

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

332

Carl Warren
Special Assistant Attorney General
Public Service

10/4/77

- PSC 2 and PSC 5

AMENDMENTS TO THE
MINNESOTA RULES RELATING TO THE
PUBLIC SERVICE COMMISSION

CHAPTER ONE - PSC 2 and PSC 5
MOTOR BUS & TRUCK DIVISION

PSC 2 Commission Action

(a) through (l) remain the same.

(m) Carriers holding authority both as a permit contract carrier and as an irregular route common carrier [must not] may engage in more than one of such types of carriage at the same time with the same vehicle providing the vehicle is registered under both types of carriage.

(n) remains the same.

(o) Whenever a petroleum carrier or a permit carrier of petroleum products violates the provisions of any of these rules or any law relating to the transportation of petroleum products by such carrier, in addition to the penalties prescribed by law for the violation thereof, the Commission may[, after notice and hearing,] require such petroleum carrier to install on any or all of the petroleum transports owned or operated by him a mechanical time recording device which shall record the starting, stopping, and running time of each of such transports. The records made by such recording device shall be kept by the petroleum carrier for a period of not less than one year from the date of the record. Should the Commission order the installation of such recording device, the carrier shall install the same within sixty (60) days from the effective date of the order and thereafter no transport owned or operated by such carrier shall be placed into service until such a recording device has been installed thereon.

(p) through (r) remain the same.

PSC Approved 6/2/77

(s) Leased Equipment

(1) and (2) remain the same.

(3) Duties of the lessor and lessee.

(aa) The lease shall be executed in at least three copies--one executed copy shall be retained by the lessee, one executed copy shall be retained by the lessor, and one copy shall be kept with the leased equipment at all times during the term of the lease.

[[(aa-1) The provisions of paragraph (aa) shall not apply between motor carriers that have authority as defined under Minnesota Statutes 221.011, Subd. 9, 10, 11, 12, 13, 21 and 24, nor shall it apply to Local Cartage Carriers as defined in Minnesota Statutes 221.296.]]

(bb) through (gg) remain the same.

PSC 5 Safety

General Application - Safety Regulations

For uniformity in compliance in the interest of public safety, the safety rules and regulations of the Public Service Commission shall apply to all persons engaged in the business of transportation of persons or property for-hire on the highways of Minnesota.

All rules and safety regulations prescribed in Code of Federal Regulations, Title 49, Parts [290-297] 390-397, as revised [January 1, 1968] October 1, 1975, and adopted by the U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, not in conflict with the laws of the state of Minnesota, and/or rules of the Commission, are hereby adopted as the safety rules and regulations of this Commission.

All rules and safety regulations prescribed in Code of Federal Regulations, Title 49, Parts 100 to 199, revised as of [October 1, 1973] October 1, 1975, and adopted by the U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, designated as the hazardous materials regulations, not in conflict with the laws of the State of Minnesota, and/or rules of the Commission, are hereby adopted as the safety rules and regulations of this Commission.

NOTE: A copy of the safety regulations set forth in the Code of Federal Regulations, Title 49, Parts [*290-297*] *390-397, as revised* [*January 1, 1968*] *October 1, 1975, and referred to in PSC 5, is maintained in the offices of the Public Service Commission*[[*,400 SE State Office Building*] *790 American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101,*]] *and the Department of Transportation in St. Paul, and is open and available to the general public for inspection.*

(a) through (k) remain the same.

KEY: New rules and material proposed to be added to an existing rule are underlined. Material proposed to be deleted from an existing rule is printed in [single brackets]. Red underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

APPROVED AS TO FORM AND LEGALITY
OCT 4 1977 19

WARREN S. ANDERS ATTORNEY GENERAL
BY /s/ Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 4 1977
Joan Anderson Growe
Secretary of State
4:05 P.M.

ADMIN 1000

STATE OF MINNESOTA

DEPARTMENT Public Service

Office Memorandum

TO : Michael B. Miller
Special Assistant Attorney General

DATE: 8/23/77

FROM : Carl Warren
Special Assistant Attorney General

PHONE: 6030

SUBJECT: Adoption of Amendments to Rules of the Minnesota Department of Public Service Relating to Motor Transportation
Docket No. A-8117-16

Enclosed for filing are amendments to the rules of the Department of Public Service relating to Motor Transportation. This is the second part of our hearing docket A-8117-16. The following documents are transmitted herewith:

