

Proposed Rule  
LSA Document #16-429

## DIGEST

Adds 45 IAC 16-0.5 to clarify scope of definitions, including "administrator", "applicant", "classification", "complainant", "department", "division", "interested party", "irregular route carrier", "pleading", "presiding officer", "protestant", "rates", "regular route carrier", "respondent", "rules and regulations", "schedule", and "tariff". Amends 45 IAC 16-1-2 to update insurance coverage to comply with Federal Motor Carrier Safety Regulations. Amends 45 IAC 16-1-3 to update temporary authority to meet current practices. Amends 45 IAC 16-1-4 to update sale and transfer of application to meet current practices. Amends 45 IAC 16-1-10 to update vehicle identification to meet current practices. Amends 45 IAC 16-1-11 to update unified carrier registration to meet current practices. Amends 45 IAC 16-1-12 to update safety requirements to meet current practices. Amends 45 IAC 16-1-13 to update lease of vehicles to meet current practices. Amends 45 IAC 16-1-14 to update advertising to meet current practices. Amends 45 IAC 16-1-16 to update separability to meet current practices. Amends 45 IAC 16-1.5-1 to update applications and scope to meet current practices. Amends 45 IAC 16-1.5-2 to update filings to meet current practices. Amends 45 IAC 16-1.5-3 to update appearance to meet current practices. Amends 45 IAC 16-1.5-4 to update pleadings to meet current practices. Amends 45 IAC 16-1.5-5 to update complaints to meet current practices. Amends 45 IAC 16-1.5-6 to update answers to meet current practices. Amends 45 IAC 16-1.5-7 to update petitions to meet current practices. Amends 45 IAC 16-1.5-8 to update service to meet current practices. Amends 45 IAC 16-1.5-9 to update subpoenas to meet current practices. Amends 45 IAC 16-1.5-10 to update discovery to meet current practices. Amends 45 IAC 16-1.5-11 to update motions to meet current practices. Amends 45 IAC 16-1.5-12 to update protestants to meet current practices. Amends 45 IAC 16-1.5-13 to update hearing procedures to meet current practices. Amends 45 IAC 16-1.5-14 to update evidence to meet current practices. Amends 45 IAC 16-1.5-15 to update posthearing matters to meet current practices. Amends 45 IAC 16-1.5-16 to update posthearing relief to meet current practices. Amends 45 IAC 16-1.5-17 to update dismissal of cases to meet current practices. Amends 45 IAC 16-1.5-18 to update other rules to meet current practices. Amends 45 IAC 16-2-1 to update publications to meet current practices. Amends 45 IAC 16-2-2 to update tariffs to meet current practices. Amends 45 IAC 16-2-6 to update changes in tariffs to meet current practices. Amends 45 IAC 16-2-7 to update posting of tariffs to meet current practices. Amends 45 IAC 16-2-8 to update contract carrier tariffs to meet current practices. Amends 45 IAC 16-3-1 to update household goods tariffs and classifications to meet current practices. Amends 45 IAC 16-3-3 to update tariff preparations to meet current practices. Amends 45 IAC 16-3-8 to update supplements to meet current practices. Amends 45 IAC 16-3-9 to update amendments to meet current practices. Amends 45 IAC 16-3-10 to update sectional tariffs to meet current practices. Amends 45 IAC 16-3-11 to update partial cancellations to meet current practices. Amends 45 IAC 16-3-12 to update suspension of publication to meet current practices. Amends 45 IAC 16-3-13 to update terminal and special service tariffs to meet current practices. Amends 45 IAC 16-3-14 to update distance or mileage rates to meet current practices. Amends 45 IAC 16-3-15 to update tariffs containing classifications to meet current practices. Amends 45 IAC 16-3-16 to update rate basis books to meet current practices. Amends 45 IAC 16-3-18 to update rates prescribed by the department to meet current practices. Amends 45 IAC 16-3-19 to update transfer of operations to meet current practices. Amends 45 IAC 16-3-20 to update filing of tariffs to meet current practices. Amends 45 IAC 16-3-26 to update contract carriers to meet current practices. Amends 45 IAC 16-3-28 to update waiver of regulations to meet current practices. Amends 45 IAC 16-3-29 to update publication requirements to meet current practices. Amends 45 IAC 16-3-33 to update change of name or transfer to meet current practices. Amends 45 IAC 16-3-34 to update partial transfer to meet current practices. Amends 45 IAC 16-3-35 to update receivership to meet current practices. Amends 45 IAC 16-3-36 to update receivership to meet current practices. Amends 45 IAC 16-3-41 to update binding estimates to meet current practices. Amends 45 IAC 16-3-43 to update written binding estimates to meet current practices. Amends 45 IAC 16-3-44 to update variances from estimates to meet current practices. Amends 45 IAC 16-3-45 to update carrier's liability to meet current practices. Amends 45 IAC 16-3-46 to update publication of tariffs to meet current practices. Repeals 45 IAC 16-1-1, 45 IAC 16-1-6, 45 IAC 16-1-7, 45 IAC 16-1-9, 45 IAC 16-1-15, 45 IAC 16-2-3, 45 IAC 16-2-4, 45 IAC 16-2-5, 45 IAC 16-2-9, 45 IAC 16-2-10, 45 IAC 16-2-11, 45 IAC 16-2-12, 45 IAC 16-2-13, 45 IAC 16-2-14, 45 IAC 16-2-15, 45 IAC 16-2-16, 45 IAC 16-3-2, 45 IAC 16-3-4, 45 IAC 16-3-5, 45 IAC 16-3-6, 45 IAC 16-3-7, 45 IAC 16-3-17, 45 IAC 16-3-21, 45 IAC 16-3-22, 45 IAC 16-3-23, 45 IAC 16-3-24, 45 IAC 16-3-25, 45 IAC 16-3-27, 45 IAC 16-3-30, 45 IAC 16-3-31, 45 IAC 16-3-32, 45 IAC 16-3-37, 45 IAC 16-3-38, 45 IAC 16-3-39, 45 IAC 16-3-40, and 45 IAC 16-3-42. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

45 IAC 16-0.5; 45 IAC 16-1-1; 45 IAC 16-1-2; 45 IAC 16-1-3; 45 IAC 16-1-4; 45 IAC 16-1-6; 45 IAC 16-1-7; 45 IAC 16-1-9; 45 IAC 16-1-10; 45 IAC 16-1-11; 45 IAC 16-1-12; 45 IAC 16-1-13; 45 IAC 16-1-14; 45 IAC 16-1-15; 45 IAC 16-1-16; 45 IAC 16-1.5-1; 45 IAC 16-1.5-2; 45 IAC 16-1.5-3; 45 IAC 16-1.5-4; 45 IAC 16-1.5-5; 45 IAC 16-1.5-6; 45 IAC 16-1.5-7; 45 IAC 16-1.5-8; 45 IAC 16-1.5-9; 45 IAC 16-1.5-10; 45 IAC 16-1.5-11; 45 IAC 16-1.5-12; 45 IAC 16-1.5-13; 45 IAC 16-1.5-14; 45 IAC 16-1.5-15; 45 IAC 16-1.5-16; 45 IAC 16-1.5-17; 45 IAC 16-1.5-18; 45 IAC 16-2-1; 45 IAC 16-2-2; 45 IAC 16-2-3; 45 IAC 16-2-4; 45 IAC 16-2-5; 45 IAC 16-2-6; 45 IAC 16-2-7; 45 IAC 16-2-8; 45 IAC 16-2-9; 45 IAC 16-2-10; 45 IAC 16-2-11; 45 IAC 16-2-12; 45 IAC 16-2-13; 45 IAC 16-2-14; 45 IAC 16-2-15; 45 IAC 16-2-16; 45 IAC 16-3-1; 45 IAC 16-3-2; 45 IAC 16-3-3; 45 IAC 16-3-4; 45 IAC 16-3-5; 45 IAC 16-3-6; 45 IAC 16-3-7; 45 IAC 16-3-8; 45 IAC 16-3-9; 45 IAC 16-3-10; 45 IAC 16-3-11; 45 IAC 16-3-12; 45 IAC 16-3-13; 45 IAC 16-3-14; 45 IAC 16-3-15; 45 IAC 16-3-16; 45 IAC 16-3-17; 45 IAC 16-3-18; 45 IAC 16-3-19; 45 IAC 16-3-20; 45 IAC 16-3-21; 45 IAC 16-3-22; 45 IAC 16-3-23; 45 IAC 16-3-24; 45 IAC 16-3-25; 45 IAC 16-3-26; 45 IAC 16-3-27; 45 IAC 16-3-28; 45 IAC 16-3-29; 45 IAC 16-3-30; 45 IAC 16-3-31; 45 IAC 16-3-32; 45 IAC 16-3-33; 45 IAC 16-3-34; 45 IAC 16-3-35; 45 IAC 16-3-36; 45 IAC 16-3-37; 45 IAC 16-3-38; 45 IAC 16-3-39; 45 IAC 16-3-40; 45 IAC 16-3-41; 45 IAC 16-3-42; 45 IAC 16-3-43; 45 IAC 16-3-44; 45 IAC 16-3-45; 45 IAC 16-3-46

SECTION 1. 45 IAC 16-0.5 IS ADDED TO READ AS FOLLOWS:

**Rule 0.5. Definitions**

**45 IAC 16-0.5-1 Applicability of definitions**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

**Sec. 1.** The definitions in this rule shall apply throughout this article unless otherwise noted.

*(Department of State Revenue; 45 IAC 16-0.5-1)*

**45 IAC 16-0.5-2 "Administrator" defined**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

**Sec. 2.** "Administrator" means the administrator of the motor carrier services division of the department.

*(Department of State Revenue; 45 IAC 16-0.5-2)*

**45 IAC 16-0.5-3 "Applicant" defined**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

**Sec. 3.** "Applicant" means any person or entity filing an application for a certificate of convenience or necessity or a contract carrier permit with the department.

*(Department of State Revenue; 45 IAC 16-0.5-3)*

**45 IAC 16-0.5-4 "Classification" defined**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

**Sec. 4.** "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.

*(Department of State Revenue; 45 IAC 16-0.5-4)*

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**45 IAC 16-0.5-5 "Complainant" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 5. "Complainant" means any person or entity who initiates a formal complaint against any carrier pursuant to IC 8-2.1 et seq.

