

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

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JAN 5 - 1982
ATTORNEY GENERAL
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GARY D. BLACKFORD
SCOTT E. RICHTER

2660 PETRO-LEWIS TOWER
717 SEVENTEENTH STREET
DENVER, COLORADO 80202
TELEPHONE AND TELECOPIER
303-825-2660

SUITE 802-2000 L STREET N. W.
WASHINGTON, D. C. 20036
TELEPHONE AND TELECOPIER
202-887-5154

January 3, 1982

Honorable Hubert H. Humphrey, III
Attorney General of the State of Minnesota
102 State Capitol
St. Paul, Minnesota 55155

Dear Attorney General Humphrey:

On November 29, 1982, the Twin-Cities' Area Metropolitan Transit Commission gave notice in the State Register of its intent to repeal rule MTC 1-48, Chapters 1-3, 14 M.C.A.R. §2, without a hearing, pursuant to Minn. Stat. §15.0412, Subd. 4h.

As required by law, this notice provided for a 30-day period for the submission of written comments on the proposed repeal and stated that unless seven or more persons were to submit written requests for a hearing during the same period, a public hearing would not be held. The notice further stated, December 29, 1982. No written comments on the proposed repeal and no requests for notice of the MTC submissions to the Attorney General were received during that time period.

The 30-day period referred to above was concluded on December 29, 1982. No written comments on the proposed repeal and no requests for notice of the MTC submissions to the Attorney General were received during that time period.

Therefore, the Twin-Cities' Area Metropolitan Transit Commission makes the submissions described in the following paragraph in compliance with the requirements of Minn. Stat. §15.0412, Subd. 4h, that "the proposed rule and notice as pub-

lished, the rule as proposed for adoption, any written comments received by the agency, and a statement of need and reasonableness for the rule" be submitted to the Attorney General.

A copy of the notice as published in the State Register of Monday, November 29, 1982 is included, together with a copy of the statement of need and reasonableness applicable to the repeal of the above-referenced rules. Since the repeal of the rules in their entirety is proposed, rather than a new rule or the amendment of an existing rule, no "proposed" rules are included, but a copy of the rules proposed to be repealed is included herewith. As noted above, no written comments have been received on this proposed repeal.

The Twin-Cities' Area Metropolitan Transit Commission hereby requests that the Attorney General approve the proposed repeal of the above-referenced rules as to legality and as to form to the extent that form relates to legality and file two copies of the repeal with the office of the Secretary of State within 14 days of the date of this letter.

The Revisor of Statutes has reviewed these materials prior to publication and prepared the six copies of the rule repeal for submission to the State Register. A copy of the Revisor's letter of transmittal of those six copies has been enclosed. Copies of the two resolutions of the Twin Cities' Area Metropolitan Transit Commission related to this repeal are also enclosed for your convenience.

Very truly yours,

Douglas P. Seaton
Attorney for Twin-Cities' Area
Metropolitan Transit Comm.

DPS/kl
Enclosures

RECEIVED
JAN 4 - 1983
ATTORNEY GENERAL
102 STATE CAPITOL
ST. PAUL, MINN. 55155

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4344 IDS CENTER
MINNEAPOLIS, MINNESOTA 55402
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RECEIVED
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SUITE 802-2000 L STREET N. W.
WASHINGTON, D. C. 20036
TELEPHONE AND TELECOPIER
202-887-5154

January 6, 1983

Ms. Judith Wehrwein, Legal Assistant
Administration-Finance Division
Office of Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Dear Ms. Wehrwein:

Thank you for your telephone call of January 5, 1983 acknowledging receipt of the materials related to the Twin-Cities Area Metropolitan Transit Commission's proposed repeal of MTC 1-48, Chapters 1-3, 14 MCAR §2, without a hearing, pursuant to Minn. Stat. §15.0412, Subd. 4h, which were submitted to your offer with my letter of January 3, 1983.

You requested that I provide you with a certification as to the date and propriety of the Metropolitan Transit Commission's actions in passing Resolutions 1 and 2, copies of which you received with my letter of January 3, 1983. As the attorney for the Metropolitan Transit Commission, I hereby certify that Resolutions 1 and 2 were properly acted upon and passed by the Commission at a duly convened meeting, and in compliance with all requirements of law, on November 17, 1982. We also discussed the possibility that certain of the requirements of 1 MCAR §1.203 might not apply to the Metropolitan Transit Commission, since it is not a state agency, in its rule making actions pursuant to Minn. Stat. §473.405, Subd. 3.

You indicated that you would refer the file to the appropriate attorney for his consideration of this issue.

Thank you for your assistance.

Very truly yours,

Douglas P. Seaton
Attorney for Metropolitan
Transit Commission

Subscribed and Sworn to
before me this 6th day
of January, 1983.

JILL M. WILSON
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Aug. 27, 1986

Notary Public

DPS/kl

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TELEPHONE AND TELECOPIER
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RECEIVED
JAN 21 1983
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

January 20, 1983

Mr. Ted Martinez
Special Assistant Attorney General
Office of the Attorney General
2nd Floor, Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Dear Mr. Martinez:

By my letter of January 3, 1983, the Twin Cities' Area Metropolitan Transit Commission made certain submissions to the Office of the Attorney General required under Minn. Stat. § 15.0412 Subd. 4h, pursuant to its repeal of M.T.C. 1-48, Chapters 1-3, 14 M.C.A.R. § 2.

On behalf of the M.T.C., and pursuant to our telephone conversation of January 19, 1983, I hereby withdraw these submissions and resubmit them with the addition of the enclosed resolution, by which the M.T.C. took final action to repeal the rules referred to above. As the attorney for the M.T.C., I hereby certify that I was present at the Commission's meeting of January 19, 1983 and that the enclosed resolution was properly acted upon and passed by the Commission at this meeting, which was duly convened and at which a quorum was present, and which was in compliance with all requirements of law.

The original copies of the formal repeal language prepared by the Revisor of Statutes were forwarded to the State Register. Mr. Harry Walsh, the Deputy Revisor of Statutes, has indicated

that he will provide you directly with another copy of this document. I understand that your receipt of the enclosed resolution and the formal repeal language prepared by the Revisor of Statutes will complete the submissions required for your review.

If I can be of any further assistance in this matter, please do not hesitate to let me know.

Very truly yours,

Douglas P. Seaton
Attorney for
Metropolitan Transit Commission

/nrh
cc: Harry Walsh

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OFFICE OF THE REVISOR OF STATUTES

☐ STATE CAPITOL, ROOM 3 ☒ STATE OFFICE BUILDING, ROOM 670
ST. PAUL, MINNESOTA 55155

(612) 296-2868

ADMINISTRATIVE ASSISTANT
LEONA R. LEWIS
ASSISTANT FOR WRITING STANDARDS
MARYANN Z. CORBETT
DATA SYSTEMS MANAGER
ROBERT L. McCLUNG
DATA SYSTEMS PROJECT MANAGERS
THOMAS M. KLEIN
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BARBARA C. MOEHRLE
MARCIA A. WALDRON

Douglas P. Seaton
Metropolitan Transit Commission
801 American Center Building
160 East Kellogg Blvd.
St. Paul, Minnesota 55101

Dear Mr. Seaton:

We are enclosing six copies of your rule relating to the repeal of rules governing operation of Metropolitan Transit Carriers. The copies are ready for submission to the State Register.

If you want to make any changes, please return a copy with your instructions for redrafting.

If you have any questions, please do not hesitate to call.

Very truly yours,

Harry M. Walsh
Deputy Revisor
Phone: 296-4752

HMW/bw
Enclosure
RD289

Our File No. 874

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 1-26-83
DATE FOR REVIEW 1-31-83
DATE DUE ~~1-15-83~~ 2/4

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved _____ Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 1/27/83 Revisor approved 1/27/83 disapproved _____

_____ Rule as Adopted

_____ Rule as Proposed

_____ Order Adopting _____ Date

N/A Notice of Intent to Solicit Outside Opinion

_____ Order for rulemaking
_____ date of Hearing

_____ Certificate of Board's Authorizing Resolution

_____ Notice of rulemaking
_____ Sufficiency

_____ Affidavit of Mailing Notice or rulemaking
_____ At least 30 days prior to hearing/adoption

_____ Mailing list Certificate

✓ Publication in State Register
11.29.82 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

_____ Agency's Findings of Fact

_____ LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules but see my comment.

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

N/A Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

_____ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

See my comment re special circumstances of this "rulemaking".

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: LOUIS B. OLSON, Chief Administrator

DATE: 1/27/83

Attn: Douglas P. Seaton
Attorney at Law

FROM: TED A. MARTINEZ
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Repeal of Rules of the Twin Cities Area Metropolitan Transit Commission Relating to Operations of Transit Carriers, Transit Carrier Tariff, Accounting and Insurance Rules, and Rules of Practice, MTC 1-48, 14 M.C.A.R. § 2.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

TAM/ls
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

<BL> Twin Cities' Area Metropolitan Transit Commission *
<IN> *
<BL> Adopted Repeal of Rules Governing Operations of Transit * Carriers, Transit Carrier Tariff, Accounting and Insurance * Rules, and Rules of Practice *
<IN> *
<BL> Rule as Adopted *
<IN> *
<BL> Repealer. MTC 1, 2, 3, 4, 5, 6, 20, 21, 22, 23, 24, 30, 31, 32, * 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, and * 48 are repealed.*

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

AR0289

Agency: Metropolitan Transit Commission

Division:

Agency Contact: Douglas P. Seaton

Rule Numbers: MTC 1, 2, 3, 4, 5, 6, 20, 21, 22, 23, 24, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48

Title: Adopted Repeal of Rules Governing Operation of Metropolitan Transit Carriers

Type of Rules: Permanent

Incorporations by Reference: None

Rule Number:	Material Incorporated:

Duplication of Statutory Language: None

Rule Number:	Statutory Section Duplicated:

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Harry M. Walsh
Deputy Revisor
Phone: 296-4752
Date: January 21, 1983

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 27 1983
Secretary of State

3:04PM

APPROVED AS TO LEGALITY

January 27, 1983

HUBERT H. HUMPHREY, III ATTORNEY GENERAL

BY Ted A. Mathews

SPECIAL ASSISTANT ATTORNEY GENERAL

PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Twin Cities' Area Metropolitan Transit Commission

Proposed Repeal of Rules Governing Operations of Transit Carriers, Transit Carrier Tariff, Accounting and Insurance Rules, and Rules of Practice (MTC 1-48, Chapters 1-3, 14 MCAR § 2)

Notice of Intent to Repeal Rules without a Hearing

Notice is hereby given that the Twin Cities Area Metropolitan Transit Commission is proposing to repeal the above-entitled rules without a public hearing. The Twin Cities Area Metropolitan Transit Commission has determined that the proposed repeal of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h.