1. Rules as Adopted (5 copies)

2. Rules as Proposed (3 copies)

3. Original Transcript of Public Hearing held 2/11/77 with Original exhibits 41 thru 45.

4. a. Certificate of Commission's Authorizing Resolution (See filing made 8/4/77 relating to Weights & Measures)
   b. Order for Hearing & Document of Authority (See filing made 8/4/77 relating to Weights & Measures)
   c. Notice of Hearing (See filing made 8/4/77 relating to Weights & Measures)
   d. Affidavit of Acquisition of Mailing List (See filing made 8/4/77 relating to Weights & Measures)
   e. Secretary of State's Certificate (See filing made 8/4/77 relating to Weights & Measures)
   f. Affidavit of Mailing with Mailing List (See filing made 8/4/77 relating to Weights & Measures)

5. a. Statement of Need (3 copies)
   b. Report of H.E. (Findings of Fact) (3 copies)
   c. Certificate of Commission's Adoption of Rules Resolution (Original & 2 copies)
   d. Resolution Approving Rules (Original & 2 copies)
   e. Order Adopting Rules (Original & 2 copies)
   f. Report of Chief Hearing Examiner (Original & 2 copies)
   g. Statement of Compliance (Original & 2 copies)
   h. Written Statements (Original)

Exhibits 1 thru 21 will be forwarded with our amendments to the telephone rules and Exhibits 22 thru 35 will be forwarded with the amendments to the gas & electric rules. There is no exhibit #36.

It is our understanding that all of the original documents transmitted herewith will be returned after your review.

CW:ss

ADMIN 1000

STATE OF MINNESOTA

DEPARTMENT Public Service

Office Memorandum

TO : Michael B. Miller
Special Assistant Attorney General

DATE: 8/23/77

FROM : Sharon Schmidt

PHONE:

SUBJECT: Adoption of Amendments to Rules of the Minnesota Department of Public Service Relating to Weights & Measures.
Docket No. A-8117-16

The enclosed written statements (originals) were omitted from the above-captioned rules proceedings which was delivered to you on August 4th.

/ss

PROPOSED AMENDMENTS TO THE
MINNESOTA RULES RELATING TO THE
PUBLIC SERVICE COMMISSION

CHAPTER ONE - PSC 2 and PSC 5
MOTOR BUS & TRUCK DIVISION

PSC 2 Commission Action

(a) through (l) remain the same.

(m) Carriers holding authority both as a permit contract carrier and as an irregular route common carrier [must not] may engage in more than one of such types of carriage at the same time with the same vehicle providing the vehicle is registered under both types of carriage.

(n) remains the same.

(o) Whenever a petroleum carrier or a permit carrier of petroleum products violates the provisions of any of these rules or any law relating to the transportation of petroleum products by such carrier, in addition to the penalties prescribed by law for the violation thereof, the Commission may[, after notice and hearing,] require such petroleum carrier to install on any or all of the petroleum transports owned or operated by him a mechanical time recording device which shall record the starting, stopping, and running time of each of such transports. The records made by such recording device shall be kept by the petroleum carrier for a period of not less than one year from the date of the record. Should the Commission order the installation of such recording device, the carrier shall install the same within sixty (60) days from the effective date of the order and thereafter no transport owned or operated by such carrier shall be placed into service until such a recording device has been installed thereon.

(p) through (r) remain the same.

(s) Leased Equipment

(1) and (2) remain the same.

(3) Duties of the lessor and lessee.

(aa) The lease shall be executed in at least three copies--one executed copy shall be retained by the lessee, one executed copy shall be retained by the lessor, and one copy shall be kept with the leased equipment at all times during the term of the lease.

[(aa-1) The provisions of paragraph (aa) shall not apply between motor carriers that have authority as defined under Minnesota Statutes 221.011, Subd. 9, 10, 11, 12, 13, 21 and 24, nor shall it apply to Local Cartage Carriers as defined in Minnesota Statutes 221.296.]

(bb) through (gg) remain the same.

PSC 5 Safety

General Application - Safety Regulations

For uniformity in compliance in the interest of public safety, the safety rules and regulations of the Public Service Commission shall apply to all persons engaged in the business of transportation of persons or property for-hire on the highways of Minnesota.

All rules and safety regulations prescribed in Code of Federal Regulations, Title 49, Parts [290-297] 390-397, as revised [January 1, 1968] October 1, 1975, and adopted by the U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, not in conflict with the laws of the state of Minnesota, and/or rules of the Commission, are hereby adopted as the safety rules and regulations of this Commission.

All rules and safety regulations prescribed in Code of Federal Regulations, Title 49, Parts 100 to 199, revised as of [October 1, 1973] October 1, 1975, and adopted by the U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, designated as the hazardous materials regulations, not in conflict with the laws of the State of Minnesota, and/or rules of the Commission, are hereby adopted as the safety rules and regulations of this Commission.

