

## PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Safety and Enforcement Division

Carmel-by-the-Sea, California

Date: August 15, 2013

Resolution TL-19109

**RESOLUTION****RESOLUTION AMENDING ITEM 4 AND ITEM 88, AND  
ADDING ITEM 10 AND ITEM 475, TO THE MAXIMUM  
RATE TARIFF 4, GOVERNING THE TRANSPORTATION  
OF USED HOUSEHOLD GOODS AND PERSONAL  
EFFECTS BY HOUSEHOLD GOODS CARRIERS.****SUMMARY**

Upon adoption of this Resolution, Items 4 and Item 88 of the Maximum Rate Tariff 4 (“MAX 4 Tariff”) are amended, and Item 10 and Item 475 are added to the MAX 4 Tariff for the purpose of establishing rules governing a Household Goods Carrier’s use of electronic documents, electronic signatures, and electronic retention of records.

**BACKGROUND**

The Household Goods Carrier Act, commencing with Section 5101 of the California Public Utilities Code, provides the Commission with broad statutory authority to regulate Household Goods Carriers throughout the state. Subdivision (a) of Section 5139 includes a provision that the Commission may establish rules for the performance of any service furnished or supplied by Household Goods Carriers, requires every Household Goods Carrier to observe these rules, and states that failure to do so is unlawful. Subdivision (b) of Section 5139 requires the Commission, (no later than July 1, 2013), “to establish rules to authorize an electronic form of documents required by this chapter, consistent with the purpose of the document and if the carrier and the customer agree to the use of an electronic form.” In addition, the Commission’s MAX 4 Tariff sets forth specific rules carriers must follow, specific rates carriers must not exceed, and specific forms carriers must use in order to lawfully engage in the transportation of used household goods and personal effects over the public highways within California.

**DISCUSSION**

To comply with the Legislative mandate set forth in subdivision (b) of Section 5139 above, the Commission’s Safety and Enforcement Division (“SED”) hereby proposes this Resolution to establish rules authorizing and regulating a carrier’s use of electronic versions of documents and forms required by the MAX 4 Tariff and/or the Household Goods Carriers Act, electronic signatures, and electronic retention of documents by carriers. Specifically, the rules set forth in

Item 10 provide that the use of “electronic documents” and “electronic signatures” by the carrier and shipper is optional. Both the carrier and the shipper must agree to use electronic documents and electronic signatures in lieu of using traditional paper methods. The rules require a carrier, at the time of first contact with a prospective shipper, to provide the prospective shipper with an electronic copy of Item 475, “Shipper’s Consent to Use of Electronic Documents and Electronic Signatures,” and to obtain an electronic signature from the prospective shipper indicating consent thereto. Once the carrier has obtained the prospective shipper’s consent, the carrier and shipper may transact business by electronic means using electronic documents and electronic signatures. The rules set forth in Item 10 also state that electronic documents will be considered the legal equivalent of traditional paper documents if the documents comply fully with the rules set forth in Item 10 and the carrier has obtained the shipper’s consent, as specified in Item 475. The rules set forth in Item 10 contain consumer protection provisions, including, but not limited to, the shipper’s option and right to withdraw consent to conduct business with the carrier by electronic means without incurring any charge, the requirement that carriers include a “Not To Exceed Price” in specific forms that are transmitted electronically to shippers, and prohibitions against altering any paper document when copying it into an electronic document for the purposes of the carrier’s electronic records retention. Item 10 also provides that any carrier who fails to comply with any of the requirements set forth therein may be subject to a fine by the Commission.

Therefore, this Resolution amends Item 4 (Exhibit 1) and Item 88 (Exhibit 2) of the MAX 4 Tariff, and adds Item 10 (Exhibit 3) and Item 475 (Exhibit 4) to the MAX 4 Tariff for the purposes of establishing rules regulating a Household Goods Carrier’s use of required electronic documents, electronic signatures, and electronic retention of records as well as providing consumer protections to shippers. The revised MAX 4 tariff pages are set forth in Exhibit 5. All exhibits are attached hereto. Therefore, the amendments to Items 4 and 88 of the MAX 4 Tariff, and the addition of Items 10 and 475 to the MAX 4 Tariff, are hereby made effective today.