(Department of State Revenue; 45 IAC 16-0.5-5)

**45 IAC 16-0.5-6 "Department" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 6. "Department" means the department of state revenue.

(Department of State Revenue; 45 IAC 16-0.5-6)

**45 IAC 16-0.5-7 "Division" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 7. "Division" means the motor carrier services division of the department.

(Department of State Revenue; 45 IAC 16-0.5-7)

**45 IAC 16-0.5-8 "Interested party" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 8. "Interested party" means any person interested in a proceeding who may appear in person or by attorney and offer evidence. An interested party need not be represented by an attorney, and is not entitled to cross-examine any witnesses.

(Department of State Revenue; 45 IAC 16-0.5-8)

**45 IAC 16-0.5-9 "Irregular route carrier" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 9. "Irregular route carrier" means a carrier 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; 45 IAC 16-0.5-9)

**45 IAC 16-0.5-10 "Pleading" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 10. "Pleading" means any application, petition, protest, answer, reply, motion, or similar document filed in the course of any proceeding before the department.

(Department of State Revenue; 45 IAC 16-0.5-10)

**45 IAC 16-0.5-11 "Presiding officer" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 11. "Presiding officer" means any hearing officer or administrative law judge of the department empowered to conduct proceedings before the department.

(Department of State Revenue; 45 IAC 16-0.5-11)

**45 IAC 16-0.5-12 "Protestant" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 12. "Protestant" means any person or entity opposed to the relief sought by any applicant, who has notified the department and the applicant of its intention to appear at least five (5) days prior to the hearing.

(Department of State Revenue; 45 IAC 16-0.5-12)

**45 IAC 16-0.5-13 "Rates" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 13. (a) "Rates" means actual rates and charges or minimum rates and charges.

(b) "Local rate" means a rate that applies over the lines or routes of one (1) carrier only.

(c) "Through rate" means the total rate from point of origin to destination. It may be a local rate or combination of separately established rates.

(d) "Commodity rate" means a rate published to apply on a commodity or commodities that are specifically named or described in the tariff or a separate commodity list.

(e) "Class rate" means a rate that applies on one (1) or more articles according to the class rating to which they are assigned in a classification or tariff of exceptions, or in the class rate tariff.

(Department of State Revenue; 45 IAC 16-0.5-13)

**45 IAC 16-0.5-14 "Regular route carrier" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 14. "Regular route carrier" means a carrier operating over a specified route between fixed termini, as set forth in the carrier's certificate.

(Department of State Revenue; 45 IAC 16-0.5-14)

**45 IAC 16-0.5-15 "Respondent" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 15. "Respondent" means any person or entity who must respond to any order of the department, or against whom a proceeding or investigation is initiated.

(Department of State Revenue; 45 IAC 16-0.5-15)

**45 IAC 16-0.5-16 "Rules and regulations" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 16. "Rules and regulations" means the rules and regulations of the department; however, in the context of a tariff, it also means the governing provisions within the tariff.

(Department of State Revenue; 45 IAC 16-0.5-16)

**45 IAC 16-0.5-17 "Schedule" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 17. "Schedule" means a publication:

- (1) stating rates of a contract carrier;
- (2) stating rules and other provisions applicable in connection with those rates; or
- (3) containing rates together with such rules and other provisions.

(Department of State Revenue; 45 IAC 16-0.5-17)

**45 IAC 16-0.5-18 "Tariff" defined**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 18. (a) "Tariff" means a publication containing the rates, charges, classification ratings, and rules and regulations published for a common or contract carrier. 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.

(b) "Class tariff" means a tariff that contains class rates.

(c) "Commodity tariff" means a tariff that contains commodity rates.

(d) "Local tariff" means a tariff that contains local rates.

(Department of State Revenue; 45 IAC 16-0.5-18)

SECTION 2. 45 IAC 16-1-2 IS AMENDED TO READ AS FOLLOWS:

**Rule 1. Motor Carrier Services Division**

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

Authority: IC 8-2.1-22-3; IC 8-2.1-24-12

Affected: IC 8-2.1-22-46; IC 8-2.1-24-17

Sec. 2. (a) ~~General Filing Requirements.~~ Every common and contract carrier of passengers ~~and/or or~~ property, **or both**, for hire by motor vehicle over the highways of the state of Indiana, in intrastate ~~and/or or~~ interstate commerce, **or both**, 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, and loss to cargo, **unless** subject to the exceptions and minimum amounts ~~hereinafter~~ set out in **subsections (b) and (c)**. **This document is subject to the approval of the department.**

(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, 49 CFR 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, 49 CFR Part 1043. 387.~~

(d) ~~Self-Insurers.~~ **To qualify as a self-insurer, the following requirements apply:**

(1) ~~Qualifications; Discretion of Commission.~~ The ~~commission department~~ may, in its discretion, allow common carriers to qualify as self-insurers, if ~~such the~~ 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 that establishes carriers' abilities~~ 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 ~~carrier's~~ business. ~~of such carriers.~~

(2) ~~Carriers Engaged Only in Interstate Commerce.~~ If a carrier is engaged only in interstate commerce within the borders of the state of Indiana, ~~who and~~ has been qualified as a self-insurer under the rules and regulations of the ~~Interstate Commerce Commission~~ **Federal Motor Carrier Safety Regulations**, the carrier shall, in lieu of the verified statement of financial condition required above, ~~in subdivision (1),~~ submit to this ~~commission~~ a certified copy of the currently effective ~~Interstate Commerce Commission~~ **Federal Motor Carrier Safety Administration** order authorizing ~~such the~~ 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,~~ **keep on file proof of bodily injury and property damage liability insurance**, and prior to the purchase of P.S.C.I. identification stamps, **file a registration receipt** 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 the~~ carrier's authority. ~~with revocation thereof to occur upon failure to comply~~ **Further, the authority will be revoked** 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.~~ **department.**

(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 **which** the P.S.C.I. certificate, permit, or license has been ~~or is to or will be~~ issued. In the 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 ~~department~~ shall contain an endorsement that the ~~same agreement~~ will not be ~~cancelled~~ **canceled** or withdrawn until after the ~~commission department~~ has been given thirty (30) days' notice in writing. ~~at its office in Indianapolis, Indiana, which~~ **The thirty (30) day period shall commence to run start from the date such the notice actually is received by the commission.** **department. In addition, the following requirements apply:**

(1) ~~Forms.~~ Cancellation shall be **made on such forms as from time to time may be prescribed and approved by the commission.** **department (commonly referred to as a Form K).**

(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 the~~ carrier.

(3) ~~Filings on an Until Cancelled Basis.~~ All filings pursuant to this rule shall be on an "until-canceled" **"until-canceled"** 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 department~~ as provided for in subsections (b) ~~to through (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.~~ **department.** During ~~said the~~ 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~~ **department.** **The suspension shall be terminated upon approval by the commission** ~~automatically shall act as a termination of the suspension~~ **department of the certificates of**

**insurance, indemnity undertakings, or other securities or agreements**, and reinstatement of the certificate or permit of the carrier **shall be reinstated**. If ~~said the~~ filing and approval are not made during ~~said the~~ thirty (30) day suspension period, then at the end of ~~said the~~ period the certificate or permit of the carrier shall be permanently ~~canceled~~ **canceled** and revoked without further order of the ~~commission~~ **department**. **At that point, the certificate** 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~~ **department** of ~~such the~~ change in writing on ~~such the~~ 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 **required by the commission** ~~department~~.

(Department of State Revenue; No. 32257: Motor Carrier Department Rule 2; filed Jul 22, 1970, 9:15 a.m.; Rules and Regs. 1971, p. 247; No. 33612; filed Aug 5, 1974, 2:30 p.m.; Rules and Regs. 1975, p. 528; filed Nov 20, 1986, 1:24 p.m.: 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.

SECTION 3. 45 IAC 16-1-3 IS AMENDED TO READ AS FOLLOWS:

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

**Authority: IC 8-2.1-22-3**

**Affected: IC 8-2.1-17-7; IC 8-2.1-17-17; IC 8-2.1-22-36**

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 and **urgent** need to a point or points within a territory having no adequate carrier service capable of meeting ~~such this~~ need, the ~~Commission~~ **department** may, in its discretion and without hearing, grant "temporary authority" (as defined by IC 8-2.1-17-17) for such service by a common or contract carrier by motor vehicle. ~~which This~~ **temporary** authority, unless suspended or revoked for good cause, shall be valid for ~~such a time as specified by the Commission shall specify,~~ **department**, not exceeding **one hundred eighty (180) days**, unless extended by further order of the ~~Commission~~ **department**.

(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.~~ (b) **No application for temporary authority shall be accepted unless the carrier concurrently files an application for permanent authority with the application for temporary authority.** Temporary authority shall be granted only upon proof to the satisfaction of the Commission that ~~the there is a necessity for immediate service is such that it must be rendered before sufficient time for a determination on the merits of an application for by the department that the carrier should be granted 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 **subsequently** 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 the department~~ as set out in Subparagraph (a) (5) of this Rule: **subsection (g).**

(c) To enable a carrier to render service to meet an immediate and **urgent** need for service due to emergencies, the **department**, without notice or hearing, may grant "emergency temporary authority" (as defined by IC 8-2.1-17-7) for service by a common or contract carrier by motor vehicle. This emergency temporary authority, unless suspended or revoked for good cause, shall be valid for a time specified by the **department** not exceeding **thirty (30) days**, unless extended by further order of the **department**.

(d) **No application for emergency temporary authority shall be accepted unless the carrier**

concurrently files applications for temporary and permanent authority with the application for emergency temporary authority, except when the emergency temporary authority application definitely states that the transportation necessity will exist for less than thirty (30) days. Emergency temporary authority shall be granted only upon proof that there is a necessity for emergency service that time or circumstances do not permit the determination of the merits of an application for temporary authority. The granting of an application for emergency temporary authority shall create no presumption that temporary or permanent authority will be subsequently granted.

(e) All applications under this section shall be on forms prescribed by the department. All applications shall be subject to the procedures described in this section.