NOTE: A copy of the safety regulations set forth in the Code of Federal Regulations, Title 49, Parts [290-297] 390-397, as revised [January 1, 1968] October 1, 1975, and referred to in PSC 5, is maintained in the offices of the Public Service Commission, [400 SE State Office Building] 790 American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, and is open and available to the general public for inspection.

(a) through (k) remain the same.

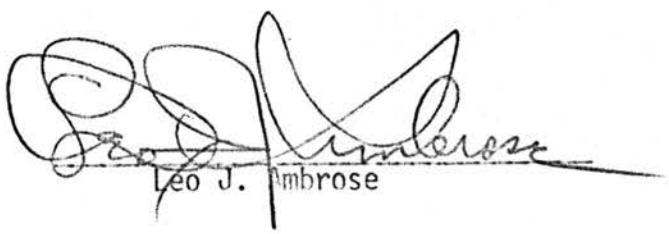
CERTIFICATE OF COMMISSION'S

ADOPTION OF RULES RESOLUTION

I, Leo J. Ambrose, do hereby certify that I am secretary of the Public Service Commission, a Commission duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Public Service Commission duly and properly called and held on the 2nd day of June, 1977; that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

853. A-8117-16 It was voted to accept the Examiner's Recommendation and adopt proposed rules Minn. Reg. PSC 2(m), 2(o) and 5. The Examiner's Recommendation that Minn. Reg. PSC 2(s),(3)(aa), Subparagraph (aa-1) not be amended as proposed was also adopted.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 12th day of July, 1977.



Leo J. Ambrose

RESOLUTION

A-8117-16 It was voted to accept the Examiner's Recommendation and adopt proposed rules Minn. Reg. PSC 2(m), 2(o) and 5. The Examiner's Recommendation that Minn. Reg. PSC 2(s), (3)(aa), Subparagraph (aa-1) not be amended as proposed was also adopted.

BEFORE THE MINNESOTA PUBLIC SERVICE COMMISSION

Karl F. Rolvaag — Chairman
Arlen I. Erdahl — Commissioner
Richard J. Parish — Commissioner
Katherine E. Sasseville — Commissioner
Juanita R. Satterlee — Commissioner

Approved, of Record
6/2/77

In the Matter of the Proposed Amendment of Certain Existing Rules and the Proposed Adoption of New Rules Relating to Weights and Measures, Electric Utilities, Gas Utilities, Telephone Utilities, Motor Vehicle Transportation and Rules of Practice.

DOCKET NO. A-8117-16

MINN. RULES PSC 2(m), 2(o), 2(s)(3)(aa), and 5
(MOTOR VEHICLE TRANSPORTATION)

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Minnesota Public Service Commission on the 11th day of February, 1977, in the Large Hearing Room, American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, after proper notice required by Minnesota Statutes § 15.0412 (1976) had been served upon all persons, associations and other interested groups registered with the Secretary of State to receive such notice.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, considered all of the evidence adduced and the records, files and proceedings herein, having applied the appropriate statutory standards of criteria, having confirmed the need for and the reasonableness of the proposed amendments to PSC Rules 2(m), 2(o) and 5, and having concluded that there does not exist a need for amendment of PSC Rule 2(s)(3)(aa) in the manner proposed

IT IS NOW, THEREFORE ORDERED that

The Report of the Hearing Examiner as it relates to the Proposed Amendments to Rules, Minn. Rules PSC 2(m), 2(o), 2(s)(3)(aa), and 5 be and hereby is adopted in its entirety as the Commission's final decision herein. In accordance with the Hearing Examiners Recommendation, the Commission adopts the proposed amendments to PSC Rules 2(m), 2(o), and 5 (including modification of the proposed amendment to Rule 5 in part, as recommended by the Hearing Examiner, to state that, "a copy of the safety regulations set forth in the Code of Federal Regulation, Title 49, Part 390 to 397 as revised October 1, 1975 and referred to in PSC 5 is

maintained in the Office of the Public Service Commission and the Department Transportation in St. Paul, and is open and available to the general public for inspection"), but does not adopt the proposed amendment to PSC 2(s)(3)(aa).

BY THE SECRETARY

DATED: JUN 2 1977

COMMISSION
ORIGINAL

PSC-77-011-BS
A-8117-16

RECEIVED
Dept. of Public Service
AUG 18 1977
Commission Support

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE PROPOSED)
ADOPTION OF AMENDMENTS OF)
CERTAIN EXISTING RULES AND)
THE PROPOSED ADOPTION OF NEW)
RULES RELATING TO MOTOR)
VEHICLE TRANSPORTATION.)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on February 11, 1977, before Bernard Singer, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. §15.052, Subd. 3, was issued to the Public Service Commission on May 16, 1977; and

WHEREAS, the Public Service Commission has now determined to adopt rules pursuant to Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Public Service Commission has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. §15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Public Service Commission has met all requirements of Minn. Stat. §15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Public Service Commission has the responsibility of submitting the complete hearing record and the rules as adopted by the Commission to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. §15.0412, Subd. 4.

