions which are local to the lines publishing such tariffs. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PTA, Rule 13; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 490*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-15) to the Department of State Revenue (45 IAC 16-3-15) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-16 Rate basis books**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 16. RATE BASIS BOOKS. (a) Rate basis books. (1) Separate tariffs may be published, filed, and posted showing the rate groups or rate bases to be used in determining rates between points named therein. When such a separate publication is issued, reference shall be made in the rate tariff to the P.S.C.I. number of such separate publication in substantially the form prescribed in Rule 3(f). All carriers parties to the rates governed by the rate basis book shall be shown as participating carriers both in the rate tariff and in the separate publication.

(2) No rate may be governed by more than two such separate publications, one for points of origin and one for points of destination. A rate tariff may not refer to another rate tariff for list of points assigned rate groups or rate bases.

(b) Order of arrangement. Rate basis books must conform to the following requirements. Such a publication shall not contain rules for application of bases or rates at intermediate points. The name of the carrier serving each point shall be shown, and the points in such publication shall be arranged in alphabetical order, or such publication shall contain an index as provided in Rule 3(d). The rate group or rate bases, or arbitraries or differentials to be added to or deducted from the group or base rates, shall be shown immediately in connection with the name of each point, except that reference may there be made to an item showing such information. Exceptions to the rate group or rate bases should not be made in rate basis books unless such exceptions apply to or from a considerable number of points or on a considerable number of commodities. When arbitraries or differentials which are to be added to or deducted from the base or group rates are governed by classification provisions, other than those governing the base or group rate, reference to such other classification provisions shall be made immediately in connection with arbitraries or differentials.

(c) Rules governing rates. All the rules and other provisions governing the application of rates determined by the use of a rate tariff and rate-basis books shall be published in the rate tariff or made a part thereof by reference as provided in Rule 3(h) and Rule 13(f).

(d) Carrier's operating rights. A separate section in a rate-basis book or a separate tariff similarly constructed, published, and filed, may include information describing the operating rights of the carriers parties thereto as set forth in the carriers' certificates. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PTA, Rule 14; filed*

*Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 493) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-16) to the Department of State Revenue (45 IAC 16-3-16) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

**45 IAC 16-3-17 Joint tariffs**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 17. TARIFFS OF JOINT AGENTS. (a) Joint tariffs issued by joint agents. An agent for certain carriers may join with not more than two other agents for other carriers in the issuance of tariffs. This may be done without each of such agents having powers of attorney from all of the carriers parties to the tariff as required by Rule 3(b), provided each carrier is shown as participating under authority issued to one of such agents. In such cases, each agent acts for the carriers that have given him powers of attorney or have given concurrences to the carriers issuing powers of attorney and for such lines only.

(b) P.S.C.I. numbers and filing. Such publication shall bear a separate P.S.C.I. number in the series of each agent and each of the agents shall file the publication and each and every supplement thereto for and on behalf of the carriers for which he is agent, as if it were his individual publication on behalf of those carriers alone.

(c) Tariffs and supplements must be identical and must be filed under one cover. The tariff filed by one agent is not a complete publication properly authorized by all carriers named therein. It is a complement of the tariff filed by each agent, and, therefore, identical copies of each tariff and of each supplement thereto, must be filed by each agent. As each agent will file the tariff for the carriers which he lawfully represents, the cross exchange of concurrences between all of the different carriers represented by each agent will not be necessary as to that tariff. In order to avoid complications, all copies of each publication, accompanied by a letter of transmittal signed by each agent, shall be filed under one cover by one agent. A tariff filed by one agent shall not be amended to show an additional agent as participating in issuance thereof except upon reissue of the tariff; nor shall a tariff issued by joint agents be converted into one issued by a lesser number of agents except by reissue.

(d) List of participating carriers. Each publication issued by two or three agents jointly shall show one complete alphabetical list of participating carriers indicating the carriers from which each of the agents has power of attorney, by showing in separate columns the form and number of the authority granted to each, and also indicating the carriers that participate under concurrences to any of the carriers for which one of the agents acts, by showing in an additional column the form and number of such concurrences together with appropriate reference marks to indicate the carriers to whom the concurrences are given. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 15; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 493) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-17) to the Department of State Revenue (45 IAC 16-3-17) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

**45 IAC 16-3-18 Rates prescribed by commission; promulgation in tariffs; notice requirements**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 18. RATES PRESCRIBED BY COMMISSION. (a) Rates prescribed by Commission must be promulgated in tariffs and Commission notified. Rates prescribed by the Commission in its decisions and orders in formal cases shall be promulgated by the carriers to which such orders are issued in duly published, filed and posted tariffs, revised page, or supplement, and notice shall be furnished the Commission that its decision (or order) in Docket No.\_\_\_\_\_, has been complied with in Item \_\_\_\_\_, page \_\_\_\_\_ of \_\_\_\_\_ tariff, P.S.C.I. No.\_\_\_\_\_ or Supplement No.\_\_\_\_\_ to \_\_\_\_\_ tariff, P.S.C.I. No.\_\_\_\_\_. Unless otherwise specified in the decision or order in the case, the prescribed rates shall be made effective upon statutory notice to the Commission and to the public.

(b) Notation on tariff. (1) When an entire tariff or supplement is issued in compliance with a decision or order of the Commission, whether made effective on less than statutory notice under special authority granted in the decision or order in the case or upon statutory notice, such tariff or supplement shall bear on its title page the notation, "In compliance with decision (or order) of the Commission in Docket No.\_\_\_\_\_" (When possible, the volume and page number of the report of the Public Service Commission of Indiana should be shown.)

(2) If the decision or order of the Commission affects only portions of the tariff or supplement, the above notation shall be

shown in connection with each portion so affected. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 16; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 494*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-18) to the Department of State Revenue (45 IAC 16-3-18) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-3-19 Transfer of operations; changes in name and control; adoption notice; supplements to tariffs**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 19. TRANSFER OF OPERATIONS; CHANGES IN NAME AND CONTROL. (a) Complete adoption notice. (1) When the name of a common carrier is changed, or when its operating control is transferred to another common carrier, the carrier which will thereafter operate the properties shall file with the Public Service Commission of Indiana and post as required in Rule 18 an adoption notice in the form of a tariff numbered in its P.S.C.I. series and containing substantially the following:

(Name, also trade name, if any, of adopting carrier) hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, all tariffs, classifications, rules, notices, traffic agreements, statements of divisions, powers of attorney, concurrences, or other instruments whatsoever, including supplements or amendments thereto, filed with the Public Service Commission of Indiana by, or heretofore adopted by (name and trade name, if any, of former carrier) prior to (date).

(2) In addition to the above adoption notice the adopting carrier shall immediately file with the Public Service Commission of Indiana and post as required in Rule 18 a consecutively numbered supplement to each of the effective tariffs issued or adopted by its predecessor, reading as follows:

Effective (here insert date shown in the adoption notice) this tariff, or as amended, became the tariff of (name and trade name, if any, of the adopting carrier) as stated in its adoption notice P.S.C.I. No. TR-\_\_\_\_\_.

(3) Subsequent supplements to adopted tariffs shall be numbered consecutively, beginning with the number following that of the adoption supplement, and shall show in connection with the P.S.C.I. number that the number is in the series of the former carrier.

(4) New tariffs reissuing or superseding adopted tariffs shall be numbered in the P.S.C.I. series of the adopting carrier. The adopting carrier, when cancelling any tariff issued or adopted by the old carrier, shall identify such tariff in the cancellation notice by reference to its P.S.C.I. number, by reference to the name of the carrier that issued it, and, when tariffs have been published by the old carrier in more than one series, by reference to the particular series in which that tariff was published.

(b) Old carrier's name to be eliminated and new carrier's name added. Tariffs issued by other carriers or agents participated in by a carrier whose name is changed or that is absorbed, taken over, or operated by another carrier or of a carrier whose name is changed, shall be amended on statutory notice in the regular way (that is, by the next supplement or revised page filed) to eliminate from the list of participating carriers the name of the old carrier and to add thereto the name of the new carrier. Such supplement or revised page shall also contain the following provision:

(Name and trade name, if any, of the adopting carrier) by its adoption notice, P.S.C.I. No. TR-\_\_\_\_\_, which became effective on \_\_\_\_\_ having taken over the tariffs, etc., of (name and trade name, if any, of the former carrier), (name and trade name, if any, of the adopting carrier) is hereby substituted for (name and trade name, if any, of the old carrier) wherever it appears in this tariff.

(c) Partial adoption notice. (1) When the operating control of a common carrier's properties is transferred in part to another common carrier, the carrier which will thereafter operate that part of the properties shall file with the Public Service Commission of Indiana and post as required in Rule 18, an adoption notice in the form of a tariff numbered in its P.S.C.I. series and containing substantially the following:

(Name and trade name, if any, of adopting carrier) hereby adopts, ratifies, and makes its own in every respect as if the same had been originally filed and posted by it, all tariffs, classifications, rules, notices, traffic agreements, statements of divisions, powers of attorney, concurrences, or other instruments whatsoever, including supplements or amendments thereto, filed with the Public Service Commission of Indiana by, or heretofore adopted by (name and trade name, if any, of the original carrier) prior to (date) insofar as said instruments apply (here describe the operations transferred).

(2) In addition to the above adoption notice, the old carrier shall immediately file with the Public Service Commission of

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## MOTOR CARRIERS

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Indiana and post as required in Rule 18, under proper concurrence from the adopting carrier, a supplement to each of its effective tariffs covered by the adoption notice reading as follows:

Effective (here insert date shown in adoption notice) this tariff or as amended, insofar as it contains rates, rules, and other provisions applying (here describe the operations transferred), became the tariff of (name and trade name, if any, of the adopting carrier) as stated in its adoption notice, P.S.C.I. No. \_\_\_\_.

(d) Tariffs to be amended. (1) Tariffs issued by other carriers or agents applicable in connection with that part of the line taken over or operated in part by another carrier shall be amended on statutory notice in the regular way, that is, by the next supplement or revised page filed, to incorporate necessary changes. Such supplement or revised page shall also contain a provision in the following form:

(Name and trade name, if any, of the adopting carrier) by its adoption notice P.S.C.I. No. \_\_\_\_, having taken over tariffs, etc., of (name and trade name, if any, of the old carrier) insofar as they contain rates, charges, rules, and other provisions applying (here describe the operations transferred), (name and trade name, if any, of the adopting carrier) is hereby substituted for (name and trade name, if any, of the old carrier) whereby the latter appears in this tariff in connection with said points, routes, or territory.

(2) Rates, rules, and other provisions applying locally between points on the transferred portion shall be transferred as quickly as possible to tariffs of the adopting carrier. The former carrier shall cancel such rates, rules, and other provisions from its tariffs on statutory notice and shall refer by P.S.C.I. number to the tariffs of the adopting carrier for rates to apply thereafter. The adopting carrier shall publish, file and post corresponding rates, rules, and other provisions on statutory notice to become effective upon the date upon which the cancellation of the former carrier's rates, rules, and other provisions become effective.

(3) If, after the transfer of operations, any point will be served by both the former carrier and by the adopting carrier, a statement shall be shown in connection with the name of that point reading substantially as follows:

This adoption notice does not have the effect of eliminating \_\_\_\_ as a point served by (name and trade name, if any, of the original carrier), but has the effect of establishing service at said point by (name and trade name, if any, of the adopting carrier).

(e) Receiver, etc., must file adoption notice and supplement. Adoption notices and supplements similar to those prescribed in paragraphs (a) and (c) of this rule [*this section*], but numbered consecutively in the series of the old carrier, shall immediately be filed and posted by a receiver, trustee, executor, administrator, assignee, or lessee when he assumes possession and operating control of a carrier's lines, either in whole or in part, and shall show the names of the receivers, trustees, executors, administrators, assignees, or lessees on the title page in connection with the former carrier's name. When such possession and operating control are terminated, the carrier taking over the properties shall file an adoption notice and if a change in the name of the carrier has been made, shall also file supplements as prescribed in paragraphs (a) and (c) of this rule [*this section*].

(f) Adoption notice effective date. (1) Notices of adoption shall be filed and posted immediately and if possible on or before the date shown therein. Copies shall be sent to each agent or carrier to which power of attorney or concurrence has been given by the adopted carrier. The effective date shall be the date (as shown in the body of the notice) on which the change in name or operation occurs, except that if prior approval of such change by the Commission is required, the effective date shown shall not antedate that approval.

(2) Concurrences and powers of attorney adopted by a carrier, receiver, trustee, executor, administrator, assignee, or lessee shall, within 120 days, be replaced and superseded by new concurrences and powers of attorney issued by and numbered in the series of the adopting carrier, receiver, trustee, executor, administrator, assignee, or lessee, except that receivers, trustees, executors, administrators, assignees, or lessees may continue concurrences and powers of attorney in the same series of numbers. The cancellation references to the former concurrence or power of attorney shall include the name of the former issuing carrier. Powers of attorney and concurrences which will not be replaced by new issues shall be regularly revoked on the notice and in the manner prescribed by Rule 20(n) and Rule 21(d).