In order to comply with Section 311(g)(1) of the Public Utilities Code, the Safety and Enforcement Division mailed hard copies of this draft resolution to all licensed household goods carriers and commenced publication of a Daily Calendar notice on July 12, 2013 thereby apprising carriers and the public of the availability of its draft of this resolution and solicited submission of comments by August 12, 2013.

### **COMMENTS ON DRAFT RESOLUTION**

Comments were submitted by Mr. Stephen J. Weitekamp, President of the California Moving & Storage Association (“CMSA”), on July 30, 2013. CMSA is a statewide association representing over 500 licensed and insured movers. In his letter, Mr. Weitekamp states that CMSA supports Draft Resolution TL-10109 and finds the rules governing electronic forms of documents set forth therein to be user-friendly with clear definitions and requirements. Mr. Weitekamp also states that the language set forth in the draft resolution is broad enough to accommodate the development of new forms if necessitated by HGCA, MAX4 amendments, or evolving shipper-carrier transactions. Lastly, Mr. Weitekamp states that CMSA believes that the draft resolution is a very complete and solid place to begin this new and stream-lined chapter of shipper-carrier transactions, document retention, and document production.

**FINDINGS**

1. Subdivision (b) of Section 5139 of the Public Utilities Code requires the Commission “to establish rules to authorize an electronic form of documents required by this chapter [referring to the Household Goods Carriers Act], that is consistent with the purpose of the document and may be used if the carrier and the customer agree to the use of an electronic form.”
2. The Commission’s MAX 4 Tariff contains rates and rules for the transportation of used household goods and personal effects over the public highways within California by household goods carriers.
3. Item 4 of the MAX 4 Tariff should be amended to include the definitions related to electronic documents, electronic signatures, and electronic retention of documents (Exhibit 1).
4. Item 88 of the MAX 4 Tariff should be amended to include language providing for the electronic transmission of the informational material set forth in Item 465 and the Agreement for Moving Services set forth in Item 450 of the MAX 4 Tariff by electronic means (Exhibit 2).
5. Item 10 should be added to the MAX 4 Tariff for the purpose of establishing rules that regulates the use of electronic versions of documents and forms required by the MAX 4 Tariff and/or the Household Goods Carriers Act, electronic signatures, and electronic retention of records by carriers (Exhibit 3).
6. Item 475 should be added to the MAX 4 Tariff for the purpose of protecting shippers (consumers) and ensuring the shipper’s consent to conduct business with the carrier using electronic means (Exhibit 4).

**THEREFORE, IT IS ORDERED that:**

1. Maximum Rate Tariff 4 (Attachment B to Decision 92-05-028, as amended) is further amended by incorporating the amendments to Item 4 and Item 88 set forth in Exhibits 1 and 2, respectively, and shown in revised tariff pages (Exhibit 5).
2. Maximum Rate Tariff 4 (Attachment B to Decision 92-05-028, as amended) is further amended by adding new Item 10 and new Item 475 to the MAX 4 Tariff as set forth in Exhibits 3 and 4, respectively, and shown in additional tariff pages (Exhibit 5).
3. The aforementioned changes to the MAX 4 Tariff set forth in this Resolution, and in Exhibits 1 through 5, attached hereto, are effective today.
4. The Executive Director shall cause a copy of this Resolution to be served on each subscriber to Maximum Rate Tariff 4.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted by the Commission at its regularly scheduled meeting on August 15, 2013. The following Commissioners voted favorably thereon:

---

PAUL CLANON  
Executive Director

Attachments:      Exhibit 1, Item 4  
                         Exhibit 2, Item 88  
                         Exhibit 3 Item 10  
                         Exhibit 4, Item 475  
                         Exhibit 5, Tariff Sheets

**EXHIBIT 1**

**Item 4 of the MAX 4 Tariff is amended as follows:**

**ITEM 4  
DEFINITION OF TECHNICAL TERMS**

**ELECTRONIC DOCUMENTS** mean electronic versions of any and all documents and forms required by the MAX 4 Tariff and/or the Household Goods Carriers Act, in lieu of paper documents.

**ELECTRONIC MEANS** mean the transmission of electronic documents from carrier to shipper, or from shipper to carrier, through electronic means such as e-mail.

**ELECTRONIC RECORDS** mean electronic copies of any and all documents, whether electronic or paper in origin, saved by the carrier in an electronic format.