Dated this 16th day
of August, 1977.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATEMENT OF COMPLIANCE WITH
MANUAL OF RULE MAKING PROCEDURES

MINN. RULES PSC 2(m), 2(o), 2(s)(3)(aa)(aa-1), & 5

I, Carl Warren, do hereby declare that I have examined the proposed rules relating to Motor Transportation, Minn. Rules PSC 2(m), 2(o), 2(s)(3)(aa)(aa-1) and 5, and all related documents; and that based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

/s/ CARL WARREN
Special Assistant
Attorney General

MINNESOTA PUBLIC SERVICE COMMISSION

Dated: August 18, 1977

ORIGINAL

3C-TE-011-BS
-816-16

COMMISSION
ORIGINAL
RECEIVED
Dept. of Public Service
MAY 16 1977
Commission Support

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
FOR THE PUBLIC SERVICE COMMISSION

In the Matter of the Proposed Adoption of Amendments of Certain Existing Rules, and the Proposed Adoption of new Rules Relating to Weights and Measures, Electric and Gas Utilities, Telephone Utilities, and Motor Vehicle Transportation.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Bernard Singer, duly appointed Hearing Examiner from the State Office of Hearing Examiners, on February 8, 9, 10, and 11, 1977, in the large hearing room, American Center Building, St. Paul, Minnesota.

This was a rules hearing held pursuant to Minn. Stat. Ch. 15 to determine whether the proposed amendments to certain existing rules and the proposed new rules should be adopted as follows:

I. WEIGHTS AND MEASURES DIVISION - Proposed amendments to Rules PSC 120 and 122, the proposed deletion of Rules PSC 106, 123 and 124; and proposed Rule PSC 128.

II. MOTOR VEHICLE TRANSPORTATION - Proposed amendments to Rules PSC 2 and 5.

III. TELEPHONE UTILITIES DIVISION - Proposed amendments to and new rules to Rules PSC 179 to 185; proposed rules PSC 215 to 219.

IV. ELECTRIC AND GAS UTILITIES - Proposed amendments to and new rules to Rules PSC 279 to 336; proposed rules PSC 410 to 418; proposed rules PSC 420 to 423.

The report of the Hearing Examiner herein is divided into four sections corresponding to the four divisions stated above. Each section will list the names of persons who appeared on behalf of the Public Service Commission and the witnesses who presented testimony relevant to the subject matter of that particular section of rules.

Pursuant to Minn. Stat. § 15.0412, subd. 4 (1976), this Report shall be available for review to all affected individuals

upon request for at least ten days.

The Commission shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than ten days subsequent to the receipt of this Report. This submission shall also clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Commission on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Commission shall be responsible for filing the rules with the Attorney General.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

PROCEDURAL REQUIREMENTS

1. On October 15, 1976, the Commission filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A Statement of the estimated length and number of people attending the hearing.

2. On January 5, 1977, a Notice of Hearing and a copy of the proposed rules were published at 1 State Register 968.

3. On December 30, 1976, the Commission mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On January 14, 1977, the Commission filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statements of Need; and
(g) The Statements of Evidence;
(h) The names of Public Service Commission personnel who will represent the agency.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the dates of the hearings.

5. At the hearing, the Commission presented a number of suggested revisions to the telephone, gas and electric rules as originally proposed. These revisions were read into the record at the hearing, but were not published in the State Register, nor were they mailed to the Secretary of State's list. On motion of counsel representing various parties, the Hearing Examiner agreed to continue the hearing until the date the transcripts of the record were made available to parties requesting same, and the 20-day period for submitting written statements commenced on that date. The telephone, gas and electric hearings terminated February 17, 1977, and the record remained open through March 9, 1977 for the receipt of written comments and statements. The Weights and Measures hearing record remained open through March 2, 1977. The Motor Vehicle Transportation hearing record remained open through March 3, 1977.

II. MOTOR VEHICLE TRANSPORTATION DIVISION

Hearing held February 11, 1977.