(3) Adoption notices and special supplements issued under the authority of this rule shall contain no other matter.

(g) Temporary control. (1) When temporary authority to take over the operating control of all or a portion of the operations of a carrier is granted by the Public Service Commission of Indiana, the new carrier that assumes temporary control of the operations of the old carrier shall comply with the provisions of paragraphs (a), (b), (c), (d), and (f) of this rule except that the new carrier is not required to reissue the adopted concurrences and powers of attorney during the period of temporary control of the operations of the old carrier. New concurrences and powers of attorney granting authority to publish rates from or to points included

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in the temporarily controlled operations, shall be in the series of the old carrier; for example:

P.S.C.I. No. \_\_\_\_\_ (Roe's Trucking Series)  
JOHN DOE TRANSPORT, INC.  
Operator of  
Richard Roe  
d/b/a  
Roe's Trucking  
(Post Office Address)

(2) The new carrier, when it publishes in a tariff issued in its name, rates, charges, and other provisions relating thereto, from, to, or between points included in the temporarily controlled operations, shall file such publication in the name of the new carrier as operator of the old carrier under consecutive P.S.C.I. numbers and in the series of the old carrier. For example, if John Doe Transport, Inc., assumes temporary control of the operation of Richard Roe, d/b/a Roe's Trucking, the title page of tariffs or supplements thereto, must show the P.S.C.I. number and name of the carrier in substantially the following manner:

P.S.C.I. No. TR-17 (Roe's Trucking Series)  
JOHN DOE TRANSPORT, INC.  
Operator of  
Richard Roe  
d/b/a  
Roe's Trucking

*(Department of State Revenue; Common Carrier Freight Tariffs and Classifications PT A, Rule 17; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 495) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-19) to the Department of State Revenue (45 IAC 16-3-19) by P.L. 72-1988, SECTION 12, effective July 1, 1988.*

**45 IAC 16-3-20 Filing of tariffs; posting; rejection**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 20. FILING AND POSTING TARIFFS. (a) Filing tariffs. Tariffs and supplements thereto shall be filed by the proper officer or duly authorized agent of the carrier. When filed by an officer, the concurrence, and when filed by an agent, the power of attorney of every carrier participating therein shall be on file with the Commission or accompany the tariff or supplement. Tariffs shall be filed by the issuing carrier or agent, and such filing will constitute filing for all carriers parties thereto. An agent duly authorized to act for carriers shall file tariffs under his own P.S.C.I. serial numbers.

(b) Avoid conflict between tariffs. A carrier that grants authority to an agent or to another carrier to publish and file certain of its rates shall not in its own issues publish rates which duplicate or conflict with those which are published by such authorized agent or other carrier.

(c) Numerical order, or explanation of missing numbers required. Each carrier and agent shall file tariffs and supplements under consecutive P.S.C.I. or supplement numbers. If, for any reason, this is not done, the tariff or supplement which is not numbered consecutively with the publication last filed must be accompanied by a memorandum explaining why consecutive numbers were not used.

(d) Letter of transmittal. (1) All tariffs and supplements filed with the Commission shall be accompanied by a letter of transmittal of one sheet either 8 x 10 1/2 or 8 1/2 x 11 inches in size, in form substantially as follows:

\_\_\_\_\_  
(Name of carrier or agent in full)

\_\_\_\_\_  
(Post office address)

\_\_\_\_\_, 19\_\_\_\_.

Transmittal \_\_\_\_\_

To the Public Service Commission of Indiana, Indianapolis, Indiana 46204:

Accompanying publication is sent you for filing in compliance with the requirements of The Motor Carrier Act issued

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by \_\_\_\_\_ and bearing P.S.C.I. No. \_\_\_\_\_; or Supp. No. \_\_\_\_\_ to P.S.C.I. No. \_\_\_\_\_; or revised page to P.S.C.I. No. \_\_\_\_\_; effective \_\_\_\_\_, 19\_\_\_\_; and is concurred in by all carriers named therein as participants under continuing concurrences or powers of attorney now on file with the Public Service Commission, except the following-named carriers, whose authorities are attached hereto:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

(2) A separate letter may accompany each publication or the form may be modified to provide for filing with one letter as many publications as can be conveniently listed.

(3) If receipt for the accompanying publications is desired, letters of transmittal must be sent in duplicate, and one copy showing the date of receipt by the Commission will be returned to the sender.

(e) Number of copies. (1) Carriers and agents shall transmit to the Commission three copies of each tariff, supplement, revised page, classification, or other publication to be filed, all copies to be included in one package and under one letter of transmittal. A separate letter of transmittal shall be included for each joint agent.

(2) No tariff, revised page, or supplement will be received by the Commission unless it is delivered to it free from all charges, including claims for postage.

(3) Tariffs sent for filing shall be addressed:

Public Service Commission of Indiana  
Transportation-Tariff Dept.,  
901 State Office Bldg.  
Indianapolis, Indiana 46204

(4) Tariff publications received for filing will not be returned unless rejected because of failure to give lawful notice of changes, or for other valid reason.

(f) Statutory notice must be shown unless otherwise authorized. (1) Section 17 of the Motor Carrier Act requires that all changes in rates or charges, or in rules or other provisions that affect rates, shall be filed with the Commission at least 30 days before the date upon which they are to become effective unless otherwise authorized by the Commission. Manifestly it is impossible for the Commission to check the items in tariffs to determine whether or not statutory notice has been given. Therefore, except as otherwise authorized by the Commission, 30 days' notice to the public and to the Commission must be given as to every tariff publication filed with the Commission, regardless of whether or not changes are effected thereby.

(2) Rates, charges, rules, or other provisions which have been filed with the Commission must be allowed to become effective and remain in effect for a period of at least 30 days before being changed, cancelled, or withdrawn, unless otherwise authorized by the Commission.

(g) Filing of tariffs with Commission does not relieve carriers from liability for violation of act or regulations thereunder.

(1) The law affirmatively imposes upon each carrier the duty of filing with the Commission and posting for public inspection all of its tariffs and amendments thereto in the manner prescribed in the law and in regulations promulgated by the Commission. A penalty is provided for failure to do so, or for using any rate which is not contained in its lawfully published and filed tariffs. The receipt and acceptance for filing of a tariff or supplement by the Commission does not relieve carriers from liability for violation of the act or of regulations issued thereunder.

(h) Posting of Tariffs. (1) Except as provided herein, each carrier by motor vehicle subject to the provisions of Section 17 of the Motor Carrier Act, and as amended, shall post and file at each of its stations or offices which is in charge of a person employed exclusively by the carrier or by it jointly with another carrier and at which freight is received for transportation all of the tariffs containing rates, charges, classifications, and rules or other provisions applying from, or at, such station or office.

(2) Except as provided herein each of such carriers shall also maintain at its principal or general office a complete file of all tariffs issued by it or by its agents, including those tariffs in which it concurs.

(3) Carriers operating only as pick-up carriers within the pick-up area at point of origin and carriers operating only as delivery carriers within the delivery area at point of destination who are shown as participating carriers in the tariffs naming rates from, to, or between such points will not be required to post such tariffs, provided the line-haul carrier with whom they interchange traffic maintains a terminal at the pick-up or delivery point, as the case may be, and posts such tariffs in accordance with this rule.

(4) The granting of authority to issue tariffs under powers of attorney or concurrences does not relieve the carriers conferring the authority from the necessity of complying with the Commission's regulations with regard to posting tariffs. Tariffs issued under such authority must be posted as required by the regulations in this paragraph.

(5) Each file of tariffs shall be kept in complete and accessible form. Employees of the carrier shall be required to give any desired information contained in such tariffs, to lend assistance to seekers of information therefrom, and to afford inquirers opportunity to examine any of such tariffs without requiring the inquirer to assign any reason for such desire.

(i) Rejection of tariffs and notices of revocation. (1) Any tariff tendered for filing, which fails to give lawful notice of changes in rates, charges or other provisions which it proposes to establish, or which fails to meet the requirements of the regulations contained in these rules, or violates any order of the Commission or of a court, is subject to rejection by the Commission. When a tariff is rejected, the Commission, acting through a designated administrative officer, will inform the carrier or the agent who tendered it for filing, in writing, of the reasons for rejection, and will return the rejected tariff to such carrier or agent.

(2) The number assigned to a tariff which has been rejected may not again be used. The rejected tariff may not be referred to in any subsequent tariff as having been cancelled, amended or withdrawn, but the tariff which is published in its stead must bear the following notation: "Issued in lieu of (here identify the rejected tariff), rejected by the Commission."

(3) A notice of the revocation, complete or partial or a concurrence or power of attorney which, if it were to become effective, would require the establishment of rates or charges in violation of an order of the Commission or of a court, or of the regulations in these rules, may be rejected in the same manner as a tariff, and any such notice of revocation which would require the establishment of rates or charges of doubtful lawfulness may be suspended. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 18; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 498*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-20) to the Department of State Revenue (45 IAC 16-3-20) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-21 Changes in rates; application for special permission**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 21. APPLICATIONS FOR SPECIAL PERMISSION. (a) Rates changed on less than statutory notice. Section 17 of the Motor Carrier Act, as amended, authorizes the Commission in its discretion and for good cause shown to permit changes in rates on less than statutory notice, and also to permit departure from the Commission's regulations. The Commission will exercise this authority only in cases where actual emergency and real merit are shown. Desire to meet the rates of a competing carrier that has given statutory notice of change in rates will not of itself be regarded as good cause for permitting changes in rates or other provisions on less than statutory notice. Clerical or typographical errors in tariffs constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the error together with a full statement of the attending circumstances and must be presented with reasonable promptness after issuance of the defective tariff, supplement or revised page.

(b) Permission will not issue to modify formal orders. When a formal order of the Commission requires publication on a stated number of days' notice, a request for authority to file on less notice will not be granted. In any such instance a petition for modification of the order should be filed on the formal docket.

(c) Applications must be by carrier or agent authorized to file tariff. Applications for permission to establish rates, rules, or other provisions on less than statutory notice, or for waiver of provisions of these rules must be made by the carrier or agent that holds authority to file the proposed publication. If the application requests permission to make changes in joint tariffs, it must state that it is filed for and on behalf of all carriers parties to the proposed change.

(d) Number of copies. (1) Two copies of applications (including amendments thereto and exhibits made a part thereof) shall be sent to the Public Service Commission of Indiana, Transportation-Tariff Department, 901 State Office Bldg., Indianapolis, Indiana 46204.

(2) Application shall be made on paper either 8 x 10 1/2 or 8 1/2 x 11 inches, shall be in substantially the form shown herein below, and shall give all the information required by these rules, together with any other pertinent facts. They shall be numbered consecutively and must bear the signature of the carrier or its agent or officer, specifying title.

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(Address)



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\_\_\_\_\_  
(Date)

Application No. \_\_\_\_\_

To The Public Service Commission of Indiana Indianapolis, Indiana 46204

\_\_\_\_\_, by \_\_\_\_\_ for and on behalf (Name of Carrier) (Name of officer, specifying title) of all carriers parties to its Tariff P.S.C.I. No. \_\_\_\_\_, does hereby petition the Public Service Commission that he (it) be permitted, under Section 17 of the Motor Carrier Act, and as amended, to put in force the following tariff provisions to become effective \_\_\_\_\_ days after the filing thereof with the Public Service Commission:

(Here show matter as directed by paragraph (e)(1) of this rule *[this section]*.)

Your petitioner further represents that the said: (state whether rates, charges, classification ratings, or other provisions) above mentioned will be published in (here show matter as directed by paragraph (e)(2) of this rule *[this section]*).

(Here state matter as directed by paragraph (e)(3) of this rule *[this section]*.)

(Here state matter as directed by paragraph (e)(4) of this rule *[this section]*.)

(Here state fully matter as directed by paragraph (e)(5) of this rule *[this section]*.)

(Here show justification as directed by paragraph (e)(6) of this rule *[this section]*.)

\_\_\_\_\_  
(Name of carrier)

By \_\_\_\_\_  
(Name and title)

Verification:\*

The above statement was subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

When the publication is made by an agent, appropriate change should be made in the introductory and closing paragraphs of this form.

\* Only the original need be executed.

(e) Applications shall show. Applications shall show the following information:

(1) The proposed tariff provisions shall be set forth clearly and completely. An accompanying exhibit may be used if identified by letter, such as "Exhibit A," and so referred to in the application. If the proposed provisions consist of rates, all points of origin and destination must be shown or definitely indicated; if permission is sought to establish a rule, the exact wording of the proposed rule must be given.

(2) The application shall show the tariffs and P.S.C.I. numbers of the publications in which the proposed rates, ratings, rules or other provisions will be published. If publication is to be made in supplements to tariffs already referred to, this fact shall be shown.

