

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

LOUISIANA PUBLIC SERVICE COMMISSION EX PARTE

DOCKET NO. R-32668 - To review and formulate possible changes to General Order dated March 9, 1965 pertaining to requirements applicable to estimates and charges of household goods carriers.

(Amends and Supersedes General Order dated March 9, 1965)

Purpose

The Louisiana Public Service Commission ("LPSC" or "Commission") initiated this Rulemaking to consider amending General Order dated March 9, 1965 pertaining to the requirements applicable to estimates and charges of intrastate movers of household goods (hereinafter "household goods carriers"). The Commission directed Staff to conduct a general review of the Commission's regulation of household goods carriers and authorized Staff to initiate any Rulemaking dockets should Staff conclude that changes to the current rules and regulations are necessary.

Pursuant to the directive, Staff reviewed the current Commission General Orders applicable to household goods carriers. During this review, Staff analyzed General Order dated March 9, 1965 and determined that the General Order was outdated and that changes are required in order to ensure that the Commission effectively regulates household goods carriers and continues to protect customers. Staff's recommendations in this General Order are limited in nature and narrowly focused on General Order dated March 9, 1965. Additional Rulemaking dockets may be opened in the future that contain additional recommendations for the industry.

Staff filed a Proposed General Order for public review and comment in the Commission's Bulletin dated January 4, 2013. Therein, Staff requested comments by February 1, 2013. However, Staff has left the docket open for comments to be filed past the established deadline. The only comments received by Staff were filed by the Louisiana Household Goods Carriers Association, Inc. ("LHGCA"). The LHGCA's comments were filed into the record on March 26, 2013. Staff reviewed the comments and considers the recommended changes herein.

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. 45:164

E.(1) All intrastate movers of household goods shall be required to apply for and secure a common carrier certificate from the Louisiana Public Service Commission, shall secure and maintain the insurance policies required by the Louisiana Public Service Commission for movers of household goods, shall comply with all other requirements of the Louisiana Public Service Commission, shall carry motor truck cargo carriers insurance of at least fifty thousand dollars per truck and one hundred thousand dollars per catastrophe, shall secure and maintain workers' compensation insurance, and shall file a surety bond by a qualified surety company with the Louisiana Public Service Commission in the amount of five thousand dollars, prior to engaging in any activities related to moving household goods.

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 March 9, 1965.

Background/Analysis

At the Business and Executive Session held on October 24, 2012, the Commission directed Staff to initiate an investigation into the Commission's regulation and jurisdiction as it applies to the household goods industry. Staff's analysis of General Order dated March 9, 1965 is the initial step in complying with this directive. General Order dated March 9, 1965 reads in pertinent part:

All motor carriers operating under certificates of public convenience and necessity authorizing the transportation of household goods will, when giving the customer an estimate of the cost of a move, be particular to inform him of all charges which will be assessed against him under the tariff, including packing and other incidental charges.

In cases where a customer complains that the final charges assessed for a move are more than 15% in excess of the original estimate given to the customer, carrier will be cited by the Commission to appear and show cause why he should not be found guilty of improper operation, and suitably fined.

Following an analysis of the above cited language, Staff concluded that General Order dated March 9, 1965 was insufficient to properly protect household goods carriers that abide by current Commission rules and regulations and customers who rely on the Commission for protection in the industry. Additionally, as of 2004, household goods carriers are no longer required to obtain a certificate of public convenience and necessity. Staff's recommendations as contained in the Proposed General Order filed on January 4, 2013 are analyzed below.

Staff recommended that household goods carriers be required to provide all customers with a written estimate prior to conducting moving services for the customer. This estimate must be signed by a representative of the household goods carrier and the customer. A copy of the written estimate, signed by both parties, shall be maintained by the household goods carrier for one (1) year. This requirement ensures that in the event of a dispute the Commission will be able to request the written estimate from the household goods carrier. Further, by requiring that a household goods carrier maintain the written estimate, the Commission will possess an efficient method to initiate an investigation into any customer complaints. Some household goods carriers already provide a written estimate and therefore this requirement is not overly burdensome on any other household goods carrier. Staff further recommended that any household goods carrier that is unable to produce a written estimate, signed by both parties, to the Commission shall be subject to citation and possible fine of not less than \$100.00 and not more than \$10,000.00 after a public hearing.