Carl Warren, Special Assistant Attorney General, appeared on behalf of the Public Service Commission. John E. Moran, Commission Support Liaison Officer to the Department of Transportation, appeared on behalf of the Commission. The following persons testified at the hearing: W. A. Hallman, Executive Secretary, Minnesota Permit Truckers Association; Lawrence Kelly, vice president, Purolator Courier Corporation; Richard McDonough, Palen Truck Line; Louis Hodnik, district manager, Greyhound Lines; Ed Thompson, Jefferson Bus Lines; Abe Rosenthal, vice president and general manager, Minnesota Transport Services Association; Don Berg, Director, Office of Transportation-Regulation, Department of Transportation; and James F. Finley, Attorney for the Minnesota Transport Services Association.

Post-hearing statements were submitted by Greyhound Lines, Inc. and Jefferson Lines, Inc.

FINDINGS OF FACT (Cont.)

6. Statutory authority to promulgate these rules is set forth in Minn. Stat. § 216A.05, subd. 1 (1976), and Minn. Laws 1976, § 10.

PROPOSED CHANGES IN PSC 2(m)

7. The present PSC 2(m) states that carriers holding authority both as permit contract carrier and as an irregular route common carrier must not engage in more than one of such types of carriage at the present time with the same vehicle. The proposed amendment to said Rule would allow carriers holding authority, both as permit contract carriers and as irregular route common carriers to engage in more than one of such types of carriage at the same time with the same vehicle providing that the vehicle is registered under both types of authority. The Commission proposes that said amendment is necessary in order to allow carriers presently holding both authorities to conduct their operations in a more efficient and energy-saving manner.

8. Mr. Kelly testified in support of said Rule, as amended, stating that the adoption of this Rule would expand and permit

greater utilization of their services by the shipping public in Minnesota. He testified that there is precedent behind this Rule change, and a similar rule has been established and acknowledged by the Interstate Commerce Commission for many years as well as many state regulatory commissions. He further added that the neighboring states of Wisconsin, North Dakota and South Dakota have permitted the co-mingling of commodities as set forth in the proposed amendment. He advocated the approval of the amendment stating it would result in the practical conservation of resources. Several other witnesses testified in support of the proposed amendment. The Commission has demonstrated the need for and the reasonableness of its proposal.

PROPOSED CHANGES IN PSC 2(o)

9. The present PSC 2(o) states that the Commission may, after notice and hearing, require a petroleum carrier or a permit carrier of petroleum products who has violated the Commission's rules or the laws of Minnesota to install a mechanical time-recording device on any or all of its petroleum transports. The proposed amendment to PSC 2(o) would delete the reference to "after notice and hearing". The need for this amendment is to remove a conflict between PSC 2(o) and PSC 4(b), the latter of which authorizes the Commission to order the installation of recording devices but does not require such order to be pursuant to notice and hearing. In addition, the proposed amendment to PSC 2(o) is needed in order to allow the Commission to act quickly in ordering the installation of a time-recording device when it deems immediate action to be necessary in order to protect public safety. The proposed amendment drew no comments or criticism from the public; the proposed amendment is needed and reasonable.

PROPOSED CHANGES IN PSC 2(s)(3)(aa)

10. At present, PSC 2(s)(3)(aa) requires a motor carrier lessee and a motor equipment lessor to execute a lease in at least three copies. It also requires them to retain one copy of the lease and keep one copy of the lease in the leased equipment at all times during the term of the lease. Subparagraph (aa-1)

provides that this requirement shall not apply between motor carriers that have authority as defined under Minn. Stat. § 221.011, subds. 9, 10, 11, 12, 13, 21 and 24, and to local cartage carriers as defined in Minn. Stat. § 221.296. The proposed amendment to this Rule would delete subparagraph (aa-1) so that paragraph (aa) would apply to motor carriers that have authority as defined in the present (aa-1). The Commission contends that this amendment is necessary in order to provide additional documentary evidence of the existence of a lease arrangement during an operation which involves an equipment lease; and to clearly identify the respective responsibilities of the lessor and lessee that are incident to the lease arrangement. The amendment was brought about by the problem encountered by enforcement representatives in the field who have no actual documentary evidence that a given vehicle is under lease, and the Commission felt that a written lease should be in the vehicle at all times when it is operating under a lease arrangement.

11. That proposed change in the Rules drew far more criticism than any other. The Minnesota Permit Truckers Association strongly supports this Rule. They argue that proper leases carried in the trucks would allow for better enforcement by the enforcement division; also, it could solve many problems involved where accidents or liability arise by requiring the carriers to have a proper lease within the truck.

12. Mr. Finley, appearing as counsel for Minnesota Transport Services Association, argued that the weakness in the existing rule lies with the enforcement procedures of the Department of Transportation. He stated that the industry is interested in clarifying the leasing rule and recognizes that there is a problem, but is primarily a problem with carriers who don't hold any authority whatsoever. He questioned the lack of diligence in enforcing the existing rules and did not think that the enforcement problem will be assisted by changing the rule as proposed. He recommended the employment of additional enforcers. He stated that the rules are there if the enforcers can make the proper investigation and bring the charges and questioned the need for the

proposed rule change in light of the weak enforcement program.