(3) The application shall set forth the rates or tariff provisions which it is desired to change. Where the matter to be shown is voluminous or for other reasons difficult of presentation, it may be included in an accompanying exhibit, properly identified and referred to in the application. Reference shall be made by P.S.C.I. number and supplement number to the tariffs or supplements in which rates or provisions to be superseded are published. If such provisions are published in numbered items or other units, reference shall be made thereto by number, or, if not so published, the pages of the publication on which the provisions appear shall be shown. The extent to which cancellations will be made must be definitely indicated.

(4) The application shall state the names of carriers known to maintain competitive rates, charges, classification ratings, or rules between the same points or points related thereto, together with the P.S.C.I. No. TR- of the tariffs and supplements thereto containing such provisions.

(5) The application shall state whether such carriers have been advised of the proposed rates, charges, classification ratings, or rules and whether they have been advised that it is proposed to establish such provisions on less than statutory notice. If competitive carriers have expressed their views in regard to the proposed provisions, a brief statement of their views will be given.

(6) The application shall state the special circumstances or unusual conditions which are relied upon as justifying the requested permission together with any related facts or circumstances which may aid the Commission in determining

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whether the requested permission is justified. If permission to establish provisions on less than statutory notice is sought, the petitioner shall state why the proposed provisions could not have been established upon 30 days' notice.

(f) Partial use of permission prohibited. If the authority granted by special permission is used, it must be used in its entirety and in the manner set forth in the order of special permission. If it is not desired to use all of the authority granted and less or more extensive or different authority is desired, a new application complying with the provisions of this rule in all respects and referring to the previous permission must be filed. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PTA, Rule 19; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 501*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-21) to the Department of State Revenue (45 IAC 16-3-21) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-3-22 Powers of attorney; forms; authority conferred; revocation**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 22. POWERS OF ATTORNEY. (a) Forms of powers of attorney. (1) The following forms shall be used by a carrier to give authority to an agent to publish and file tariffs and supplements in which such carrier participates. (Existing powers of attorney which are not otherwise objectionable need not be reissued merely to comply with the prescribed form.)

(b) Corporation. This form shall be used to authorize a corporation to act as agent:

POWER OF ATTORNEY

P.S.C.I. M1 No. \_\_\_\_\_

Cancels P.S.C.I. M1 No. \_\_\_\_\_

\_\_\_\_\_  
(Name of Carrier)

\_\_\_\_\_  
(Post Office Address)

\_\_\_\_\_, 19\_\_\_\_

Know all men by this instrument:

That, on the \_\_\_\_ day of \_\_\_\_, 19\_\_\_\_, (see Note 1, paragraph (e)) carrier of property by motor vehicle does (do) hereby make and appoint \_\_\_\_ attorney and agent to publish and file for such carrier freight tariffs and supplements thereto, as permitted or required of common carriers of property by motor vehicle under authority of the Motor Carrier Act, and the regulations of the Public Service Commission of Indiana issued pursuant thereto, and does (do) hereby ratify and confirm all that said attorney and agent may lawfully do by virtue of the authority herein granted and does (do) hereby assume full responsibility for the acts and failure to act of said attorney and agent.

\_\_\_\_\_  
(Name of Carrier)

By \_\_\_\_\_

Attest (If a Corporation):

\_\_\_\_\_, Secretary.

Duplicate mailed to \_\_\_\_\_, Agent.

(c) Unless specifically authorized by the Commission, an official or an employee of a corporation may not act as agent when such corporation acts as agent.

(d) Corporation, as agent. (1) A corporation, duly authorized and acting as an attorney and agent, shall issue tariffs in the name of the corporation as agent. At the bottom of the title page of each publication filed by the corporation as agent shall be shown the name and title of the official of the corporation who has been appointed by such corporation to issue tariffs and file them with the Commission.

(2) A corporation acting as a publishing agent under powers of attorney shall forward to the Commission a certified minute of the meeting of the board of directors of such corporation showing the name and title of the official who has been appointed to

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handle all tariff matters with the Commission.

(e) Individual. This form shall be used to authorize an individual to act as agent:

POWER OF ATTORNEY

P.S.C.I. M2 No. \_\_\_\_\_

Cancels P.S.C.I. M2 No. \_\_\_\_\_

\_\_\_\_\_  
(Name of Carrier)

\_\_\_\_\_  
(Post Office Address)

\_\_\_\_\_, 197 \_\_\_\_\_

Know all men by this instrument:

That, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,

\_\_\_\_\_  
(See Note 1)

a common carrier of property by motor vehicle does (do) hereby make and appoint \_\_\_\_\_  
(Name of principal agent)

attorney and agent to publish and file for such carrier freight tariffs and supplements thereto, as permitted or required of common carriers of property by motor vehicle under authority of the Motor Carrier Act and the regulations of the Public Service Commission of Indiana issued pursuant thereto, and does (do) hereby ratify and confirm all that said attorney and agent may lawfully do by virtue of the authority herein granted and does (do) hereby assume full responsibility for the acts and failures to act of said attorney and agent.

And, further, that \_\_\_\_\_ does

\_\_\_\_\_  
(See Note 1)

(do) hereby make and appoint \_\_\_\_\_ alternate attorney and agent to do and  
(Name of Alternate Agent)

perform the same acts and exercise the same authority herein granted to \_\_\_\_\_ in the  
(Name of principal agent)

event and only in the event of death or disability of \_\_\_\_\_  
(Name of principal agent)

\_\_\_\_\_  
(Name of Carrier)

BY \_\_\_\_\_

Attest (If a Corporation):

\_\_\_\_\_, Secretary

(Corporate Seal)

Duplicate mailed to \_\_\_\_\_, Agent.

NOTE 1: In the blank space for the name of the carrier, there shall be shown, if the carrier be an individual, the individual name followed by the trade name, if any. If the carrier be a partnership, the correct names of all partners must be given, followed by the trade name, if any. If the carrier be a corporation, the correct corporate name must be used. (See Note 2.)

NOTE 2: The power of attorney shall be signed by the individual carrier, if the carrier be an individual, and shall be signed by all of the partners individually, if a partnership. If the carrier be a corporation, the power of attorney shall be signed by the president or vice president, attested by the secretary of the corporation, and the corporate seal shall be affixed. In all cases, the name of the carrier shall be identical with the name as it appears in the certificate of convenience and necessity issued by the Commission, or, in the event that such certificate shall not have been issued, the name of the carrier shall be identical with the name appearing in the application for such certificate.

(f) Authority conferred. (1) Powers of attorney authorized by this rule, if executed without modification, confer unlimited authority to publish local rates for the carrier issuing the power of attorney and to publish joint rates for such carrier and such other

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carriers as shall have issued the necessary authority. If it is desired to limit the authority granted to the agent, the form may be modified by adding at the end of the first paragraph the statement: "This authority is restricted to the filing of the publications or types of publications set forth below," and clearly stating immediately thereafter the extent of the authority granted. The instrument may limit the authority of the agent to publication of rates from points on the carrier's lines only, or to points on its lines only, or may limit the authority granted to publication of either local or joint rates. The authority granted may be restricted, also, to publication of either class or commodity rates, but it may not be limited to publication of rates on a particular commodity or commodities or to publication of specifically named rates.

(2) If it is desired to give to an agent authority for the publication of a classification, a classification exceptions tariff or rules tariff only, the form may be modified by omitting from line six the words "freight tariffs" and substituting therefor the word or words, "classification," "classification exceptions tariffs" or "rules tariffs," or the instrument may be so modified as to authorize the publication of any or all of such tariffs, including rate tariffs. If it is desired to limit the authority granted to publication of a particular tariff or tariffs, this may be done by giving a sufficiently accurate description of the title page of each tariff to identify it and by showing the P.S.C.I. number, if known. If it is intended that the authority granted shall include supplements to or reissues of specifically named tariffs, that fact should be made clear by adding after the designation of the tariff, "supplements thereto and successive issues thereof."

(g) Specifications for powers of attorney. Powers of attorney shall be printed on good paper of durable quality, either 8 x 10 1/2 or 8 1/2 x 11 inches in size, and shall be signed as indicated in Note 2 Paragraph (e) of this rule. Each power of attorney shall be given a form and serial number which shall run consecutively for each form of instrument. The form and serial numbers shall be shown on the upper right-hand corner and immediately thereunder shall be shown the form and number of the power of attorney, if any, which is cancelled thereby. If the instrument to be cancelled contains more authority or is broader in scope than the new instrument, such new instrument must bear an effective date at least 60 days after the date on which it is received by the Commission. When the new instrument is broader in scope than the instrument which is to be cancelled, no notice is required. The term "freight tariff" as used in this rule means not only rate tariffs but all other freight publications which in any way affect the value of the service or the measure of the charge. Each instrument shall show, under the serial number, the post office address of the person or persons issuing it and the date of issue. The instrument shall show, also, in the lower left-hand corner, the name, title and address of the person or corporation to whom the duplicate is sent.

(h) Number of copies. All instruments must be prepared in triplicate. Except when there is specific instruction in individual rules to send originals to an agent, the original of the instrument shall be filed with the Commission, the duplicate sent to the agent to whom such authorization is directed, and the third copy retained by the issuing carrier.

(i) Conflicting authority to be avoided. Powers of attorney may not contain authority to delegate to another the power thereby conferred. In giving authority to an agent to publish and file rates for the carrier by whom such authority is issued, care must be taken to avoid duplicating to two or more agents authority which, if used, would result in conflicting rates or other provisions.

(j) Filing by alternate agent. When a power of attorney is issued to an individual to act as agent, such instrument shall name an alternate agent to act in the event of the death or disability of the principal agent. On or before the date of filing of the first tariff or supplement by the alternate agent under the authority granted in the instrument, such alternate agent shall submit to the Commission a sworn statement setting forth the facts which justify such exercise of authority. The term "disability," as used in the instrument means resignation, permanent transfer to other duties, or other permanent absence of the principal agent, and does not mean temporary absence of the principal caused by vacation, illness, or other similar causes. After an alternate agent has once exercised the authority granted by the instrument, the principal agent may not thereafter act under that instrument.

(k) Transfer of authority from one agent to another agent. (1) When it is desired to transfer authority from one agent to another agent, superseding the former agent as to all such agent's effective tariffs, the transfer shall be accomplished by filing a new power of attorney naming the agent (and alternate when the new agent is an individual) thereafter to serve, which shall specifically cancel the previous power of attorney. Under all other conditions the power of attorney must be revoked in accordance with paragraph (n) of this rule.

(2) When a power of attorney shall have been issued to an individual and an alternate, and the death or disability of either the principal or alternate agent occurs, new powers of attorney cancelling the previously effective powers of attorney and naming the agent (and alternate when the new agent is an individual) thereafter to serve shall be filed within 180 days. The new powers of attorney shall bear no effective date. The originals thereof shall not be sent direct to the Commission, but shall be forwarded to the new agent, who, after all the necessary instruments shall have been secured, shall file the originals with the Commission all

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at one time. Such powers of attorney will become effective upon the date they are received by the Commission.

(l) NOT USED.

(m) Substitution of agents. (1) When a new agent is appointed, or when an alternate agent assumes the duties of the principal agent, the new agent, immediately upon receipt of necessary authority, or the alternate agent, upon death or disability of his principal, shall issue a supplement to each of the effective tariffs issued by the agent superseded, which shall bear on its title page no effective date, but which shall contain a statement reading substantially as follows: "On and after (show here, in the case of a new agent, the date on which authorities are filed with this Commission; or in the case of an alternate agent, the date on which the principal ceased to act) this publication shall be considered as the issue of (show here name of new agent or the alternate acting as such)." In the case of a new agent, such supplement shall also contain a list of participating carriers, giving reference to the new authorities. If tariffs issued by the new agent will be numbered in a different P.S.C.I. series from those of the former agent, supplements filed by the new agent to tariffs issued by the former agent shall show in connection with P.S.C.I. numbers, that they are in the series of the former agent.

(2) When an agent who is superseded by a new agent or alternate participates with other agents in the issuance of a joint agency tariff, a special supplement for the purpose of indicating the change need not be issued unless the agent superseded actually issues the tariff, but the information with respect to the change in agents and the list of carriers showing current powers of attorney shall be included in the next regular supplement issued.

(n) Revocation of power of attorney. A power of attorney may be revoked upon not less than 60 days' notice to the Commission by filing a notice of revocation with the Commission, serving at the same time a copy thereof on the agent in whose favor such power of attorney was executed. Such notice shall not bear a separate serial number, but shall specify the form and number of the power of attorney to be revoked, shall name the agent (and alternate agent when form P.S.C.I. M2 is being revoked) in whose favor the power of attorney was executed, shall specify a date upon which revocation is to become effective, which must not be less than 60 days subsequent to the date of its receipt by the Commission, and shall be executed in the following manner on paper of good quality, size either 8 x 10 1/2 or 8 1/2 x 11 inches:

REVOCATION NOTICE

\_\_\_\_\_  
(Name of Carrier)

\_\_\_\_\_  
(Post office address)  
\_\_\_\_\_, 19\_\_\_\_

Know All Men by This Instrument:

Effective \_\_\_\_\_, 19\_\_\_\_, power of attorney P.S.C.I. No.\_\_\_\_\_, issued by\_\_\_\_\_ in favor of\_\_\_\_\_ is hereby cancelled and revoked.