Persons interested in these rules shall have 30 days to submit comments on the proposed repeal. The proposed repeal may be reconsidered prior to final adoption if reconsideration is supported by the data and views submitted to the Twin Cities Area Metropolitan Transit Commission.

Unless seven or more persons submit written requests for a public hearing on the proposed repeal of these rules within the 30-day comment period, a public hearing will not be held. A written request must specify the rule(s) whose repeal is sought to be made the subject of a hearing. Such request should specify the particular objection made and the reasons or data relied upon to support the objection to repeal. In the event a public hearing is required, the commission will proceed according to the provisions of Minn. Stat. § 15.0412, subdivisions 4-4f.

Persons who wish to submit written comments or a written request for a public hearing should submit their correspondence to the address below and include a reference to these rules: Robert S. Shiff, Metropolitan Transit Commission, 801 American Center Building, St. Paul, Minnesota 55101.

The Twin Cities' Area Metropolitan Transit Commission's authority to repeal the aforementioned rules is contained in Minn. Stat. § 15.0412, subdivision 4h (1980), by reference in Minn. Stat. § 473.405, subdivision 3 (1980). A statement of need and reasonableness that describes the need for and reasonableness of the repeal of these rules and identifies the data and information relied upon to support the proposed repeal has been prepared and is available from the Twin Cities Area Metropolitan Transit Commission upon request.

Upon the repeal of the rules without a public hearing, this notice, the statement of need and reasonableness, and all written comments received will be delivered to the Attorney General for review as to form and legality. Persons who wish to be advised of the submission of this material to the Attorney General should submit a written request to the above address.

Please be advised that Minn. Stat. 1980, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. § 10A.01, subd. 11, defines a lobbyist as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions as to lobbying requirements should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone: (612) 296-5615.

The commission estimates that there will be no cost to local public bodies in the state to implement the repeal of these rules for the two years immediately following their repeal, within the meaning of Minn. Stat. § 15.0412, subdivision 7 (1980).

Louis B. Olson
Chief Administrator

Minnesota Housing Finance Agency

Notice of Correction of Publication of Proposed Temporary Rules Governing Income Limits for the Rollover Housing Demonstration Program

The notice of intent of proposed temporary rules governing Income Limits for the Rollover Housing Demonstration Program published on November 1, 1982 at 7 S.R. 670 did not include certain information required in the notice by the rules adopted by the Attorney General. Accordingly, the corrected notice is published below. The rules are identical to those printed in the original notice.

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following temporary rules for the purpose of setting income limits for the Rollover Housing Demonstration Program, pursuant to Laws 1981, Chapter 306, Section 3.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rule for 20 days immediately following publication of this material in the *State Register* by writing to Monte Aaker, Research Coordinator, Minnesota Housing Finance Agency, Suite 200, 333 Sibley Street, St. Paul, Minnesota 55101. The temporary rule may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rule. As required by the Administrative Procedures Act, this temporary rule will be effective for not more than 180 days and may be continued in effect for up to an additional 180 days.

James J. Solem
Executive Director

Minnesota Housing Finance Agency

Notice of Correction of Publication of Proposed Temporary Rules Governing Income Limits for the Medium Density Housing Demonstration Program

The notice of intent of proposed temporary rules governing Income Limits for the Medium Density Housing Demonstration Program published on November 1, 1982 at 7 S.R. 671 did not include certain information required in the notice by the rules adopted by the Attorney General. Accordingly, the corrected notice is published below. The rules are identical to those printed in the original notice.

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following temporary rules for the purpose of setting income limits for the Medium Density Housing Demonstration Program, pursuant to Laws 1981, Chapter 306, Section 3.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rule for 20 days immediately following publication of this material in the *State Register* by writing to Monte Aaker, Research Coordinator,

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

TWIN CITIES AREA
METROPOLITAN TRANSIT
COMMISSION

Resolution

WHEREAS, the Metropolitan Transit Commission, at a duly convened meeting, on November 17, 1982, with a quorum present, resolved to repeal MTC 1-48, 14 M.C.A.R. §2, subject to the procedures required to be observed for such a repeal as provided in Minn. Stat. §15.0412, Subd. 4h; and

WHEREAS all requirements of law for the repeal of MTC 1-48, 14 M.C.A.R. §2 pursuant to Minn. Stat. §15.0412, Subd. 4h, have been met;

THEREFORE, BE IT RESOLVED, that the Metropolitan Transit Commission, on this date, January 19, 1983, at a duly convened meeting, with a quorum present, hereby resolves that MTC 1-48, 14 M.C.A.R. §2 are repealed.

TWIN CITIES AREA
METROPOLITAN TRANSIT
COMMISION

Resolution 1

WHEREAS, the Metropolitan Transit Commission has voluntarily promulgated Rules, known as MTC 1-48, 14 M.C.A.R. §2 Relating to the Operations of Transit Carriers, Transit Carrier Tariff, Accounting Insurance Rules and Rules of Practice;

WHEREAS, these Rules have been determined to be unconstitutional in their application to transit operators other than the MTC in a ruling of Chief Judge Harold Kalina of the Hennepin County District Court not overturned on appeal in the case of Twin Cities Metropolitan Public Transit Area v. Holter, 249 N.W. 2d, 458 (1977);

WHEREAS, the Metropolitan Transit Commission would subject itself to potential antitrust liability under the United States Supreme Court decision in Community Communications Co., Inc. v. City of Boulder (January 13, 1982) if it were to seek to enforce the above-referenced Rules;

WHEREAS, transit operators other than the Metropolitan Transit Commission continue to subject to regulation by the Public Service Department;

WHEREAS, the Metropolitan Transit Commission retains authority under Minn. Stat. §473.413, subd. 6, and §473.449, to regulate its own operations, to the exclusion of any regulation by the Public Service Department;

WHEREAS, the repeal of the above-entitled rules is both needful and reasonable;

THEREFORE, BE IT RESOLVED, that the Metropolitan Transit Commission Rules Governing Operations of Transit Carriers, Transit Carrier Tariff, Accounting Insurance Rules, and Rules of Practice, known as MTC 1-48, Chapters 1-3, 14 M.C.A.R. §2, are hereby repealed, subject to the repeal procedures provided in Minn. Stat. §15.0412, subd. 4h; and that the Chief Administrator and counsel to the MTC are authorized and directed to take all steps necessary to secure such repeal at the earliest date possible.

TWIN CITIES AREA
METROPOLITAN TRANSIT
COMMISSION

Resolution 2

WHEREAS, the MTC Rules Governing Operations of Transit Carriers, Transit Carrier Tariff, Accounting and Insurance Rules, and Rules of Practice, known as MTC 1-48, Chapters 1-3, 14 M.C.A.R. §2, have been repealed by the Metropolitan Transit Commission, subject to the requirements of Minn. Stat. §15.0412, subd. 4h;

WHEREAS, the Metropolitan Transit Commission has authority to regulate its own operations, to the exclusion of any regulation by the Public Services Department under Minn. Stat. §473.413, subd. 6, and §473.449, without being subject to the requirements of the Administrative Procedures Act, pursuant to Minn. Stat. §473.405, subd. 3;

WHEREAS, the Metropolitan Transit Commission is mandated to promote "the protection and advancement of the public health, safety, and welfare" under Minn. Stat. §473.402, subd. 1, and may adopt rules which constitute a "furtherance of the legislatively mandated policy permitting the MTC to adopt rules to assure safety in the operation of buses" pursuant to the Minnesota Supreme Court's decision in Lewis v. Metropolitan Transit Commission (June 11, 1982);

THEREFORE, BE IT RESOLVED, that, as of the effective date of the repeal of the MTC Rules Governing Operations of Transit Carriers, Transit Carrier Tariff, Accounting and

Insurance Rules, and Rules of Practice, MTC 1-48, Chapters 1-3, 14 M.C.A.R. §2, the Metropolitan Transit Commission hereby adopts as a new Article XIV of its Administrative Regulations the language of the Federal Motor Carriers' Safety Regulations, codified at 49 C.F.R. parts 391 and 392.

