

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Rule and Regulation No. 206
Public Service Commission, on)
its own motion, seeking to) ORDER ADOPTING SECOND SET OF
amend Title 291, Chapter 3,) PROPOSED RULES AND ISSUING
Motor Carrier Rules and) CERTIFICATE OF ADOPTION
Regulations, to adopt rules in)
accordance with Nebraska)
Legislative Bill 461 [2020].) Entered: January 19, 2022

BY THE COMMISSION:

On March 16, 2021, the Nebraska Public Service Commission ("Commission"), on its own motion, opened the above-captioned docket to amend provisions of the Commission's rules and regulations Chapter 3, motor carriers, based on statutory changes enacted under Nebraska Legislative Bill 461, passed in 2020 by the Nebraska Legislature. LB 461 amended statutes related to the Commission's regulation of common and contract for-hire motor carriers that transport household goods and employees of railroad carriers operating within the state.

The Commission received written comments in response to the first set of proposed rules. Written comments recommended increasing the minimum amount of cargo insurance required for household goods mover licensees, exemptions to the requirement for weigh tickets and written inventories, and clear disclosure of liability limits and valuation options. It was also recommended that licensee applicants not be required to provide a fingerprint-based background check report.

On July 13, 2021, the Commission entered an Order releasing the second set of proposed rules and scheduling a public hearing. The second set of proposed rules incorporated two recently adopted rulemaking dockets which changed the motor carrier rules in Chapter 3.¹ The proposed rules also incorporated an additional rule requiring licensed household goods movers to file its rates with the Commission as well as clarification of requirements for background checks and household goods mover

¹ See Rule and Regulation No. 203 *In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to amend Title 291, Chapter 3, Motor Carrier Rules and Regulations, to amend provisions of the rules* (effective May 12, 2021), and Rule and Regulation 204 *In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to amend Title 291, Chapter 3, Motor Carrier Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 734 [2020]* (effective June 27, 2021).

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weigh tickets. No written comments on the second set of proposed rules were received.

A public hearing on the second set of proposed rules was held on August 24, 2021 in the Commission Hearing Room in Lincoln, Nebraska, and remotely via WebEx. Notice of the hearing was published in The Daily Record, Omaha; the Omaha World-Herald; and the Lincoln Journal-Star. Additional notice of the hearing was sent via email to the Chair of the Executive Board, the Governor's Policy and Research Office, and the Nebraska Secretary of State.

Ms. Jamie Reyes and Mr. Dillon Keiffer-Johnson appeared on behalf of the Commission. No other appearances were made. Public comment was received from Mr. Bob Borgeson on behalf of Smart-TD.

E V I D E N C E

Ms. Reyes provided a summary to the Commission about the proposed rules being considered in the second set of proposed rules. First, the proposed rules added language where appropriate to identify household goods movers and railroad train crew carriers as licensees. The proposed rules added a new section, Section 13, to create the licensee application process.²

Ms. Reyes noted additional changes since the first set of proposed rules. First, Ms. Reyes stated proposed Rule 13.06A would require household goods movers to file their rates to give staff a reference should a consumer complaint be received. Proposed Rule 13.03C7, which requires a fingerprint-based background check, was clarified to state that the required background check was for the applicant. Proposed Rules 13.09E2 and 13.09C3 were clarified to not require a weigh ticket or descriptive inventory for a move that is completed wholly within the city limits or does not exceed 20 miles from the origin point. Proposed Rule 13.09C5 was modified to require clear language in a written disclosure and explanation of liability and valuation options for a move.³ Finally, Ms. Reyes recommended that the Commission explore the written requests for higher minimums for household goods mover cargo insurance and uninsured/underinsured motorist coverage for railroad employee

² Hrg. Trans. 9:21-11:3 (August 24, 2021).

³ *Id.* at 11:4-15:11.

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carriers in a separate docket that is examining insurance issues.⁴

Ms. Reyes also answered additional questions about whether an inventory should still be required for moves regardless of distance. She stated that a customer would maintain the right to request a descriptive inventory be made for the move. Ms. Reyes also stated that an inventory would be given to a mover of any items that were damaged as part of a claim.⁵ Ms. Reyes also discussed background checks and whether the Commission should consider adding disqualifying offenses to its rules. Ms. Reyes stated that the current rules do not include a list of disqualifying offenses for drivers or applicants and that the Commission should discuss it further.⁶

Mr. Bob Borgeson commented on behalf of Smart-TD railroad employee union. Mr. Borgeson stated that he recommended that railroad employee carrier licensees be required to have uninsured and underinsured motorist coverage in the amount of \$500,000 per person, no matter the vehicle type.⁷ Mr. Borgeson also recommended that the Commission require these licensees' vehicles to have a fire extinguisher, luggage barrier, and first aid kit. Finally, Mr. Borgeson recommended amending the logbook requirement, require random drug testing of drivers, and a prohibition against sex offenders and those with felony violence convictions from employment as drivers.⁸ Upon questioning, Mr. Borgeson clarified the insurance proposal by stating that the uninsured and underinsured motorist coverage should be \$500,000 per person with \$5 million liability.