\_\_\_\_\_  
(Name of Carrier)

By \_\_\_\_\_

Attest (if a corporation):  
(Corporate Seal)

\_\_\_\_\_, Secretary

Duplicate mailed to \_\_\_\_\_

\_\_\_\_\_  
(Name of Agent)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Date)

*(Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PTA, Rule 20; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 503) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-22) to the Department of State Revenue (45 IAC 16-3-22) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

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**45 IAC 16-3-23 Concurrences; forms; revocation**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 23. CONCURRENCES. (a) Forms of concurrences. The following forms shall be issued in giving to carriers subject to these rules concurrences in tariffs which are issued and filed by such carriers or their agents in which the carriers giving concurrences are participants. The provisions of Rule 20(g) and (h) will apply also to concurrences. If two or more carriers execute powers of attorney authorizing an agent to publish joint rates for them, it will not be necessary for those carriers to exchange concurrences with each other as to the joint tariffs issued by that agent under that authority.

(b) Specific. Form P.S.C.I. C1 shall be used in giving concurrence in a particular tariff that is issued and filed by another carrier. The original of form P.S.C.I. C1 shall be forwarded to the carrier issuing the tariff and shall by such carrier be transmitted to the Commission with the tariff. This form when not restricted will serve as continuing evidence of participation in the tariff described in the concurrence and in all supplements to and successive issues thereof. If reference to successive issues be stricken out a new concurrence will be required for each successive issue of the tariff. Except as provided above, this form shall not be qualified in any way but must evidence concurrence in all rates, rules or other provisions contained in the tariff publication named therein.

CONCURRENCE

P.S.C.I. C1 No. \_\_\_\_\_  
Cancels P.S.C.I. C1 No. \_\_\_\_\_  
\_\_\_\_\_  
(Name of Carrier)  
\_\_\_\_\_  
(Post office address)  
\_\_\_\_\_, 19\_\_\_\_

To the Public Service Commission of Indiana, Indianapolis, Indiana 46204.

This is to certify that (show name of carrier giving concurrence; see Note 1, to Rule 20(e)) assents to and concurs in the publication and filing of the freight tariff described below, filed by (show name of carrier to whom concurrence is given), together with supplements thereto and successive issues thereof, and that such concurring carrier hereby makes itself a party thereto and bound thereby, insofar as such tariff applies between points on the lines or routes of (show name of carrier to whom concurrence is given), on the one hand, and points on the lines or routes of (show name of carrier giving concurrence) on the other; or rates in connection with which (show name of carrier giving concurrence) acts as an intermediate carrier between points on the lines or routes of (show name of carrier to whom concurrence is given) on the one hand, and points on the lines or routes of other carriers parties to such tariff, on the other, until this authority is revoked by formal and official notice of revocation filed with the Public Service Commission of Indiana and sent to the carrier to which this concurrence is given. Here give an exact description of the title page of the tariff, including the name of the issuing carrier, the P.S.C.I. number, and dates on which issued and effective. Issued by (name and title of office shown as issuing tariff.)

\_\_\_\_\_  
(Name of Carrier)  
By \_\_\_\_\_

Attest (if a corporation):

\_\_\_\_\_  
(Corporate Seal)

\_\_\_\_\_, Secretary.

(c) General. If general concurrence be given by a carrier in tariffs issued by another carrier or its agent, naming rates from or to points on its line or over its lines, form P.S.C.I. C2 shall be used. Form P.S.C.I. C2 may be executed as shown, when it will authorize publication of rates for the concurring carrier from and to points served by such carrier as well as from and to points served by other carriers where the concurring carrier acts as intermediate line. If it is desired to limit the authority granted to exclude publication of rates in connection with which the concurring carrier would act as either origin, intermediate, or destination line, the form may be modified to that extent by substituting the words "from-to" for words "between-and" or by use of other

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appropriate language to effect the modification authorized. When authority is given an agent to publish rates for a carrier participating under authority of a concurrence to another carrier, for whom such agent acts, care must be exercised that the rates published for the concurring carrier do not exceed the scope of the authority given.

CONCURRENCE

P.S.C.I. C2 No. \_\_\_\_\_  
Cancels P.S.C.I. C2 No. \_\_\_\_\_

\_\_\_\_\_  
(Name of the Carrier)

\_\_\_\_\_  
(Post office address)

\_\_\_\_\_, 19\_\_\_\_

To the Public Service Commission of Indiana, Indianapolis, Indiana 46204.

This is to certify that (show name of carrier giving concurrence; see Note 1 to Rule 20(e)) assents to and concurs in the publication and filing of any freight tariff or supplement thereto, which (show name of carrier to whom concurrence is given) or such carrier's agent may publish and file, and in which the said (show name of concurring carrier) is shown as a participating carrier, and that such concurring carrier hereby makes itself a party thereto and bound thereby insofar as such tariff applies between points on the lines or routes of (show name of carrier to whom concurrence is given), on the one hand, and points on the lines or routes of (show name of carrier giving concurrence), on the other; or rates in connection with which (show name of carrier giving concurrence) acts as an intermediate carrier between points on the lines or routes of (show name of carrier to whom concurrence is given), on the one hand, and points on the lines or routes of other carriers parties, to such tariff, on the other, until this authority is revoked by formal and official notice of revocation filed with the Public Service Commission of Indiana and sent to the carrier to which this concurrence is given.

\_\_\_\_\_  
(Name of Carrier)

By \_\_\_\_\_

Attest (if a corporation):

\_\_\_\_\_  
(Corporate Seal)

\_\_\_\_\_, Secretary  
Duplicate mailed to \_\_\_\_\_ at \_\_\_\_\_

(Show complete address)

(d) Revocation of concurrence. A concurrence may be revoked upon not less than 60 days' notice to the Commission by filing a notice of revocation with the Commission, serving at the same time a copy thereof on the carrier to which such concurrence was given. Such notice shall not bear a separate serial number, but shall specify the form and number of concurrence to be revoked, shall name the carrier in whose favor issued, and shall specify a date upon which revocation is to become effective, which must not be less than 60 days subsequent to the date of its receipt by the Commission. The revocation notice shall be as follows:

REVOCATION NOTICE

\_\_\_\_\_  
(Name of Carrier)

\_\_\_\_\_  
(Post office address)

\_\_\_\_\_, 19\_\_\_\_

To the Public Service Commission of Indiana,  
Indianapolis, Indiana, 46204.

Effective \_\_\_\_\_, 19\_\_\_\_, concurrence form P.S.C.I. No. \_\_\_\_\_, issued by \_\_\_\_\_ in favor  
(Name of Carrier)

of \_\_\_\_\_ is hereby cancelled and revoked.  
(Name of Carrier to whom issued)

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Attest (if a corporation):

\_\_\_\_\_  
(Corporate Seal)

Duplicate mailed to:

(Name of Carrier)

By \_\_\_\_\_

\_\_\_\_\_, Secretary.

\_\_\_\_\_  
(Name of title of officer)

\_\_\_\_\_  
(Name of Carrier)

\_\_\_\_\_  
(Address)

(e) Revision of tariffs when authority revoked. When a power of attorney or concurrence is revoked, corresponding revision of the tariff or tariffs should be made effective upon statutory notice not later than the effective date stated in the notice of revocation. In the event of failure to so revise the applicable tariff or tariffs, the rates in such tariff or tariffs remain applicable until lawfully cancelled.

(f) Conflicting authority to be avoided. In giving concurrences care must be taken to avoid duplication authority to two or more carriers which, if used, would result in conflicting rates or rules. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PTA, Rule 21; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 509*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-23) to the Department of State Revenue (45 IAC 16-3-23) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-3-24 Suspension supplements and postponement notices; forms**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 24. SUSPENSION SUPPLEMENTS AND POSTPONEMENT NOTICES. (a) All carriers subject to the tariff publishing rules in this Part (PART A) and their duly appointed agents are hereby authorized to:

(1) Publish the following provisions in the supplements (other than consolidated suspension supplements) to their respective tariffs announcing suspension of rates or other provisions of said tariffs:

**POSTPONEMENT NOTICE.**

If this supplement is not cancelled on or before (here insert date to which suspended), the effective date of the above-described suspended publication or publications remaining under suspension until that date is hereby postponed to the date upon which this supplement is cancelled. The rates, charges, classifications, rules, regulations, practices, and other provisions continued in force by the above-mentioned order of suspension will apply during the period of suspension and postponement unless and until lawfully changed.

(2) Publish in bound tariffs or supplements thereto, or in loose-leaf tariffs or pages thereto, immediately following the first sentence of the "Notice of Suspension" a postponement notice reading substantially as follows:

The effective date of such suspended provisions is hereby postponed to and including \_\_\_\_\_

or

The effective date of such suspended provisions which was postponed to and including \_\_\_\_\_ is hereby further postponed to and including \_\_\_\_\_.

All such provisions to be made effective not later than the date to which suspended or postponed and upon as much notice as possible, but in no event less than 1 day's notice.

(b) Where the supplement announcing suspension does not contain postponement notice authorized in Paragraph (a) (1) of this rule [*this section*] and some or all of the matter remains under suspension until the end of the suspension period, carriers and their agents are hereby authorized to issue a postponement notice in regular supplement or a postponement supplement to provide that the effective date of such matter remaining under suspension is postponed to a specific date or to the date upon which the



postponement notice or postponement supplement is cancelled. The supplement containing such postponement notice to provide for the cancellation of the suspension supplement, shall bear an effective date which will be the same date as that named in the suspension order and to be made effective upon as much notice as possible, but in no case less than 1 day's notice.

(c) Where the suspended matter is under postponement to a specific date under authority of Paragraph (b) of this rule *[this section]* and it is desired to further postpone the effective date, carriers or agents may issue a supplement to their tariff or schedule affected, such supplement to cancel the postponement supplement (if it contains only the notice of postponement) or the postponement notice (if in a supplement containing other matter) and to provide that the effective date of the matter remaining under postponement to the end of the postponement period, is further postponed to a specific date or to the date upon which the postponement supplement or postponement notice is cancelled. The postponement notice or supplement issued hereunder to be made effective not later than the date shown in the previous postponement notice and upon as much notice as possible but in no case less than 1 day's notice.

(d) When the Commission has found the suspended matter justified and the effective date of such matter is under postponement or further postponement, the publishing carrier or agent may within the period of postponement publish and file a supplement (when to a bound tariff) or revised page (when to a loose-leaf tariff) to their tariff affected, such supplement or page to cancel the postponement notice or postponement supplement (in the case of loose-leaf tariff the postponement supplement may be cancelled by a revised check sheet), cancel the matter continued in effect during the period of postponement and make the postponed matter effective, the supplements or pages issued under this paragraph to bear an effective date which will be earlier than the date to which postponed and be made effective upon not less than 1 day's notice.

(e) Supplements issued to bound tariffs under authority of Paragraphs (b), (c), and (d) of this rule *[this section]* which contain no other matter may be issued without regard to the terms of Rule 6(d) (1) and (2) of these regulations, but thereafter such supplements will be counted against the number of supplements and volume of supplemental matter until they are cancelled.

(f) Publications issued hereunder to make specific reference hereto as authority for short notice filing or for tariff circular departure by using the following notation wholly or in part:

Issued on (show number of days) notice; Tariff Circular departure authorized.

This authority does not, except as expressly indicated, waive or modify any outstanding formal order of the Commission, any of the requirements of its published rules relative to the construction and filing of the tariffs nor any of the provisions of the Motor Carrier Act.

*(Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PTA, Rule 22; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 512) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-24) to the Department of State Revenue (45 IAC 16-3-24) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

#### **45 IAC 16-3-25 Emergency rates and other tariff provisions**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 25. MOTOR COMMON CARRIERS OF PROPERTY; ESTABLISHMENT OF RATES, ETC., COVERING EMERGENCY MOVEMENTS OF PROPERTY. (a) Subject to the limitations herein, motor common carriers of property may establish rates and other tariff provisions covering emergency movements of property under Section 28a of the Motor Carrier Act, without further notice prior to acceptance of shipments for transportation other than posting, where required, of an individual tariff publication (not a loose-leaf page), containing such rates, and other tariff provisions, and having four copies of the publication, with a letter of transmittal, filed with the Commission.

(b) Additional departure from the terms of PART A. Motor common carriers of property may depart from the terms of PART A to the extent necessary to permit the filing of tariff publications in the manner authorized in the foregoing paragraph hereof.

(c) Limitations. (1) This permission does not authorize the cancellation of any rate or provision on the same commodity between the same points and may not be used to establish rates and other provisions which will result in duplicating or conflicting rates, except as authorized in subparagraph (5) of this paragraph.

(2) Tariffs filed hereunder must be consecutively numbered in the carrier's "ET" series in the following manner:

P.S.C.I. No. ET-

(3) Tariffs filed hereunder may contain only the rates, rules, and other provisions covering the movement of property under

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emergency temporary authority and then only for a period of not more than 30 days and such tariffs may not contain other rates or provisions.