As contained in the above cited language, General Order dated March 9, 1965 allows for the final charges of a household goods move to be up to 15% greater than the original estimate. Staff acknowledged that there are variables in the household goods moving industry and that all circumstances are not able to be accounted for at the time an estimate is provided. Accordingly, Staff recommended that the current range of 15% be increased to 20%. However, Staff recommended that a written explanation be provided by the household goods carrier to the customer as to why the original estimate was exceeded. The household goods carrier shall maintain this written explanation in a manner similar to the written estimate for one (1) year. Staff recommended that any household goods carrier that is unable to produce a written explanation for exceeding the original estimate to the Commission shall be subject to citation and possible fine of not less than \$100.00 and not more than \$10,000.00 after a public hearing. As part of the recommendation, Staff concluded that any household goods carrier that submits final charges to the customer that exceed the written estimate by 20%, be subject to citation and possible fine of not less than \$100.00 and not more than \$10,000.00 after a public hearing.

For the Commission to effectively investigate and regulate the final charges of the household goods carrier and the relation of those final charges to the written estimate described above, Staff recommended that the household goods carrier shall maintain a final invoice for one (1) year from the date of completion of the household goods moving services. The final invoice

shall be signed by a representative of the household goods carrier and the customer. Staff recommended that any household goods carrier that is unable to produce a final invoice, signed by both parties, to the Commission shall be subject to citation and possible fine of not less than \$100.00 and not more than \$10,000.00 after a public hearing. Any household goods carrier that submits an invoice determined by the Commission to be fraudulent shall be subject to an additional charge and fine of not less than \$100.00 and not more than \$10,000.00 after a public hearing.

It was found by Staff that these recommendations will increase the Commission's ability to protect the customer when dealing with a household goods carrier while also providing protection for reliable household goods carriers that currently comply with Commission requirements.

Comments and Staff Response

All interested parties were provided an opportunity to intervene and file comments in this docket. The only comments filed into the docket were filed by the LHGCA as described above. The LHGCA is an association comprised of transporters of household goods operating and doing business in Louisiana and subject to the jurisdiction of the Commission. Commission Staff has interacted with the LHGCA and its member carriers for a long period of time without any major issue. Commission Staff reviewed the comments filed on March 26, 2013, and took all of the suggestions presented by the LHGCA under consideration.

Initially, the LHGCA comments that language should be included in the General Order to allow a customer to waive the right to a written estimate. In supporting this position, the LHGCA comments, "In many instances, due to logistics, time considerations, etc. many moving arrangements are made over the telephone/internet, etc. As such, in order to meet the needs of the customer, there may not be adequate time for a carrier to perform the inspections necessary to develop a written estimate." (Comments, page 3). Additionally, the LHGCA correctly points out that there are times where a customer is more interested in moving forward with the move and a verbal estimate may be sufficient for the requirements of that customer. Accordingly, on the issue of providing a written estimate, Staff herein recommends allowing for a written waiver to be signed by the customer wherein the customer unambiguously waives their right to a written estimate prior to the commencement of moving services by the household goods carrier. The

language may be provided by the household goods carrier, but at a minimum, the customer must be made aware in the signed waiver that they have the right to a written estimate under the rules and regulations of the Louisiana Public Service Commission and they have chosen to waive that right. If a waiver is presented to the Staff that does not meet these minimum criteria, then it will be deemed insufficient and the matter will be treated as if no waiver was provided.

