**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

 Public Meeting held July 12, 2017

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| Commissioners Present: |  |

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| Gladys M. Brown, Chairman |  |
| Andrew G. Place, Vice Chairman |  |
| John F. Coleman, Jr. |  |
| Robert F. Powelson  |  |
| David W. Sweet |  |
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| Rulemaking Re Motor Carrier Age Requirement, 52 Pa. Code Chapter 29  | L-2017-2600599 |

**PROPOSED RULEMAKING ORDER**

**BY THE COMMISSION:**

The Pennsylvania Public Utility Commission (Commission) proposes to amend its regulation governing the minimum driver-age requirement. *See* 52 Pa. Code § 29.503 Specifically, the Commission proposes to update Section 29.503, consistent with Department of Health (DOH) regulations, by reducing the minimum age requirement for paratransit drivers in limited circumstances. The Commission seeks comments from all interested parties on this proposed regulation, attached as Annex A to this Order.

The Commission’s regulations currently require, *inter alia*, that paratransit drivers meet a minimum age requirement. Specifically, the relevant Commission regulation provides:

**52 Pa. Code §29.503. Age restrictions.**

A common or contract carrier may not permit a person to operate a vehicle in its authorized service unless that person is at least 21 years of age.

In its Order promulgating this regulation, the Commission opined that the age requirement would help to ensure the quality and safety of public utility service in Pennsylvania. 36 Pa. B. 4181 (August 5, 2006). Although the Commission recognizes that age alone may not be the sole determinant of a driver’s ability, the age requirement addressed a statistically documented increase in accidents involving drivers under the age of 21.

Many organizations that provide non-emergency paratransit service also provide emergency medical transportation. The Commission has certificated 506 paratransit carriers, of which at least 155 are ambulance companies. Pursuant to DOH regulations, a driver of an ambulance must only be 18 years of age or older and must successfully complete an emergency vehicle operator’s course of instruction approved by the DOH. *See* 28 Pa. Code §1023.22.

Notwithstanding that drivers ages 18 and over, properly trained and vetted, are permitted to operate ambulances under the DOH’s regulations, Section 29.503 effectively prevents those ambulance drivers under 21 from operating non-emergency paratransit vehicles.[[1]](#footnote-1) This creates a conflict within those organizations, since the Commission’s existing age requirement is causing dual-service companies to lose qualified potential employees who are under 21-years old. The inconsistency between the Commission’s age requirements for paratransit drivers and the DOH’s age requirements for ambulance drivers puts the dual-service companies in a cumbersome position in terms of hiring. These companies generally prefer to have younger, less experienced drivers start in paratransit service before they move up to the more demanding work of driving an ambulance. However, under the current regulatory scenario, drivers under 21 years of age are prohibited from providing paratransit service and are limited to providing ambulance service. While dual-service companies can petition the Commission for a waiver of the driver-age requirement, that process requires a significant investment of time and money on the part of the company and the Commission.[[2]](#footnote-2)

In order to alleviate the negative impact of the Commission’s paratransit driver age restrictions on dual-service companies and the need for the companies to petition for waiver of those restrictions, the Commission believes that its regulations should be modified to be consistent with the DOH regulations. As such, the Commission proposes adding a limited exception to the age requirement for paratransit drivers. If a driver is under 21 years of age, the driver will be eligible to operate a non-emergency paratransit vehicle if the DOH has certified the driver to operate an emergency medical services vehicle (EMSV) pursuant to the DOH’s regulations at 28 Pa. Code Chapter 1023, Subchapter B. Drivers under the age of 21 will be required to carry their EMSV operator’s certificate issued by the DOH on board. In addition to complying with the DOH’s EMSV operator’s certification requirements, a paratransit vehicle driver will have to comply with all other Commission regulations for paratransit drivers. Finally, the carriers themselves will be required to (1) maintain records to prove driver certification, and (2) notify the Commission of any accident involving a paratransit vehicle driver under the age of 21.

This proposal will benefit the public by increasing the pool of potential paratransit drivers while at the same time ensuring that common and contract carriers provide safe and reliable paratransit service throughout the Commonwealth.

 Accordingly, pursuant to Sections 501, 1501, and 2502 of the Public Utility Code, 66 Pa. C.S. §§101 *et seq*, the Commonwealth Documents Law, 45 P.S. §§ 1201-1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; Section 204(b) of the Commonwealth Attorneys Act, 71 P.S. 732-204(b); Section 745.5 of the Regulatory Review Act, 71 P.S. § 745.5; and Section 612 of the Administrative Code of 1929, 71 P.S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231, 7.232, and 7.234, we propose adopting the regulations set forth in Annex A, attached hereto; **THEREFORE**,

**IT IS ORDERED:**

1. That a proposed rulemaking be opened to consider the regulations set forth in Annex A.

2. That the Law Bureau shall submit this proposed rulemaking order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor’s Budget Office for review of fiscal impact.

3. That the Law Bureau shall submit this proposed rulemaking order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.

4. That the Law Bureau shall deposit this proposed rulemaking order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. That original written comments referencing Docket Number L‑2017‑2600599 be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary, Commonwealth Keystone Building, 2nd Floor 400 North Street, Harrisburg, PA 17120.

6. That a copy of this proposed rulemaking order and Annex A shall be served on the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Ambulance Association of Pennsylvania, and the Pennsylvania Taxi and Paratransit Association.

7. That the contact person for legal matters on this proposed rulemaking is Joseph P. Cardinale, Jr., Assistant Counsel, Law Bureau, (717) 787-5558. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Alyson Zerbe, Regulatory Review Coordinator, Law Bureau, (717) 772‑4597.

**BY THE COMMISSION**,

 Rosemary Chiavetta,

 Secretary

(SEAL)

ORDER ADOPTED: July 12, 2017

ORDER ENTERED: July 13, 2017

**ANNEX**

**TITLE 52. PUBLIC UTILITIES**

**PART 1. PUBLIC UTILITY COMMISSION**

**Subpart B. CARRIERS OF PASSENGERS OR PROPERTY**

**CHAPTER 29: MOTOR CARRIERS OF PASSENGERS**

**Subchapter F. DRIVER REGULATIONS**

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**§ 29.503. Age restrictions.**

(a) [A] Except as provided in subsection (b), a common or contract carrier may not permit a person to operate a vehicle in its authorized service unless that person is at least 21 years of age.

(b) A common or contract carrier providing paratransit service may permit a person to operate a paratransit vehicle in its authorized service if that person is at least 18 years of age. Additionally, all of the following conditions must be met:

(1) The person shall be certified as an emergency medical services vehicle operator (EMSVO) by the Department of Health (DOH) after meeting the requirements under 35 Pa. C.S. § 8122 (relating to emergency medical services vehicle operators) and 28 Pa. Code §§ 1023.21 – 1023.34.

(2) The person shall carry the DOH issued EMSVO certification on board while operating a paratransit vehicle.

(3) The carrier shall comply with all applicable DOH regulations and shall maintain records for a period of four years to prove each person’s EMSVO certification. These records must be available for inspection by Commission staff upon request.

(4) The carrier shall immediately notify the Commission’s Bureau of Technical Utility Services of an accident involving a paratransit driver who is under 21 years of age, regardless of the severity of the accident.

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1. Paratransit vehicles—often wheelchair-accessible vans—are used to transport disabled or elderly people to and from routine medical and dental appointments and for other routine needs, such as grocery shopping. [↑](#footnote-ref-1)
2. While only seven ambulance companies have applied for and been granted waivers to date, there is no reason to continue this inconsistency when the DOH requirements are more than sufficient to protect the public safety. [↑](#footnote-ref-2)