(4) All tariffs filed hereunder must bear a specific expiration date which will not be later than the date upon which the emergency temporary authority expires.

(5) When it has been discovered that provisions of the "ET" series tariff do not conform to emergency temporary authority actually granted, another tariff, in the carrier's "ET" series, may be filed in accordance with this section to cancel the first and conform tariff provisions to the operating authority.

(6) Supplements to "ET" series tariffs are permissible only for the purpose of changing, specifically, the expiration date of the tariff to a date not later than the date upon which the emergency temporary authority, or an extension thereof, expires.

This permission does not modify any outstanding formal order of the Commission, nor waive any of the requirements of its published rules relative to the construction and filing of tariff publications, except as herein authorized, nor modify any of the provisions of Section 28a of the Motor Carrier Act, except as to notice. (*Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PTA, Rule 23; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 514*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-25) to the Department of State Revenue (45 IAC 16-3-25) by P.L.72-1988, SECTION 12, effective July 1, 1988.

### **45 IAC 16-3-26 Contract carrier freight tariffs; compliance with regulations; reissuance of schedule or power of attorney**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 26. SCHEDULES OF MOTOR CONTRACT CARRIERS OF PROPERTY. All schedules and supplements thereto filed by contract carriers of property by motor vehicle and agents on or after Jan. 1, 1973, unless otherwise authorized by special permission of the Commission, shall conform to these regulations (Part B).

The Commission may reject any schedule or supplement thereto which does not comply with these regulations.

The Commission may, for reasons deemed sufficient, direct the reissue of any schedule or power of attorney at any time. (*Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PTB; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 515*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-26) to the Department of State Revenue (45 IAC 16-3-26) by P.L.72-1988, SECTION 12, effective July 1, 1988.

### **45 IAC 16-3-27 Definitions**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 27. DEFINITIONS. Except where the context indicates otherwise:

(1) The term "Act" means the Motor Carrier Act, 1935, as amended, of the State of Indiana.

(2) The term "Commission" means the Public Service Commission of Indiana.

(3) The term "contract carrier" means a contract carrier of property as defined in Section 2 of the Act.

(4) The term "rates" means actual rates and charges or minimum rates and charges.

(5) The term "schedule" means a publication stating rates of a contract carrier or rules and other provisions applicable in connection with those rates, or a publication containing rates together with such rules and other provisions. (*Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PTB; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 515*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-27) to the Department of State Revenue (45 IAC 16-3-27) by P.L.72-1988, SECTION 12, effective July 1, 1988.

### **45 IAC 16-3-28 Waiver of regulations; rejection or reissuance of schedules**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 28. WAIVER OF RULES; REJECTION OF SCHEDULES. (a) Waiver of rules. In response to an application which

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has been prepared in the manner outlined in Rule 4 and which provides adequate justification for that action, the Commission in its discretion may authorize the waiving of any of these regulations, or the notice requirements of the Act.

(b) Rejection of schedules. Any schedule tendered for filing which fails to give lawful notice of the change in rates, or other provisions which it proposes to establish, or which fails to meet the requirements of these regulations, or which violates any order of the Commission or of a court, is subject to rejection by the Commission. When a schedule is rejected, the Commission, acting through a designated administrative officer, will inform the carrier who tendered it for filing, in writing, of the reasons for rejection and will return the rejected schedule to that carrier.

(c) Commission may direct reissue. For good cause the Commission may at any time without formal hearing direct the reissue of any schedule. (*Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PT B, Rule 1; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 515*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-28) to the Department of State Revenue (45 IAC 16-3-28) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

### **45 IAC 16-3-29 Publication, notice of filing and posting of schedules**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 29. PUBLICATION, FILING AND POSTING OF SCHEDULES. (a) Contract carriers must file schedules. Except as otherwise provided in these regulations and except to the extent that the Commission grants relief from the requirements of the Act for filing schedules every contract carrier shall publish and file in its own name schedules clearly and explicitly stating minimum rates and charges (see Note A) covering the services which it performs, together with rules, regulations and practices affecting those rates and charges or the value of the service thereunder.

NOTE A—Rates shall be stated in cents or in dollars per 100 pounds, per mile, per hour, per ton of 2,000 pounds, per ton of 2,240 pounds, per truckload of specified amount or per other defined unit.

(b) Agency or joint schedules prohibited. A contract carrier may not participate in a tariff or schedule issued by another carrier or by an agent except that it may participate under power of attorney in an agency publication containing highway distances, in an agency publication containing rate basis numbers, and in an agency publication containing the Hazardous Materials Regulations promulgated by the Department of Transportation to govern the transportation of explosives or other dangerous articles. (See Rule 3.)

(c) Number of copies filed. Issuing carriers shall file with the Commission three (3) copies of each schedule, supplement, or revised page of a schedule, and for the Commission's confidential file, one copy of each contract. All copies shall be included in one package accompanied by a letter of transmittal (in duplicate if a receipt is desired) listing the publications enclosed, which shall be addressed to the Public Service Commission of Indiana, Transportation Tariff Bureau, 901 State Office Building, Indianapolis, Indiana 46204. Such letter of transmittal must give a full and detailed explanation of the reason or reasons for such changes of rates or rules. All postage and other charges must be Prepaid. The Commission may decline to accept for filing any publication which is not accompanied by a letter of transmittal.

(d) Letters of Transmittal. (1) Each letter of transmittal shall be on paper either 8 x 10 1/2 inches or 8 1/2 x 11 inches in size and in form substantially as follows:

\_\_\_\_\_ (Correct Name of Carrier)  
\_\_\_\_\_ (Permit or Docket No.)  
\_\_\_\_\_ (Complete Address)  
\_\_\_\_\_ (Date)

Transmittal No. \_\_\_\_\_

The accompanying contract carrier schedule is sent to you for filing in compliance with the requirements of the Motor Carrier Act, issued by \_\_\_\_\_, and bearing P.S.C.I. No. \_\_\_\_\_; or Supplement No. \_\_\_\_\_ to P.S.C.I. No. \_\_\_\_\_ effective \_\_\_\_\_.

The following contracts or amendments to contracts with shippers for the transportation of property are sent to you for filing in compliance with the Regulations of the Commission.

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Name and address of shipper \_\_\_\_\_ (Effective date of contract) \_\_\_\_\_

Name and address of shipper \_\_\_\_\_ (Effective date of contract) \_\_\_\_\_

Name and address of shipper \_\_\_\_\_ (Effective date of contract) \_\_\_\_\_

Signed \_\_\_\_\_

Title \_\_\_\_\_

(2) Each letter of transmittal shall bear the signature of the person issuing the schedule, except that it may bear the signature of the carrier's representative authorized to file schedules with the Commission, provided that a letter of authorization in the form set forth in this subparagraph accompanies the letter of transmittal or has been previously submitted and is effective in the Commission's files. A carrier may have in effect in the Commission's files at any time, one, and only one, such letter of authorization. The Commission may decline to accept for filing any schedule not accompanied by a properly signed letter of transmittal.

LETTER OF AUTHORIZATION TO FILE SCHEDULES  
OF CONTRACT CARRIERS

\_\_\_\_\_  
(Complete name of carrier)

Permit or Docket No. \_\_\_\_\_

\_\_\_\_\_  
(Complete Address)

Date \_\_\_\_\_

TO THE PUBLIC SERVICE COMMISSION  
OF INDIANA

901 STATE OFFICE BUILDING

INDIANAPOLIS, INDIANA 46204

This is to certify that \_\_\_\_\_

\_\_\_\_\_  
(Name and address of individual authorized to act)

is hereby authorized to sign letters of transmittal and transmit to the Commission thereunder for filing in compliance with the Motor Carrier Act, as amended, schedules and supplements thereto issued in the name and P.S.C.I. series of the carrier named herein, and contracts or amendments to contracts.

All such schedules and supplements are to be considered the official filings of the carrier named herein when tendered for filing by the individual named in the first paragraph hereof.

Name of Carrier \_\_\_\_\_

By \_\_\_\_\_

Verification:

The above statement was subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public

(3) A separate letter of transmittal may accompany each schedule and each contract or the form may be modified to provide for filing with one letter as many schedules, supplements to schedules and contracts or amendments to contracts as can be conveniently listed. If receipt for the schedules or contracts is desired, letters of transmittal must be sent in duplicate and one copy showing the date of receipt by the Commission will be returned to the sender.

(e) Notice of filing. (1) Each new rate or charge and each reduced rate or charge, also each new or changed rule, regulation or practice which effects a reduction in rates or charges or which increases the value of the service shall be published in a schedule which shall be posted and filed with the Commission at its office, at least 30 days prior to the effective date of such rate, charge, rule, regulation or practice.

(2) Increased rates or charges and changes in rules, regulations, or practices which effect a decrease in the value of service or increase in a rate or charge, and rates, charges, rules, regulations or practices republished without change, shall be published

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in a schedule which shall be posted and filed with the Commission at least one day prior to the effective date of such rates, charges, rules, regulations, or practices. See Rule 3(g) and Rule 4.

(f) Schedules must be supported by a true copy of each related contract. A schedule shall not be published and filed to apply on any commodity or from or to any point or for any service not covered by contract filed with this Commission; unless it is accompanied and supported by a true copy of a contract or an amendment to a previously filed contract.

(g) Posting of schedules. At its headquarters or general offices every contract carrier shall keep available for public inspection a complete file of all its effective schedules. Upon request assistance shall be furnished to anyone seeking information from those schedules. (*Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PT B, Rule 2; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 515*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-29) to the Department of State Revenue (45 IAC 16-3-29) by P.L.72-1988, SECTION 12, effective July 1, 1988.

### **45 IAC 16-3-30 Form and content of schedules**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 30. FORM AND CONTENT OF SCHEDULES. (a) Form of schedule. A schedule shall be filed in a book, loose-leaf or pamphlet form. It shall be plainly printed, mimeographed, planographed, stereotyped, or reproduced by other durable process on paper of good quality. Typewritten, photostat, hectograph, or proof sheets will not be accepted for filing. A schedule shall be either 8 x 11 inches or 8 1/2 x 11 inches (a supplement must be the same size in length and width as the schedule it amends). It shall contain no alteration or erasure. A margin of not less than five-eighths of an inch with no printing thereon shall be provided on the bonding edge of each page. Schedules filed in loose-leaf form shall comply with all provisions set forth in PART A of these regulations pertaining to the filing of tariffs by motor common carriers. (See Rule 1(e) and Rule 7(f) of PART A.)

(b) Numbering of schedules. Schedules other than supplements shall bear consecutive P.S.C.I. numbers beginning with P.S.C.I. No. 1 or continuing with the next consecutive P.S.C.I. number in the same series of schedules.

(c) Number assigned to a rejected schedule. The number assigned to a schedule which has been rejected may not be used again. The rejected schedule may not be referred to in any subsequent schedule as having been cancelled, amended or withdrawn, but the schedule published in its stead shall bear the following notation:

Issued in lieu of (here identify the rejected schedule by P.S.C.I. number or supplement number) rejected by the Public Service Commission of Indiana.

(d) Title page. The first (front or top) page of a schedule shall be prepared as a title page showing in the upper right-hand corner its P.S.C.I. number and immediately thereunder notice of cancellation identifying by number any schedule or schedules being cancelled thereby.

(e) Name of carrier. On the upper central part of the title page shall appear the exact complete name of the issuing carrier and the number of the permit, or if no permit has been issued, the docket number assigned to the application.

(f) Application of schedule. Below the carrier's name and permit or docket number shall be shown following the words "Contract Carrier Schedule of Minimum Rates and Charges Applying On," a short specific description of the commodity or commodities covered by the schedule (or the word "Commodities" where the articles covered are too numerous to list); and a brief description of the territories within which or point from, to, or between which the schedule applies.

(g) Issue and effective dates. On the lower left-hand side of the title page shall be shown the date of issue and on the lower right-hand side the date on which the schedule is to become effective. Schedules which contain new or changed rates or other provisions effective on more dates than one shall show a general (title page) effective date not earlier than 30 days subsequent to the date on which the schedule is filed with the Commission, followed by a notation reading substantially as follows: "Except as otherwise provided on page (here give reference to the page or pages on which new or changed rates or other provisions are shown as becoming effective on dates other than the general effective date of the schedules)."

(h) Issuing officer. At the bottom of the title page below the issued and effective dates shall be shown the name, title, and mail address of the owner, partner, representative or officer of the carrier by whom the schedule is issued. The title "agent" may not be used.

(i) Table of contents. Immediately after title page shall be published a table of contents arranged in alphabetical order to indicate the page on which each subject is treated. If the schedule contains so small a volume of matter that its title page and

interior arrangement plainly disclose its contents, the table of contents may be omitted.

(j) Index of Commodities. (1) Next shall be provided a complete alphabetical index of commodities indicating the number of the page on which rates or charges on each commodity will be found.

(2) If all of the commodity rates to each destination in a schedule are arranged in alphabetical order by commodities, the index of commodities may be omitted from that schedule.