The LHGCA next addresses the requirement in Staff's recommendation that a household goods carrier may exceed a written estimate by up to 20% only with a written explanation. In their comments, the LHGCA recommends that Staff draft language that more closely resembles the United States Department of Transportation's ("USDOT") stance on the issue. Staff agrees that this change is in the best interest of the efficient operations of commerce and maintains the protection necessary for customers. Accordingly, Staff recommends that the final invoice may exceed a written estimate by up to 10% without further documentation. Consistent with the USDOT position, if the final invoice exceeds the written estimate by more than 10%, the household goods carrier must relinquish possession of the customer's goods upon payment of the written estimate plus 10%. The household goods carrier must maintain a written document detailing the time and place that the customer's possessions were relinquished to the customer pursuant to this rule. A failure to provide an authentic document signed by a representative of the household goods carrier is a violation of this General Order. This amendment will address an issue that has plagued the Commission in the past, specifically hostage loads taken by household goods carriers who have purposefully provided a low initial estimate and exceeded that estimate in a final invoice.

In the event that a household goods carrier's final invoice exceeds the written estimate by greater than 10%, but less than 20%, a written explanation shall be provided to the customer and maintained by the household goods carrier for one (1) year. The written explanation for exceeding the estimate by greater than 10% shall be available for inspection by the Commission. Failure to violate any of the terms set forth herein will result in a fine of no less than \$100.00 and not more than \$10,000.00 after a public hearing.

Lastly, the comments address the provision that no household goods carrier may exceed an estimate by greater than 20%. The LHGCA argues that this should serve as a general rule while a household goods carrier should be provided an opportunity to come before the Commission to demonstrate why the invoice exceeded the estimate by greater than 20%. Staff

agrees that an absolute rule may not account for all of the variables that can arise during the process of a move.

Accordingly, upon a complaint by a customer, Staff recommends that a household goods carrier shall be required to provide any and all documentation to the Staff in order to justify the final invoice. In the event that the documentation is deficient or does not justify the additional cost, Staff will issue a Citation consistent with past practices, and the household goods carrier will be required to appear at a public hearing to show cause why they should not be fined for violating this General Order. At the public hearing, testimony from both the customer and the household goods carrier may be provided before the Commission's Administrative Hearings Division.

Conclusion

This General Order amends and supersedes General Order dated March 9, 1965 pertaining to the requirements applicable to estimates and charges of household goods carriers. Commission Staff recommends that household goods carriers be required to provide customers a written estimate or a written waiver as described herein, to be signed by a representative of the household goods carrier and the customer, prior to conducting any moving service. This written estimate (or waiver) shall be maintained by the household goods carrier for up to one (1) year.

Commission Staff further recommends that the final invoice may exceed a written estimate by up to 10% without further documentation in order to account for variables in the moving process. However, if the final invoice exceeds the written estimate by more than 10%, the household goods carrier must relinquish possession of the customer's household goods upon payment of the invoice plus 10%. In the event that a household goods carrier's final invoice exceeds the written estimate by greater than 10%, but less than 20%, a written explanation shall be provided to the customer and maintained by the household goods carrier for inspection by the Commission for one (1) year. Lastly, when a final invoice exceeds the written estimate by more than 20%, the household goods carrier is required to provide documentation to Staff and may be subject to Citation and a public hearing.

In order for the Commission to effectively investigate and regulate the final charges of the household goods carrier and the relation of those final charges to the written estimate, the

household goods carrier shall maintain a final invoice, for one (1) year from the date of completion of the household goods moving services.

The Proposed General Order was published in the Commission's January 4, 2013 Bulletin. The deadline for filing interventions and specific comments was originally set for February 1, 2013 but was extended to allow for additional public comment. The Second Proposed General Order was filed into the record on May 8, 2013.