~~(4) Contents of Affidavits Supporting Immediate Necessity.~~ (f) Applications for temporary authority under this section must be verified and accompanied by affidavits sufficient to prove to the satisfaction of the Commission the immediate necessity or emergency, or both, for transportation services. ~~Such~~ The affidavits must include at least the following information:

- (A) (1) Name, address, and business of the affiant and his or her interest in supporting the temporary application.
- (B) (2) Description of the specific points or territory in which transportation is required.
- (C) (3) Description of the specific commodity or commodities to be transported.
- (D) (4) Volume of anticipated traffic, frequency of movement, and how transportation has been accomplished in the past year.
- (E) (5) How soon the service must be provided, the reasons for the time limit, and the anticipated duration of the transportation necessity.
- (F) (6) Recital of the consequences if the authority requested is not granted.
- (G) (7) The circumstances which that created the immediate need for the authority requested. and
- (H) (8) Recital of the efforts made to obtain services of existing certificated carriers.
- (9) In the case of emergency temporary authority, a detailed statement of the circumstances necessitating the emergency transportation.

~~(5) Compliance with Tariff and Insurance Filing Requirements Prior to Action Upon Temporary Authority.~~ (g) The Commission department shall not consider or act upon any application for temporary authority under this section unless and until the applicant has complied with the applicable provisions of the Act IC 8-2.1-22 and the rules and regulations of the Commission department 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 comply with the aforesaid these filing requirements at the time of the filing of its application for temporary authority shall result in the rejection of such the application. for filing with the Commission.

~~(b) Issuance or Denial of Temporary Authority.~~

~~(1) Entry of Application on Division Minutes.~~ (h) Upon receipt of an a completed application for temporary authority, in full compliance with the requirements set out in Paragraph (a) of this Rule, the Commission department shall give notice of the filing of said application by making an entry on the next regular minutes of the Division, which department. The entry shall include the name and address of the applicant carrier, the authority sought, the docket number assigned, the names of shippers witnesses who have submitted affidavits in support thereof, and such any additional information as that the Commission from time to time in its discretion department may determine to be is 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 if that person can and will provide all or any part of the transportation service from which authority is sought.~~ The protest must be verified and must designate specifically:

- (A) (1) what service the protestant can render;
- (B) (2) the method in which the service will be rendered;
- (C) (3) under what authority from this Commission such the department the service is authorized; and
- (D) (4) the specific efforts, if any, made by the protestant to solicit the transportation.

~~(3) Filing of Protest Service.~~ ~~Such~~ The protest must be filed within fifteen (15) calendar days of the date of 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 (1) copy. One (1) copy of such the protest must be served on the applicant or its



authorized representative, if any, by first class United States mail, **fax**, **e-mail**, or in person.

~~(4) Grant or Denial by Commission. (i) After the expiration of such fifteen (15) day period expires, the Commission in its discretion~~ **department** ~~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 (j) If the Commission shall, provided it in its discretion determines to grant the application for~~ **department grants temporary authority or emergency temporary authority, the department shall issue to the applicant a certified copy of the order granting such authority. which The order shall constitute authorization to the applicant to institute temporary or emergency 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, 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 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. (k) Upon receipt of an a completed application for emergency temporary authority, in full compliance with the requirements set out in Paragraph (c) of this Rule, the Commission, in its discretion and~~ **department**, 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. (f) The affidavits of supporting shippers witnesses required in Subparagraph (a)(4) and (c)(3) of this Rule subsection (f) shall not be required where the emergency temporary authority and/or the temporary authority sought under this section is the same as that contained in a pending sale and transfer proceeding before this Commission. the department. However, such these 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 the date of said the application.~~

*(Department of State Revenue; No. 32257: Motor Carrier Department Rule 3; filed Jul 22, 1970, 9:15 a.m.: Rules and Regs. 1971, p. 250; No. 33233; filed Jun 12, 1973, 9:30 a.m.: 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.*

SECTION 4. 45 IAC 16-1-4 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-36

**Sec. 4. REQUIREMENTS FOR APPLICATIONS FOR INTRASTATE PERMANENT AUTHORITY OR APPROVAL OF SALE AND TRANSFER FILED WITHOUT GOEXTENSIVE APPLICATIONS FOR TEMPORARY OR EMERGENCY TEMPORARY AUTHORITY:** ~~(a) Certificate of Supporting Shipper to Accompany Application for Contract Authority. In those instances where an application~~ **If a carrier applies** for permanent intrastate contract authority is filed with the Commission without a coextensive application **concurrently applying** for temporary or emergency temporary authority, being filed therewith pursuant to Rule 3, ~~such the application shall be accompanied by instead include~~ a certificate from each supporting shipper **witness**, in which the certifying party shall state that he **or she**, or the corporation, association, or partnership ~~which that he or she 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 **requested** authority requested is granted, enter into a contract with the applicant to utilize the authority granted.

~~This certificate shall be on such form forms as from time to time may be prescribed by the Commission.~~ **department.** Failure to comply with this Paragraph subsection shall result in the application being rejected as to every supporting contract shipper **witness** whose certificate is not filed coextensive **concurrently** with the application.

~~(b) Compliance with Insurance and Tariff Filing Requirements Prerequisite to Consideration of Application. In those instances where an application~~ **If a carrier applies** for permanent intrastate common or contract authority is filed with the Commission without a coextensive application **concurrently applying** for temporary or emergency temporary authority, being filed therewith, the Commission **department** shall neither consider nor **not** act upon ~~such the application in any way unless, within sixty (60) days after the~~ **department's** final order of the Commission has been approved, the applicant has fully complied with the applicable provisions of the Act IC 8-2.1-22 and the Rules and **department's** regulations of the Commission promulgated thereunder governing:

- (1) the filing of tariffs, schedules, and contracts;
- (2) the filing of acceptable insurance certification; ~~in compliance with Rule 2 and~~
- (3) 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 sixty(60) days, the order shall be revoked automatically and shall not be subject to reinstatement. but The carrier must be refiled and treated as file~~ a new application.

**(c) Applicability to Sale and Transfer Application.** The requirements of Paragraph Subsection (b) of this Rule

shall be applicable **applies** 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 a.m.: 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.

SECTION 5. 45 IAC 16-1-10 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3; IC 8-2.1-24-12

**Affected:** IC 8-2.1-22-42; IC 8-2.1-24-18; IC 8-2.1-24-22

~~Sec. 10. NUMBERING AND LETTERING OF MOTOR VEHICLES. (a) Method of Identification of Motor Vehicles Operated in Intrastate Commerce. No~~ **Unless operating under authority of the United States Department of Transportation, whenever an intrastate common or contract carrier for hire shall operate operates a motor vehicles vehicle** over the public highways of the state of Indiana ~~unless there shall be displayed the carrier shall display~~ 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 the~~ operating authority by the ~~Commission. department.~~ 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. **"Indiana ID number" or "USDOT number"**. If the name of any other 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". **in this subsection.**

~~(b) Size, Shape and Color. The display of name and number prescribed~~ **display requirements in this Rule 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. accordance with IC 8-2.1-24-18.**

~~(c) Passenger Vehicles When Exempted; Procedure. Paragraphs (a), (b) and (c) of this Rule 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 (c) Whenever an interstate common or contract carrier for hire shall operate operates a motor vehicles vehicle~~ over the public highways ~~in of~~ the state of Indiana, ~~unless there shall be displayed the carrier shall display~~ on each such motor vehicle ~~such the~~ identification of carrier name and operating authority as required by the Rules and Regulations of the Interstate Commerce Commission. **Federal Motor Carrier Safety Regulations and be registered for the Uniform Carrier Registration Plan.**

~~(e) Method of Identification for Motor Vehicles Operated in Both Interstate and Intrastate Commerce. No (d) Whenever a common or contract carrier for hire which or a private carrier that holds authority to operate in both intrastate and interstate commerce within the borders of the State of Indiana shall operate operates a motor vehicles vehicle~~ over the public highways of ~~said the~~ state ~~unless there shall be displayed thereon of Indiana,~~ **the carrier shall display the intrastate P.S.C.I. identification Indiana ID number or USDOT number required by Paragraph subsection (a) of this Rule, as well as the interstate identification required by Paragraph (d) of this**

**Rule: the Federal Motor Carrier Safety Regulations, as described in subsection (c).**

(Department of State Revenue; No. 32257: Motor Carrier Department Rule 10; filed Jul 22, 1970, 9:15 a.m.: 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.

**SECTION 6. 45 IAC 16-1-11 IS AMENDED TO READ AS FOLLOWS:**

**45 IAC 16-1-11 Unified carrier registration**

**Authority: IC 8-2.1-22-3; IC 8-2.1-24-12**

**Affected: IC 6-8.1-10-5; IC 8-2.1-20-7; IC 8-2.1-22-2.1; IC 8-2.1-22-33; IC 8-2.1-24-3; IC 8-2.1-24-20**

Sec. 11. (a) Pursuant to IC 8-2-7-50 and except as provided by paragraphs (e) and (g) of this section, IC 8-2.1-20-7, IC 8-2.1-22-33, and IC 8-2.1-24-20, no motor vehicles, except vehicles operated in driveway 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) **exempted under IC 8-2.1-22-2.1 or IC 8-2.1-24-3**, 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: **registered under the unified carrier registration agreement (or the successor program thereof), as established under 49 U.S.C. 13908 and as further set out in 49 U.S.C. 14504a.**

(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 driveway 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 lefthand 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.

(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) (b) 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; governed by 49 CFR 367.30. All fees set out in this subsection shall be due and payable between October 1st and December 31.

(j) Checks that are returned (c) Payments made to the commission department by check, credit card, or

**electronic funds transfer, for which the department is unable to obtain payment** because of insufficient funds, closed accounts, etc., will be handled in the following manner: **accordance with IC 6-8.1-10-5.**

(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) (d) 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, **subsection (c) and IC 6-8.1-10-5**, 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 if the proper cashier's check, certified check, money order, or cash shall be remitted to the commission **during the suspension period**, the remittance **automatically** shall **act as a termination of the suspension and as a reinstatement of the certificate or permit of the carrier.** If said a remittance is not made during said the thirty (30) days suspension period, then at the end of said period the **suspension**, the certificate or permit of the carrier shall be ~~canceled~~ **canceled** 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 a.m.: Rules and Regs. 1971, p. 259; No. 33233; filed Jun 12, 1973, 9:30 a.m.: Rules and Regs. 1974, p. 543; No. 33233; filed Jun 12, 1973, 9:30 a.m.: Rules and Regs. 1974, p. 544; No. 33794; filed Nov 26, 1974, 10:25 a.m.: Rules and Regs. 1975, p. 523; No. 33612; filed Aug 5, 1974, 2:30 p.m.: Rules and Regs. 1975, p. 529; No. 33612; filed Aug 5, 1974, 2:30 p.m.: Rules and Regs. 1975, p. 530; No. 33612; filed Aug 5, 1974, 2:30 p.m.: Rules and Regs. 1975, p. 531; No. 33612; filed Aug 5, 1974, 2:30 p.m.: Rules and Regs. 1975, p. 532; No. 34223; filed Dec 4, 1975, 3:55 p.m.: Rules and Regs. 1976, p. 385; No. 35095; filed Dec 29, 1977: Rules and Regs. 1978, p. 703; filed Jan 3, 1983, 2:43 p.m.: 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.

