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August 29, 2017

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

RE: Advance Notice of Proposed Rulemaking Order for Title 52 of the Pennsylvania Code Pertaining to Regulation of Motor Carriers of Passenger and Property; Docket No. L-2017-2604692


Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission are the Comments of the Pennsylvania Bus Association regarding the above-referenced proceeding.

Please let me know if you have any questions. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Kenneth R. Stark

Counsel to the Pennsylvania Bus Association

enclosure

cc via email: Joseph Cardinale, PUC Assistant Council
Elaine Farrell, CAE, Executive Director of the Pennsylvania Bus Association

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Advance Notice of Proposed Rulemaking Order	:	Docket No. L-2017-2604692
For Title 52 of the Pennsylvania Code	:	
Pertaining to Regulation of Motor Carriers of	:	
Passenger and Property	:	

**COMMENTS OF
THE PENNSYLVANIA BUS ASSOCIATION
TO THE ADVANCE NOTICE OF PROPOSED RULEMAKING**

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Dated: August 29, 2017

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I. INTRODUCTION

On June 14, 2017, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) adopted an Advance Notice of Proposed Rulemaking (“ANOPR”) for Title 52 of the Pennsylvania Code Pertaining to Regulation of Motor Carriers of Passengers and Property to engage in a robust re-examination of the Commission’s motor carrier regulations. *See* PUC Docket No. L-2017-2604692. The Pennsylvania Bus Association commends the Commission’s initiative and appreciates the opportunity to offer comments and the bus industry’s perspective during the advanced stage of the rulemaking process (*i.e.*, ANOPR).

Established in 1922, the Pennsylvania Bus Association (“Bus Association” or “the Association”) is a non-profit trade association that represents the business and governmental interests of private and public charter bus companies operating in Pennsylvania. The Association is committed to a Code of Ethics in which its members strive to offer the highest level of safety in their operations, quality in their services, and consumer protection for their customers. The Association holds annual events and training seminars to ensure best practices for its carriers. The Association’s members have provided input in response to the Commission’s ANOPR to ensure that their businesses may continue to operate in a safe and financially viable manner. Most of the Association’s members operate interstate as well as intrastate and, therefore, are licensed and regulated by the Federal Motor Carrier Safety Administration (“FMCSA”).

II. COMMENTS

The Pennsylvania Bus Association provides the following comments per the outline of the June 14, 2017 ANOPR.

1. Fuel Surcharge.

Because the fuel surcharge only applies to household goods carriers, the Bus Association does not have any responsive comments to the PUC's proposal.

2. Fines and Assessments.

The Bus Association does not have any comments to the PUC's proposal in this section.

3. Granting of Provisional Authority.

Unless there is a strong and compelling public interest rationale, the Association does not support permitting applicants to temporarily operate while an application for permanent authority is being processed by the Commission. The Association contends that all stakeholders and regulators need to be diligent in terms of safety and other issues that could be revealed during a protest. If the Commission still allows Emergency Authority and Emergency Temporary Authority, the Commission should impose a very high burden on an applicant to demonstrate that granting Emergency Authority and Emergency Temporary Authority is in the public interest.

4. Web-based Training.

The Association is very supportive of web-based training and appreciates the PUC's interest in allowing motorcoach operators and their staff to benefit from such training. The Association's operator members benefit currently from the Association's training offered during the annual meeting and special full-day Inspection Workshop. The following additional topics

and skill-based programs would be helpful to keep stakeholders and regulators updated on industry changes, best practices, and PUC regulations:

- How to Register for PUC Intrastate Operating Authority (the steps a carrier should take, including who to contact, forms, cost, *etc.*);
- The Responsibility of a Motor Carrier When an Accident Occurs;
- What a Carrier Can Expect from a Roadside/Destination Stop;
- A primer on PUC and FMCA Regulations (including a discussion as to how the PUC regulations compare and contrast to the FMCSA regulations); and
- PUC Motor Carrier Compliance Issues, including the scheduling of inspections by PUC Enforcement Officers.

The Association would also like training that condenses the motor carrier regulations that are applicable to the charter bus industry. The Commission could consider utilizing the video streaming technologies it uses in its Harrisburg hearing room to reach more distant Association members that are located throughout the Commonwealth – from the Philadelphia area to Pittsburgh and across the northern tier.

5. 52 Pa. Code Chapter 32 – Motor Carrier Insurance.

In the June 14, 2017 ANOPR, the Commission explained that its insurance requirements and existing limits of coverage had been in place for a significant period of time, thereby requiring re-examination and potential adjustment.