(k) Index of points. Following the index of commodities a schedule naming rates or charges from, to, or between specific points shall publish an index showing those points, and the page or pages on which each point is named. If there be not more than 12 points of origin or 12 points of destination, the names of such points may, if practicable, be shown in alphabetical order in the schedule, in which event the index of points of origin or destination, or both, as the case may be, may be omitted.

(l) Rules. Rules and other provisions affecting rates and charges shall be published following the index of points. Each rule and other governing provision must be designated as an "item," and given a separate "item" number; portions which can be understandingly read without recourse to the whole and "exceptions" to the general application of a rule or other such provision may be published in separate paragraphs and such paragraphs may be given subnumbers or letters.

(m) Rate tables. (1) Rate tables shall show rates and shall name the commodities on which the rates apply or make reference to pages or items listing those commodities. When rate tables refer to lists of commodities, such lists of commodities shall be shown immediately preceding the rate tables and following the rules and other provisions required by paragraph (1) of this rule. Rate tables shall also show points of origin and points of destination. Insofar as practicable such points shall be shown alphabetically.

(2) Rate tables should be subdivided into small sections called "Items," and each should be given a separate "Item" number.

(n) Designation of commodity or article. When a rate is established or modified, the designation of the commodity or articles in connection with which the new or changed provision is to apply must be aptly descriptive; also, it must be sufficiently explicit to preclude conflicting or duplicating applications and to show clearly the articles which it embraces.

(o) Multiple minimum-quantity rates. Different rates based on different minimum quantities may be published provided the schedule shows clearly in connection with such provisions whether the lowest charge obtainable under the different rates and minimums applicable thereto (or actual quantities, if greater) will be applied, or whether the provisions will be applied in some different, explicitly stated manner.

(p) Mixed shipments. Rates may be established on different articles for mixed quantity shipments. Minimum quantities should be specified together with a statement in connection with the commodity description that the rates apply on mixed quantity shipments. Such rates may also be made applicable upon straight shipments of one or more or all of the articles by a provision to that effect in connection with the commodity description. When more than one article is included in an item or commodity description, the schedule should state whether or not the rates apply on straight or mixed shipment or both.

(q) Changes must be indicated. Schedules must indicate any change thereby made in existing rates or rules, regulations, practices or other provisions by use of the reference marks specified for the purpose in paragraph (r) of this rule.

(r) Uniform reference marks. All schedules shall indicate changes made in existing rates, rules, regulations, practices or other provisions by use of the following uniform symbols in connection with those changes.

● or (R) to denote reductions.

◆ or (A) to denote increases.

▲ or (C) to denote changes which result in neither reductions nor increases in charges.

(s) Explanation of abbreviations and reference marks. At the end of each schedule there shall appear an Explanation of Abbreviations, followed by an Explanation of Reference Marks. Under the Explanation of Abbreviations shall appear an explanation of all abbreviations used in the schedule, except that commonly used abbreviations of parts of names of companies, places or addresses may be omitted. Under the Explanation of Reference Marks shall appear an explanation of all characters, symbols, or reference marks used in the schedule, except reference marks, characters or symbols which are explained on the page or pages of the schedule on which they appear.

(t) Distance rates. Schedules carrying rates dependent on mileages or distances for their application shall publish those distances between points or provide a definite method for determining them.

(u) Supplements. A change in or addition to a schedule shall be known as an amendment, and shall be published in a supplement. Supplements shall be numbered consecutively and shall carry the same P.S.C.I. number as the schedule amended. Each supplement shall specify on its title page the supplement or supplements or schedule which it cancels, and shall also list by their numbers the supplements containing effective changes from matter published in the originally filed schedule. The matter contained

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in each supplement shall be arranged in the same general manner and order as the schedule which it amends. The following is the maximum number of effective supplements permitted to any one schedule:

16 pages or less ..... 2 supplements.  
17 pages or more ..... 3 supplements.

In addition to the above, schedules of 17 or more pages may have one additional supplement of not exceeding 4 pages. Supplements announcing adoptions or suspension effected by orders of the Commission will not be counted in computing the allowable number of supplements.

(v) Explosive and dangerous articles. Schedules which contain rates for the transportation of hazardous materials must also contain the rules and regulations promulgated by the Department of Transportation governing the transportation thereof, or must bear specific reference to the P.S.C.I. number of a separate publication which contains such rules and regulations.

(w) Item amendment. When an amendment (such as a change, cancellation, addition or deletion) is made in a numbered item, such item shall be published in the supplement in its entirety as amended. The revised item showing the amended provision should be given the same item number with a letter suffix; for example: Item 40-A Cancels Item 40; Item 40-B Cancels Item 40-A; and so on. When any rate or other provision contained in an item designated by an item number is amended, resulting in the cancellation of all or a portion thereof, the canceled matter shall not be reproduced in the new item effecting the cancellation except to the extent necessary to identify the item. (*Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PT B, Rule 3; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 518*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-30) to the Department of State Revenue (45 IAC 16-3-30) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-3-31 Changes in rates; application for special permission**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 31. APPLICATIONS FOR SPECIAL PERMISSION. (a) Reductions in rates and charges and establishment of new rates and charges on less than statutory notice; waiver of requirements of these regulations. The Act authorizes the Commission in its discretion and for good cause shown to permit reductions in or the establishment of new rates or charges on less than statutory notice, and also to permit departure from the Commission's regulations. This authority will be exercised only in cases where actual emergency and real merit are shown. Commercial competition or the desire to meet the rates of a competing carrier that has given statutory notice for reduced rates or for the establishment of new rates and charges will not of itself be regarded as cause for permitting changes in rates or other provisions on less than statutory notice. Clerical or typographical errors in schedules constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the error, together with a full statement of the attending circumstances and must be presented with reasonable promptness after publication of the defective schedule.

(b) Form of application. Applications shall be submitted in duplicate on paper either 8 x 11 inches or 8 1/2 x 11 inches in substantially the form set forth in this paragraph and shall furnish all pertinent information. They should be numbered consecutively and must bear the signature and title of the owner or of an officer or duly authorized representative of the carrier.

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Date)

TO THE PUBLIC SERVICE COMMISSION OF INDIANA  
901 STATE OFFICE BUILDING  
INDIANAPOLIS, INDIANA 46204

APPLICATION NO. \_\_\_\_\_

\_\_\_\_\_, by \_\_\_\_\_  
(Name of Carrier)

\_\_\_\_\_  
(Name of officer, specifying title)

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does hereby petition the Public Service Commission of Indiana that he (it) be permitted, under Section 18 of the Act, to put in force the following provisions to become effective \_\_\_\_\_ days after the filing thereof with the Public Service Commission.

(Here show matter as directed by Paragraph (d) of Rule 4 [this section].)

Your petitioner further represents that the said (state whether rates, charges, or other provisions) above mentioned will be published in (here show matter as directed by paragraph (e) of Rule 4 [this section].)

(1) (Here state matter as directed by Paragraph (f) of Rule 4 [this section].)

(2) (Here state matter as directed by Paragraph (g) of Rule 4 [this section].)

(3) (Here show justification as directed by Paragraph (h) of Rule 4 [this section].)

\_\_\_\_\_  
(Name of Carrier)

By \_\_\_\_\_  
(Name and title)

Verification:

The above statement was subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

(c) Partial use of authority prohibited. The authority granted by special permission, if used, must be used in its entirety and in the manner set forth in the order of special permission. If it is not desired to use all of the authority granted, and less or more extensive or different authority is desired, a new application complying with the provisions of this rule in all respects and referring to the previous permission must be filed.

(d) Proposed provisions. The proposed provisions shall be set forth clearly and completely in the Application. An accompanying exhibit may be used if identified by letter, such as "Exhibit A," and so referred to in the application. If the proposed provisions consist of rates, all points of origin and destination must be shown or definitely indicated; if permission is sought to establish a rule, the exact wording of the proposed rule must be given.

(e) P.S.C.I. numbers to be shown. The application shall show P.S.C.I. numbers of the schedules in which the proposed rates, rules or other provisions will be published. If publication is to be made in schedules already referred to, that shall be stated.

(f) Rates desired to be changed. The application shall set forth the rates or provisions which it is desired to change. Where the matter to be shown is voluminous or for other reasons difficult of presentation, it shall be included in any accompanying exhibit, properly identified and referred to in the application. Reference shall be made by P.S.C.I. number, supplement number and item or page number to the schedules in which rates or provisions to be superseded are published. The extent to which cancellations will be made must be definitely indicated.

(g) Carriers, schedule or tariff numbers, notifications, advisements and objections. Where changes in rates or practices or where new rates or practices are proposed, applications should name the carriers, and specify by P.S.C.I. or I.R.C. number the schedules or tariffs maintaining corresponding rates or other provisions. Applications should also state whether those carriers have been notified of the application, including any short-notice features. Applications to establish on less than thirty days' notice schedules to cover temporary operating authority granted under the authority of Section 28a of the Act should show that common carriers or their tariff publishing agents as well as contract carriers maintaining corresponding rates or other provisions have been advised of the proposals. All applications shall state what objections or other views have been expressed by the carriers so notified. The Commission must obtain information of the types mentioned before acting upon requests for tariff-circular relief or short notice; and applications will be handled with materially more speed when the carriers in filing their applications are careful to furnish the facts requested.

(h) Special circumstances. Applications shall state the special circumstances or unusual conditions relied upon as justifying the requested permission, together with any related facts or circumstances which may aid the Commission in determining whether the requested permission is justified. If permission to establish provisions on less than statutory notice is sought, the petitioner shall state why the proposed provisions could not have been established upon thirty days' notice. (*Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PT B, Rule 4; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 522*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-31) to the Department of State Revenue (45 IAC 16-3-31) by P.L.72-1988, SECTION 12, effective July 1, 1988.



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**45 IAC 16-3-32 Powers of attorney; forms; revocation**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 32. POWERS OF ATTORNEY. (a) Forms. (1) The forms set forth in this rule shall be used by a contract carrier of property to give authority to an agent to publish distance tariffs and supplements thereto or tariffs and supplements thereto naming the hazardous materials regulations as promulgated by the Department of Transportation to govern the transportation of explosives and other dangerous articles. See Rule 2(b).

(2) Powers of attorney shall be printed or typed on paper of good quality, either 8 x 11 or 8 1/2 x 11 inches in size. Each power of attorney shall be given a serial number which shall run consecutively for each form of instrument.

(b) Individual acting as agent. This form shall be used to authorize an individual to act as agent:

POWER OF ATTORNEY

P.S.C.I. M3 No. \_\_\_\_\_

Cancels P.S.C.I. M3 No. \_\_\_\_\_

\_\_\_\_\_  
(Name of Carrier)

\_\_\_\_\_  
(Post Office Address)

\_\_\_\_\_, 19\_\_\_\_

Know all men by this instrument:

That (Name of granting carrier—see paragraph (d) of Rule 5,) a contract carrier of property by motor vehicle, does (do) hereby make, constitute and appoint (Name of principal agent) attorney and agent to publish and file for such carrier (Here specify affirmatively the precise authority given to the agent; that is, either distance tariffs and supplements thereto or tariffs and supplements thereto naming rules and regulations as promulgated by the Department of Transportation to govern the transportation of hazardous material) as permitted or required of contract carriers by motor vehicle under the authority of Department of Transportation issued pursuant thereto and does (do) hereby ratify and confirm all that said attorney and agent may lawfully do by virtue of the authority herein granted and does (do) hereby assume full responsibility for the acts and failures to act of said attorney and agent.

And, further, that (Name of granting carrier—see paragraph (d) of Rule 5) does (do) hereby make and appoint (Name of alternate agent) alternate attorney and agent to do and perform the same acts and exercise the same authority herein granted to (Name of principal agent) in the event and only in the event of the death or disability of (Name of principal agent).

\_\_\_\_\_  
(Name of Carrier)

By \_\_\_\_\_

(See paragraph (e), Rule 5)

Attest (If a corporation):

\_\_\_\_\_, Secretary.

(Corporate Seal)

Duplicate mailed to \_\_\_\_\_, Agent.

\_\_\_\_\_  
(c) Corporation or association acting as agent. This form shall be used to authorize a corporation or association (see paragraph (g) of this rule) to act as agent:

POWER OF ATTORNEY

P.S.C.I. M4 No. \_\_\_\_\_

Cancels P.S.C.I. M4 No. \_\_\_\_\_

\_\_\_\_\_  
(Name of Carrier)

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(Post Office Address)

\_\_\_\_\_, 19\_\_\_\_

Know all men by this instrument:

That (Name of granting carrier—see paragraph (d) of Rule 5), a contract carrier of property by motor vehicle, does (do) hereby make, constitute and appoint (name of agent) attorney and agent to publish and file for such carrier (Here specify affirmatively the precise authority given to the agent; that is, either distance tariffs and supplements thereto or tariffs and supplements thereto naming rules and regulations as promulgated by the Department of Transportation to govern the transportation of hazardous materials) as permitted or required of contract carriers by motor vehicles under the authority of Department of Transportation issued pursuant thereto and does (do) hereby ratify and confirm all that said attorney and agent may lawfully do by virtue of the authority herein granted and does (do) hereby assume full responsibility for the acts and failures to act of said attorney and agent.

