

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

LOUISIANA PUBLIC SERVICE COMMISSION EX PARTE

DOCKET NO. R-32437 To review and formulate possible changes to General Order dated July 1, 1921 and General Order dated February 20, 1957, pertaining to the rates, fares, charges, and tariffs for the transportation of passengers, household goods, waste and saltwater by Common Carriers within the state of Louisiana.

*(Amends and Supersedes General Order dated July 1, 1921
and General Order dated February 20, 1957)*

Purpose

The Louisiana Public Service Commission (“LPSC” or “Commission”) initiated this Rulemaking to consider amendments to General Order dated July 1, 1921 and General Order dated February 20, 1957, pertaining to the rates, fares, charges, and tariffs for the transportation of passengers, household goods, waste and saltwater by Common Carriers within the state of Louisiana. At the Commission’s Business and Executive Session held on May 23, 2012, Staff was directed to review the rules and regulations currently in effect for rate changes and the contents of a Common Carrier’s tariff on file with the Commission.

Pursuant to the directive Staff investigated the Commission’s current rules and regulations, including the General Orders referenced above, and herein recommends amendments to the current procedures in order to effectively adjust to the current marketplace. As will be detailed below, the primary recommended changes include: 1) A Common Carrier may include a range of rates, fares or charges in the Common Carrier’s tariff instead of an established singular rate, fare or charge, 2) If the effective date of the Common Carrier’s last rate increase occurred more than three (3) years prior to the application date of the Common Carrier’s application for an increase in rates, and the Common Carrier is not seeking to increase its rates in excess of 10% from the current tariff rates on file with the Commission, then the application is subject to a streamlined approval procedure, 3) A Common Carrier that has a tariff on file with the Commission that has not been updated or subject to a rate increase in over ten (10) years is authorized to file an updated tariff with a maximum increase in rates, fares or charges of 25% within six (6) months of the effective date of this General Order, and 4) A Common Carrier that has a tariff on file with the Commission may decrease its rates, fares or charges by filing an updated tariff with the Commission, but will be subject to all provisions of

this General Order if the Common Carrier seeks to increase its rates, fares or charges at a later date.

These changes to the Commission's current rules and regulations are designed to streamline the approval process for small and infrequent rate increases that are related to the rising cost of doing business while also allowing Common Carriers to properly react to market conditions by clarifying that a range of applicable rates, fares and charges can be included in the tariff which eliminates a burden on the Common Carrier while participating in the market.

Jurisdiction

This Rulemaking was established pursuant to the following Constitutional and Legislative authority:

Article IV, Section 21 (B) of the Louisiana Constitution provides in pertinent part:

The [public service] commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

La. R.S. 45:163 provides in pertinent part:

A. The [public service] commission has the power and authority necessary to supervise, govern, regulate and control common motor carriers, other than a contract carrier by bus, which transport household goods, passengers, or waste and to fix reasonable and just rates, fares, tolls, or charges for the commodities furnished or services rendered by such motor carriers. The commission shall prescribe rules and regulations governing the operation of contract carriers in competition with common carriers, and prescribe minimum rates, fares and charges to be collected by such carriers.

B. The power, authority, and duties of the commission shall include all matters connected with the service to be given or rendered, the records to be kept by motor carriers, and except as otherwise provided, the power to adopt and enforce such reasonable rules, regulations, and modes of procedure as it may deem proper for the discharge of its duties, to summon and compel the attendance of witnesses, to swear witnesses, to compel the production of books and papers, to take testimony under commission and punish for contempt as fully as is provided for by law by the district courts, and to prescribe and require the furnishing and filing of tariffs and schedules.

In addition to the Constitutional and Legislative Authority contained above, this Rulemaking was initiated to amend the rules and regulations of the Commission as contained in General Order dated July 21, 1921 and General Order dated February 20, 1957.

Background

At the Commission's Business and Executive Session held on May 23, 2012, Staff was directed to review the procedures currently in effect for rate changes and the presently required contents of a Common Carrier's tariff on file with the Commission.

General Order dated July 21, 1921 requires in pertinent part:

"...All of the common carriers... shall continue to so issue, publish and file their said rates, fares, charges, tolls, tariffs, classifications and rules and regulations until further ordered."

"...That no rates, classifications or charges for the transportation of property or passengers within this state shall be changed or reduced without the authority of the Commission, and all applications for changes in rates or classifications shall be filed with the Commission and be accompanied by a statement of the existing and proposed rates, and all reasons in support of the proposed changes, provided that nothing herein shall be construed as authorizing any common carrier to charge less for the transportation of passengers or property for a longer than for shorter distances, except under special permission, granted, after investigation, by the Commission, and provided that the rate or charge to be made is reasonably compensatory for the distance."

