

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105**

**INITIATION OF PROPOSED
RULEMAKING TO AMEND
MOTOR CARRIER REGULATIONS**

**Public Meeting June 11, 2015
2485881-CMR**

**JOINT MOTION OF VICE CHAIRMAN JOHN F. COLEMAN, JR.
AND COMMISSIONER ROBERT F. POWELSON**

The Pennsylvania Public Utility Commission (PUC or Commission) is the agency charged with regulating motor carrier service within the Commonwealth. As part of this responsibility, the PUC must ensure that the regulations governing motor carriers remain up-to-date and keep pace with the changes in the industry. In recent years, the transportation landscape has changed dramatically, particularly with the advent of Transportation Network Companies (TNC), an entirely new type of passenger service. Recognizing this, it is incumbent upon the PUC to undertake a review of its current transportation regulations.

This motion will initiate such a review in two stages. The first stage will include a series of rulemakings to examine whether to eliminate the requirement that motor carrier applicants demonstrate that their proposed service will fulfill a useful public purpose, responsive to a public demand or need (*i.e.*, the “need” requirement). The second stage will involve a rulemaking that undertakes a comprehensive review of the remaining transportation regulations, including insurance standards and safety criteria. Together these rulemakings will result in a current set of regulations that will ensure the transportation industry in Pennsylvania not only operates safely and reliably, but continues to innovate.

In an effort to keep abreast of the changing transportation industry, the PUC recently amended the regulations governing household goods carriers to eliminate the need requirement.¹ The PUC stated that in light of increased competition in the motor carrier industry, this requirement had become outdated. Instead of serving a useful purpose, the need requirement posed an obstacle to otherwise viable applications and served to protect monopoly interests to the detriment of healthy competition.

In the first stage of this review, we are initiating a rulemaking to examine whether to also eliminate the need requirement for other categories of common carriers. There will be separate rulemakings for each category of motor carrier. Doing so will provide a full opportunity for interested parties to comment and raise issues particular to their industry. Under these

¹ The Commission issued a Final Rulemaking Order on June 19, 2014. *Final Rulemaking Amending 52 Pa. Code Chapters 3,5,23,31,32, and 41; Household Goods in Use Carriers and Property Carriers*, Docket No. L-2013-2376902 (June 19, 2014). The Independent Regulatory Review Commission (IRRC) approved the rulemaking on April 16, 2015, stating that the regulation is consistent with the statutory authority of the PUC and the intention of the General Assembly. *IRCC Approval Order for Pennsylvania Public Utility Commission Household Goods in Use Carriers and Property Carriers*, Regulation No. 57-298 (#3041) (April 16, 2015).

rulemakings, the PUC will also propose to no longer consider the effect that increased competition will have on existing carriers. With these changes, competition among carriers will determine whether a given carrier's service is needed by the public, rather than determining public need by means of an administrative process.

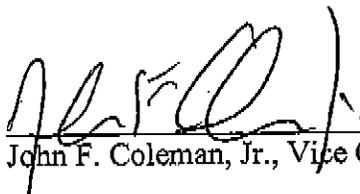
We note that the authority to eliminate the public need requirement has been considered and affirmed by the Pennsylvania Supreme Court in *Elite Industries, Inc. v. Pa. P.U.C.*, 832 A.2d 428 (Pa. 2003). In *Elite*, the Court found that public need is not an indispensable statutory requirement for PUC approval of applications under 66 Pa. C.S. § 1103(a). The Court reasoned that an agency may revise its policies and amend its regulations in interpreting statutory mandates.

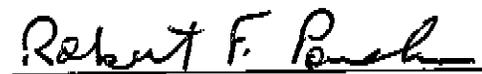
The second stage of this review, which initiates a rulemaking to undertake a comprehensive examination of the PUC's transportation regulations, will close the loop on this effort. The transportation industry has evolved in numerous ways since the PUC drafted its transportation regulations, and a general update is necessary so that the regulations remain current. To ensure a successful and coordinated effort in accomplishing this, we will create an inter-bureau working group consisting of the Law Bureau, the Bureau of Technical Utility Services, and the Bureau of Investigation and Enforcement. The collective expertise in these bureaus will undoubtedly result in a more comprehensive and up-to-date set of regulations to govern the transportation industry.

With the changes embodied in these rulemakings, we are confident that the PUC will be in a strong position to address any challenges or opportunities that arise in the motor carrier industry in the future.

THEREFORE, WE MOVE:

1. That the Law Bureau begins a rulemaking to examine whether to eliminate from various common motor carrier classifications the requirement that motor carrier applicants demonstrate that their proposed service will fulfill a useful public purpose, responsive to a public demand or need.
2. That the Law Bureau, Bureau of Technical Utility Services, and the Bureau of Investigation and Enforcement undertake a rulemaking to generally review and update the Commission's common motor carrier regulations.


John F. Coleman, Jr., Vice Chairman


Robert F. Powelson, Commissioner

DATE: June 11, 2015