

**Public Utilities Commission of the
State of California**

**RULES TO GOVERN ENGAGEMENT OF AND PAYMENTS TO INDEPENDENT
CONTRACTOR SUBHAULERS AND BONDING REQUIREMENTS ON SUB-
HAULING OR LEASING OF EQUIPMENT FROM LESSOR-EMPLOYEE**

Adopted June 2, 1981. Effective August 31, 1981.

(Decision No. 93146, Amended by Decision No. 93188, Application No. 59014)

1. Carriers subject to order:
This General Order applies to all highway carriers as defined in Section 3511 of the Public Utilities Code, including a household goods carrier as defined in Section 5109 of said Code.
2. Definitions:
 - a. Authorized carrier means a highway carrier licensed by the Commission under the provisions of the Public Utilities Code. Unauthorized carrier means a highway carrier not licensed by the Commission.
 - b. Prime carrier (principal or overlying carrier) means an authorized carrier that contracts with a shipper to provide transportation service for the latter, but in turn, engages the services of another authorized carrier known as the independent contractor subhauler (subhauler or underlying carrier) to perform that service. The term prime carrier also includes any independent contractor subhauler who engages other authorized carriers to perform all or part of the services which such independent contractor subhauler has agreed to render for a prime carrier. Such an engaged authorized carrier is designated as a sub-subhauler and as to it, the original independent contractor subhauler is a prime carrier.
 - c. Independent contractor subhauler (subhauler or underlying carrier) means any authorized carrier who renders service for a prime carrier (principal or overlying carrier), for a specified recompense, for a specific result, under the control of the prime carrier as to the result of the work only and not as to the means by which such result is accomplished. This term includes sub-subhaulers in appropriate cases.
 - d. Lessor-Employee means an employee of a carrier subject to this order, which employee leases equipment to its employer.
 - e. Lease means a contract by which any person, who or which owns, controls, or is entitled to the possession of any vehicle or vehicles of the types described in Section 3510 of the Public Utilities Code, called the lessor-employee, lets or hires (the same to its employer carrier), which is subject to the provisions of this general order, and called the lessee, for the purpose of having such vehicle or

vehicles used in the for-hire transportation business of such lessee.

- f. Completion of shipment by a subhauler or sub-subhauler means that the transportation agreed to be performed by such subhauler or sub-subhauler has been performed in full and evidenced by proof of delivery of such transportation to the prime carrier.
 - g. Termination of lease occurs when the period covered by the contract of lease has expired as evidenced by the terms thereof.
 - h. Claim means a demand by a subhauler or sub-subhauler for an amount due for the transportation of property, from the carrier for whom subhauling or sub-subhauling has been performed; or by a lessor-employee for an amount due as equipment rental from the carrier to whom such equipment has been leased.
 - i. Setoff means deductions that a carrier may make against the claim of the subhauler or sub-subhauler.
 - j. Settlement means payment from carrier to subhauler or sub-subhauler after setoff.
3. **Engagement of an Unauthorized Carrier Either as a Subhauler or Sub-subhauler:**

Unauthorized carriers shall not be engaged as subhaulers or sub-subhaulers. It shall be the responsibility of the carrier (prime carrier, subhauler, or sub-subhauler, as appropriate) actually engaging services of the subhauler or sub-subhauler to comply with this requirement.

4. **Agreement Between Parties:**

- a. Every agreement for subhauling, sub-subhauling or leasing of motor vehicles from a lessor-employee entered into by a carrier shall be reduced to writing and executed by the prime carrier or the lessee-carrier and presented to the subhauler, sub-subhauler, or lessor-employee prior to, or within five days after, commencement of any subhaul service or such lease of equipment. Such writing shall also be signed by the subhauler, sub-subhauler or lessor-employee, shall contain all of the terms of such agreement and shall specify all charges payable thereunder for subhaul or lease of equipment, and shall include the name and address of the surety providing the bond required therein as well as the expiration date of such bond. The agreement for subhauling or sub-subhauling shall also contain the prime carrier's "T" file number assigned by the Commission and the subhauler's or sub-subhauler's "T" file number. Failure of the prime carrier or lessee-carrier to provide an agreement as specified herein shall constitute a violation of this general order, but shall not be cause for rejection or denial of any claim by the surety.
- b. The amount to be paid by the prime carrier or lessee to the subhauler (sub-subhauler) or lessor shall be clearly stated on the agreement or lease and shall provide for all setoffs, if any, for such amounts as may be due from the underlying carrier to the