13. Abe Rosenthal, executive vice president and general manager of Minnesota Transport Services Association, a trucking industry trade association which includes over 100 firms engaged in local cartage carriage, contract carriage, irregular route common carriage and associated industries, including warehouses, argued against the proposed amendment to the Rule. He stated that it would be an undue burden upon the industry and the shippers to require the execution of a lease between carriers. Historically, he stated, the services rendered between permit carriers and local cartage carriers has been such that the need for additional services to serve the shipper has come abruptly, without advance notice, usually very early in the morning or very late in the evening, and as a consequence, there was no opportunity to execute a written document. He argued further that there was no reason to impose such a burden upon authorized carriers because the Commission presently requires all of those carriers to maintain adequate insurance coverage, and in the situation of the local cartage carriers, additionally, a bond.

14. Rosenthal further stated that violations primarily occur in the area of independent contractors serving a motor carrier rather than in the area where there is a violation between carriers in the performance of their transportation obligations to the shipper. He strongly urged that the old rule be retained as is until the Department of Transportation and the industry have had an opportunity to review the problems and come forward with new proposals for a new rule. He stated that his Association supports the retention of the rule the way it is and fails to find any value enforcement-wise in requiring motor common carriers who need an additional truck or local cartage carriers who need an additional truck to service their particular authorized areas and accounts to execute a written document between them. The service can well be documented at a later time in terms of billings and in the collection of fees. The bills always carry the name of the carrier who is actually providing the service through the utilization of another vehicle owned and operated by

the motor common carrier or local cartage carrier. He stated that there is no question that authorized carriers will execute the proper agreements when they enter into an agreement with an independent contractor who happens to have no operating authority, who happens not to be a motor common carrier or local cartage carrier.

15. Mr. Moran emphasized that the meaning of the Rule regards equipment leasing, and the lessee must be responsible for that leased equipment, whether it belongs to the carrier or not. However, Mr. Rosenthal contends that the word "leased" equipment is confusing because the Commission rules also provide that one may lease equipment with a driver, and when one looks at the whole paragraph, he has to think in terms of a motor vehicle with a driver, and sometimes with a driver and a helper. Mr. Moran emphasized that the intent of the recommended amendment is primarily for the purpose of enforcement because the motor transportation representatives have indicated that they have a problem where an authorized carrier is actually providing a service over and above his authority under the guise of a lease to a carrier who is authorized to do it. If the motor transportation representatives saw a written lease in the truck, they would have documentation to prove that the leased vehicle was, in fact, leased to the man the driver might tell him it is leased to. If a question arose as to a lease between permit carriers, the motor transportation representatives could take information from the drivers, contact the two firms involved, and make a determination if there was a violation.

16. Mr. Hodnik, district manager for Greyhound Bus Lines, stated that the proposed amendment would put inter-city bus carriers in an impossible situation. In the event of unexpected passenger overloads, or equipment failures, his company must, on occasion, lease equipment from properly certified and insured carriers immediately to accommodate passengers without extended inconvenience or delay. Delaying passengers en route would create an undue hardship on them. Greyhound requested that inter-city bus carriers be excluded from PSC 2(s)(3)(aa). Jefferson

Lines, Inc., submitted written comments advocating the same opposition to the proposed rule as Greyhound.

17. Don Berg, Director, Office of Transportation Regulation for the Department, supported the deletion of paragraph (aa-1). He stated that violation of leasing equipment is one that is perhaps the most abused. He argued that leasing of equipment turns out to be a lease of authority and supposedly leased equipment is being operated throughout the entire state without being checked for safety and without the proper documentation in the unit to show that it has been leased. A carrier who is in charge of a vehicle does not have his freight bills or bills of lading, and it is a chaotic section of the rule to try to enforce as written. He admitted that the proposed deletion of the rule could create an undue burden on inter-city buses. He suggested a possible amendment to delete inter-city buses from the provisions of (aa).

18. In summary, the deletion of (aa-1) from the Rule PSC 2 (s)(3) is unnecessary and unreasonable as proposed by the Commission. There has been little presentation of facts by the Commission supporting the reasonableness of said deletion, and all indications point toward a lack of proper enforcement of the existing rule. The proposed amendment, deleting (aa), can create an undue burden upon the bus and trucking industry, will cause undue expenses and financial obligations and could result in a significant disruption of service. The more reasonable solution to the problems created by leased equipment would be an expansion of the enforcement units and more stringent enforcement procedures.