**ELECTRONIC RETENTION** means an electronic storage method used by any carrier to save electronic copies of any and all documents, whether electronic or paper in origin, in an electronic format in lieu of paper records.

**ELECTRONIC SIGNATURE** means a method of signing an electronic communication that: (1) identifies and authenticates a particular carrier as the source of the electronic communication; (2) identifies and authenticates a particular shipper as the recipient of the electronic communication; and (3) indicates such shipper's approval of the information contained in the electronic communication.

**IMAGE CAPTURE TECHNOLOGY** means an electronic method of copying a paper document, such as scanning, that electronically reproduces an exact and accurate image of the paper document.

**EXHIBIT 2**

**Item 88 of the MAX 4 Tariff is amended as follows:**

**ITEM 88  
RELATIONSHIPS WITH THE PUBLIC**

9. (b) If a move is arranged and confirmed by mail, the internet, or telephone, and no in-person contact with the prospective shipper is ~~to be~~ made prior to the day of the move, *the carrier shall mail to provide the prospective shipper with a copy of the informational material set forth in Item 465 of the MAX 4 Tariff prior to moving day by e-mail with an electronic copy of the Agreement for Moving Services (Item 450) attached, with consent from the shipper as set forth in Item 475. If sufficient time remains, the carrier may send the informational material with a paper copy of the Agreement for Moving Services by either regular mail. Attaching an electronic link to a website with the informational material or the Agreement for Moving Services is prohibited and does not comply with this item.*

10. Carriers shall follow all applicable rules set forth in Item 10 regarding the use of electronic documents, electronic signatures, and electronic document retention.

**EXHIBIT 3**

**Item 10 is added to the MAX 4 Tariff as follows:**

**ITEM 10****ELECTRONIC DOCUMENTS, ELECTRONIC SIGNATURES, ELECTRONIC RETENTION OF DOCUMENTS AND ELECTRONIC RECORDS****1. Electronic Documents and Electronic Signatures**

- (a) Use of “electronic documents” and “electronic signatures” as defined in Item 4 of the MAX 4 Tariff (“Definition of Technical Terms”) by the carrier and shipper is optional. Both the carrier and the shipper must agree to the use of electronic documents and electronic signatures in lieu of using traditional paper methods.
- (b) Any carrier that elects to conduct business by electronic means shall provide the prospective shipper with an electronic copy of Item 475, “Shipper’s Consent to Use of Electronic Documents and Electronic Signatures,” at the time of the carrier’s first contact with the prospective shipper and obtain the prospective shipper’s consent indicated by the shipper’s electronic signature on Item 475 prior to commencing business with the shipper by electronic means.
- (c) Once the carrier has obtained the prospective shipper’s electronic signature on Item 475, “Shipper’s Consent to Use of Electronic Documents and Electronic Signatures,” the carrier and shipper may transact business by electronic means using electronic documents and electronic signatures.
- (d) Electronic documents that have been created as the result of using image capture technology such as scanning to copy an original paper document with a verifiable signature shall meet the requirements of the Household Goods Carriers Act (including Sections 5143 and 5241) and the requirements of any and all items in the MAX 4 Tariff that require a signature.
- (e) If an existing law or existing rule in the MAX 4 Tariff in effect prior to this rule requires a document to include verification or acknowledgment of receipt, by shipper, carrier, and/or both, an electronic document may be used only if it provides for electronic verification or acknowledgment of receipt such as an electronic signature.
- (f) A shipper has the option and right to withdraw his or her consent to conduct business with the shipper by electronic means provided the shipper gives written notice to the carrier of his or her withdrawal prior to the shipper signing the Agreement for Moving Services (Item 450) between carrier and shipper. Carriers are prohibited from charging a shipper a fee in the event of such withdrawal.

- (g) Notwithstanding a shipper's consent pursuant to Item 475, a shipper has the right to request traditional paper copies of any and all electronic documents related to shipper's business with carrier at any time, not to exceed a period of three years from the date the shipper signed Item 475, and carrier shall provide paper copies to the shipper without charge either in person at carrier's place of business, or through fax or U.S. mail within two (2) business days of shipper's request.
- (h) In the event that a modification needs to be made to any electronic document provided by the carrier to the shipper, including those that required an electronic signature by the shipper or the carrier or both, the carrier shall obtain an original electronic signature from the shipper acknowledging each modification and shall specify the date of modification on the face of the electronic document.