\_\_\_\_\_  
(Name of Carrier)

By \_\_\_\_\_

(See paragraph (e), Rule 5)

Attest (If a corporation:

\_\_\_\_\_, Secretary.

(Corporate Seal)

Duplicate mailed to \_\_\_\_\_, Agent.

\_\_\_\_\_  
(d) Full and correct carrier name to be shown. In the space for the name of the carrier in Power of Attorney Forms, there must be shown, if the carrier is an individual, the individual name followed by the trade name, if any. If the carrier is a partnership, the correct names of all partners must be given, followed by the trade name, if any. If the carrier is a corporation, the correct corporate name must be used. (See paragraph (e) of this rule.) In all cases, the name of the carrier must be identical with the name as it appears in the permit issued by the Commission.

(e) Persons who may sign powers of attorney. If the carrier is an individual, the power of attorney must be signed by the individual. If a partnership, the power of attorney must be signed individually by each partner. If the carrier is a corporation, the power of attorney must be signed by the president or vice-president, attested by the secretary of the corporation, and the corporate seal shall be affixed.

(f) Type of publication to be specified. The power of attorney shall specify whether the agent designated therein shall publish a distance tariff or a tariff of rules and regulations governing the transportation of explosives and other dangerous articles, or both.

(g) Agents, who may be. Agents may be natural persons, corporations, or unincorporated associations whose articles of association (or other form of agreement) have been approved by the Commission. An officer or employee of an incorporated tariff publishing agent may not act as agent in his individual capacity for the publication of tariffs.

(h) Revocation of powers of attorney. A power of attorney may be revoked upon not less than sixty days' notice to the Commission by filing a notice of revocation with the Commission, serving at the same time a copy thereof on the agent in whose favor such power of attorney was executed. Such notice shall not bear a separate serial number, but shall specify the form and number of the power of attorney to be revoked, shall name the agent and alternate agent, if any, in whose favor the power of attorney was executed, shall specify a date upon which revocation is to become effective, which must not be less than sixty days subsequent to the date of its receipt by the Commission and shall be executed in the following manner on paper of good quality, size either 8 x 11 inches or 8 1/2 x 11 inches:

REVOCATION NOTICE

\_\_\_\_\_  
(Name of Carrier)

\_\_\_\_\_  
(Post Office Address)

\_\_\_\_\_, 19\_\_\_\_

Know all men by this instrument:

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MOTOR CARRIERS

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Effective \_\_\_\_\_, 19\_\_\_\_, power of attorney P.S.C.I. M.\_\_\_\_ No.\_\_\_\_ issued by \_\_\_\_\_  
(Name of Carrier)

in favor of \_\_\_\_\_  
(Name of agent and of alternate, in any)

By \_\_\_\_\_  
(Name of Carrier)  
(See paragraph (d) and (e) of Rule 5)

Attest (If a Corporation):

\_\_\_\_\_, Secretary.

(Corporate Seal)

Duplicate mailed to \_\_\_\_\_, Agent.  
(Name of Agent)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Date)

*(Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PT B, Rule 5; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 524) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-32) to the Department of State Revenue (45 IAC 16-3-32) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

**45 IAC 16-3-33 Change of name or transfer of operation; adoption notice; adoption supplement**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 33. CHANGE OF NAME OR TRANSFER OF ENTIRE OPERATION. (a) Adoption notice. (1) When the name of a contract carrier is changed or when its operating control is transferred to another contract carrier, the carrier which will thereafter operate the properties shall file with the Commission and post an adoption notice, numbered in its P.S.C.I. series as follows:

P.S.C.I. No. \_\_\_\_\_

\_\_\_\_\_  
(Show name and doing business as, if any,  
of the adopting carrier)

**ADOPTION NOTICE**

The above-named carrier hereby adopts, ratifies, and makes its own in every respect, as if the same had been originally filed and posted by it, all schedules, concurrences, or other instruments whatsoever, including supplements or amendments thereto, filed with the Public Service Commission of Indiana by or heretofore adopted by \_\_\_\_\_ prior to the effective date shown below. Issued \_\_\_\_\_ Effective \_\_\_\_\_ Issued under authority of Rule 6 and in conformity with P.S.C.I. Docket No.\_\_\_\_\_.  
Issued by \_\_\_\_\_

(2) Notices of adoption shall be filed with the Commission immediately and, if possible, on or before the effective date shown therein.

(b) Adoption supplement. In addition to the adoption notice, the new carrier shall immediately file with the Commission and post a consecutively numbered supplement to each of the effective schedules issued or adopted by its predecessor reading as follows:

Effective \_\_\_\_\_, (Here insert date shown in the adoption notice) this schedule, or as amended, became the schedule of \_\_\_\_\_  
(Name and doing business as, if any, of the new carrier) as per its adoption notice P.S.C.I. No.\_\_\_\_\_.

(c) Supplement number and P.S.C.I. series. All supplements to such adopted schedules filed by the adopting carrier shall be numbered consecutively and shall show in connection with the P.S.C.I. number that the number is in the series of the former carrier.

(d) Adopted schedule to be republished. As soon as practicable a schedule adopted in its entirety shall be republished in the series of the adopting carrier. The notice directing its cancellation shall identify it by reference to its P.S.C.I. number and to the

series in which it was issued. Any schedule not so reissued prior to its second adoption shall immediately thereafter be republished in the series of the second adopting carrier. (*Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PT B, Rule 6; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 527*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-33) to the Department of State Revenue (45 IAC 16-3-33) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-3-34 Partial transfer of operation**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 34. TRANSFER OF PART OF AN OPERATION. (a) Old carrier shall issue supplements. When the operating control of a contract carrier's properties is transferred in part to another contract carrier, the old carrier shall issue a supplement to each of its affected schedules upon 30 days' notice carrying this cancellation notice:

Effective \_\_\_\_\_ (date) the rates, charges, rules, and regulations, in this schedule are withdrawn and cancelled insofar as they apply \_\_\_\_\_ (here describe the operations transferred). For rates, charges, rules and regulations to apply see schedule P.S.C.I. No. \_\_\_\_\_, issued by (name and doing business as, if any, of the new carrier). NOTE – whenever necessary the term "minimum rates" shall be substituted for the term, "rates," in this notice.

(b) New carrier shall issue and file a schedule or schedules. The new carrier shall issue and file at the same time, to become effective on the same date, a schedule or schedules establishing on 30 days' notice, rates, rules and regulations in lieu of those withdrawn by the old carrier. (*Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PT B, Rule 7; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 528*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-34) to the Department of State Revenue (45 IAC 16-3-34) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-3-35 Receivership; definition; filing requirements; termination**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 35. ASSUMPTION OF OPERATING CONTROL BY A RECEIVER. NOTE: As used in Rule 8 [*this section*] and Rule 9, the term "receiver" means a receiver, trustee, executor, administrator, assignee, or other similar party.

Adoption notices and supplements similar to those prescribed in Rule 6, but numbered consecutively in the P.S.C.I. series of the old carrier, must immediately be filed by a receiver when he assumes full possession and operating control of a carrier's lines, and must show the name of the receiver on the title page in connection with the carrier name. When such possession and operating control are terminated, the carrier taking over the properties in their entirety shall file an adoption notice, and if a change in the name of the carrier has been made, shall also file supplements as prescribed in Rule 6. (*Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PT B, Rule 8; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 528*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-35) to the Department of State Revenue (45 IAC 16-3-35) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-3-36 Receivership; adoption notices and supplements**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 36. ADOPTIONS; GENERAL INSTRUCTIONS. (See note in Rule 8) (a) Copies of notices of adoption agents. Copies of notices of adoption shall be sent to each agent to which power of attorney has been given by the old carrier. The effective date must be the date on which the change in name or operation occurs, except that if prior approval by the Commission of such change is required, the effective date shown shall not antedate that approval.

(b) Powers of attorney. Powers of attorney adopted by a receiver or other carrier shall, within 120 days, be replaced and superseded by new powers of attorney issued by, and numbered in the series of the receiver or other new carrier, except that a

receiver may number powers of attorney in the old series (See also paragraph (b) of Rule 10). The cancellation reference to the former power of attorney must include the name of the former issuing carrier. Powers of attorney which will not be replaced by new issues shall be regularly revoked on the notice and in the manner prescribed by Rule 5.

(c) Adoption notices and supplements to contain no other matter. Adoption notices and special supplements issued under the authority of Rule 6 to Rule 9 shall contain no other matter. (*Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PT B, Rule 9; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 528*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-36) to the Department of State Revenue (45 IAC 16-3-36) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-37 Temporary control of operations**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 37. TEMPORARY OPERATION OF CONTRACT CARRIER PROPERTIES. (a) New carrier assuming temporary control. When temporary authority to take over the operating control of all or a portion of the operations of a contract carrier is granted pursuant to the provisions of Section 28a of the Act, the new carrier that assumes temporary control of the operations of the old carrier shall, except as provided in Paragraph (b) of this rule, comply with the provisions of Rule 6, Rule 7, and Rule 9.

(b) New powers of attorney to be in series of old carrier. The new carrier is not required to reissue the adopted powers of attorney during the period of temporary control of the operations of the old carrier. New powers of attorney relating to the temporarily controlled operations shall be in the series of the old carrier; for example:

P.S.C.I. MI No. 6 (Roe's Trucking Series)

JOHN DOE TRANSPORT, INC.

Operator of

Richard Roe, d/b/a Roe's Trucking

(Post Office Address)

(c) Publications of the new carrier to be in its name as operator of the old carrier. Changes in schedules of rates, minimum rates, charges or provisions relating thereto, applying from, to, or between points in the temporarily controlled operations shall be published and filed in the name of the new carrier as operator of the old carrier and numbered in the series of the old carrier. For example, if John Doe Transport, Inc., assumes temporary control of the operations of Richard Roe, d/b/a Roe's Trucking, the title page of schedules must show the P.S.C.I. number and name of the carrier in substantially the following manner:

P.S.C.I. No. 17 (Roe's Trucking Series)

JOHN DOE TRANSPORT, INC.

Operator of

Richard Roe d/b/a Roe's Trucking

(d) Adoption notice to be filed when permanent authority is granted to take over temporarily controlled operations. When permanent authority to take over the temporarily controlled operation is granted pursuant to the provisions of Section 28a of the Act, the new carrier shall file an adoption notice and otherwise comply with the provisions of Rule 6, Rule 7, and Rule 9.

(e) Adoption notice to be filed when temporary authority ends. If the temporary authority to assume operating control of the old carrier is discontinued or vacated, the old carrier must file an adoption notice and otherwise comply with Rule 6, Rule 7, and Rule 9. The effective date to be shown in the adoption notice and adoption supplements is the date on which the new carrier's temporary authority to operate the properties of the old carrier expires or is vacated. (*Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PT B, Rule 10; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 529*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-37) to the Department of State Revenue (45 IAC 16-3-37) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-38 Suspension of schedule; filing of supplement**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 38. SUSPENSION OF SCHEDULES. Upon receipt of an order suspending a schedule in part or in its entirety, the carrier who filed such schedule shall immediately file with the Commission a consecutively numbered supplement to the schedule which shall not bear an effective date but which shall quote in full the Commission's order of suspension, followed by a statement that by reasons of the Commission's order the use and application of the suspended publications or portions thereof is deferred for the period prescribed in the suspension order. Such supplement shall give specific reference by P.S.C.I. number or numbers to the schedule or schedules where rates, charges, rules, regulations, or practices continued in effect by the suspension order will be found. The carrier who filed the schedule which has been suspended in part or in its entirety shall also comply with such other instructions as may be furnished it with the order of suspension. (*Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PT B, Rule 11; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 530*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-38) to the Department of State Revenue (45 IAC 16-3-38) by P.L. 72-1988, SECTION 12, effective July 1, 1988.

**45 IAC 16-3-39 Suspension supplements and postponement notices; forms**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 39. SUSPENSION SUPPLEMENTS AND POSTPONEMENT NOTICES. (a) All carriers subject to the schedule publishing rules in this Part (PART B) and their duly appointed agents are hereby authorized to:

- (1) Publish the following provisions in the supplements (other than consolidated suspension supplements) to their respective schedules, announcing suspension of rates, fares or other provisions of said schedules:

**POSTPONEMENT NOTICE**

If this supplement is not cancelled on or before (here insert date to which suspended), the effective date of the above-described suspended publication or publications remaining under suspension until that date is hereby postponed to the date upon which this supplement is cancelled. The rates, charges, classifications, rules, regulations, practices, and other provisions continued in force by the above-mentioned order of suspension will apply during the period of suspension and postponement unless and until lawfully changed.

- (2) Publish in bound tariffs or supplements thereto, or in loose-leaf tariffs or pages thereto, immediately following the first sentence the "Notice of Suspension" a postponement notice reading substantially as follows:

The effective date of such suspended provisions is hereby postponed to and including \_\_\_\_.