The Federal Motor Carrier Safety Administration (“FMCSA”) had considered a rulemaking that would increase the minimum levels of financial responsibility for motor carriers in the November 28, 2014 Federal Register. On June 5, 2017, FMCSA withdrew the proposed rulemaking. Based on the comments received, FMCSA could not determine (1) the potential

increases in insurance premiums associated with any increase in the minimum financial responsibility limits; and (2) the risk on insurance company capital to ensure sufficient reserves to minimize the risk of insolvency and protect consumers. In addition, FMCSA indicated they could not calculate economic benefits to crash victims associated with any increase in the minimum financial responsibility limits. *See* Federal Register, Vol. 82, No. 106.

In addition, the federal statute, recently amended by the Fixing America's Surface Transportation ("FAST") Act as to Minimum Financial Responsibility for Transporting Passengers, mandates that "Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers for compensation by motor vehicle" in interstate commerce. 49 U.S.C. § 31138(a). The current level of financial responsibility for motor vehicles with a seating capacity of at least 16 passengers is \$5,000,000. 49 U.S.C. § 31138. Under the PUC regulations, the liability for a motor carrier of passengers for each vehicle capable of transporting more than 28 passengers shall be in an amount not less than \$5,000,000 to cover liability for bodily injury, death, or property damage incurred in an accident arising from authorized service. 52 Pa. Code § 32.11(d).

Insurance requirements are in place to protect the interests of both carriers and their passengers. Many companies may carry insurance limits exceeding the minimal required limit. The limits of insurance carried by a bus company is a decision for individual carriers and is a decision made based on a carrier's specific business needs, subject to governing regulatory requirements.

Any effort to increase the minimum financial responsibility of motor common carriers of passengers in Pennsylvania would detrimentally impact motor coach companies in Pennsylvania because motor coach companies would not be able to absorb premium increases while trying to replace and maintain millions of dollars of equipment and capital investment, meet payroll and other operational requirements, and stay competitive. Increasing the minimum financial responsibility would lead to an increase in premiums and force some carriers (especially the smaller carriers) out of business, thereby resulting in a serious disruption in transportation for the public as well as potential increases in prices and fares. The Association recommends that the Commission should not increase insurance minimum for vehicles transporting more than 28 passengers unless the Commission or another similarly situated entity has conducted a study that demonstrates that increasing the minimum financial responsibility would enhance public safety and is in the public interest. Such a study would include: 1) a review of accidents, injuries, and fatalities in the charter bus industry; 2) a review of insurance held by charter bus carriers and an analysis as to whether such insurance is adequate to cover claims; 3) an analysis of whether and how insurance affects the behavior and safety record of motor carriers of passengers, including with respect to crash reduction; 4) an analysis of the anticipated impacts of an increase in financial responsibility on insurance premiums for passenger carriers; 5) an analysis on the impact of service availability; and 6) an analysis on the specific impact on small carriers and small businesses. In short, any effort to increase the minimum financial responsibility should be supported by substantial evidence.

Accordingly, the Pennsylvania Bus Association strongly recommends to the Commission that the financial responsibility insurance limits for motor carriers of passengers stay the same and should not exceed those established by the federal FMCSA regulations. The Bus

Association recommends that the Commission continue to modify its regulations in a manner that is consistent with the federal requirements.

6. 52 Pa. Code Chapter 37 – Safety Code for Transportation of Property and Passengers.

The PUC Regulations in Chapter 37 reflect safety requirements for the motor coach industry. The Pennsylvania Bus Association encourages the Commission to keep its regulations consistent with the FMCSA regulations whenever possible since they have been developed with careful study to keep the riding public safe. The development of another set of regulations that are even slightly different than FMCSA would only add confusion.

7. 52 Pa. Code Chapter 41- General Orders, Policy Statement, and Guidelines on Transportation Utilities.

The Association does not have any specific comments to the PUC's proposal in this section.

8. Other Considerations.

The Pennsylvania Bus Association recommends that the Commission continue to modify its regulations in a manner that is consistent with the federal requirements. Consistency is the best course of action because it is less confusing for the industry and offers clearer guidance and compliance requirements.

The Bus Association would also appreciate efforts by the Commission to undertake an organizational overhaul to condense and consolidate its pertinent regulations.

9. P-00940884; Regulation of Property Carriers.

The Association does not have any specific comments to the PUC's proposal in this section.

10. P-00981458; Regulation of Group and Party Carriers.

As stated earlier, the Pennsylvania Bus Association recommends that the Commission continue to modify its regulations in a manner that is consistent with the federal requirements. Consistency is the best course of action because it is less confusing for the industry and offers clearer guidance and compliance requirements.

III. CONCLUSION

The Pennsylvania Bus Association appreciates the opportunity to provide comments in response to the Commission's Advance Notice of Proposed Rulemaking for Title 52 of the Pennsylvania Code Pertaining to Regulation of Motor Carriers of Passengers and Property. Should the Commission have any questions regarding the charter bus industry in Pennsylvania, please do not hesitate to reach out to the undersigned or to Elaine Farrell, Executive Director of the Pennsylvania Bus Association, at efarrell@pabus.org.

Respectfully Submitted,

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