SECTION 7. 45 IAC 16-1-12 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 8-2.1-22-3; IC 8-2.1-24-12

Affected: IC 8-2.1-22; IC 8-2.1-24-18

Sec. 12. SAFETY REQUIREMENTS: The department's safety rules and regulations adopt the Federal Motor Carrier Safety Regulations prescribed and adopted by the Federal Highway Administration Bureau of Motor Carrier Safety that do 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 the Federal Motor Carrier Safety Regulations as an alternative, compliance with said the 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 a.m.: 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.

SECTION 8. 45 IAC 16-1-13 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 8-2.1-22-3; IC 8-2.1-24-12

Affected: IC 8-2.1-17-9; IC 8-2.1-22-45; IC 8-2.1-24-3; IC 8-2.1-24-22

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. IC 8-2.1-22-45 and IC 8-2.1-24-22~~, 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~~ **means** 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); IC 8-2.1-22.~~

(2) ~~"Equipment"~~ ~~Equipment shall mean~~ **means** 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~~ **means** the physical exchange of equipment between motor common carriers or the receipt by one (1) such carrier of equipment from another such carrier, in furtherance of a through movement of traffic, at a point or points ~~which that~~ such carriers are authorized to serve.

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

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

(6) ~~"Owner"~~ ~~An owner shall mean~~ **means** a person:

(1) ~~(A)~~ to whom title to equipment has been issued; or

(2) ~~(B)~~ who as lessee has a right to exclusive use of equipment for a period longer than **thirty (30) days**; or

(3) ~~(C)~~ 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 ~~her~~ or its name.

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

(8) ~~"Private carrier by motor vehicle"~~ ~~The term "private carrier of property by motor vehicle" shall mean~~ **means** 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 the~~ 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(f)~~.

(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.

(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.~~ (c) Other than equipment exchanged between motor common carriers in interchange service as defined in **paragraph subsection (e), of this section**, authorized carriers may perform

authorized transportation in or with equipment ~~which that~~ 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 to the~~ **contract**, 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. If~~ The **contract** shall specify the period for which it applies, which shall be not less than **thirty (30) days** when the equipment is to be operated for the authorized carrier by the owner or employee of the owner ~~excepting: except under the following circumstances:~~

(i) Equipment Used in agricultural or perishable operations: That subject to the provision in (ee) 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), IC 8-2.1-24-3(4)~~, or is that of a private carrier of property by motor vehicle; as defined in Paragraph (b) (8) herein and is

(BB) used regularly in the transportation of property of a character embraced within ~~IC 8-2-7-3(g)~~ an **exempt nature described in IC 8-2.1-24-3(4)** and the FMCSA's Commodity List adopted by the Commission department; and such motor vehicle is to be

(CC) used by the motor carrier in a single movement or in one (1) 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~~ (DD) if the motor vehicle is one which that has completed a movement covered by ~~IC 8-2-7-3(g) IC 8-2.1-24-3(4)~~ and such motor vehicle is next to be used next by the motor carrier in a loaded movement in any direction, and/or in one (1) 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

~~(ee) Statement Prerequisite to Movement~~: (EE) in either instance (subitem (AA) through (CC) or (DD)) 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 above~~ and specifying the origin, destination, and the time of the beginning and ending of the last movement ~~which that~~ 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 transporting salt and/or or calcium chloride, or both**, 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 for the equipment~~ by the lessee for the duration of the contract, lease, or other arrangement, except as follows:

(i) ~~Lessee May be Considered as Owner~~: Provisions may be made ~~therein in the agreement~~ for considering the lessee as the owner for the purpose of subleasing under this section to other authorized carriers during ~~such the~~ 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), such IC 8-2.1-17-9~~, these provisions need only apply during the period the equipment is operated by or for the authorized carrier-lessee.

(E) ~~Compensation to be Specified. If~~ The **contract, lease, or other arrangement** 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 the~~ lease is based upon a percentage or division of revenue, will, at the lessee's **lessee's** 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, **subject to the right of the lessee to delete confidential business information shown on the contract that may be**



**used to the detriment or prejudice of the shipper or consignee.** 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 subdivision (2). of this section.

(G) ~~Copies of Lease and Their Distribution; Copy to be Carried on Vehicle.~~ **If The contract, lease, or other arrangement shall be executed in triplicate. The original shall be retained by the authorized carrier in whose service the equipment is to be operated, and one (1) copy shall be be carried on the equipment specified therein in the agreement during the entire period of the contract, lease, or other arrangements unless a certificate as provided in paragraph (d)(4)(B) of this section subdivision(4)(B) is carried in lieu thereof. instead.**

(2) ~~Receipts for Equipment to be Specific.~~ When an **authorized carrier or its duly authorized agent** takes possession of the equipment, ~~is taken by the authorized carrier, or its regular employee or agent duly authorized to act for it, said the 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 the carrier took possession. thereof is taken. And When the time of possession by the authorized carrier ends, it or its employee the carrier or its 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 the owner took possession. thereof is taken.~~

(3) ~~Safety Inspection of Equipment by the Authorized Carrier.~~ **It shall be the duty of the An authorized carrier has the duty before taking possession of equipment to inspect the same or to have the same inspected the equipment. The equipment must be inspected by a person who is competent duly authorized by the carrier and qualified to make such an inspection and who has been duly authorized by such carrier to make such inspection as a representative of the carrier, in order to insure ensure that the said equipment complies with the Federal 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 a form prescribed by the department in its written instructions, hereinafter set forth, which report shall must be retained and preserved by the authorized carrier. and Further, if his the inspection discloses that the equipment does not comply with the requirements of the said Federal Motor Carrier Safety Regulations, the carrier shall not take possession thereof shall not be taken of the equipment. When such an inspection has been made, the authorized carrier, an officer, or a partner, thereof, a safety director, or other supervisory employee responsible for safety compliance of the authorized carrier 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 the inspection and has been duly authorized to do so by such the carrier as its representative. When equipment other than a power unit is leased, a form of report applicable to such that 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			
Drive line			
Emergency equipment			
Engine			
Exhaust			
Fuel system			

Indiana Register

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 the~~ equipment during the period of the lease, contract, or other arrangement in accordance with the ~~Commission's~~ **department's** requirements. If a removable device is used to identify the acquiring authorized carrier as the operating carrier, ~~such the~~ 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.

**Further, the authorized carrier operating the equipment shall:**

(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; **and**

(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)(C), the authorized carrier, its regular employee or agent shall prepare a statement certifying that the equipment is being operated by it, which shall specify **specifies:**

- (i) the name of the owner;
- (ii) the date of the lease, contract, or other arrangement;
- (iii) the period thereof ~~of the agreement~~; **and**
- (iv) any restrictions ~~therein relative in the agreement relating~~ 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 **unless a copy of the lease, contract, or other arrangement is carried on the equipment.**

(5) ~~Driver of Equipment to be in Compliance With Safety Regulations.~~ Before any person other than a regular ~~an~~ employee of the authorized carrier is assigned to drive equipment operated under this section, ~~it shall be the duty of the authorized carrier~~ **has the duty** to make certain that ~~such the~~ driver is familiar with, and ~~that his employment as a driver will not result in, violation of any provisions of~~ **will not violate the Federal 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 **thirty (30) days** shall prepare and keep a manifest or other documents covering each trip ~~for which where~~ the equipment is used in its service. **The manifest shall contain:**

- (A)** the name and address of the owner of ~~such~~ the equipment;
- (B)** the point of origin;
- (C)** the time and date of departure;
- (D)** the point of final destination; and
- (E)** the authorized carrier's serial number of any identification device affixed to the equipment.

During the time that ~~the~~ 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 These~~ papers shall be preserved by the authorized carrier. This ~~Paragraph also~~ subsection shall **also** apply with respect to vehicles leased for periods of **thirty (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.

**(d) The provisions of subsection (c), except subdivisions (3) and (4), shall not apply in the following instances:**

**(1) To equipment owned or held under a lease of thirty (30) days or more by an authorized carrier, which is regularly used by it in the authorized service, and leased by it to another authorized carrier for transportation in the direction of a point in which the lessor is authorized to serve, provided that:**

**(A) the two (2) carriers agree in writing that the lessee has control and responsibility for operating the equipment from the time the equipment passes the inspection required to be made by lessee under subsection (c)(3) until either:**

- (i) the lessor or its representative gives to the lessee a receipt that specifically identifies the equipment and states that date and the time of day possession is retaken; or**
- (ii) the required inspection is completed by another authorized carrier taking possession of the equipment in an interchange of equipment where that use is contemplated; and**

**(B) the written agreement shall be signed by the parties, their duly authorized employees, or agents, a copy of which is carried in the equipment while the equipment is in the possession of the lessee.**

**(2) 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.**

**(3) To equipment other than a power unit, provided that such equipment is not drawn by a power unit leased from the lessor of this type of equipment.**

**(e) Interchange of Equipment.** Authorized common carriers may, by contract, lease, or other arrangement, interchange any equipment defined in ~~Paragraph subsection~~ (b) with one **(1)** or more ~~other such~~ common carriers, or one ~~of such carriers~~ **(1) carrier** 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:

- (A)** the equipment to be interchanged;
- (B)** the specific points of interchange;
- (C)** the use to be made of the equipment; and
- (D)** 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.~~ **an agreement.**

**(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 **has the duty** to inspect such equipment or to have it inspected in the manner provided in

~~Subparagraph (d)(3): subsection (c)(3).~~ Equipment ~~which that~~ does not meet the requirements of the ~~Subparagraph subsection~~ 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 **not** required, ~~Provided, That as long as the equipment interchanged has been so~~ is inspected immediately prior to the start of the movement in which the interchange occurs and found to meet the requirements of ~~Subparagraph (d)(3): subsection (c)(3).~~