General Order dated February 20, 1957 requires in pertinent part:

"No change shall be made in rates, fares and charges or joint rates, fares and charges which have been filed and published by any common carrier in compliance with the requirements of the Commission, except after fifteen days notice to the Commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection."

This General Order amends the current procedures of the Commission in order to allow for flexibility in the filing of tariffs by Common Carriers of passengers, household goods, waste and saltwater, and the description of rates, fares and charges contained in said tariffs. Current market conditions necessitate the review by Staff and this General Order simplifies and reduces the burden currently placed on Common Carriers across the state in regards to the filing and content requirements of a Common Carrier's tariff.

Initially, a Proposed Order was published in the Commission's Bulletin dated July 20, 2012. The deadline for filing interventions and specific comments was August 6, 2012. A Technical Conference was held on August 9, 2012. Following the Technical Conference, Staff considered all comments made therein and filed a final Proposed Order into the record of the docket on August 20, 2012. The Proposed Order filed into the record on August 20, 2012 was then placed on the Agenda for the Commission's Business and Executive Session held on September 12, 2012.

Staff's Recommendation

Staff recommended that the following rules and regulations be adopted:

All Common Carriers, of passengers, household goods, waste and saltwater, shall continue to comply with the requirements of General Order dated July 21, 1921 and General Order dated February 20, 1957, to the extent that the provisions of those General Orders are not affected by this General Order.

Any Common Carrier providing the transportation of passengers, household goods, waste and saltwater within the state of Louisiana that is subject to the jurisdiction of the Commission, shall continue to file an application with the Commission for any changes in rates, fares or charges, subject to the following modifications:

- I. A Common Carrier is hereby authorized to include a range of rates, fares or charges in the Common Carrier's tariff instead of an established singular rate, fare or charge. The tariff shall provide reasonable criteria for the upward or downward movement within the established range. This authorization is subject to Staff's determination that the range and criteria of applicable rates, fares or charges is reasonable for the current market conditions.
- II. If the effective date of the Common Carrier's last increase in rates occurred more than three (3) years prior to the application date of the Common Carrier's current application for a change in rates, fares or charges, and the Common Carrier is not seeking to increase its rates in excess of 10% from the current tariff rates on file with the Commission, then the application is subject to the following approval procedure.
 - A. The application shall be published in the Commission's Bulletin for fifteen (15) days to allow for intervention and public comment.
 - B. If an intervention is not filed within the fifteen (15) day period established in Subsection (A), then Commission Staff shall approve the rate increase and said increase shall become effective upon the Common Carrier's filing of the approved tariff. If an intervention is received then the application shall be subject to approval by the Commission at a Business & Executive Session.
 - C. Upon request by any Commissioner, any application acted upon by Staff in the procedure established in subsections (A) and (B) herein, may be reviewed by the full Commission at a Business & Executive Session.
- III. If the filing date of the Common Carrier's current application for an increase in rates was three (3) years or less since the effective date of the Common Carrier's last rate increase, or the Common Carrier is seeking to increase its rates in excess of 10% from the current tariff rates on file with the Commission, then the approval of the application is subject to a complete rate review by Staff and approval by the full Commission at a Business & Executive Session. In the event of a declaration by the Commission that an extraordinary circumstance has occurred, applications that are subject to this section, may be processed and approved by Staff.

- IV. Any Common Carrier that has a tariff on file with the Commission that has not been updated or subject to a rate increase in over ten (10) years is authorized to file an updated tariff with a maximum increase in rates, fares or charges of 25% within six (6) months of the effective date of this General Order. A Common Carrier may only utilize this provision one (1) time by filing with the Commission an updated tariff subject to Staff approval. Any filing made after the six (6) month deadline shall not be effective. Any application that is filed pursuant to this section is subject to the following approval procedure.
- A. The application shall be published in the Commission's Bulletin for fifteen (15) days
 - B. Following the fifteen (15) day intervention period, Commission Staff shall approve the rate increase if no comments are received and said increase shall become effective upon the Common Carrier's filing of the approved tariff.
 - C. In the event that any comments are received by Staff in reference to a filing made under this provision, Staff will consider those comments in their analysis of the rate increase.
 - D. Upon request by any Commissioner, any application acted upon by Staff in the procedure established herein, may be reviewed by the full Commission at a Business & Executive Session.
- V. A Common Carrier that has a tariff on file with the Commission may decrease its rates, fares or charges by filing an updated tariff with the Commission, but will be subject to all provisions of this General Order if the Common Carrier seeks to increase its rates, fares or charges at a later date.