Staff's Recommendation

Consistent with the foregoing, Staff recommends that the following rules and regulations be adopted and made applicable to all intrastate movers of household goods ("household goods carriers") subject to the regulation of the Louisiana Public Service Commission:

- I. All household goods carriers are required to provide customers of regulated moves as set forth in La. R.S. 45:164 (E)(3) with a written estimate prior to conducting moving services for the customer except as provided in section B).
 - A) The written estimate shall be signed by a representative of the household goods carrier and the customer. The written estimate shall include all of the expected charges for household goods moving services, including all charges which will be assessed under the tariff on file with the Louisiana Public Service Commission, including any incidental charges.
 - B) In the event that the customer elects to forego a written estimate, a written waiver must be signed by a representative of the household goods carrier and the customer. The waiver must state unambiguously that the customer is entitled to a written estimate per the rules and regulations of the Louisiana Public Service Commission and has chosen to waive that right.
 - C) All household goods carriers shall maintain the written estimate provided to a customer, or the signed waiver, for a period of one (1) year from the date of completion of the household goods moving services. The written estimate or waiver shall be provided to the Louisiana Public Service Commission upon request.
- II. The final invoice for a regulated move provided by a household goods carrier may exceed a written estimate by up to 10% without further documentation.
 - A) If the final invoice exceeds the written estimate by more than 10%, the household goods carrier must relinquish possession of the customer's household goods upon payment of the written estimate plus 10%.
 - i) The household goods carrier must maintain a written document, signed by a representative of the household goods carrier, for one (1) year detailing the time and place that the customer's possessions were relinquished to the customer. This document must be available for inspection by the Louisiana Public Service Commission.
 - ii) The customer will be responsible for full payment upon receipt of the final invoice. The customer is afforded the protections of this General Order should the final invoice violate any portion thereof, including but not limited to Section II B) and Section III.

- B) In the event that a household goods carrier's final invoice exceeds the written estimate by greater than 10%, but not more than 20%, a written explanation shall be provided to the customer and maintained by the carrier for one (1) year. The written explanation for exceeding the estimate by greater than 10% shall be available for inspection by the Commission.
- III. A household goods carrier may not exceed the written estimate by greater than 20% except as provided herein. Upon a complaint by a customer that the final invoice has exceeded the written estimate by more than 20%, the household goods carrier shall be required to provide any and all documentation to Staff in order to justify the final invoice. In the event that the documentation is deficient or does not justify the additional cost, Staff will issue a Citation and the household goods carrier will be required to appear at a public hearing to show cause why they should not be fined for violating this General Order. At the public hearing, testimony from both the customer and the household goods carrier may be provided before the Commission's Administrative Hearings Division.
- IV. All household goods carriers shall maintain the final invoice provided to a customer for a period of one (1) year from the date of completion of the household goods moving services. The final invoice shall be signed by a representative of the household goods carrier and the customer. In the event that the customer does not sign the final invoice, a signed statement from a representative of the household goods carrier shall be attached to the invoice documenting why the invoice was not signed by the customer. The final invoice shall be provided to the Louisiana Public Service Commission upon request.
- V. Any household goods carrier who provides an estimate, invoice, waiver, or any other document to the Louisiana Public Service Commission which is determined to be fraudulent by Commission Staff, shall be subject to the penalties set forth in Paragraph VI.
- VI. Whoever is found to violate this General Order after a public hearing shall be fined by the Commission not less than one hundred dollars (\$100.00) nor more than ten thousand dollars (\$10,000.00) for each violation.
- VII. The provisions of this General Order do not eliminate any other Commission requirements for any household goods carrier under other relevant Commission orders, rules, regulations or laws unless they conflict with this Order.

This General Order shall be effective immediately and applicable to all household goods moves starting thirty (30) days from the date of this General Order.

Commission Action

The Commission considered this matter at the Business and Executive Session held on June 26, 2013. On motion of Commissioner Holloway and seconded by Commissioner Boissiere, with Commissioners Angelle and Skrmetta concurring and Commissioner Campbell temporarily absent, the Commission voted to accept the Second Proposed General Order filed into the record on May 8, 2013 with all the conditions contained therein.