MCAR

TRANSPORTATION DEPARTMENT

1982 Reprint

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MINNESOTA CODE OF AGENCY RULES

RULES OF THE METROPOLITAN TRANSIT COMMISSION

1982 Reprint

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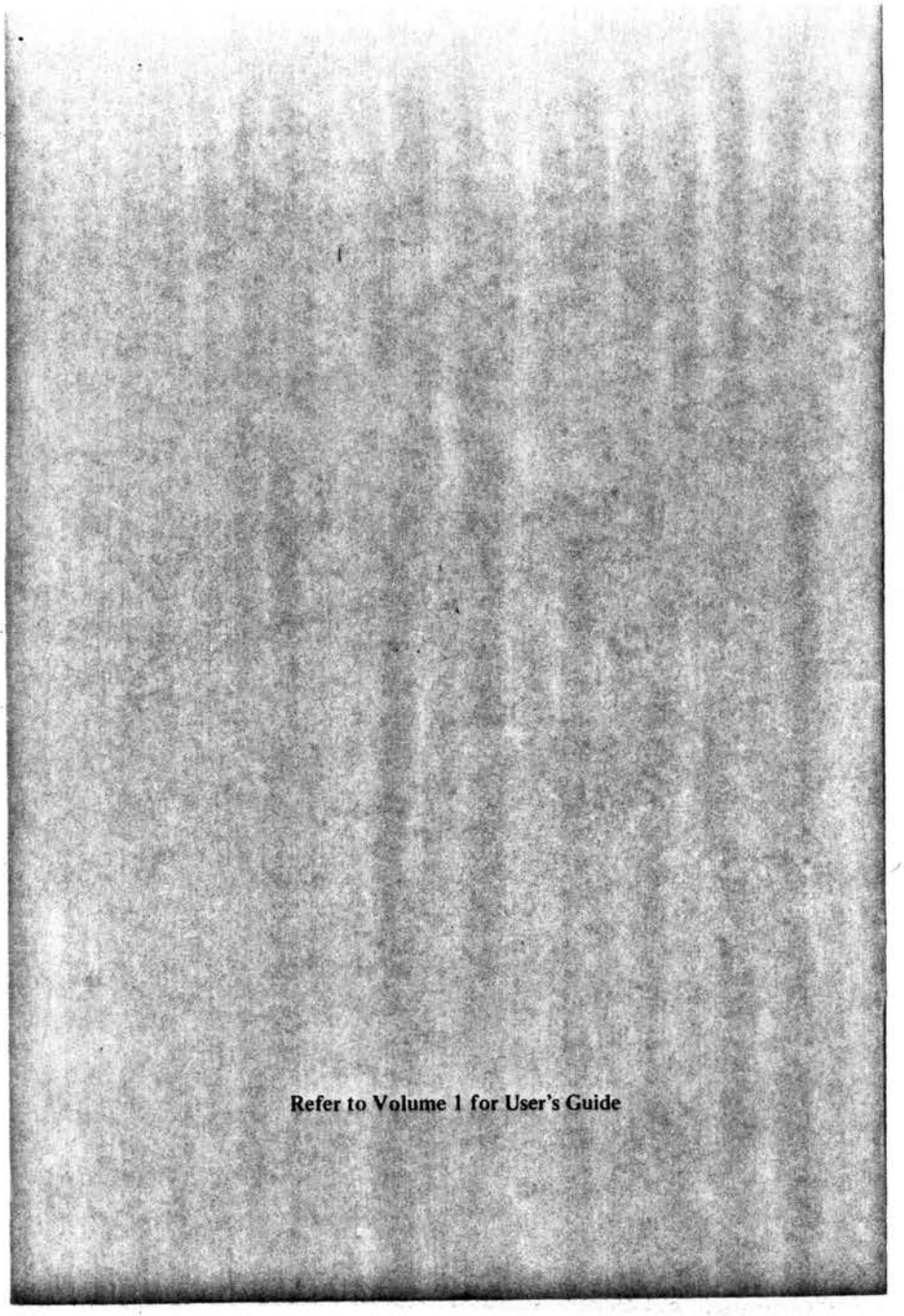
All rules as in effect on September 15, 1982

Prepared by

THE OFFICE OF REVISOR OF STATUTES
Room 3, State Capitol, St. Paul, Minnesota 55155

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METROPOLITAN TRANSIT COMMISSION

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CHAPTER ONE

REGULATIONS GOVERNING OPERATIONS OF TRANSIT CARRIERS

MTC 1 Application and Definitions

(a) General Application. These regulations shall apply to every owner and operator of any part of a public or mass transit system within the Twin Cities Metropolitan Transit Area, as defined in these regulations and in Minnesota Statutes, Chapter 473A. Every owner and operator shall compel compliance with the requirements of these rules where it is applicable to its employees. The definitions contained in Minnesota Statutes, Chapter 473A, shall apply to these rules and the definitions in Minnesota Statutes, Chapter 221, shall also apply unless inconsistent with provisions of these rules or with Minnesota Statutes, Chapter 473A.

(b) Safety Rules. Any operator subject to these rules may in the conduct of its business provide for a higher standard of safety in its operations than is provided for herein. But no safety standards of operations adopted by such carrier shall be inconsistent with these rules or contrary to law.

(c) Ordinary Meaning. Where terms are used in these rules or regulations which are not defined herein they shall have the ordinary practical meaning of such terms, as applicable to the transportation industry.

(d) Owner. The term "owner" means a person to whom a certificate of title to equipment has been issued or who has lawful possession of equipment.

(e) Transit Carrier. The terms "regular route common carrier" shall be synonymous with "transit carrier" and both terms shall mean any person who holds himself out to the public as willing to undertake for hire to transport passengers by motor vehicle between fixed termini over a regular route upon the public highways but shall not include persons while engaged primarily in the transportation of children to or from school; or any person engaged in operating taxicabs or operating hotel limosines between a depot or airport and a hotel or motel; or any persons whose routes do not lie wholly within the Twin Cities Metropolitan Transit Area.

(f) Charter. "Charter" means the agreement whereby the owner of a transit vehicle lets the same to a group of persons as one party for a specified act of transportation at a specified time.

(g) Transit Vehicle. "Transit vehicle" shall mean any vehicle or means of conveyance used by a transit carrier in the transportation of passengers.

MTC 2 Commission of Action.

(a) Granting of Certificates.

(1) Certificates Required. No person shall operate as a transit carrier as herein defined without a valid certificate in full force and effect with respect to such operations having been granted by the Commission. Any person desiring to operate as a transit carrier shall file a petition therefor with the Commission together with an application with such information as the Commission may require.

(2) Exception for Existing Transit Carriers. As presently in force before the Public Service Commission, all certificates, permits and all rights and privileges attaching thereto by statute, regulation or custom, which are lawfully in force and effect and in existence for persons entitled thereto on the date these regulations are adopted, shall continue in full force and effect without the necessity of reapplication or approval to or by the Commission unless otherwise required by specific provisions in these regulations upon written notice to such person. It is the intent of this provision not to require reexamination or reapplication to the Commission by any owner or operator for existing operations when these regulations are adopted and to continue the existing rights and privileges for all owners, operators, and holders of certificates, and other rights and privileges subject only to the ordinary operation of these regulations.

(b) Application. The commission on request will furnish application to any person who desires to apply for a certificate of public convenience and necessity as an owner or operator of a transit carrier within the Twin Cities Metropolitan Transit Area.

(c) Copies. Applicants filing for certificates of convenience and necessity as a transit carrier shall furnish the Commission with sufficient copies of the application to make service on all parties whom the Commission deems interested. Upon request, the Commission will advise the applicant of the number of copies required for such service.

(d) Interested Persons. Persons claiming to be interested parties under the statute may file their names and addresses with the Commission and shall thereupon be served with notice of hearing on all applications for certificates filed with the Commission.

(e) Identification. Transit carriers may not operate any transit vehicle in the Twin Cities Metopolitan Transit Area without carrying or displaying thereon such identification as may be required by the Commission.

(f) Name and Address. The name and post office address of the certificate holder must be displayed in a conspicuous place on each vehicle used by him and must be the same as shown in the certificate. The lettering shall not be less than three inches high, made by strokes no less than one half inch wide of a contrasting color, so as to be legible at all times.

(g) Operation.

(1) Abandonment of Certificate. Failure of a transit carrier to commence operations upon the route granted within 30 days after the date of the certificate of public convenience and necessity therefor shall be deemed an abandonment thereof.

(2) Non-Compliance. The compliance period in all orders issued by the Commission shall be 30 days from the receipt of such order by the person by whom compliance is to be made, unless otherwise ordered by the Commission, and failure to make such compliance shall render the order null and void and all proceedings in such matter shall be terminated with prejudice and the file shall be closed.

(h) Abandonment of Route and Certificate. Failure of a transit carrier to operate for a period of seven consecutive days over any route covered by the certificate of public convenience and necessity therefor without the written

consent of the Commission shall be deemed an abandonment of service and cause for forfeiture of all rights granted, except when the route is closed or detoured by a governmental authority or in an emergency or because of conditions beyond its control.

(i) Age Limit. No certificate shall be issued to any person under 21 years of age.

(j) Leased Equipment.

(1) Leased Permitted. A transit carrier may lease transit vehicles from the owner thereof for use in his operations under his authority, but only under a written lease which is not a subterfuge for leasing the carrier's certificate or permit to the owner-lessor.

(2) Contents. The lease shall provide for the exclusive possession, control and use of the vehicles and for the complete assumption of responsibility in respect thereto by the lessee for the duration of said lease and the lessee shall be considered as the owner of said vehicle during the duration of the lease for all purposes, including public liability insurance. The lease shall state the terms of compensation to be paid to the lessor by the lessee. The lease may include the services of a driver and nothing in these rules shall be construed to require that such a driver be an employee of the motor carrier lessee.

(3) Copies. The lease shall be executed in triplicate, one copy to be retained by the lessee, one by the lessor, and one copy shall be kept with the leased vehicle at all times during the lease term.

MTC 3 Records.

(a) Operating Records and Logs. All transit carriers authorized by the Commission must keep full and complete records including operating expense, operating revenue, miles operated, and otherwise as may be required when the vehicle is operated on an hourly basis in accordance with carrier's filed tariff. In addition, all transit carriers must keep a driver's log.

(b) Dispute. Where a dispute arises between a transit carrier or a passenger, over a claim or other matter, any of the interested parties may refer the claim to the Commission for investigation.

(c) Copies. All transit carriers shall retain copies of all records for at least three years from the date covered by the document.

(d) Reporting Accidents.

(1) A transit carrier operating under authority of the Commission must report to the Commission any accident involving any of its vehicles and resulting in loss of life, immediately, by telephone, or telegram, giving the place, time, number of fatalities, and extent of known damage.

(2) In accidents resulting in loss of life or requiring hospitalization or medical attention, or property damage amounting to or more than $3,000.00, a summary report shall be made to the Commission within 48 hours of the time of said accident and a detailed written report of the accident made available to the Commission within 15 days.

(3) A written report of accidents shall contain the following information: Name of carrier, principal business address, type of carrier, date of accident, time of accident, place where accident occurred, highway number, county, city, name and address of the driver of the vehicle, type of accident, collision, non-collision, whether accident involved fire or explosion, other vehicles involved, name of the owners, addresses, types of vehicles, names and addresses of persons killed or injured and so designated. Such written report may be made on the Minnesota State Highway Department motor vehicle accident report form.

(4) Transit carriers shall specifically review the individual record of a driver involved in a serious accident so that reckless or accident-prone drivers may not continue to drive vehicles as a hazard to public safety.