Staff further recommended that this General Order be effective immediately and that the provisions contained therein be applicable to all applications currently pending before the Commission.

Commission Consideration

This matter was considered at the Commission's Business and Executive Session held on September 12, 2012. On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the Proposed General Order filed into the record of this docket on August 20, 2012.

IT IS THEREFORE ORDERED THAT:

All Common Carriers, of passengers, household goods, waste and saltwater, shall continue to comply with the requirements of General Order dated July 21, 1921 and General Order dated February 20, 1957, to the extent that the provisions of those General Orders are not affected by this General Order.

Any Common Carrier providing the transportation of passengers, household goods, waste and saltwater within the state of Louisiana that is subject to the jurisdiction of the Commission, shall continue to file an application with the Commission for any changes in rates, fares or charges, subject to the following modifications:

- I. A Common Carrier is hereby authorized to include a range of rates, fares or charges in the Common Carrier's tariff instead of an established singular rate, fare or charge. The tariff shall provide reasonable criteria for the upward or downward movement within the established range. This authorization is subject to Staff's determination that the range and criteria of applicable rates, fares or charges is reasonable for the current market conditions.
- II. If the effective date of the Common Carrier's last increase in rates occurred more than three (3) years prior to the application date of the Common Carrier's current application for a change in rates, fares or charges, and the Common Carrier is not seeking to increase its rates in excess of 10% from the current tariff rates on file with the Commission, then the application is subject to the following approval procedure.
 - A. The application shall be published in the Commission's Bulletin for fifteen (15) days to allow for intervention and public comment.
 - B. If an intervention is not filed within the fifteen (15) day period established in Subsection (A), then Commission Staff shall approve the rate increase and said increase shall become effective upon the Common Carrier's filing of the approved tariff. If an intervention is received then the application shall be subject to approval by the Commission at a Business & Executive Session.
 - C. Upon request by any Commissioner, any application acted upon by Staff in the procedure established in subsections (A) and (B) herein, may be reviewed by the full Commission at a Business & Executive Session.
- III. If the filing date of the Common Carrier's current application for an increase in rates was three (3) years or less since the effective date of the Common Carrier's last rate increase, or the Common Carrier is seeking to increase its rates in excess of 10% from the current tariff rates on file with the Commission, then the approval of the application is subject to a complete rate review by Staff and approval by the full Commission at a Business & Executive Session. In the event of a declaration by the Commission that an extraordinary circumstance has occurred, applications that are subject to this section, may be processed and approved by Staff.
- IV. Any Common Carrier that has a tariff on file with the Commission that has not been updated or subject to a rate increase in over ten (10) years is authorized to file an updated tariff with a maximum increase in rates, fares or charges of 25% within six (6) months of the effective date of this General Order. A Common Carrier may only utilize this provision one (1) time by filing with the Commission an updated tariff subject to Staff approval. Any filing made after the six (6) month deadline shall not be effective. Any application that is filed pursuant to this section is subject to the following approval procedure.
 - A. The application shall be published in the Commission's Bulletin for fifteen (15) days.
 - B. Following the fifteen (15) day intervention period, Commission Staff shall approve the rate increase if no comments are received and said increase shall become

effective upon the Common Carrier's filing of the approved tariff.

- C. In the event that any comments are received by Staff in reference to a filing made under this provision, Staff will consider those comments in their analysis of the rate increase.
 - D. Upon request by any Commissioner, any application acted upon by Staff in the procedure established herein, may be reviewed by the full Commission at a Business & Executive Session.
- V. A Common Carrier that has a tariff on file with the Commission may decrease its rates, fares or charges by filing an updated tariff with the Commission, but will be subject to all provisions of this General Order if the Common Carrier seeks to increase its rates, fares or charges at a later date.

This General Order shall be effective immediately and the provisions contained herein are applicable to all applications currently pending before the Commission.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA

October 2, 2012

/S/ FOSTER L. CAMPBELL

DISTRICT V
CHAIRMAN FOSTER L. CAMPBELL

/S/ JAMES M. FIELD

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VICE CHAIRMAN JAMES M. FIELD

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COMMISSIONER ERIC F. SKRMETTA

/S/ LAMBERT C. BOISSIERE

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EVE KAHAO GONZALEZ
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/S/ CLYDE C. HOLLOWAY

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