(5) ~~Identification of Equipment as That of The Operating Carrier.~~ Authorized carriers operating power units in interchange service shall identify ~~such that~~ equipment in accordance with ~~the Commission's requirements set out in 170 IAC 2-1-10; section 10 of this rule.~~ Any removable device used to identify the operating carrier shall be on durable materials, such as wood, plastic, or metal, **and** shall bear a serial number in the operating carrier's own series. ~~and such The~~ 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 **subsection** 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 This~~ 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) **The rental of equipment to private carriers and shippers is subject to the following:**

(1) ~~Rental of Equipment with Drivers.~~ Unless ~~such the~~ 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 ~~this section~~ should be ~~interpreted interpreted~~ to be in conflict with ~~IC 8-2-7-52; IC 8-2.1-22-45 or IC 8-2.1-24-22.~~

*(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 a.m.: Rules and Regs. 1979, p. 226; filed Oct 21, 1986, 10:40 a.m.: 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.*

SECTION 9. 45 IAC 16-1-14 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

**Sec. 14. ADVERTISING BY MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS.** (a) ~~Contents of Advertisement.~~ Every motor common carrier **and its agent or agents** engaged in the transportation of household goods in intrastate commerce, including any carrier providing any accessorial service incidental to or part of ~~such that~~ intrastate transportation, shall include, ~~and shall require each of its agents to include,~~ in every advertisement, as defined in Paragraph (c) of this Rule 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 their~~ operating authority by the ~~Commission department~~ **in a manner prescribed by the department.**

(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.

(e) **(b) "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 the term does 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 a.m.: 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.

SECTION 10. 45 IAC 16-1-16 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-3

Sec. 16. **SEPARABILITY.** If any provision or the application of these rules or the application thereof to any person or circumstances is invalid, such the 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, As such 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 a.m.: Rules and Regs. 1971, p. 262; No. 33233; filed Jun 12, 1973, 9:30 a.m.: Rules and Regs. 1974, p. 550; No. 35014; filed Sep 15, 1977, 11:06 a.m.: 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.

SECTION 11. 45 IAC 16-1.5-1 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3; IC 8-2.1-24-9

**Affected:** IC 8-2.1

Sec. 1. (a) These rules (~~170 IAC 1-2~~) (45 IAC 16-1.5) shall govern the practices and procedure in matters before the public service commission of Indiana **motor carrier services division of the Indiana department of revenue**, 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, **division, IC 8-2.1**.

(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 8-2.1 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 a.m.: 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.

SECTION 12. 45 IAC 16-1.5-2 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-1.5-2 Filings with motor carrier services division of the department**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22; IC 8-2.1-24

Sec. 2. The filing of any pleading with the motor carrier services division of the commission may be made through the United States mail, fax, e-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) (2) Filings made in person shall be deemed to be filed on the date of receipt by the director of transportation division, except that no filing shall be accepted outside of the regular business hours of the commission division, 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 a.m.: 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.

SECTION 13. 45 IAC 16-1.5-3 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22; IC 8-2.1-24

Sec. 3. (a) Any person may appear and represent his or her own interest before the commission. The interest of another department. If a person or entity chooses to be represented, they 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 however, upon verified written application to the commission department, 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 division. Pending approval of such the application, an attorney may be permitted to appear, at the discretion of a presiding officer at any hearing.

(e) (b) 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 or her client ten (10) days written notice of his or her intent to withdraw and has filed a copy of that letter with the commission division, 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 division 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 a.m.: 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.

SECTION 14. 45 IAC 16-1.5-4 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22; IC 8-2.1-24; IC 35-44.1-2-1

Sec. 4. (a) All pleadings filed with the ~~commission~~ **division** shall be signed either by an attorney eligible to practice before the ~~commission~~ **division** or by each person joining ~~therein~~ **in the pleading** in the manner following:

- (1) By the person, if an individual.
- (2) By a partner, if a partnership.
- (3) By a corporate officer, if a corporation.
- (4) If a municipal corporation, by an officer duly authorized to sign such pleading. ~~and~~
- (5) 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 ~~or she~~ has: read the pleading that to the best of his ~~or her~~ 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 35-44.1-2-1.

(Department of State Revenue; 45 IAC 16-1.5-4; filed Oct 21, 1986, 10:37 a.m.: 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.

SECTION 15. 45 IAC 16-1.5-5 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22; IC 8-2.1-24

Sec. 5. (a) In addition to the matters required by ~~170 IAC 1-1.2-4~~ **section 4 of this rule**, 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~~ **department**, is required to be named in the complaint because of his ~~or her~~ 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~~ **section 4 of this rule**, 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~~ **department** has jurisdiction and sections thereof or rules of the ~~commission~~ **department** 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 a.m.; 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.*

SECTION 16. 45 IAC 16-1.5-6 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22; IC 8-2.1-24

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

- (1) Answers shall be filed with the ~~commission~~ **department** within twenty (20) days after the date of receipt of service unless a different time is prescribed by law or by the ~~commission~~ **department**.
- (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~~ **department** 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)~~ (b) 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~~ **this rule** for answers generally. (2) Unless otherwise ordered by the ~~commission~~ **department**, replies to answers seeking affirmative relief shall be filed with the ~~commission~~ **department** 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 8-2.1-22-5** shall, if directed to do so, respond to the same by filing with the ~~commission~~ **department**, 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~~ **department** within ten (10) days after the date of receipt of service of the



amendment, modification, or supplement, unless for cause the ~~commission~~ department 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 a.m.: 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.*

SECTION 17. 45 IAC 16-1.5-7 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22; IC 8-2.1-24

Sec. 7. (a) In addition to the matters required by ~~170 IAC 1-1.2-4~~ section 4 of this rule 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~~ department has jurisdiction and sections thereof or rules of the ~~commission~~ department 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.

(d) A petition to the ~~commission~~ department 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 a.m.: 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.*

SECTION 18. 45 IAC 16-1.5-8 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-1.5-8 Service**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22; IC 8-2.1-24

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~~ department, including all forms of ~~commission~~ department action and similar process, and other documents designated by the ~~commission~~ department for this purpose, shall be served by the ~~commission~~ department by mail, except when service by another method shall be specifically required by the ~~commission~~ department, 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 her or its principal office or place of business. When delivery is not accomplished by mail, it may be effected by anyone duly authorized by the ~~commission~~ department.

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

~~(d)(1)~~ (d) 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~~ **section 2 of this rule**, 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 or her 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~~ **department** 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: **in a manner prescribed by the department in its written instructions.**

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 a.m.: 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.*

SECTION 19. 45 IAC 16-1.5-9 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-1.5-9 Subpoenas**

**Authority: IC 8-2.1-22-3**

**Affected: IC 8-2.1-22; IC 8-2.1-24**

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~~ **department**, and shall be issued under the seal of the ~~commission~~ **department**.

(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~~ **department**.

(c) Upon motion made at or before the time specified for compliance in any such subpoena, the ~~commission~~ **department** 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 a.m.: 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.*

SECTION 20. 45 IAC 16-1.5-10 IS AMENDED TO READ AS FOLLOWS:

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

**Authority: IC 8-2.1-22-3**

**Affected: IC 8-2.1-22; IC 8-2.1-24**

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~~ **department**.

**(c) Parties against whom discovery is directed are subject to the following conditions:**

~~(e)(1)~~ (1) Any party against whom discovery is directed shall satisfy the request within thirty (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~~ **department** 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~~ that was complete when made is under no duty to supplement his or her response to include information thereafter acquired unless that party later learns that his or her 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~~ **IC 8-2.1-22-23** and **IC 8-2.1-22-24**.

*(Department of State Revenue; 45 IAC 16-1.5-10; filed Oct 21, 1986, 10:37 a.m.: 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.*

SECTION 21. 45 IAC 16-1.5-11 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-5; IC 8-2.1-24

Sec. 11. (a) Motions shall set forth the ruling or relief sought, and shall state the grounds ~~therefor~~ **therefore** and the statutory or other authority relief **relied** 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~~ **department** 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~~ **department** 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~~ **department** 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 a.m.: 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.*

**SECTION 22. 45 IAC 16-1.5-12 IS AMENDED TO READ AS FOLLOWS:**

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22; IC 8-2.1-24

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 ~~or she~~ has notified the ~~commission~~ **department** and the applicant or applicant's attorney in writing of his ~~or her~~ 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; and

(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 or 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~~ **department** and an individual or entity alleges that the operating authority being transferred has not been continuously operated, that party shall notify the ~~commission~~ **department** 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 a.m.: 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.*

SECTION 23. 45 IAC 16-1.5-13 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-13; IC 8-2.1-22-17

Sec. 13. (a) Hearings will be conducted by ~~an administrative law judge or hearing officer of the commission, a commissioner, or administrative law judge.~~ **department.**

(b) The presiding officer ~~before whom the hearing is held shall cause to be entered~~ **enter** upon the record all appearances, with a notation ~~in~~ **on** 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~~ **All exhibits** shall be specifically described and assigned an identifying exhibit number at the time of hearing. ~~and An exhibit 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 **does not need not** to 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~~ **division** 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~~ **division**, 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~~ Any 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~~ **division** 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~~ **division**, corrections or changes in the stenographic record may be made upon the written agreement of all parties of record filed with the ~~commission~~ **division** 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~~ **division**.

*(Department of State Revenue; 45 IAC 16-1.5-13; filed Oct 21, 1986, 10:37 a.m.: 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.*

SECTION 24. 45 IAC 16-1.5-14 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22; IC 8-2.1-24

Sec. 14. (a) Relevant and material evidence is admissible subject to objection on other grounds, but ~~there this evidence shall be excluded such evidence as if it~~ 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)~~ (d) Applications, complaints, orders to show cause and answers thereto to any order, and similar formal documents upon which hearings are fixed shall, without further action, be considered as part of the record as pleadings. ~~(2)~~ Such These pleadings, or any part thereof, shall not be considered as evidence of any fact which that is in dispute.

(e) Except as otherwise provided in ~~170 IAC 1-1.2~~ this rule, 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 was 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 a.m.: 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.*

SECTION 25. 45 IAC 16-1.5-15 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-1.5-15 Posthearing briefs and proposed orders**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22; IC 8-2.1-24

Sec. 15. (a) The presiding officer may require posthearing 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 posthearing briefs and proposed orders, the presiding officer shall prepare a final order for consideration by the ~~commission~~ **division**.