MTC 4 Required Equipment for Transit Vehicles.

(a) Equipment.

(1) Safety. Every transit vehicle shall be adequately equipped for safe operation upon the highways.

(2) Lighting. No lighting device other than electric lights shall be on any such vehicle. Lighting circuits shall have suitable over-current protection (fuses or automatic circuit breakers). The wiring shall have sufficient carrying capacity and mechanical strength and shall be secured, insulated and protected against physical damage in keeping with recognized good practice.

(3) Exhaust. All parts of the transit vehicle exhaust system carrying exhaust gases from the engine shall be constructed and installed in a workmanlike manner and in no case can be exposed to accumulation of grease, oils, gasoline or other fuels. The exhaust system shall be so constructed and maintained as to insure against any carbon monoxide gas entering in or accumulating in the driver's compartment. The exhaust gases of the engine after passing through the muffler and tail pipe shall not be allowed to discharge against any parts of the unit.

(4) Tires. Recapped tires shall not be used on the front wheels, except in case of emergency.

(b) Recording Devices. If a transit carrier so operates it vehicles as to require the keeping of records that could only be made by a recording device installed on the vehicles, then by order, the Commission may direct such installation.

(c) Mirrors. Every transit vehicle shall have two outside rear view mirrors of such size and shape to provide a clear view of the highway to the rear along both sides of the vehicle.

(d) Inspection and Maintenance. Every transit carrier shall systematically inspect and maintain all transit vehicles subject to its control to insure such vehicle's parts and accessories are in safe and proper operating condition. Such maintenance and inspection reports or records shall be maintained for each vehicle.

MTC 5 Equipment and Safety Rules for Transit Vehicles.

To the extent not in conflict with these regulations or Minnesota Statutes, the provisions of the Department of Transportation Motor Carrier Safety

Regulations, Parts 290-297, as published in Parts 390-397, Title 49 C. F. R., and amendments thereto, shall also apply to all transit vehicles insofar as they are applicable to such vehicles, and are hereby adopted as the regulations of the Commission. Every transit carrier, its officers, drivers, agents, representatioves and employees directly concerned with inspection, driving, and maintenance of transit vehicles shall comply and be conversant with these requirements.

(a) Fire Extinguisher. Every transit vehicle carrying passengers shall carry in an accessible position at least one fire extinguisher which shall contain five pounds of dry chemical having an 8 B. C. rating or its equivalent. Extinguishers shall be kept full and kept in operating condition at all times and must be recharged after use even though only partly discharged.

(b) Fires. Transit vehicles shall not be driven past fire of any kind burning on or near the highway or other thoroughfares until due caution shall have been taken to ascertain that such passing can be made with safety.

(c) Fueling. On transit vehicles no fueling, except units using diesel fuel, shall take place with passengers in the vehicle and no reserve supply of fuel shall be carried except in a properly constructed and mounted main fuel tank, cylinder or auxiliary tank except that this provision shall not be construed to prohibit the use of a property constructed cargo tank for liquified gases as a proper source of fuel supply.

(d) Explosives. Transit vehicles may not transport explosives or other inflammable property.

(e) Exit Doors. Transit vehicles must have a usable emergency exit door on the opposite side from the regular service door, and marked "Emergency Exit" or in lieu thereof such vehicles shall be provided with emergency escape kick-out or push-out windows. Each of such windows shall be in the form of a parallelogram having dimensions of not less than 18 inches by 13 inches and each shall contain an area of not lesst than 200 square inches. Such emergency escape kich-out or push-out windows shall be appropriately marked and shall at all times be kept in good working order so that the same may be opened easily in any emergency.

(f) Passenger Standing. Transit vehicles must not permit any passenger to sand in the space between the driver and the front door of the bus so as to obstruct the full view of the driver to his right and to right rear view mirror.

(g) Receipt and Discharge of Passengers. Passengers may not be discharged or received on the highway exept where the vehicle may be driven from the traveled portion of the highway, or from traffic lanes so as not to obstruct the roadway. Transit vehicles must come to a full stop before passengers board of alight therefrom. No trannsit vehicle shall discharge or receive passengers except from the right-hand side of such vehicle, except in case of emergency.

(h) Condition of Vehicle. All transit vehicles must be maintained in a clean and sanitary condition, and when weather conditions require it, the vehicle must be heated so as to be reasonably comfortable.

(i) Rules not Exclusive. These rules are not exclusive of other applicable statutes, rules or standards not inconsistent herewith.

MTC 6 Drivers of Transit Vehicles.

(a) Qualifications. No transit carrier shall allow one of its vehicles to be driven or require any person to drive a vehicle unless the person so driving possesses the following minimum qualifications.

(1) Shall be properly licensed under the applicable state law.

(2) Shall not be addicted to the use of narcotics, habit-forming drugs or excessive use of alcoholic beverages.

(3) Shall possess competency by reason of experience and training to operate safely the type of vehicle or vehicles which he drives.

(4) Shall possess knowledge of any statutes or rules and regulations pertaining to the driving of transit carrier vehicles within the Twin Cities Metropolitan Transit Area.

(5) Shall have successfully passed a physicial examination as required by the Department of Transportation Motor Carrier Safety Regulations as adopted in MTC 5. More stringent qualifcations may be required by the Commission or the employer. In the event of a dispute between the carrier and the driver as to the driver's physical or mental qualifications, the Commission may at the request of either party require a further examination by another doctor.

(6) No certificate of physical fitness shall be effective for a period of more than 36 consecutive months.

(7) One copy of a valid certificate of the driver's physical fitness to operate a motor vehicle shall be kept in the records of the motor carrier.

(8) Shall be an employee of an authorized transit carrier or the owner thereof.

(b) Alcoholic Beverages. No driver shall partake of any alcoholic beverage during the eight hours immediately preceding the time of going "On Duty."

(c) Impaired Ability. No driver shall drive or be required to drive a motor vehicle while his ability or alertness is so impaired through fatigue, illness or other causes as to make it unsafe for him to drive, or to continue to drive a vehicle, nor shall he be required to knowingly be permitted to drive in such condition. No driver shall go on duty while under the influence of, nor drink while on duty, any alcoholic beverage or liquor or drugs or medicines, whatever its alcoholic content, nor shall he knowingly be permitted to do so.

(d) Time Records. A transit carrier shall maintain and retain for a period of one year accurate and true records showing the total number of hours the driver is on duty per day and the time at which the driver reports for and is released from duty each day.

(e) Excess Work Hours. Except in case of emergency, abnormal weather or highway conditions, no driver shall be on duty over 15 hours nor shall he drive or operate a transit vehicle for more than ten hours in the aggregate in a period of 24 consecutive hours, unless such driver be off duty for eight consecutive hours immediately following the ten hours aggregate driving and within said period of 24 consecutive hours, and shall not be on duty over 60 hours in any work week of 168 hours, except that carriers operating vehicles on

every day of the week may permit drivers in their employ to remain on duty for a total of not more than 70 hours in any period of 192 consecutive hours. A written report to the Commission shall be immediately submitted stating the reasons for the longer period of driving. The regulations covering hours of driving shall not apply to a transit carrier when providing relief in case of earthquake, flood, fire, famine, drought, epidemic, pastilence, or other calamities or disasters.

(1) The term "on duty time" as herein used relates solely to the safety rules herein adopted and is not intended to abrogate or extend the obligation of the carrier for payment of wages. Said term shall mean the hour or fraction of any hour when a driver registers in for work and until such time as he is released from work and registers the hour or fraction of an hour out from work.

(2) The term "driver or operate" includes all the time spent at the driving controls of a motor vehicle while on duty.

(3) The term "week" means any period of 168 consecutive hours beginning at the time the driver registers in for work, provided that when a transit carrier operates an eight day week, such week shall consist of 192 consecutive hours.

(4) The term "24 consecutive hours" means any such period starting at the time the driver registers in for work.

(f) Work Hour Prohibition. No transit carrier subject to these regulations, if himself a driver, shall remain on duty or drive for longer periods than those prescribed in these rules.

(g) Time Reports. Every driver employed by a transit carrier shall at the end of his day's work or tour of duty report in writing to his employer any defect or deficiency of the motor vehicle used by him during such day's work or tour of duty as would be likely to affect the safety or operation of the vehicle. Such reports shall be kept for six months and shall be attached to the record of corrections of defect or deficiency.

(h) Driver Responsibility for Equipment. No driver shall operate a transit vehicle until he has ascertained that said vehicle is equipped with the following parts and accessories in a safe and serviceable condition:

Lighting devices and reflectors
Brakes, service and parking
Horn
Dual windshield wipers and defrosters
Dual rear vision mirrors
Tires
Steering mechanism
Air pressure
Warning devices or gauges
Coupling device
Flags and flares or reflectors
Fire extinguishers of the capacity fixed in MTC 5
Flashlight

(i) Caution when Starting. No transit vehicle shall be set in motion until due caution has been taken to ascertain that the course is clear.

MTC 7-19. Reserved for future use.

CHAPTER TWO

TRANSIT CARRIER TARIFF' ACCOUNTING AND INSURANCE RULES

MTC 20 Transit Carrier Tariff Rules.

All tariffs, classifications, routes, schedules, rates, rules supplemental thereto, any supplements or additions thereto and issues thereof shall be filed with the Metropolitan Transit Commission and before they become effective each must be approved by order of the Metropolitan Transit Commission. They shall be prepared and filed in such form as the Metropolitan Transit Commission may prescribe.

MTC 21 Transit Carrier Acounting Rules.

(a) Reports. All transit carriers shall maintain their accounts and file annual reports in accordance with the forms and procedures prescribed by the Commission. All annual reports shall be filed within the prescribed time shown on report forms furnsished by the Commission. Applicable schedules of such report forms shall be completed in full. The carrier's certificate will be subject to cancellation if report is not submitted.

(b) Annual Basis. All transit carriers shall maintain their accounts and make annual reports to the Commission on a calendar year basis.

MTC 22 Insurance - Transit Carriers.