Proposed PSC 5

19. The present PSC 5 includes safety rules and regulations of the Public Service Commission which shall apply to all persons engaged in the business of transportation of persons or property for hire on the highways of Minnesota. It incorporates all rules and safety regulations prescribed in the Code of Federal Regulations, Title 49, parts 290 to 297 as revised January 1, 1968, and parts 100 to 199 as revised October 1, 1973, and adopted by the United States Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, not in conflict with

the laws of the state of Minnesota, and/or rules of the Commission. The amendment of PSC 5, as proposed, is necessary in order to update the C.F.R. references so that PSC 5 will incorporate the most recent revisions of the federal regulations. The proposed amendment to the rules eliminates parts 290 to 297 and incorporates parts 390 to 397 as revised October 1, 1975 and adopted by the United States Department of Transportation, Federal Highway Administation, Bureau of Motor Carrier Safety, not in conflict with the laws of the state of Minnesota, and/or rules of the Commission. Also, it updates all rules and safety regulations prescribed in C.F.R., Title 49, parts 1 through 199, revised as of October 1, 1975, and adopted by the United States Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, designated as the hazardous materials regulations, not in conflict with the laws of the state of Minnesota, and/or rules of the Commission. The amendment of PSC 5 also corrects the Commission's present address from State Office Building to 790 American Center Building, 160 E. Kellogg Boulevard, St. Paul, Minnesota - 55101.

20. The amendment of PSC 5 is necessary in order to update the Code of Federal Regulations references so that PSC 5 will incorporate the most recent revisions of the code. It is offered as a means of uniformity in safety regulations as it applies to for-hire carriers. Mr. Berg, representing the Department of Transportation, supported the recommendation for the adoption and update of the rules and regulations in the Code of Federal Regulations.

21. The proposed changes in Rule 5, updating and incorporating the most recent revisions of the Code of Federal Regulations, is necessary and reasonable. Because there is a question as to the interest of the Public Service Commission and the Department of Transportation in the safety regulations incorporated in PSC 5, the section of the rule referring to the agency address should be worded as follows:

> A copy of the safety regulations set forth in the Code of Federal Regulations, Title 49, parts 390 to 397, as revised October 1, 1975 and referred to in

PSC 5 is maintained in the offices of the Public Service Commission and the Department of Transportation in St. Paul, and is open and available to the general public for inspection.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. That the Commission gave due, timely and proper notice of the hearing herein. All other substantive and procedural requirements of the statute and applicable rules have been fulfilled.

2. The Public Service Commission has statutory authority to adopt the proposed rules.

3. With the exceptions noted in the Findings, the Commission has demonstrated the need for and the reasonableness of the proposed rules.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

That the proposed rules be modified as suggested in the Findings and that so modified, they be adopted.

Dated this 16th day of May, 1977.

Bernard Singer

BERNARD SINGER
Hearing Examiner

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Bernard Singer, being first duly sworn, hereby deposes and says:

That at the City of St. Paul, county and state aforementioned, on the 16th day of May, 1977, he did serve the Report of Hearing Examiner, PSC-77-011-BS A-8117-16

upon the individuals listed in the attached paper by personally handing to and leaving with Sharon Schmidt, an employee of the Public Service Commission, said Report of Hearing Examiner.

Bernard Singer

Subscribed and sworn to before me this 16th day of May, 1977.

Eileen A. Gaiovnik

EILEEN A. GAIOVNIK
Notary Public, Ramsey Co. Mn.
MY COMMISION EXPIRES
December 14, 1980

Mr. Leo J. Ambrose, Director
Commission Support Division
Department of Public Service
7th Floor, American Center Building
160 E. Kellogg Boulevard
St. Paul, Minnesota - 55101

Mr. Robert Carlson, Director
Utilities Division
Public Service Commission
7th Floor, American Center Building
160 E. Kellogg Boulevard
St. Paul, Minnesota - 55101

Mr. Jerome Getz
Special Assistant Attorney General
Public Service Commission
7th Floor, American Center Building
St. Paul, Minnesota - 55101

Mr. Larry Salustro
Special Assistant Attorney General
Public Service Commission
7th Floor, American Center Building
160 E. Kellogg Boulevard
St. Paul, Minnesota - 55101

Mr. Carl Warren
Special Assistant Attorney General
Public Service Commission
7th Floor, American Center Building
160 E. Kellogg Boulevard
St. Paul, Minnesota - 55101

Mr. Warren Czaia, Director
Weights and Measures Division
Public Service Commission
7th Floor, American Center Building
160 E. Kellogg Boulevard
St. Paul, Minnesota - 55101