*(Department of State Revenue; 45 IAC 16-1.5-15; filed Oct 21, 1986, 10:37 a.m.: 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.*

SECTION 26. 45 IAC 16-1.5-16 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-1.5-16 Posthearing relief**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-6; IC 8-2.1-24

Sec. 16. ~~(a)(1)~~ (a) 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, **subject to the following conditions:**

(1) 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)~~ (b) Following a final order, any party to a proceeding may file a petition for rehearing ~~and/or~~ or reconsideration, ~~or both~~, within twenty (20) days of the entry of the final order, **subject to the following conditions:**

(1) 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~~ the evidence will not be merely cumulative, and shall be verified or supported by affidavit.

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

(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 a.m.: 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.*

SECTION 27. 45 IAC 16-1.5-17 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22; IC 8-2.1-24

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

(b) Prior to such dismissal, the ~~commission~~ division 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 a.m.: 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.*

SECTION 28. 45 IAC 16-1.5-18 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22; IC 8-2.1-24

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 **this rule**.

(b) 170 IAC 1-1.2 **This rule** shall be subject to any special rules, regulations, or orders of the ~~commission~~



**department** 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 a.m.: 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.*

SECTION 29. 45 IAC 16-2-1 IS AMENDED TO READ AS FOLLOWS:

**Rule 2. Construction and Filing of Passenger Fare Publications and Schedules**

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-23; IC 8-2.1-22-24

Sec. 1. All publications filed ~~on and after January 1, 1946, by common or contract carriers of passengers with the department must conform with these the regulations in this rule and the department's published instructions 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~~ **department** may reject any publication ~~which that~~ does not comply with these regulations ~~or the department's instructions. The Commission~~ **department** may, for reasons deemed sufficient, direct the reissue 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 a.m.: 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.*

SECTION 30. 45 IAC 16-2-2 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-23

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~~ **eight and one-half (8 1/2)** by ~~eleven (11)~~ **eleven (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 and contain all information required by the department in its instructions.~~

(b) Except as provided in ~~rule 4~~ **section 5 of this rule**, and unless otherwise authorized by the ~~Commission~~ **department**, all tariffs and supplements must be filed and posted at least ~~ten (10)~~ **ten (10)** days prior to the effective date thereof.

(c) Issuing carriers or their agents shall transmit to the ~~Commission three copies~~ **department one (1) copy** of each tariff, supplement, or revised page. ~~All copies~~ **Each copy** shall be included in one (1) 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 a.m.: 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*

SECTION 31. 45 IAC 16-2-6 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-23

Sec. 6. ~~Tariff Changes.~~ (a) Except as provided in rule 4 section 5 of this rule and unless otherwise authorized by the Commission department, fares and charges which that have been filed with the Commission department must be allowed to become effective and remain in effect for a period of at least ten (10) days before being changed, cancelled, canceled, 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 a.m.: 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.

SECTION 32. 45 IAC 16-2-7 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-23

Sec. 7. ~~Posting Regulations.~~ Each A carrier must post and file at each of its stations or offices at which an exclusive agent is employed employee works all of the tariffs or schedules applying from, or at, such that station or office. and The carrier 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 a.m.: 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.

SECTION 33. 45 IAC 16-2-8 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-24

Sec. 8. ~~Construction and Filing of Schedules.~~ (a) 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 4 sections 1 through 6 of this rule and the department's published instructions.

One (b) A contract carrier shall attach a copy of each contract shall accompany with schedules filed, for to be placed in the Commission's department's confidential file.

Wherever in such rules the words (c) The following words in sections 1 through 6 of this rule in order for

the regulation are to be substituted in the order that those regulations pertain to contract carriers:

- (1) For "tariff" or "tariffs" appear, substitute the words "schedule" or "schedules". Wherever in such rules the words
- (2) For "fares or charges" appear, substitute the words "minimum fares or charges". Wherever in such rules there appears reference to
- (3) For "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 a.m.; 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.

SECTION 34. 45 IAC 16-3-1 IS AMENDED TO READ AS FOLLOWS:

**Rule 3. Motor Carrier Household Goods Tariffs and Classifications**

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-23

Sec. 1. ~~COMMON CARRIER FREIGHT TARIFFS AND CLASSIFICATIONS.~~ Except as otherwise provided herein, all tariffs and supplements thereto filed by common carriers of ~~property~~ **household goods** by motor vehicle and agents on or after Jan. 1, 1973, unless otherwise authorized by special permission of the Commission, shall conform to ~~these the~~ **regulations in this rule**. The ~~Commission~~ **department** may reject any tariff or supplement thereto ~~which that~~ does not comply with these regulations. The ~~Commission~~ **department** may, for reasons deemed sufficient **by the department**, 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 PT A; filed Feb 15, 1973, 3:00 p.m.; 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.

SECTION 35. 45 IAC 16-3-3 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-23

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 **eight and one-half (8 1/2) x by eleven (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 that~~ 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 PT A, Rule 1; filed Feb 15, 1973, 3:00 p.m.; 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.

SECTION 36. 45 IAC 16-3-8 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

Sec. 8. SUPPLEMENTS. (a) Amendments and supplements. (1) When it is desired A carrier wanting to make changes in the rates, ratings, rules, or other provisions of a tariff, other than a loose-leaf tariff, this may except as provided in paragraph (d) of this rule, be accomplished by issuing issue a supplement to the tariff constructed generally in the same manner as is the tariff which that it supplements, (a supplement must be the same size in length and width as the tariff it amends. See Rule 1(a)): in accordance with the department's written instructions.

(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 \_\_\_\_\_

(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 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 within the requirements of paragraph (d) of this rule, 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 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 p.m.: 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.

#### SECTION 37. 45 IAC 16-3-9 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

Sec. 9. AMENDMENTS. (a) How made. (1) Any change in or addition to a tariff shall be known as an "amendment". Amendment Amendments of a bound tariff shall be made by reissue of the tariff or by issue of a supplement as provided in Rule 6 section 8 of this rule and the department's instructions. 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.) in accordance with the department's instructions.

(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.

(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 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: "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 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 in a square and numerals commencing with 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. 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 paragraphs (c) of this rule.

(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 PT A, Rule 7; filed Feb 15, 1973, 3:00 p.m.; 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.

SECTION 38. 45 IAC 16-3-10 IS AMENDED TO READ AS FOLLOWS:



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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

Sec. 10. **SECTIONAL TARIFFS.** (a) **Alternative use of rates in sectional tariffs.** (1) The alternative use of rates may be 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: **in accordance with the department's instructions.**

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 p.m.; 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.~~

SECTION 39. 45 IAC 16-3-11 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

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 that cancels another tariff in part only, ~~such the~~ tariff, supplement, or revised page shall specifically state the portion of ~~such the~~ other tariff which that is thereby cancelled. ~~and canceled.~~ The tariff to be cancelled ~~canceled~~ in part shall at the same time also be correspondingly amended at that time, and effective on the same date, in the regular way; that is, in the following manner:

- (1) by reissue if the tariff contains four (4) pages or less;
- (2) by reissue or supplement if the tariff contains more than four (4) pages; and or
- (3) by revised pages if the tariff is a loose-leaf tariff. ~~Such~~

(b) The reissue, supplement, or revised page of the tariff ~~cancelled canceled~~ in part shall state where rates will thereafter now be found and shall be filed at the same time and in connection with the tariff or supplement which that 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." and shall contain such other information as the department requires in its instructions.

(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(e)).

(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 p.m.; 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.

SECTION 40. 45 IAC 16-3-12 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

Sec. 12. **SUSPENDED MATTER:** (a) Supplement announcing suspension. (1) Upon receipt of an order suspending any publication in **whole or in part, or in its entirety**, the carrier or agent who filed such the publication shall immediately file with the Commission department, and post in accordance with **Rule 48 section 20 of this rule and the department's published instructions**, 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 **Before** the filing of the supplement announcing

suspension, if a carrier or agent files a later supplement which that 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 the reissued matter, and by amendment to the title page of said later supplement It shall also eliminate the cancellation of the suspended supplement by amendment to the title page of the later supplement when the latter is suspended in full, and when a supplement is suspended in part shall provide that such the later supplement cancels such the previous supplement, except portions under suspension. ~~Fardness in filing~~ If supplements announcing suspension are not filed in a timely manner, it may result in the rejection by the Commission department of the later supplement, which cancels the suspended matter.

(c) ~~Reissue of effective tariff when suspended tariff is ordered cancelled.~~ (1) When the Commission department suspends an entire tariff, the following conditions apply with regard to cancellation and reissue:

(1) Any tariffs which would have been cancelled ~~canceled~~ by the suspended tariff are continued in effect and will remain in force during the period of suspension or until lawfully ~~canceled~~ ~~canceled~~ or reissued. Except in the case of loose-leaf tariffs or tariffs of less than five (5) pages, supplements to tariffs ~~that~~ that are 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 in total. If the volume of supplemental matter permitted by Rule 6(d) section 8 of this rule is exceeded under authority of this paragraph subsection and the Commission department 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) section 8 of this rule by supplement filed within one hundred twenty (120) days, or such the tariff shall be reissued within that time.

(2) Suspension of portions of a tariff or of matter contained in a supplement does not authorize the carrier to disregard the requirements of Rule 6(d) relative section 8 of this rule and the department's instructions pertaining to the permissible volume of supplemental matter in and the number of effective supplements to, such the tariff; except that however, a supplement containing contains a permissible volume of supplemental matter permitted of such tariff under Rule 6(d) provided the effective matter in such the supplement is reissued and as well as the supplement itself, except the suspended portions thereof is cancelled: are canceled.

(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.

The publication requirements under this subsection shall be in accordance with the department's instructions.

(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 with respect to practices may not be changed or withdrawn or the effective date thereof further deferred except by order or special permission of the Commission, ~~nor~~ department. Further, it may not make any change be made in to a rate, charge, classification, rule, or provision respecting with respect to practices which is continued in effect as a result of such the suspension except under order or special permission of the Commission: department.