- overlying carrier, including but not limited to fuel, trailer rental, tire services, or repair services furnished by the prime carrier or lessee.
- c. A copy of each agreement shall be retained and preserved by all parties thereto, subject to the Commission's inspection, for a period of not less than three years from the date of termination of the agreement.
 - d. Every prime carrier engaging subhaulers, except an agricultural carrier as defined in Section 3525 of the Public Utilities Code, or a seasonal agricultural carrier as defined in Section 3584.2 of the Public Utilities Code, shall maintain a separate subhaul register or single book of account in such manner and form as will plainly and readily show the following information:
 1. Name and T-number of the subhauler.
 2. Freight bill number and the date.
 3. Date shipment completed.
 4. Gross due the subhauler, deductions therefrom, and net amount due the subhauler.
 5. Date payment tendered to the subhauler.
5. **Payments to Subhauler and Sub-subhauler:**
- a. The prime carrier shall pay to the subhauler or sub-subhauler the charges specified in the agreement provided in paragraph 4 hereof within 15 days after the completion of the shipment, excluding Saturdays, Sundays, and holidays, by the subhauler or sub-subhauler. In case of conflict between this paragraph and the provisions of a minimum rate tariff of this Commission, the minimum rate tariff shall apply.
 - b. In instances where the subhauler is paid on a percentage of the freight bill revenue, the prime carrier (other than agricultural or seasonal agricultural carriers) shall make available to the subhauler, upon request, at or before the time of settlement a rated copy of the freight bill or bills. In the instance where the subhauler is paid on a different basis, the prime carrier (other than agricultural or seasonal agricultural carriers) shall permit inspection of the original rated freight bill or freight bills upon request by the subhauler. The foregoing provisions do not apply in those instances in which five or more shipments have been consolidated by the prime carrier for transportation by the subhauler in a single movement, or where payments to subhaulers are made under the provisions of Minimum Rate Tariffs 7-A, 17-A, and 20. A prime carrier may take reasonable steps to delete confidential information from the freight bill furnished the subhauler but shall not delete the charges actually assessed or the information necessary to determine such charges.
6. **Payments to Lessor-Employees of Equipment:**
The lessor-employer shall pay to the lessor-employee of the equipment the charges specified and in the manner provided in the

written agreement. In the event the lease is canceled the lessee-employer shall pay the charges on or before the 20th day of the calendar month following the termination of the lease.

7. Bonding Requirements:

- a. No carrier shall engage any subhauler or sub-subhauler or lease any equipment as a lessee from a lessor-employee unless and until it has on file with the Commission a good and sufficient bond in such form as the Commission may deem proper, in a sum of not less than \$15,000 which bond shall secure the payment of claims of subhauler, sub-subhauler, and lessor-employees of highway carriers in accordance with the terms of paragraphs c, d, e, and f, hereof.
- b. Each bond filed pursuant to the foregoing shall cover the full extent of the carrier's operations; that such bond may cover more than one operative authority held by the same carrier; that when a carrier with such a bond on file with the Commission obtains additional operative authority, said bond shall be revised or reissued to cover the additional operative authority; and that the name of the carrier's surety company in any bond filed pursuant hereto will be made public by the Commission upon reasonable request therefor.
- c. The terms of the bond shall include: that any person or persons to whom an amount may be due and payable may file a claim therefor with the surety; that upon the filing of the claim, the surety shall notify the Commission and the carrier in writing of such filing; that such notification to the Commission shall be addressed to the *Public Utilities Commission of the State of California* at its office in San Francisco; that suit against the surety shall be commenced within one year after the filing of said claim; and that the surety waives any rights it may have under Section 2845 of the Civil Code of the State of California.
- d. The bond required by paragraph (a) hereof shall be filed by the carrier as principal and by a qualified surety insurer, authorized to do business in the State of California, as surety, for the benefit of any person, firm, or corporation serving as a subhauler or sub-subhauler for or as a lessor-employee of equipment to said carrier.
- e. A subhauler, sub-subhauler, or lessor-employee of equipment to whom an amount may be due, either as transportation charges for any shipments subhauled or as the rental of any equipment leased, and not paid within the time period provided in Sections 5 and 6 hereof, shall file a claim therefor with the surety and notify the Commission of such filing against the bond herein required. All such claims must be filed within 60 days after the date of completion of shipment or termination of lease or after the date on which any payment falls due under the terms of Sections 5 and 6 thereof.

- f. The surety may cancel such bond by written notice to the Public Utilities Commission of the State of California at its office in San Francisco, such cancellation to become effective 30 days after receipt of said notice by the Commission.

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA

By JOSEPH E. BODOVITZ
Executive Director

Photoelectronic composition by
CALIFORNIA OFFICE OF STATE PRINTING

85 81385

C.O. 108-H