IT IS THEREFORE ORDERED:

The following rules and regulations are adopted and made applicable to all intrastate movers of household goods ("household goods carriers") subject to the regulation of the Louisiana Public Service Commission

- I. All household goods carriers are required to provide customers of regulated moves as set forth in La. R.S. 45:164 (E)(3) with a written estimate prior to conducting moving services for the customer except as provided in section B).
 - A) The written estimate shall be signed by a representative of the household goods carrier and the customer. The written estimate shall include all of the expected charges for household goods moving services, including all charges which will be assessed under the tariff on file with the Louisiana Public Service Commission, including any incidental charges.
 - B) In the event that the customer elects to forego a written estimate, a written waiver must be signed by a representative of the household goods carrier and the customer. The waiver must state unambiguously that the customer is entitled to a written estimate per the rules and regulations of the Louisiana Public Service Commission and has chosen to waive that right.
 - C) All household goods carriers shall maintain the written estimate provided to a customer, or the signed waiver, for a period of one (1) year from the date of completion of the household goods moving services. The written estimate or waiver shall be provided to the Louisiana Public Service Commission upon request.
- II. The final invoice for a regulated move provided by a household goods carrier may exceed a written estimate by up to 10% without further documentation.
 - A) If the final invoice exceeds the written estimate by more than 10%, the household goods carrier must relinquish possession of the customer's household goods upon payment of the written estimate plus 10%.
 - i) The household goods carrier must maintain a written document, signed by a representative of the household goods carrier, for one (1) year detailing the time and place that the customer's possessions were relinquished to the customer. This document must be available for inspection by the Louisiana Public Service Commission.
 - ii) The customer will be responsible for full payment upon receipt of the final invoice. The customer is afforded the protections of this General Order should the final invoice violate any portion thereof, including but not limited to Section II B) and Section III.
 - B) In the event that a household goods carrier's final invoice exceeds the written estimate by greater than 10%, but not more than 20%, a written explanation shall be provided to the customer and maintained by the carrier for one (1) year. The written explanation for exceeding the estimate by greater than 10% shall be available for inspection by the Commission.
- III. A household goods carrier may not exceed the written estimate by greater than 20% except as provided herein. Upon a complaint by a customer that the final invoice has exceeded the written estimate by more than 20%, the household goods carrier shall be required to provide any and all documentation to Staff in order to justify the final invoice. In the event that the documentation is deficient or does not justify the additional cost, Staff will issue a Citation and the household goods carrier will be required to appear at a public hearing to show cause why they should not be fined for violating this General Order. At the public hearing, testimony from both the customer

and the household goods carrier may be provided before the Commission's Administrative Hearings Division.

- IV. All household goods carriers shall maintain the final invoice provided to a customer for a period of one (1) year from the date of completion of the household goods moving services. The final invoice shall be signed by a representative of the household goods carrier and the customer. In the event that the customer does not sign the final invoice, a signed statement from a representative of the household goods carrier shall be attached to the invoice documenting why the invoice was not signed by the customer. The final invoice shall be provided to the Louisiana Public Service Commission upon request.
- V. Any household goods carrier who provides an estimate, invoice, waiver, or any other document to the Louisiana Public Service Commission which is determined to be fraudulent by Commission Staff, shall be subject to the penalties set forth in Paragraph VI.
- VI. Whoever is found to violate this General Order after a public hearing shall be fined by the Commission not less than one hundred dollars (\$100.00) nor more than ten thousand dollars (\$10,000.00) for each violation.
- VII. The provisions of this General Order do not eliminate any other Commission requirements for any household goods carrier under other relevant Commission orders, rules, regulations or laws unless they conflict with this Order.

This General Order shall be effective immediately and applicable to all household goods moves starting thirty (30) days from the date of this General Order.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA**

July 12, 2013

/S/ ERIC F. SKRMETTA
DISTRICT I
CHAIRMAN ERIC F. SKRMETTA

/S/ CLYDE C. HOLLOWAY
DISTRICT IV
VICE CHAIRMAN CLYDE C. HOLLOWAY

/S/ FOSTER L. CAMPBELL
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

/S/ LAMBERT C. BOISSIERE
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/S/ SCOTT A. ANGELLE
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