(a) Filing Requirements. Each insurance company insuring transit carriers operating under the authority of the Commission in the Twin Cities Metropolitan Transit Area must file with the Commission a copy of the insurance policy for each carrier together with the Endorsement for Minnesota Motor Carrier Policies of Insurance, MTC Ins. 1, and a Certificate of Insurance, MTC Ins. 2, naming each carrier, respectively, insured thereunder: Notice of Cancellation of Motor Carrier Certificate of Insurance shall be on form MTC Ins. 3; Rescinder of Notice of Cancellation of Motor Carrier Certificate of Insurance shall be on form MTC Ins. 4; and Notice of Reinstatement of Motor Carrier Certificate of Insurance shall be on form MTC Ins. 5; such forms shall be filed in triplicate.

(b) Minimum Limits. Public liability and property damage insurance must be carried and filed with the Commission by all transit carriers in the following minimum amounts for all transit vehicles;

$100,000 - Limit for bodily injuries to or death of one person.

$100,000 - Limit for loss or damage in any one accident or property of others (excluding cargo).

Limit for bodily injuries to or death of all persons injured or killed in any one accident (subject to a maximum of $100,000 for bodily injuries to or death of one person).

PASSENGER EQUIPMENT (Seating Capacity)	
12 passengers or less	$300,000
13 to 12 passengers, incl	$350,000
21 to 32 passengers, incl	$400,000
33 passengers or more	$500,000

(c) Filing. A copy of the insurance policy, the Endorsement for Minnesota Motor Carrier Policies of Insurance, MTC Ins. 1 and Certificate of Insurance, MTC Ins. 2 must be filed with the Commission before the certificate of authority as a transit carrier shall be issued or within 30 days after receiving the order from the Commission authorizing the certificate of public convenience and necessity. Failure to do so will be deemed grounds for suspension of the order without notice.

(d) Copies. The carrier shall furnish to the Commission a duplicate original of its liability and property damage policy or policies and all endorsements thereon whenever requested by the Commission.

(e) Forms. Forms MTC Ins. 2, MTC Ins. 3, MTC Ins. 4 and MTC Ins. 5 shall be printed according to specifications set up by the Commission and shall contain the following contents respectively:

MTC Ins. 1 Endorsement for Minnesota Motor Carrier Policies of Insurance

MTC Ins. 2 Statewide Public Liability and Property LDamage Certificate Certificate of Insurance

MTC Ins. 3 Notice of Cancellation of Insurance Certificate

MTC Ins. 4 Rescinder of Notice of Cancellation of Insurance Certificates

MTC Ins. 5 Notice Reinstating Certificates of Insurance

MTC 23 Self Insurance - Transit Carriers.

(a) Petition. Any transit carrier may file a petition with the Commission for authority to be a self-insurer of its public liability and property damage liabilities.

(b) Application. The application shall contain:

(1) Name and address of applicant.

(2) The Commission permit or docket number.

(3) Financial statement giving details of assets and liabilities.

(4) Statement of public liability and property damage losses for the immediately preceding five years.

(5) A signed and verified statement in the following form:

(aa) That it will promptly investigate all claims made against it by any person, other than its own employees, for bodily injury or death of any person or loss of or damage to the property of others (excluding property designated as cargo) arising out of its operation under .... number .... and will either settle said claim promptly or notify the claimant promptly that his claim has been disallowed and that, in the event that such claimant shall obtain a final judgment against .... in a court of law on any such claim .... will settle and pay said final judgment promptly.

(bb) That it will file with the Commission a monthly report of all accidents involving all liability and property damage insurable under this agreement, and with an estimate of the extent of its possible financial responsibility.

(cc) That it will promptly notify the Commission of any change in its financial structure affecting its ability to meet its financial obligations under this agreement.

(dd) That it will file an annual financial statement truly disclosing its assets and liabilities as of the date thereof with the Commission on or prior to the anniversary date hereof.

(ee) That in the event of any unusual contingent liability or upon order of the Commission it will set aside a cash reserve in the estimated amount of such probable liability as is found by the Commission to meet the demand of any anticipated judgment to be recovered in the matter.

(ff) That failure by it to keep any and all of the terms hereof shall be sufficient grounds for the immediate cancellation of any authority which may be granted to it exempting it from the filing with the Commission of public liability and property damage insurance.

(c) Order. Any order of the Commission granting authority to selfinsure shall be in substantially the following form:

BEFORE THE TWIN CITIES AREA METROPOLITAN TRANSIT COMMISSION

ORDER FOR SELF-INSURANCE

WHEREAS, the undersigned .... is the holder of a certificate of public convenience and necessity issued by the Twin Cities Area Metropolitan Transit Commission and is operating as a transit carrier in the transportation of persons within the Twin Cities Metropolitan Transit Area and as such is required to file and maintain with the Commission insurance covering its public liability and property damage liability, and

WHEREAS, said carrier has applied to the Commission for exemption from those requirements, and

WHEREAS, said carrier has filed with the Commission a properly authenticated financial statement, truly disclosing its assets and liabilities as of the date thereof, from which it appears that said applicant has adequate cash reserves on hand to pay all liabilities it may incur as such transit carrier;

NOW, THEREFORE, in consideration of the execution by the carrier of the attached application and the assumption by it of the obligations therein contained:

IT IS ORDERED:

ORDER

That the transit carrier having filed an application and the Commission having given due consideration thereto finds that the carrier be and hereby is granted exemption from the provisions requireing the filing of public liability and property damage insurance.

IT IS FURTHER ORDERED: That this order and the exemption therein authorized shall be subject to cancellation for cause; that in the event such cancellation is ordered the carrier must forthwith file satisfactory public liability and property damage liability insurance, failing in which it will be required to cease and desist from further operations until such insurance has been filed with and approved by the Commission.

BY ORDER OF THE COMMISSION

MTC 24 Insurance Company Qualification

Insurance companies or bonding companies who file certificates of insurance or bonds with this Commission must be authorized and registered with the Department of Commerce, Insurance Division, to do business in the State of Minnesota.

MTC 25-29. Reserved for future use.

CHAPTER THREE

RULES OF PRACTICE

MTC 30 Commencement of Proceeding; Title.

(a) Complaint; Petition; Application.

A "proceeding" as the term is used in these rules, may be initiated by any of the following. (1) a complaint, which may, be formal or informal, alleging a violation of any provision of law or any regulation or requirement made pursuant to a power granted by law; (2) an application for the granting or issuance of any license, permit, certificate or privilege, authority to grant or withhold which is specifically vested in the Commission; and (3) a petition for an order of the Commission granting relief under or from any provision of law, regulation or requirement made pursuant to power vested by any law, or for the consideration of any submission required or permitted by law to be made by the Commission.

(b) Title.

The person, corporation, organization or commission instituting the proceeding shall by styled the "complainant" if the proceeding is by complaint, or "applicant" if the proceeding is by application, and "petitioner" in all other cases. In any complaint proceeding, the person or persons against whom the same is brought shall be styled the "respondent". In all other proceedings the matter shall be entitled "In the Matter of ....", followed by a brief description of the subject matter to which the same relates. No proceeding shall be dismissed, impaired or prejudiced because incorrectly entitled, or the parties thereto incorrectly styled; but opportunity shall be given in such cases to correct the error by amendment, giving due consideration to any person who may have been misled by the error.

(c) Joinder of Serveral Persons in One Pleading.

Two or more persons may join in one pleading where they desire to make substantially the same allegations, subject to the power of the Commission to order separate hearings upon its own motion or on the motion of any party to the proceeding.

MTC 31 Parties; Petition to Intervene; Appearance.

Complainants, applicants, petitioners and respondents specifically named as such in any pleading are parties to the proceeding. No other person shall become a party to the proceeding except by leave of the Commission upon petition to intervene under MTC 33, Par. 8, and a showing that he is specifically deemed by statute to be interested in the particular type of matter involved, or that he is specifically declared by statute to be an interested party to the particular type of proceeding involved, or that by the outcome of the proceeding he will be bound and affected either favorably or adversely with respect to an asserted interest peculiar to him as distinguished from an interest common to the public or other taxpayers in general; such person shall be styled "intervenor" or "protestant". The Commission may hear the views or evidence of any person or organization as to the subject matter, but no person shall become or shall be deemed to have become a party to the proceeding by reason of such participation in the hearing. Any person may enter an appearance in any proceeding, but no person shall become or shall be deemed to have become a party to the proceeding by reason of having entered an appearance there.

Intervention may be denied if, in the discretion of the hearing officer, it is found that such person's interest is adequately represented by one or more parties participating in the case.

MTC 32 Representation.

The parties may appear either in person or by attorney. A corporation cannot appear in person.

MTC 33 Pleadings.

(a) Types of Pleadings.

The pleadings before the Commission shall be Informal Complaint, Formal Complaint, Answer, Reply, Application, Petition, Protest, Petition to Intervene, and Answer to Petition to Intervene, including amendments or supplements to any of the foregoing.

(1) Informal Complaint

(aa) Form. Informal complaints may be made by letter or other writing and will be filed as received. No form of informal complaint is prescribed, but in substance the letter or other writing must contain the name and address of the complainant, the name or names of the carrier, person or corporation against whom complaint is made, a statement that some certain statute of the State of Minnesota or rule or regulation of the Commission has been violated by such carrier, person or corporation, indicating when, where and how, and a request for affirmative relief. Informal complaints need not but may be verified, and should be accompanied by copies in sufficient number to enable the Commission to transmit one to each carrier, person or corporation named. They may be accompanied by supporting affidavits and papers.

(bb) Disposition. Matters thus presented, if their nature warrants it, will be taken up by correspondence with the persons affected in an endeavor to bring satisfaction of the complaint without formal hearing, and in the order of their receipt will be given serial numbers on the informal docket.

(2) Answer to Informal Complaint. Answers to informal complaints may be filed with the Commission by respondents named therein without proof of service upon the complainant and without verification unless such complaint is verified.

(3) Formal Complaint.

(aa) Form. Formal complaints must state the names and addresses of all parties complainant and respondent without abbreviation, and the name and address of the attorney for complainant, if there be one. Formal complaints will be filed as received and given serial numbers on the formal docket.