Mr. William Deppe, Chief
Financial Evaluation Section
Public Service Commission
7th Floor, American Center Building
160 E. Kellogg Boulevard
St. Paul, Minnesota - 55101

Mr. Richard McMillen, Director
Utility Rates Division
Public Service Commission
7th Floor, American Center Building
160 E. Kellogg Boulevard
St. Paul, Minnesota - 55101

BEFORE THE MINNESOTA PUBLIC SERVICE COMMISSION

Karl F. Rolvaag	Chairman
Ronald L. Anderson	Commissioner
Arlen I. Erdahl	Commissioner
Richard J. Parish	Commissioner
Katherine E. Sasseville	Commissioner

In the Matter of the Proposed Amendment of Certain Existing Rules and Proposed Adoption of New Rules Relating to Weights and Measures, Electric Utilities, Gas Utilities, Telephone Utilities and Motor Vehicle Transportation.	DOCKET NO. A-8117-16 STATEMENT OF NEED FOR PROPOSED AMENDMENTS TO RULES PSC 2(m), 2(o), 2(s)(3)(aa) and 5. (AMENDMENTS)

The above-captioned matter as it relates to the rules governing motor vehicle transportation matters under the jurisdiction of the Minnesota Public Service Commission (hereinafter the "Commission") involves the amendment of existing rules. The existing motor vehicle transportation rules which are proposed for amendment are PSC 2(m), 2(o), 2(s)(3)(aa), and 5. The last time these rules were amended was October 2, 1974.

At present, PSC 2(m) prohibits carriers holding authority both as a permit contract carrier and as an irregular route common carrier from engaging in more than one of such types of carriage at the same time with the same vehicle. The Minnesota Department of Public Service's proposed amendment to PSC 2(m) would allow carriers holding authority both as permit contract carriers and as irregular route common carriers to engage in more than one of such types of carriage at the same time with the same vehicle providing that the vehicle is registered under both types of authority. This proposed amendment is necessary in order to allow carriers holding authority both as permit contract carriers and as irregular route common carriers to conduct their operations in a more efficient and energy saving manner.

At present, PSC 2(o) states that the Commission may, after notice and hearing, require a petroleum carrier or a permit carrier of petroleum products who has violated the Commission's rules or the laws of Minnesota to install a mechanical time recording device on any or all of its petroleum transports. The proposed amendment to PSC 2(o) would delete the reference to "after notice and hearing". The need for this amendment is to remove a conflict between PSC 2(o) and PSC 4(b) the latter of which authorizes the Commission to order the installation of recording devices but does not require such order to be pursuant to notice and

hearing. In addition, the proposed amendment to PSC 2(o) is needed in order to allow the Commission to act quickly in ordering the installation of a time recording device when it deems immediate action to be necessary in order to protect public safety.

At present, PSC 2(s)(3)(aa) requires a motor carrier lessee and a motor equipment lessor to execute a lease in at least three copies. It also requires them to each retain one copy of the lease and keep one copy of the lease in the leased equipment at all times during the term of the lease. Subparagraph (aa-1) of PSC 2(s)(3)(aa) states that this requirement shall not apply between motor carriers that have authority as defined under Minnesota Statutes 221.011 subd. 9, 10, 11, 12, 21 and 24 or to local cartage carriers as defined in Minnesota Statutes 221.296. The proposed amendment to PSC 2(s)(3)(aa) would change subparagraph (aa-1) so that paragraph (aa) would apply between motor carriers that have authority as defined under Minnesota Statutes 221.011, subd. 9, 10, 11, 12, 21, 24 and to local cartage carriers as defined in Minnesota Statutes 221.296. This amendment is necessary in order to provide additional documentary evidence of the existence of a lease arrangement during an operation which involves an equipment lease; and to clearly identify the respective responsibilities of the lessor and lessee that are incident to the lease arrangement.

At present, PSC 5 adopts all rules and safety regulations prescribed in Code of Federal Regulations Title 49, Parts 290-297 as revised January 1, 1968, and Code of Federal Regulations, Title 49, Parts 1-199 (designated as the hazardous materials regulations) as revised October 1, 1973, not in conflict with the laws of the state of Minnesota, and/or rules of the Commisison. In addition, PSC 5 still contains a reference to the Public Service Commission's old address. Amendment of PSC 5 is necessary in order to show the Commission's present address and update the Code of Federal Regulations references so that PSC 5 will incorporate the most recent revisions of the Federal Regulations.

The authority of the department to amend PSC 2(m), 2(o), 2(s)(3)(aa) and 5 is set forth in Minnesota Statutes sections 216A.02, subd. 1 (1974) and Minnesota Laws 1976, section 10, subd. 1.

Dated: January 17, 1977.