(e) When Commission's the department's order of suspension is vacated, the following conditions apply:

(1) ~~When Unless otherwise provided by the order, when the Commission department 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 department, and post in accordance with Rule 48 section 20 of this rule, on not less than one (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 that remained in effect during the period of suspension. If a new tariff is filed during the period of suspension, ~~cancelling~~ canceling the tariff sought to be

~~canceled~~ **canceled** by the suspended tariff, any changes or additions published in the new tariff which that 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 ~~canceled~~ **canceled** during the period of suspension, except portions under suspension, by a new tariff, and the ~~Commission~~ **department** 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 **one (1)** day's notice republishing and establishing the suspended matter and ~~cancelling~~ **canceled** the matter which that was effective during the period of suspension also ~~cancelling~~ **canceled** the matter under suspension in the former issue, shall be filed and posted in accordance with **Rule 48 section 20 of this rule**. When the ~~Commission~~ **department** 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 **one (1)** day's notice, establishing therein on the effective date of such new tariff, matter which that was under suspension in the old tariff. A common supplement to both tariffs as authorized by ~~Rule 6(f) section 8 of this rule~~ may be filed and posted upon not less than **one (1)** day's notice to accomplish this purpose.

**The publication requirements under this subsection shall be in accordance with the department's instructions.**

~~(f) Cancellation of suspended matter. When~~ **Unless otherwise provided by the order, when the** ~~Commission~~ **department** orders the cancellation of a tariff, supplement, revised page, item, rate, charge, classification, rule, or provision **respecting with respect to practices** previously suspended by it, the cancellation shall be effected by filing with the ~~Commission~~ **department** and posting upon not less than **one (1)** day's notice, ~~unless otherwise provided by the order, a supplement stating the date upon which in accordance with the Commission's department's order said rate, charge, classification, rule, or provision respecting practices is~~ ~~canceled; canceled;~~ except that, when desired, such cancellation may be accomplished in a new tariff ~~cancelling~~ **canceled** 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) (g)~~ The provisions of this ~~rule section~~ relating to suspension, vacating, and cancellation supplements will also govern in connection with tariffs issued in loose-leaf form, except that ~~such those~~ 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) (h)~~ Supplements issued under authority of this ~~rule section~~ shall contain ~~nothing except no other~~ 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 p.m.: 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.*

#### SECTION 41. 45 IAC 16-3-13 IS AMENDED TO READ AS FOLLOWS:

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

**Authority: IC 8-2.1-22-3**

**Affected: IC 8-2.1-22**

**Sec. 13. ~~TERMINAL AND SPECIAL SERVICES.~~ (a) ~~Terminal and special services.~~** Each carrier or its agent shall publish, post, and file tariffs which that 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 these services or providing charges therefor, for these services shall clearly show their application. The publication requirements shall be in accordance with the department's instructions.

(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) (b) All tariffs containing rates for the transportation of property household goods shall specify whether such the 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) (c) If pick-up and delivery service will also 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 an area, the area shall be described in the tariffs.

(Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 11; filed Feb 15, 1973, 3:00 p.m.; 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.

SECTION 42. 45 IAC 16-3-14 IS AMENDED TO READ AS FOLLOWS:

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

**Authority: IC 8-2.1-22-3**

**Affected: IC 8-2.1-22**

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, **subject to the following conditions:**

- (1) Except as otherwise provided in these rules, elsewhere in this article:
  - (A) 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
  - (B) 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. These 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 Indiana ID number or USDOT 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.

The carrier shall follow the notice and publication requirements in the department's instructions.

(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 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 paragraph 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 p.m.: 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.

SECTION 43. 45 IAC 16-3-15 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

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 **that make reference to the articles or commodities** 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. **in accordance with the department's instructions.**

(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) (b) A separate tariff may be filed containing exceptions to the classification for application in connection with tariffs or rates making reference thereto. **to it as follows:**

(1) 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 (1) rate tariff may be governed for account of any one (1) carrier by not more than one (1) 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.

~~(c) 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. 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) (c) Rules and similar provisions may be separately published in tariffs filed by an individual carrier or by an agent if it is the carrier does not want to desirable or if it is not 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. (d) Tariffs which that 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 United States Department of Transportation governing the transportation of such those articles or give reference to a separate publication filed with this Commission the department by the carrier or by an agent containing such those regulations. When the latter method is adopted, the tariff to which reference is made shall contain nothing except the regulations promulgated by the United States Department of Transportation for handling such those articles and necessary provisions for the application of such those~~

~~(h) Participation in governing publications: (e) All carriers that are 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; however, this requirement does not apply to carriers as indicated by restrictions published in the tariffs making reference to separate publications that state that they will not apply the provision therein.~~ This section does not require participation in local drayage tariffs or tariffs containing other provisions which ~~that~~ are local to the lines publishing such tariffs.

*(Department of State Revenue; No. 33034: Common Carrier Freight Tariffs and Classifications PT A, Rule 13; filed Feb 15, 1973, 3:00 p.m.: 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.*

SECTION 44. 45 IAC 16-3-16 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

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).~~ **within the tariffs, as prescribed by the department's instructions.** 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) (b) No rate may be governed by more than two (2) such separate publications, one (1) for points of origin and one (1) 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 PT A, Rule 14; filed Feb 15, 1973, 3:00 p.m.: 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.*

SECTION 45. 45 IAC 16-3-18 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

Sec. 18. ~~RATES PRESCRIBED BY COMMISSION.~~ (a) ~~Rates prescribed by Commission must be promulgated in tariffs and Commission notified. Rates prescribed by the Commission~~ **department** in its decisions and orders in formal cases shall be promulgated by the carriers to which such the orders are issued. **They shall be** in duly published, filed and posted tariffs, revised page, or supplement, and notice shall be furnished to the **Commission department** 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 department** and to the public in the manner prescribed in the department's instructions.

(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 p.m.; 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.*

SECTION 46. 45 IAC 16-3-19 IS AMENDED TO READ AS FOLLOWS:

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

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

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 then operating the properties shall file with the Public Service Commission of Indiana department 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); in a format as prescribed to the department's instructions.~~

(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 **(including 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) **pursuant to the department's instructions in order** 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 **that** will thereafter operate that part of the properties shall file with the Public Service Commission of Indiana **department** and post as required in Rule 18, **the following:**

(1) 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 Indiana and post as required in Rule 18, under proper concurrence from the adopting carrier, A supplement, **under proper concurrence from the adopting carrier**, 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. \_\_\_\_\_ in a format as prescribed to the department's instructions.

(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, **pursuant to the department's instruction in order** 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. **in the manner prescribed by the department.**

(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 as **prescribed by the department.** 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 subsections (a) and (c), of this rule, 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 or she 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 subsections (a) and (c). of this rule.

(f) Adoption notice effective date. (1) Notices of adoption **Adoption notices** shall be filed and posted immediately and if possible on or before the date shown therein, if possible. Copies shall be sent to each agent or carrier to which power of attorney or concurrence has been was 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 however, if the department requires prior approval of such the change by the Commission is required, the effective date shown shall not antedate predate 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 within one hundred twenty (120) days, issued by and numbered in the series of the adopting carrier, receiver, trustee, executor, administrator, assignee, or lessee; except that however, 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 that 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): the department's instructions.

(3) Adoption notices and special supplements issued under the authority of this rule section 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 department, the new carrier that assumes temporary control of the operations of the old carrier shall comply with the provisions of paragraphs subsections (a), (b), (c), (d), and (f) of this rule and the department's instructions, 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 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 Indiana ID numbers or USDOT 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

e/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 p.m.; 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.

SECTION 47. 45 IAC 16-3-20 IS AMENDED TO READ AS FOLLOWS:

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

**Authority: IC 8-2.1-22-3**

**Affected: IC 8-2.1-22**

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~~ **The officer shall file a concurrence and when filed by or if an agent, the a power of attorney of every carrier participating therein shall be on file with the Commission department or the document shall 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.~~ **to the tariff.** An agent duly authorized to act for carriers shall file tariffs under his or her own P.S.C.I. serial numbers. **Indiana ID number or USDOT 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 **specific rates of the carrier** shall not in its own issues publish rates which ~~that~~ duplicate or conflict with those which ~~that~~ are published by ~~such the~~ 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) (c) All tariffs and supplements filed with the **Commission department** shall be accompanied by a letter of transmittal as **specified by the department's instructions.** ~~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 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)~~ **(d)** Carriers and agents shall transmit to the Commission three copies **department** **one (1) copy** of each tariff, supplement, revised page, classification, or other publication to be filed. All copies **to must** be included in one **(1)** package and under one **(1)** letter of transmittal. A separate letter of transmittal shall be included for each joint agent.

~~(2) No (e)~~ **The department will not accept any** 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.,~~  
~~904 State Office Bldg.~~  
~~Indianapolis, Indiana 46204~~

~~(4) Tariff publications received for filing will not be returned (f)~~ **The department will not return any tariff publication received for filing unless it is rejected because of failure the carrier failed to give lawful notice of changes, or for any other valid reason.**

~~(f) Statutory notice must be shown unless otherwise authorized. (1) Section 17 of the Motor Carrier Act requires that all (g) Unless otherwise authorized by the department, all changes in rates or charges, or in rules or other provisions that affect rates, shall be filed with the Commission department at least thirty (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, Carriers and agents must give thirty (30) days' notice to the public and to the Commission must be given as to department for every tariff publication filed with the Commission department, regardless of whether or not changes are effected thereby by it.~~

~~(2) Rates, charges, rules, or other provisions which that have been filed with the Commission department must be allowed to become effective and remain in effect for a period of at least thirty (30) days before being changed, cancelled, canceled, or withdrawn, unless otherwise authorized by the Commission: department.~~

~~(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 Each carrier has the affirmative duty of filing with the Commission department 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, department's instructions. The receipt and acceptance for filing of a tariff or supplement by the Commission department does not relieve carriers from liability for violation of the act IC 8-2.1-22 or of regulations issued thereunder: by the department.~~

~~(h) Posting of Tariffs. (1) Except as provided herein, each A 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 at which is in charge of a person employed is exclusively employed by the carrier or by it jointly with another carrier and at which freight is household goods are received for transportation all of the tariffs containing rates, charges, classifications, and rules or other provisions applying from, or at, such that station or office subject to the following restrictions or conditions:~~

~~(2) (1) Except as provided herein each of such carriers carrier shall also maintain at its principal or general office a complete file of all tariffs issued by it or by its agents at its principal or general office, including those tariffs in which it concurs.~~

~~(3) (2) 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 those points will are not be required to post such those 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 their tariffs in accordance with this rule.~~

~~(4) (3) 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 **duty to comply** with the Commission department's regulations with regard to posting tariffs. Tariffs issued under such authority must be posted as required by the regulations in this paragraph: **subsection.**

(5) (4) Each file of tariffs shall be kept in complete and accessible form ~~Employees of the~~ **at its headquarters or general offices.** Every carrier shall be required to give any desired ~~requested~~ information contained in such tariffs, to ~~lend~~ **furnish** assistance to seekers of those requesting that information therefrom, and to afford inquirers **give those requesting the information** an opportunity to examine any of such tariffs without requiring the inquirer ~~them~~ to assign any ~~provide~~ a reason, for such desire.