(bb) Allegations; Joinder of Causes. Any person authorized by law to submit a complaint to the Commission that his rights are being abridged, that his privileges are being denied, or that duties owed him are being defaulted upon may initiate a contested case by filing a complaint. Formal complaints should be drawn so as to fully and completely advise the parties respondent and the Commission wherein the provisions of the statutes of the State of Minnesota, or the rules and regulations of the Commission, have been, or are, violated by the acts or omissions complained of, or will be violated by a continuance of such

acts or omissions, and should set forth briefly and in plain language the facts claimed to constitute such violation and the relief sought. Two or more grounds of complaint involving the same principle, subject, or sate of facts may be included in one complaint, but should be separately state and the paragraphs numbered. In case violation of two or more sections of the statutes are alleged, the facts claimed to constitute violation of one section should be stated separately from those in respect of any other section or sections wherever that can be done by reference, or otherwise, without undue repetition.

(cc) Tariff Reference. The several rates, fares, charges, classifications, rules, regulations, or practices complained of should be set out by specific reference to the tariff number as well as the tariff number of the issuing carrier or issuing agency in which they appear, whenever that is practicable.

(dd) Preference or Prejudice to be Specified. If some undue or unreasonable preference or advantage, or undue or unreasonable prejudice, disadvantage or discrimination, in violation of the statutes of the State of Minnesota, is alleged, then the particular person, company, firm, corporation, locality or description of traffic affected thereby, and the particular preference, advantage, prejudice, disadvantage, or discrimination relied upon as constituting such violation should be clearly specified.

(ee) Subscription; Verification. Every formal complaint should be personally subscribed by the complainant or by a person authorized to appear for complainant under MTC 32. In addition, the facts alleged must be verified under oath by a complainant, or by a partner, officer, agent or attorney of complainant. However, if the verification by by an agent or attorney, the reason it is not made by a complainant, partner or officer must be stated.

(ff) Number of Copies. Each formal complaint must be accompanied by copies in sufficient number to enable the Commission to serve one upon each respondent and retain ten for its own use.

(gg) Supplemental Complaint. Supplemental complaints may be tendered for filing by the parties complainant against the parties respondent named in the orginal complaint at any time prior to the date set for hearing of the original complaint, setting forth any causes of action alleged to have accrued in favor of the complainants and against the respondents since the filing of the original complaint; and upon leave granted, such supplemental complaints will be filed as provided for original complaints, and upon service upon each of the respondents and proof filed with the Commission will be heard, considered, and disposed of in the same proceeding, if practicable.

(4) Answer to Formal Complaint.

(aa) Service. Answers to formal complaints must be filed in guadruplicate with the Commission, with proof of service upon complainant, within 20 days after the day on which the complaint was served, exclusive of the day of service. any respondent failing to serve and file answer to a formal complaint within such period will be deemed by the Commission to have denied the same, and issue as to such respondent will be thereby joined.

(bb) Form and Style. Answers to formal complaint should be drawn so as to fully and completely advise the parties and the Commission of the nature of the defense, state that the respondent has granted the relief demaned if such is the case, and should admit or deny specifically and in detail each material allegation of the pleading answered. Denial of an alleged discrimination or that an alleged preference or prejudice is undue or unreasonable should state fully the grounds relied upon in making such denial.

(cc) Subscription; Verification. Such answers shall be subscribed by the respondent or his attorney and verified.

(5) Reply. If the answer to a complaint alleges the granting of the relief demanded, the complainant shall within 20 days file with the Commission, with proof of service upon respondent, a reply admitting or denying such allegation. If he fails to reply or admits the allegation, the proceeding shall be dismissed.

(6) Application and Petition.

(aa) Form. Except as otherwise prescribed by the Commission or required by statute, an application or petition shall contain the name and address of applicant or petitioner without abbreviation, and the name and address of the attorney for applicant or petitioner, if there be one.

(bb) Allegation. It shall set forth a statement of facts and the grounds upon which relief or authority is sought, the statute or statutes under which the proceeding is brought or which are otherwise applicable, and the relief or authority sought by applicant or petitoner. If the application or petition seeks a license or authority to perform a new or increased service or operation, it shall describe similar existing services or operations in or between the same point or areas and shall specify the reasons why such new or increased service or operation should be authorized by the Commission.

(cc) Subscription; Verification; Filing. The application or petition must be subscribed in the same manner as a formal complaint; but unless prescribed by the Commission or required by statute the application or petition need not be verified. Only the original need be filed with the Commission; but additional copies shall be furnished to the Commission upon its request.

(7) Protest. Protests may be filed containing objections to any application or petition, and the person so protesting shall be styled "protestant", but shall become a party to the proceeding only by leave of the Commission under the provision of MTC 32.

(8) Petition to Intervene.

(aa) When Made. Any person desiring to be made a party to a pending proceeding may petition for leave to intervene therein prior to or at the time it is called for hearing, but not thereafter except for good cause shown.

(bb) Allegations; Subscription; Verification; Filing. Such petition to intervene shall allege the grounds for the proposed intervention and the specific interest of the petitioner in the proceeding which qualifies him as a party under MTC 31, which allegations shall be reasonably pertinent to the issues involved in the principal pleadings, and shall not unduly broaden the issues. The petition must be subscribed in the same manner as a formal complaint, but unless the intervenor seeks affirmative relief, it need not be verified. When filed before or after the hearing, it shall be served upon all parties to the proceeding and the original and four additional copies filed with the Commission. When filed at the hearing, an original only need be prepared and filed with the presiding officer; it need not be served on parties.

(9) Answer to Petition to Intervene. Parties to the proceeding may file answers to petition to intervene with the Commission with proof of service upon petitioner in intervention within 20 days after the day upon which the

petition to intervene was served upon the answering party, but not later than the opening of the hearing; or parties may make oral objection at the opening of the hearing if less than 20 days have expired from the date of service upon them of the petition to intervene. Thereafter, the Commission shall grant or deny the petition to intervene and if such permission is granted, the petitioner thereby becomes an "intervenor" or "protestant", as the case may be, and a party to the proceedings. Answers to petitions to intervene should admit or deny the interest of the petitioner in intervention, and if the intervention is objected to by a party to the proceeding, the grounds for such objection should be stated in the answer. Such answers need not be verified unless the petition to intervene has been verified. Failure to file an answer to a petition to intervene or to make oral objection to such petition shall be deemed to be consent to such intervention, but the Commission may, on consideration of all the files and records of the proceeding, grant or deny the petition to intervene whether or not answers thereto have been filed or oral objections made.

MTC 34 Consolidation.

(a) When Consolidation Can Occur.

Whenever before formal hearing on any contested case, this agency, either on its own motion or upon petition by either party, determines that separate contested cases present substantially the same issues of fact or law or that a holding in one case would affect the rights of parties in another case and, when this agency further determines that consolidation would not substantially prejudice any party, this agency may order such cases consolidated for a single hearing on the merits.

(b) Notice of Consolidation.

Within five days following an order for consolidation the agency shall serve on all parties a Notice of Consolidation. Such Notice shall contain:

(1) A description of the cases for consolidation.

(2) The reasons for consoldation.

(3) Cancellation of all pre-hearing conferences for the cases consolidated.

(4) Notification of the consolidated pre-hearing conference in the same fashion prescribed for notice of pre-hearing conferences.

(c) Objection to Consolidation.

(1) Petition for Severance.

Any party may object to consolidation by filing with the agency at any time prior to final determination a Petition for Severance from Consolidation, seeting forth petitioner's name and address, the designation of his case prior to consolidation, and the reasons for his petition. Briefs may be filed and oral argument heard at such time as the examiner deems proper.

(2) Determination

When such a petition is filed, the examiner shall set aside a time for oral argument and determining, as a part of the record in the case, whether consolidation substantially prejudices petitioner. If the examiner finds that

consolidation would substantially prejudice petitioner, he may order such severance or other relief as he deems necessary.

MTC 35 Amendments.

(a) Amendment of Pleadings.

Formal complaint, answers (except answers to informal complaints) and replies may be amended at any time before the original time for answering or replying has expired, and thereafter only by order of the Commission for good cause shown upon motion and upon notice to all parties to the proceeding. Amendments to applications or petitions initiating any proceeding, which do not enlarge in any respect the authority or relief sought, and amendments to protests and petitions to intervene, may be made without leave of the Commission and by filing the same with the Commission prior to the day of hearing. On or after the day of the hearing such applications, petitions, protests, or petitions to intervene may be amended only by order of the Commission for good cause shown upon motion and upon notice to all parties to the proceeding. A similiar motion shall be inquired to amend an application or petition which enlarges in any respect the authority or relief sought, whenever made.

(b) Answer to Amended or Supplemental Complaints, or to Petition to Intervene.

Rules as to the form, content, subscription, verification, and time of filing of answers to formal complaints and petitions to intervene shall apply to answers to amended or supplemental complaints and answers to amended petitions to intervene.

MTC 36 Service.

(a) Service.

Informal, formal,supplemental and amended complaints will be served by the Commission; but all answers, protests, petitions to intervene filed before or after the hearing, replies, written motions and notices in proceedings formally pending before the Commission when filed or tendered to the Commission for filing, must show service thereof upon all parties to the record. Such service may be made by delivering in person, or by mailing, properly addressed with postage prepaid, one copy to each party. When service is by mailing, service shall be effective upon mailing.

(b) Service Upon Attorneys.

When any party has appeared by an attorney, service upon such attorney shall be deemed service upon the party.

MTC 37 Continuances and Extension of Time.

For cause shown, continuances and extensions of time will be granted or denied by the Commission in its discretion.

MTC 38 Stipulations.

The parties may, by stipulation in writing filed with the Commission or presented at the hearing, agree upon any facts involved in the proceeding. It is desired that the facts be thus agreed upon so far as and whenever practicable.

MTC 39 Dockets.

(a) Open to Public Inspection.

The Commission will establish and maintain the necessary dockets which shall be open to public inspection; but any person desiring to inspect any record of the Commission must first make application to the Commission.

(b) Filing of All Papers Required.

Copies of all pleadings, briefs, written arguments, notices, written motions, and all papers in any manner relating to or affecting any power or jurisdiction of the Commission or which are intended for the information of or action by the Commission must be first filed with the Commission; and thereafter the same shall be preserved therein as public records.