Exhibits 1 through 14 were entered into evidence. A written letter from Mr. Borgeson was offered and received as Exhibit 15.

O P I N I O N A N D F I N D I N G S

The proposed rules, attached as Appendix A, reflect and incorporate proposed changes and sections discussed and accepted from written comments and corresponding public hearings, including the following changes made as part of the second set of proposed rules:

⁴ *Id.* at 15:12-17:2.

⁵ *Id.* at 23:23-27:5.

⁶ *Id.* at 30:14-40:3.

⁷ *Id.* at 44:25-46:16.

⁸ *Id.* at 46:21-47:21.

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- Rule 002.03 Deviation of Routes, changing a reference to the Department of Roads to the Department of Transportation.
- Rule 002.04 Schedules, amending language to read: "Schedules containing the actual rates or charges of such regulated motor carrier for the transportation of passengers or licensed motor carriers for the transportation of household goods in intra-state commerce will be filed with and approved by the Commission, published and kept open for public inspection. In the event that such rates are changed after a permit or license is issued, the carrier will file a new schedule with the Commission ten (10) days before the effective date of such rates or charges."
- Rule 003.03A adding the term "licensed" before "carriers."
- Rules 003.03B and 003.03C removing "regulated or licensed" as proposed language.
- Proposed Rule 013.06A: "An applicant for a license to provide household goods moving services must file a copy of the rates and charges it intends to charge its potential shippers with its initial license application and at timely intervals after being granted a license as prescribed by Rule 002.04."
- Proposed Rule 013.03C7 amended to read: "A copy of the applicant's fingerprint-based statewide background check report conducted by the Nebraska State Patrol or, if applicant is not a Nebraska resident, a copy of the applicant's fingerprint-based statewide background check report conducted by an agency authorized to perform such statewide background check reports."
- Proposed Rule 013.09E2 amended to add: "A weigh ticket is not required when the point of origin and destination are wholly within city limits and/or the destination does not exceed 20 miles from point of origin."
- Proposed Rule 013.09C3 amended to read: "a complete and legible descriptive inventory of each loading except when a shipment travels wholly within city limits and/or the destination does not exceed 20 miles from point of origin."
- Proposed Rule 013.09C5 amended to read: "a written disclosure and explanation of the limits of its

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liability and the valuation options available for any claims of damage to shipper's household goods."

Certain items will not be changed at this time. Two items- cargo insurance for household goods movers and uninsured/underinsured motorist coverage for railroad employee carriers- will be examined in an existing docket and no changes to the rules will be made at this time.⁹ The Commission will also gather additional information about possible disqualifying offenses for drivers and applicants to ensure a standardized background check internal review process. As this process may require multiple proceedings, it will be taken up outside of this rulemaking. Once it is determined that rules are necessary, another rulemaking will be opened for that purpose.

Based on the above, the Commission finds that the proposed rules set forth in Appendix A should be adopted and a Certificate of Adoption issued.

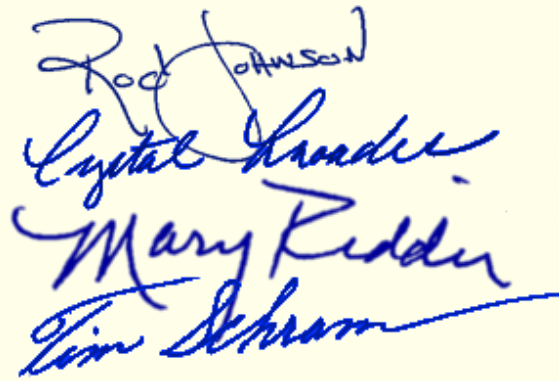
O R D E R


IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a Certificate of Adoption for the proposed rules set forth in Appendix A be, and is hereby, issued.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 11th day of January, 2022.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:




Chair

ATTEST:


Executive Director

⁹ Insurance issues will be examined in Docket PI-230 *In the Matter of the Nebraska Public Service Commission, on its own motion, to investigate insurance requirements for motor carriers providing intrastate transportation services within the state of Nebraska.*