(i) ~~Rejection of tariffs and notices of revocation.~~ (1) Any tariff tendered for filing, which:

(1) fails to give lawful notice of changes in rates, charges, or other provisions ~~which that~~ it proposes to establish; ~~or which~~

(2) fails to meet the requirements of the regulations contained in these rules; or

(3) violates any order of the Commission ~~department~~ or of a court;

is subject to rejection by the Commission. ~~When a tariff is rejected,~~ **department.** If the Commission acting through a designated administrative officer, **department rejects a tariff,** the department 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 that~~ 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." again.~~

(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 ~~department~~ or of a court, or of the regulations in these rules, may be rejected in the same manner as a tariff. ~~and any such~~ **Any** notice of revocation ~~which that~~ 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 p.m.; 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.

SECTION 48. 45 IAC 16-3-26 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-3-26 Contract carrier household good tariffs; compliance with regulations; reissuance of schedule or power of attorney**

Authority: IC 8-2.1-22-3

Authority: IC 8-2.1-22-24

Sec. 26. ~~SCHEDULES OF MOTOR CONTRACT CARRIERS OF PROPERTY.~~ All schedules and supplements thereto filed by contract carriers of ~~property~~ **household goods** 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) this section and sections 27 through 46 of this rule, unless otherwise authorized by special permission of the department.~~ The Commission ~~department~~ may reject any schedule or supplement thereto which that does not comply with these regulations. The Commission ~~department~~ may, for reasons deemed sufficient, **in its discretion,** 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 PT B; filed Feb 15, 1973, 3:00 p.m.; 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.

SECTION 49. 45 IAC 16-3-28 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-3-28 Waiver of regulations; rejection or reissuance of schedules**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22-24

~~Sec. 28. WAIVER OF RULES; REJECTION OF SCHEDULES.~~ (a) ~~Waiver of rules.~~ In response to The department may authorize the waiving of any of these regulations, or the notice requirements of IC 8-2.1-22, upon an application which has been prepared in the manner outlined in Rule 4 and which for changing rates and that 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:

(1) fails to give lawful notice of the change in rates, or other provisions ~~which that it proposes to establish; or which~~

(2) fails to meet the requirements of these regulations; or ~~which~~

(3) violates any order of the ~~Commission~~ department or of a court;

is subject to rejection by the ~~Commission~~ department. When a schedule is rejected, the ~~Commission acting through a designated administrative officer~~ department 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~~ department may at any time and without formal hearing direct the reissue of any schedule for good cause.

*(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 p.m.: 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.*

SECTION 50. 45 IAC 16-3-29 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-3-29 Publication requirements for contract carriers, notice of filing, and posting of schedules**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

~~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~~ department grants relief from the requirements of the Act IC 8-2.1-22 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 that 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:

(1) highway distances; ~~in an agency publication containing~~

(2) rate basis numbers; ~~and in an agency publication containing or~~

(3) the Hazardous Materials Regulations promulgated by the United States Department of Transportation to govern the transportation of explosives or other dangerous articles. (See Rule 3) **section 30 of this rule.**

(c) ~~Number of copies filed.~~ Issuing carriers shall file with the ~~Commission three (3) copies~~ department **one (1) copy** of each schedule, supplement, or revised page of a schedule, and **one (1) copy of each contract** for the ~~Commission's~~ department's confidential file. ~~one copy of each contract.~~ All Copies shall be included in one (1) 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 ~~The~~ 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 department may decline to accept for filing any publication which that 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.

\_\_\_\_\_  
\_\_\_\_\_  
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)~~ **(d)** Each new rate or charge and each reduced rate or charge, also each new or changed rule, regulation, or practice ~~which that~~ effects a reduction in rates or charges or ~~which that~~ increases the value of the service shall be published in a schedule ~~which that~~ shall be posted and filed with the ~~Commission~~ **department** at its office, at least **thirty (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 that~~ 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 in a schedule ~~which that~~ shall be posted and filed with the ~~Commission~~ **department** at least one **(1)** 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. (e)~~ 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~~ **the department** 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, (f)~~ Every contract carrier shall keep available for public inspection a complete file of all its effective schedules ~~Upon request assistance at its headquarters or general offices. Assistance~~ shall be furnished to anyone seeking information from those schedules ~~upon request.~~

*(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 p.m.; 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.*

SECTION 51. 45 IAC 16-3-33 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-3-33 Change of name or transfer of operation; adoption notice; adoption supplement**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-25

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 then operate the properties, shall file with the ~~Commission~~ **department** and post an adoption notice, ~~numbered in its P.S.C.I. series as follows:~~ **in accordance with the department's instructions.**

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 **immediately** with the ~~Commission~~ **department** and, if possible, on or before the effective date shown therein, **in the adoption notice.**

~~(b) Adoption supplement.~~ In addition to the adoption notice, the new carrier shall immediately file with the ~~Commission~~ **department** 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. \_\_\_\_\_ **in accordance with the department's instructions.**

~~(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 p.m.: 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.

SECTION 52. 45 IAC 16-3-34 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-3-34 Partial transfer of operation**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-25

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 thirty (30) days' notice carrying this cancellation notice: in accordance with the department's instructions.~~

~~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 concurrently issue and file at the same time, to become becoming 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 on thirty (30) days' notice.~~

(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 p.m.: 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.

SECTION 53. 45 IAC 16-3-35 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-3-35 Receivership; definition; filing requirements; termination**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22

Sec. 35. ~~ASSUMPTION OF OPERATING CONTROL BY A RECEIVER. NOTE:~~ (a) As used in Rule 8 this section and Rule 9 section 36 of this rule, the term "receiver" means a receiver, trustee, executor, administrator, assignee, or other similar party.

(b) ~~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 immediately by a receiver when he the receiver 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: in accordance with the department's instructions. 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, the carrier shall also file supplements as prescribed in Rule 6 section 33 of this rule and the department's instructions.~~

(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 p.m.: 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.

SECTION 54. 45 IAC 16-3-36 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-3-36 Receivership; adoption notices and supplements**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22

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, however, if the department requires prior approval by the Commission department of such the change is required, the effective date shown shall not antedate predate 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. (b) Adoption notices and special supplements issued under the authority of Rule 6 to Rule 9 sections 33 through 36 of this rule 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 p.m.; 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.

SECTION 55. 45 IAC 16-3-41 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-3-41 Binding estimates by household goods carriers; applicability**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-17-9; IC 8-2.1-22-23

Sec. 41. In accordance with ~~IC 8-2-7-26~~ IC 8-2.1-22-23, 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)~~ IC 8-2.1-17-9. A carrier electing to offer binding estimates must do so in accordance with 170 IAC 2-3-41 sections 41 through 170 IAC 2-3-46 46 of this rule and the department's instructions.

(Department of State Revenue; 170 IAC 2-3-41; filed Jan 27, 1986, 3:48 p.m.; 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.

SECTION 56. 45 IAC 16-3-43 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-3-43 Written binding estimates**

Authority: IC 8-2.1-22-3

Affected: IC 8-2.1-22-23

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, PSGL 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 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 p.m.: 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.

SECTION 57. 45 IAC 16-3-44 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-3-44 Variances from estimate**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-23

Sec. 44. (a) ~~At the time of the~~ **Before a carrier starts a move, the shipment will must** 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~~ **department** and charge the customer the lower of **amount between** the actual total charges or the estimate.

~~(e)~~ (b) If at the time of the move the shipper requests **from the carrier** 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))~~. **in accordance with the department's instructions.**

~~(d)~~ (c) 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 p.m.: 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.

SECTION 58. 45 IAC 16-3-45 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-3-45 Carrier's liability under written binding estimate**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-23

Sec. 45. (a) The carrier's liability **must be explicitly stated in the written binding estimate** when performing a transportation movement under a written binding estimate **as prescribed by the department's written instructions.** ~~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 p.m.; 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.~~

SECTION 59. 45 IAC 16-3-46 IS AMENDED TO READ AS FOLLOWS:

**45 IAC 16-3-46 Publication of tariff provisions in binding estimates**

**Authority:** IC 8-2.1-22-3

**Affected:** IC 8-2.1-22-23

~~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~~  
**cancelling** a binding estimate must be filed on not less than thirty (30) days' notice to the public and the commission: **department.**

~~(Department of State Revenue; 170 IAC 2-3-46; filed Jan 27, 1986, 3:48 p.m.; 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.~~

SECTION 60. THE FOLLOWING ARE REPEALED: 45 IAC 16-1-1; 45 IAC 16-1-6; 45 IAC 16-1-7; 45 IAC 16-1-9; 45 IAC 16-1-15; 45 IAC 16-2-3; 45 IAC 16-2-4; 45 IAC 16-2-5; 45 IAC 16-2-9; 45 IAC 16-2-10; 45 IAC 16-2-11; 45 IAC 16-2-12; 45 IAC 16-2-13; 45 IAC 16-2-14; 45 IAC 16-2-15; 45 IAC 16-2-16; 45 IAC 16-3-2; 45 IAC 16-3-4; 45 IAC 16-3-5; 45 IAC 16-3-6; 45 IAC 16-3-7; 45 IAC 16-3-17; 45 IAC 16-3-21; 45 IAC 16-3-22; 45 IAC 16-3-23; 45 IAC 16-3-24; 45 IAC 16-3-25; 45 IAC 16-3-27; 45 IAC 16-3-30; 45 IAC 16-3-31; 45 IAC 16-3-32; 45 IAC 16-3-37; 45 IAC 16-3-38; 45 IAC 16-3-39; 45 IAC 16-3-40; 45 IAC 16-3-42.

Notice of Public Hearing

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