(c) Docket Number.

The Commission, upon the filing of any matter within the jurisdiction of the Commission, will enter such matter on the docket, giving it then a consecutive number therein.

MTC 40 Pre-Hearing Conference

A pre-hearing conference may be held in the discretion of the Commission or the hearing examiner preparatory to each contested case hearing for the purposes of simplifying the issues to be determined, and reaching a settlement on those issues without the necessity for further hearing.

(a) Procedure

The pre-hearing conference shall be an informal proceeding conducted fairly and expeditiously by the hearing examiner, or if none is yet approved, by an agent or employee of the Commission. Agreements on the simplication of issues shall be put in the form of stipulations and entered on the record. Any settlement shall be set forth in a settlement agreement or consent order and entered on the record.

(b) Pre-Hearing Conference and Consolidation.

When cases before this agency are consolidated pursuant to MTC 34, a consolidated pre-hearing conference may be held in lieu of separate conferences for each case and notices thereof given as provided in MTC 34.

MTC 41 Hearings.

(a) Discretionary Hearing on Informal Complaint and Other Matters; Notice.

Whenever the Commission shall consider that the cause of action in any informal complaint is of such a nature as prima facie to admit of relief or justify redress under the law, and for this reason the Commission may make such an ex parte investigation as it may deem necessary, the Commission at any time may order a hearing upon such informal complaint; and it may at any time order a hearing on any matter on the informal docket, investigation docket, or any other matter where a hearing is discretionary with the Commission. It shall give written notice as required by law to the parties, and to any persons as required by law, stating the time, place and issues involved.

(b) Hearing on Formal Complaint and Other Required Hearings; Notice.

When issue has been joined upon formal complaint by service of answer or by failure of respondent to answer, the proof thereof has been filed, and in every other contested case, and in every case where a hearing is required by law, the Commission shall assign a time and place for hearing and give written notice as in the preceding paragraph. It shall appoint a hearing examiner as provided herein, and the word "Commission" in MTC 41-45 shall than mean hearing examiner where the rules refer to the conduct of the hearing or appeal therefrom, or other matters concerning the administration of the hearing.

(c) Hearing Examiner.

(1) In cases in which the Commission is a party, the hearing examiner shall be an attorney at law, or other individual if an attorney at law is not obtainable, appointed by the Commission for the purpose of hearing and ruling on a preliminary motions, conducting the hearing, making impartial findings of fact upon the evidence presented, and making a final determination subject only to the rehearing provisions of these Rules. The hearing examiner shall not be regularly salaried employee of the Commission, nor on retainer to the Commission, but after appointment shall be considered an employee of the agency for the purposes of conducting the hearing and for compensation. All appointments hereunder shall attempt to secure as objective and impartial a decision-maker as is legally and financially possible.

(2) In cases to which the Commission is not a party, the hearing examiner may be any person, including a person described in paragraph c(1) above, or may also be the head of the Commission or a member or members of the Commission, or other employees of the Commission. The hearing examiner may be authorized by the Commission to make impartial and objective findings of fact upon the evidence presented and to make a preliminary or final order in a contested case or he shall have such authority as the Commission deems necessary and appropriate to hear and decide the case. The Commission may reserve unto itself such authority to decide the case as it deems necessary and appropriate.

(3) A hearing officer shall withdraw from participation in a contested case at any time prior to the final determination if he deems himself disqualified for any reason. Upon the filing in good faith of a timely and sufficient Petition of Prejudice the hearing officer shall determine the matter as a part of the record and decision in the case.

(d) Examination of Witnesses; Cross-examination; Rebuttal.

Witnesses will be examined orally before the Commission. Every party to a contested case shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

(e) Exhibits.

Unless the Commission shall otherwise direct, exhibits offered to the Commission at any hearing or conference in a contested case shall be in guadruplicate, and a reasonable number of copies shall be furnished to parties in attendance.

(f) Order of Procedure.

(1) Party Instituting the Proceeding Shall Open Proof.

Unless otherwise directed, the following order of procedure shall apply to all hearings before the Commission: At hearings on informal complaints, formal complaints, petitions or applications, the complainant, petitioner or applicant shall open the proof. The Commission shall determine the subsequent order of procedure. Intervening parties shall follow the party in whose behalf intervention is made; except that in all cases where the intervention is not in support of either original party, the Commission shall determine when such intervening party shall be heard.

(2) Failure to Appear.

If a complainant, applicant or petitioner fails to appear at a hearing, the proceeding may be dismissed, with or without prejudice, at the discretion of the Commission; or the Commission may, in its discretion, continue the hearing; or the Commission may, in its discretion, grant the relief requested upon the basis of a verified complaint, application or petition, and affidavits if any, filed in the case, which in all such cases shall be considered as having been offered in evidence at the hearing by the complainant, petitioner or applicant who is absent, but the Commission shall not grant the relief requested upon such a showing if any person shall appear at the hearing who qualifies as a party to the proceeding and shall object thereto.

(g) Admission of Evidence.

In a contested case, the Commission may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable prudent men in the conduct of their affairs. It shall give effect to rules of privilege recognized by law. It may exclude incompetent, irrelevent, immaterial and repetitious evidence.

(h) Documentary Evidence.

In a contested case, documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(i) Evidence Must be Offered.

All evidence in a contested case, including records and documents in the possession of the Commission of which it desires to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case.

(j) Official Notice.

In a contested case, the Commission may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within their specialized knowledge. Parties shall be notified in writing either before or during hearing, or by reference in preliminary reports or otherwise or by oral statement in the record, of the material so noticed, and they shall be afforded opportunity to contest the facts so noticed.

(k) Record of Proceeding.

The Commission shall prepare an official record of all contested proceedings, which shall include: (1) all pleadings, motions and intermediate rulings; (2) exhibits and evidence received or considered; (3) a statement of

matters officially noticed; (4) questions and offers of proof, objections, and rulings thereon; (5) proposed findings and exceptions; (6) any decision, opinion, or report by the Commission; and (7) all staff memoranda or data submitted in connection with the consideration of the case. Testimony before the Commission shall be taken by official reporters or recording equipment at the expense of the Commission. A transcript shall be furnished upon application at the expense of the applicant; otherwise the preparation of a transcript shall be at the option of the Commission.

(l) Continuance

The hearing may be continued at the discretion of the Commission.

(m) Other Conduct.

Pursuant to and in accordance with the provisions of Minnesota Statutes, Section 624.72, no person shall interfere with the free, proper and lawful access to or egress from the hearing room. No person shall interfere with the conduct of, disrupt or threaten interference with or disruption of the hearing. In the event of such interference or disruption or threat thereof, the hearing officer shall read this rule to those persons causing such interference or disruption and thereafter proceed as he deems appropriate.

MTC 42 Witnesses.

(a) Witnesses and Subpenas; Who May Issue.

Subpoenas requiring the attendance of witnesses at any designated place of hearing within the Twin Cities Metropolitan Transit Area may be issued by the Commission or by any member thereof or by a designated employee then presiding; but subpoenas for the production of books, papers, or documents, unless directed by the Commission upon its own motion, will issue only upon application to the Commission in writing. Application to compel witnesses who are not parties to the proceedings, or agents of such parties, to produce documentary evidence must be verified and must specify as nearly as may be the books, papers or documents desired and the facts to be proven by them. Where the proceedings before the Commission charge a violation of law, or a rule or regulation of the Commission, application may be made to the Commission by either party to require the production of such books and records as may be material upon a showing of the materiality of the evidence sought to be obtained; and the Commission may permit the examination by any party to the proceeding of books and records so produced, which are pertinent to the issues, but such examination shall be made in the office of the Commission or other place designated by the Commission, and in such manner as is approved or directed by the Commission.

(b) Fees of Witnesses.

Witnesses who are subpoenaed are entitled to the same fees as are paid for like service in the district courts of the State of Minnesota, such fees to be paid by the party at whose instance the testimony is taken.

(c) Service of Subpoenas.

Service of subpoenas shall be made in like manner as provided by law for the service of subpoenas in the district courts of this State.

MTC 43 Briefs and Oral Argument

(a) Requests for Briefs or Oral Arguments.

If briefs or oral argument are desired by any of the parties to the proceeding, they shall notify the Commission before or at the hearing. If such request is made, the Commission shall allow all parties to file briefs or make oral argument, or may permit both. It shall also prescribe the time for service and filing of briefs or making of oral argument.

(b) Filing and Service of Briefs.

All briefs for presentation to the Commission must be filed with the Commission accompanied by written evidence of service upon opposing counsel, party or parties.

(c) Recording and Transcribing Oral Argument.

Oral argument shall be recorded and transcribed only if the Commission so orders; when transcribed it shall be bound with a transcript of the testimony (if the testimony has been transcribed), and will be available to the Commission for consideration in deciding the matter.

(d) Transcripts.

The charge for transcripts shall be fixed by resolution of the Commission.

MTC 44 Decisions and Orders.

(a) Filing; Content; Service.

Decisions and orders of the Commission when made shall be filed with the Commission, which shall notify by mail all parties to the proceeding of such filing. Every decision or order adverse to a party in a contested case shall be in writing or stated in the record and shall be accompanied by a statement of the reasons therefor. No factual information not part of the official record shall be considered in the determination of a contested case, except that the Commission may use its experience, technical competence and specialized knowledge in the evaluation of the evidence presented. The statement or reasons shall consist of a concise statement of the conclusion upon each contested issue of fact necessary to the decision. A copy of the decision or order and accompanying statement of reasons, together with a certificate of service, if requested, shall be delivered or mailed to each party or his attorney of record.

(b) Proposal for Decision or Order.

Whenever in a contested case a majority of the commissioners has not heard or read the evidence, or when a hearing examiner was appointed before making a decision or order adverse to a party other than the Commission, or in all cases where a hearing examiner was appointed, the Commission shall serve by mailing to each party a copy of a prooposal for decision or order, including a statement of reasons therefor.

(c) Exceptions.

Within 20 days after service of the proposal for decision or order, any party may file and serve exceptions thereto and reasons in support thereof.

(d) Form of Exceptions; Reply.