The effective date of such suspended provisions which was postponed to and including \_\_\_\_ is hereby further postponed to and including \_\_\_\_.

All such provisions to be made effective not later than the date to which suspended or postponed and upon as much notice as possible, but in no event less than 1 day's notice.

(b) Where the supplement announcing suspension does not contain postponement notice authorized in Paragraph (a) (1) of this rule and some or all of the matter remains under suspension until the end of the suspension period, carriers and their agents are hereby authorized to issue a postponement notice in a regular supplement or a postponement supplement to their schedule affected, such postponement notice or postponement supplement to provide that the effective date of such matter remaining under suspension is postponed to a specific date or to the date upon which the postponement notice or postponement supplement is cancelled. The supplement containing such postponement notice to provide for the cancellation of the suspension supplement, shall bear an effective date which will be the same date as that named in the suspension order and to be made effective upon as much notice as possible, but in no case less than 1 day's notice.

(c) Where the suspended matter is under postponement to a specific date under authority of Paragraph (b) of this rule and it is desired to further postpone the effective date, carriers or agents may issue a supplement to their tariff or schedule affected, such supplement to cancel the postponement supplement (if it contains only the notice of postponement) or the postponement notice (if in a supplement containing other matter) and to provide that the effective date of the matter remaining under postponement to the end of the postponement period, is further postponed to a specific date or to the date upon which the postponement supplement or postponement notice is cancelled. The postponement notice or supplement issued hereunder to be made effective not later than the date shown in the previous postponement notice and upon as much notice as possible but in no case less than 1 day's notice.

- (d) When the Commission has found the suspended matter justified and the effective date of such matter is under

postponement or further postponement, the publishing carrier or agent may within the period of postponement publish and file a supplement (when to a bound schedule) or revised page (when to a loose-leaf schedule) to their schedule affected, such supplement or page to cancel the postponement notice or postponement supplement (in the case of a loose-leaf schedule the postponement supplement may be cancelled by a revised check sheet), cancel the matter continued in effect during the period of postponement and make the postponed matter effective, the supplements or pages issued under this paragraph to bear an effective date which will be earlier than the date to which postponed and be made effective upon not less than 1 day's notice.

(e) Supplements issued to bound schedules under authority of Paragraphs (b), (c), and (d) of this rule *[this section]* which contain no other matter, may be issued without regard to the terms of Rule 3(u) of these regulations, but thereafter such supplements will be counted against the number of supplements and volume of supplemental matter until they are cancelled.

(f) Publications issued hereunder to make specific reference hereto as authority for short notice filing or for tariff circular departure by using the following notation wholly or in part:

Issued on (show number of days) notice; Tariff Circular departure authorized.

This authority does not, except as expressly indicated, waive or modify any outstanding formal order of the Commission, any of the requirements of its published rules relative to the construction and filing of the schedules, nor any of the provisions of the Motor Carrier Act. (*Department of State Revenue; No. 33034: Schedules of Rates by Motor Vehicles In Intrastate Commerce PT B, Rule 12; filed Feb 15, 1973, 3:00 pm: Rules and Regs. 1974, p. 530*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-39) to the Department of State Revenue (45 IAC 16-3-39) by P.L.72-1988, SECTION 12, effective July 1, 1988.

#### **45 IAC 16-3-40 Emergency rates and other schedule provisions**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 40. MOTOR CONTRACT CARRIERS OF PROPERTY; ESTABLISHMENT OF MINIMUM RATES, ETC., COVERING EMERGENCY MOVEMENTS OF PROPERTY. (a) Subject to the limitations herein, motor contract carriers of property may establish rates and other schedule provisions covering emergency movements of property under Section 28a of the Motor Carrier Act, without further notice prior to acceptance of shipments for transportation other than posting of an individual schedule publication (not a loose-leaf page), containing such rates and other schedule provisions, and having four copies of the publication, with a letter of transmittal, filed with the Commission.

(b) Additional departure from the terms of Part B. Motor contract carriers of property may depart from the terms of Part B to the extent necessary to permit the filing of schedules authorized in Paragraph (a) of this rule.

(c) Limitations. (1) This permission does not authorize the cancellation of any minimum charge or provisions on the same commodity between the same points and may not be used to establish minimum charges or other provisions which will result in duplicating and/or conflicting minimum charges, except as authorized in Subparagraph (5) of this paragraph.

(2) Schedules filed hereunder must be consecutively numbered in the carrier's "ET" series in the following manner:

P.S.C.I. No. ET-

(3) Schedules filed hereunder may contain only the minimum charges, rules, and other provisions covering the movement of property under emergency temporary authority and then only for a period of not more than 30 days, and such schedules may not contain other minimum charges or provisions.

(4) All schedules filed hereunder must bear a specific expiration date which will not be later than the date upon which the emergency temporary authority expires.

(5) When it has been discovered the provisions of one "ET" series schedule do not conform to emergency temporary authority actually granted, another schedule, in the carrier's "ET" series, may be filed in accordance with this section to cancel the first and conform schedule provisions to the operating authority.

(6) Supplements to "ET" series schedules are permissible only for the purpose of changing, specifically, the expiration date of the schedule to a date not later than the date upon which the emergency temporary authority, or an extension thereof, expires. This permission does not modify any outstanding formal order of the Commission, nor waive any of the requirements of its published rules relative to the construction and filing of schedule publications, except as herein authorized, nor modify any of the provisions of Section 28a of the Motor Carrier Act, except as to notice. (*Department of State Revenue; No. 33034: Schedules of*

*Rates by Motor Vehicles In Intrastate Commerce PTB, Rule 13; filed Feb 15, 1973, 3:00 pm; Rules and Regs. 1974, p. 532) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-40) to the Department of State Revenue (45 IAC 16-3-40) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

**45 IAC 16-3-41 Binding estimates by household goods carriers; applicability**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 41. In accordance with IC 8-2-7-26 [*Repealed by P.L.72-1988, SECTION 10, effective March 1, 1990.*], common carriers of household goods may issue a written binding estimate to shippers to transport household goods as defined in IC 8-2-7-4(c) [*Repealed by P.L.72-1988, SECTION 10, effective March 1, 1990.*]. A carrier electing to offer binding estimates must do so in accordance with 170 IAC 2-3-41 through 170 IAC 2-3-46. (*Department of State Revenue; 170 IAC 2-3-41; filed Jan 27, 1986, 3:48 pm; 9 IR 1290*) NOTE: *Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-41) to the Department of State Revenue (45 IAC 16-3-41) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

**45 IAC 16-3-42 Tariff provisions in binding estimates**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 42. A carrier electing to offer binding estimates must file a provision in its tariff that "Carrier will provide a written binding estimate in accordance with the Public Service Commission Rules and Regulations contained in parts 2-3-42 through 2-3-46 of 170 IAC on a non-preferential basis to all shippers as an alternative to the specified rates and charges detailed in the tariff." (*Department of State Revenue; 170 IAC 2-3-42; filed Jan 27, 1986, 3:48 pm; 9 IR 1290*) NOTE: *Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-42) to the Department of State Revenue (45 IAC 16-3-42) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

**45 IAC 16-3-43 Written binding estimates**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 43. (a) Binding estimates shall be in writing, signed and dated by both the carrier and the shipper.

(b) The written binding estimate shall be based on a physical inspection of the items to be moved and contain at least, the following information:

- (1) The mover's name, PSCI number, address and telephone.
- (2) The shipper's name, address and telephone number at origin and destination, and the physical conditions of the origin and destination facilities pertaining to elevators, stair carries, long-haul carry, etc.
- (3) The duration of the estimate (a minimum of thirty (30) days is required.)
- (4) A list of all services specifically to be performed and covered by the binding estimate.
- (5) A detailed tally sheet, including the cubic feet of all items to be moved and covered by the binding estimate.
- (6) The value of the shipment agreed to in writing by the shipper and carrier.
- (7) A statement to the effect that the shipment is insured or not insured. If insured, the binding estimate must state the amount of insurance coverage, type of insurance coverage, (i.e., full replacement, depreciated value, or other), and whether or not to [*sic.*] any deductible clause applies. Carriers not complying with this provision will be liable for the full replacement value of the individual items in a shipment.
- (8) The total estimate in dollars and cents for all transportation charges and services as agreed to in writing by the carrier and shipper.
- (9) An hourly rate to be assessed at origin or destination for any additional labor services that are not named on the estimate and subsequently requested by the shipper.
- (10) A statement to the effect that the written binding estimate will not cover delays caused by any impediment to the move



which are not caused by the mover.

*(Department of State Revenue; 170 IAC 2-3-43; filed Jan 27, 1986, 3:48 pm: 9 IR 1290) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-43) to the Department of State Revenue (45 IAC 16-3-43) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

#### **45 IAC 16-3-44 Variances from estimate**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 44. (a) At the time of the move, the shipment will be weighed and confirmed by weight tickets.

(b) The carrier will then determine what the actual total charges would be under the carriers' tariffs on file with the commission and charge the customer the lower of the actual total charges or the estimate.

(c) If at the time of the move the shipper requests additional labor services from a carrier that are not listed on the original binding estimate, an adjustment may be made by the carrier to the binding estimate to reflect the hourly rate for additional services as specified in the estimate (see 170 IAC 2-3-43(b)(9)).

(d) If at the time of the move the shipper requests additional accessorial services that are not labor related and that are not listed on the original binding estimate, an adjustment may be made by the carrier to the binding estimate to reflect the carrier's published tariff rate for such additional service. *(Department of State Revenue; 170 IAC 2-3-44; filed Jan 27, 1986, 3:48 pm: 9 IR 1290) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-44) to the Department of State Revenue (45 IAC 16-3-44) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

#### **45 IAC 16-3-45 Carrier's liability under written binding estimate**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 45. (a) The carrier's liability when performing a transportation movement under a written binding estimate must be explicitly stated in the written binding estimate. The carrier may accept a shipment for transportation under one of the following three (3) options:

Option One—Every shipment will automatically be accepted at a value of \$5,000. The shipper must indicate acceptance or rejection of the \$5,000 by signing or initialing the written binding estimate.

Option Two—The shipper may indicate in his/her handwriting on the written binding estimate, a value above or below the \$5,000 dollar figure specified in Option One above. The shipper must sign or initial the valuation figure.

Option Three—If the shipper rejects the \$5,000 dollar valuation, and specifies zero valuation, shipment will be accepted at a value of \$.60, per pound, for each article in the shipment that is either lost or damaged.

(b) In the case of Options One and Two above, the following provisions apply:

(1) Charges for the valuation, if any, must be specified on written binding estimate.

(2) Shipper must indicate the actual value of the entire shipment.

(3) If the actual value of the entire shipment exceeds that specified as the value in Options One and Two above, the shipper must be advised that co-insurance applies.

(4) The carrier shall sell or procure an insurance policy covering the loss or damage to a shipment of household goods. Provided, however, that the shipper is issued a policy or other appropriate evidence of insurance purchased and a copy thereof is furnished to the shipper prior to the time of the shipment. Failure to issue a policy or other evidence of insurance will subject a carrier to full liability for any loss or damage to articles caused by the carrier.

*(Department of State Revenue; 170 IAC 2-3-45; filed Jan 27, 1986, 3:48 pm: 9 IR 1291; errata, 9 IR 1379) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-45) to the Department of State Revenue (45 IAC 16-3-45) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

**45 IAC 16-3-46 Publication of tariff provisions in binding estimates**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 46. Tariff provisions establishing a binding estimate may be filed on one days' notice to the public and the commission, up to and including, March 31, 1986. After March 31, 1986, tariff provisions establishing or cancelling a binding estimate must be filed on not less than thirty (30) days' notice to the public and the commission. (*Department of State Revenue; 170 IAC 2-3-46; filed Jan 27, 1986, 3:48 pm: 9 IR 1291*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-3-46) to the Department of State Revenue (45 IAC 16-3-46) by P.L.72-1988, SECTION 12, effective July 1, 1988.

**Rule 4. Commuter Van Services (Repealed)**

(Repealed by Department of State Revenue; filed Feb 18, 1997, 4:00 p.m.: 20 IR 1722)

**Rule 5. Authorized Emergency Vehicles**

**45 IAC 16-5-1 Ambulances designated as authorized emergency vehicles**

Authority: IC 8-2.1-18-6

Affected: IC 8-2.1-18

Sec. 1. All ambulances, other than those designated as emergency vehicles, by Acts 1939, Chapter 48, Section 2, as amended, which are used in emergency service are hereby designated as authorized emergency vehicles and may be operated as such in accordance with applicable laws of the State of Indiana. (*Department of State Revenue; No. 30016: Designation of Authorized Emergency Vehicles Rule I; filed Jul 8, 1963, 11:15 am: Rules and Regs. 1964, p. 141*) NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2-5-1) to the Department of State Revenue (45 IAC 16-5-1) by P.L.72-1988, SECTION 12, effective July 1, 1988.

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