Exceptions with respect to statements of fact or matters of law must be specific and must be stated and numbered separately. When exception is taken to a statement of fact, a corrected statement must be incorporated. If exception is taken to conclusions in the report, the points relied upon to support the exception must be stated and numbered separately. A reply to exceptions may be filed and served, but is not required, by any party within ten days after service of the exceptions to which reply is made.

(e) Argument.

Exceptions and replies thereto shall contain written arguments in support of the position taken by the party filing such exceptions or reply. Oral argument before a majority of the commissioners may be permitted all parties, in the discretion of the Commission, in the event that any party, at the time of filing his exceptions or reply, requests oral argument.

MTC 45 Petitions for Further Hearing, Rehearing, Amendment, Vacation, Reconsideration or Reargument.

(a) Further Hearing.

Before the final submission of any proceedings, any party thereto desiring a further hearing may file a petition therefor with the Commission, which said petition shall clearly set forth the grounds relied upon for a further hearing; and if it is proposed to produce additional testimony, the testimony so to be produced shall be briefly summarized. No further hearing will be granted where it appears that the evidence to be adduced will be merely cumulative. Such petition shall be served upon all parties to the proceeding. An adverse party shall have ten days from the date of the service of such petition within which to answer thereto. No reply to such answer will be permitted. The Commission may grant or deny such petition without a hearing or, in its discretion, set a hearing on such petition.

(b) Rehearing, Amendment, Vacation, Reconsideration, Reargument.

(1) Commission's Right to Hear.

The Commission may, upon request or its own motion and for good cause shown, reopen, rehear and redetermine a contested case after a final decision adverse to a party to the contested case other than the Commission has been rendered. The petition may request a rehearing, or for an amendment or vacation of the findings of fact, decision or order, or for reconsideration or reargument. This right may be exercised until it is lost by appeal or the granting of a writ of certiorari or unntil a reasonable time has run, but in no event shall the time exceed the time allowed by statute for appeal or six months, whichever is shorter.

(2) Obtaining a Rehearing.

(aa) Parties other than the Commission. At any time prior to the Commission's loss of the right to rehear a contested case, any party to that case may request a rehearing by filing a petition for rehearing. Such petition shall contain the name and address of the petitioner and the Commission's designation for the case.

(bb) The reasons for the Petition. If such petition be for a further hearing, rehearing, vacation, reconsideration, or reargument, the grounds relied upon shall be specifically set forth and the claimed errors clearly stated. If such petition be for an amendment of the findings of fact, decision, or order, such petition shall contain the desired proposed amendments, and the reasons therefor shall be clearly stated.

(cc) The Commission. The Commission may, on its own motion, for good cause stated in the record, reopen, rehear and redetermine a contested case if the decision in that case was adverse to a party to that case other than the Commission.

(dd) Default Judgments. A party against whom a default has been adjudged may obtain a rehearing upon a timely showing of good cause for his failure to appear or plead.

(3) Determination.

The Commission may grant or deny such petition without a hearing, or in its discretion set a hearing thereon. Such petition may be granted if there appears on the face of the petition and the record irregularities in the proceedings, material errors of law occurring during the proceedings, newly discovered material evidence, a lack of substantial evidence to support the decision or good cause for failure to appear or plead. Evidence and argument may be presented at the discretion of the Commission in written or oral form or both by any party to the contested case with respect to the petition.

(4) Notice of Rehearing

Notice of rehearing must be provided in the same manner prescribed for notice of hearing.

(5) Rehearing Procedure.

A rehearing in a contested case shall be conducted in the same manner prescribed for a hearing.

(6) Decision after Rehearing.

The decision after rehearing shall be made in the same manner prescribed for the decision after a hearing.

(c) Amendment of Effective Date of Order or Decision.

Petitions for amendment of orders or decisions which seek only a change in the date when they shall take effect, or in the period or date thereby prescribed, must be made by petition reasonably filed and served in like manner as other petitions under this rule, except that, in case of unforeseen emergency satisfactorily shown by the petitioner which requires relief within three days, such relief may be sought informally, by telegram or otherwise, upon notice thereof to all parties to the proceeding.

(d) Second Petition Upon Same Ground Not Entertained.

A second petition for further hearing, rehearing, amendment or vacation of any finding of facts, decision or order, reconsideration or reargument by the same party or parties and upon the same grounds as a former petition which has been considered and denied, will not be entertained.

MTC 46 Appeal by Commission.

The Commission may appeal pursuant to Minnesota Statutes, Section 15.0424, and adverse decision. The Commission shall be deemed a "person" for such purposes.

MTC 47 Dismissal.

The hearing officer may, at any state of the proceedings, including the prehearing conference, after all parties have had an opportunity to present their views, dismiss any sham, capricious or frivolous case or any case not within Commission's jurisdiction.

MTC 48 Emergency Procedures.

Nothing contained in these rules is intended to preempt, repeal or be in conflict with any rule, regulation or statute which provides for acts by the Commission in an emergency or procedure for conduct by the Commission in such a situation.

MTC 49-59. Reserved for future use.

STATE OF MINNESOTA

TWIN CITIES AREA METROPOLITAN
TRANSIT COMMISSION

In the Matter of the Proposed Repeal of Rules of the Twin Cities Area Metropolitan Transit Commission Relating to Operations of Transit Carriers, Transit Carrier Tariff, Accounting and Insurance Rules, and Rules of Practice, MTC 1-48, 14 M.C.A.R. §2	)	STATEMENT OF NEED AND REASONABLENESS

The Twin Cities Area Metropolitan Transit Commission proposes to repeal the above-entitled rules, pursuant to the procedures set forth in Minn. Stat. 1980, §15.0412, subdivision 4h. This memorandum constitutes the Statement of Need and Reasonableness of the Commission with respect to the proposed repeal, as required by subdivision 4h.

The Twin Cities Area Metropolitan Transit Commission promulgated the above-cited rules, which were filed with the Secretary of State on October 2, 1970, to implement Minn. Stat. 1969, §473A.09, subdivision 6 (whose successor is Minn. Stat. 1980, §473.413, subdivision 6). The relevant operative language, which is identical in both provisions cited above, is as follows:

> "There shall be transferred to and vested in the transit commission,

> all of the powers and functions of the Minnesota department of public service with respect to any public transit system or part thereof which has been or is acquired or constructed by and is owned and operated by or under the authority of the transit commission.

Minn. Stat. Chapter 221 authorizes the Public Service Department to regulate carriers, including motor carriers, operating in the State of Minnesota. See e.g., Minn. Stat. §221.031 ("The department shall prescribe rules and regulations for operations of all motor carriers . . . ."). Based upon this regulatory authority of the Public Service Department, transferred to the Commission pursuant to Minn. Stat. §473A.09, it was determined that appropriate rules should be issued by the Commission to regulate motor carriers "under the authority of" the Commission.

The Commission is not an "agency" within the terms of Minn. Stat §15.0411, since it is not a "state" agency and since it does not have a "statewide jurisdiction". Nonetheless, the Commission may voluntarily choose to issue rules under the procedures provided in the Administrative Procedure Act, pursuant to Minn. Stat. 1969, §473A.05, subdivision 9, which provides:

> "The commission may prescribe and promulgate rules and regulations as it deems necessary or expedient in furtherance of the purposes of sections 473A.01 to 473A.18 upon like procedure and with like force and effect as provided for a state agency by sections 15.0411 to 15.0422,

and acts mandatory thereof and supplementary thereto. (Successor at Minn. Stat. 1980, §473.405, subdivision 3).

Choosing to follow this procedure in this instance, the Commission issued the above-entitled rules.

The Commission, from time to time, had occasion to apply and enforce these rules with reference to other public transit systems within its area of authority. One such system, the Richfield Bus Company, challenged the Commission's efforts to enforce these rules with respect to its own operations. When the Commission sought to enjoin the Richfield Bus Company's violation of its cease and desist order issued pursuant to these rules, Judge Harold Kalina of the District Court of Hennepin County denied enforcement of the order and held that Minn. Stat §473A.09, subdivision 6 (whose successor is Minn. Stat. 1980, §473.413, subdivision 6), was unconstitutional insofar as it authorized the Commission to regulate other public transit systems in its area. This matter came before the Supreme Court of Minnesota on appeal and this finding was not reversed. Twin Cities Metropolitan Public Transit Area v. Holter, 249 N.W. 2d. 458 (1977).

On January 13, 1982 the U.S. Supreme Court announced its decision in the case of Community Communications Co., Inc. v. City of Boulder. The Court held that a cable television ordin-

ance issued by the City of Boulder was not exempt from scrutiny under the Federal Anti-Trust Laws. The Commission's enforcement of the above-entitled rules with respect to Public Transit Systems which are its own competitors, determined to be unconstitutional in the Holter case, would also present a clear and serious issue of violation of the anti-trust laws.

Because of the decision in the Holter case and the implications of the U.S. Supreme Court's decision in the City of Boulder case the Commission has determined that the above-entitled rules are subject to constitutional challenge and thus without adequate statutory authority, and that any attempt by the Commission to enforce these rules with respect to any operator of a public transit system other than itself would subject it to legal challenge and legal liability. Since the transfer of the regulatory authority of the Department of Public Service with respect to other operators of public transit systems attempted by §473.413, subdivision 6, is ineffective under the Holter decision, this power is retained by and may be exercised by the Public Service Department with respect to other operators of public transit systems. The Commission continues to have authority to regulate its own operations, to the exclusion of any regulation by the Public Service Department, under Minn. Stat. (1980), §473.413, subdivision 6, and §473.449. Thus, the repeal of the above-entitled rules does not create a gap in regulatory authority with respect to any operator of a public transit system.

Because the Commission's authority to enforce these rules with respect to any operator of a public transit system other than itself has been seriously undermined, because any attempt to do so may subject it to legal challenge and liability, and because equivalent authority (See PSC 1-48, 4 M.C.A.R. §3) to regulate other operators of mass transit systems are retained by the Public Service Commission, and, with respect to its own opertions, by the Commission, the Commission believes that the repeal of these rules is needful and reasonable.

Dated: _____, 1982.

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Louis B. Olsen
Chief Administrator