## **2. Electronic Retention of Documents and Electronic Records**

- (a) Any carrier may, at his or her option, maintain and retain any and all documents, whether electronic or paper in origin, in an electronic format thereby creating electronic records in lieu of paper records. For example, a carrier may save electronic copies of electronic documents, and/or copies of paper documents converted into electronic documents through image capture technology such as scanning, in an electronic format thereby creating electronic records.
- (b) A carrier's use of electronic records shall be deemed to comply with the document retention requirements set forth in the Household Goods Carriers Act.
- (c) A carrier using electronic records shall retain an electronic copy of Item 475, "Shippers Consent to Use of Electronic Documents and Electronic Signatures" with the shipper's electronic signature in the carrier's electronic records for a period of three years from the date the shipper signed the Item 475.
- (d) Any carrier may use an electronic method of copying a paper document, such as scanning or other image capture technology, provided such electronic method produces an exact and accurate copy of the paper document for the purposes of electronic retention.
- (e) Any carrier is prohibited from unilaterally modifying the content of any paper document that is copied into an electronic document. For example, a carrier is prohibited from typing information contained in a paper document into an electronic document, as opposed to scanning the paper document, thereby creating a new electronic document.
- (f) Upon demand by the Commission, as specified in the Household Goods Carriers Act, including but not limited to Section 5225, a carrier shall be able to access its electronic records and provide the Commission with accurate copies of any and all electronic documents within a reasonable amount of time specified by the Commission. Such electronic documents shall be

produced either electronically or in paper form, or both, depending upon the Commission's request.

- (g) A carrier's inability to access its electronic records and to provide the Commission with accurate copies within a reasonable amount of time, as specified by the Commission, may constitute a violation of Section 5225 of the Household Goods Carriers Act and Items 10 and 88 of the MAX 4 Tariff, and subject the carrier to a fine imposed by the Commission.
- (h) Any carrier may use electronic means to provide a shipper with an electronic copy of Item 450, "Agreement for Moving Services," and shall specify therein the "Not To Exceed Price" for all services. Both carriers and shippers are authorized to use electronic signatures to sign Item 450.
- (i) Any carrier may use electronic means to provide a shipper with an electronic copy of Item 465, "Important Notice About Your Move," and shall specify therein the "Not To Exceed Price" for all services. Both carriers and shippers are authorized to use electronic signatures to sign Item 465.

### **3. Legal Effect.**

- (a) Nothing in Item 10 revokes and/or cancels any law, rule, or regulation, set forth in the Household Goods Carriers Act and/or in the MAX 4 Tariff, or in any other law, statute, rule or regulation applicable to carriers.
- (b) Any and all electronic documents, electronic signatures, and electronic records shall have the same legal effect, validity, and enforceability as traditional paper documents.
- (c) Electronic forms, electronic documents, and electronic records must serve the same purpose and fulfill the same function as their traditional paper counterpart.
- (d) Incomplete electronic forms and/or documents that lack a required electronic signature/s by carrier, shipper, or both, shall not be legally valid.
- (e) An electronic signature shall not be valid if a shipper only has access to an excerpt or summary at the time he or she signs the electronic form and/or document.
- (f) Pursuant to Section 5285(c), any carrier that fails to comply with any of the requirements set forth in Item 10 of the MAX 4 Tariff may be subject to a fine by the Commission.

**EXHIBIT 4**

**Item 475 is added to the MAX 4 Tariff as follows:**

**ITEM 475**

**SHIPPER’S CONSENT TO USE OF ELECTRONIC DOCUMENTS AND ELECTRONIC SIGNATURES**

The California Public Utilities Commission (“Commission”), pursuant to Item 10 of the MAX 4 Tariff, requires carriers to provide shippers with this consent form (Item 475) in order to obtain the shipper’s consent to conduct business with the carrier using electronic means in lieu of traditional paper documents. This form advises you (shipper) that the use of electronic documents, including forms, and electronic signatures is optional. The Commission requires that you acknowledge and consent to the use of electronic documents, forms, and electronic signatures in lieu of paper copies. You must agree and sign this form for your consent to be valid. The carrier is required to present you with an electronic copy of Item 475, “Shipper’s Consent To Use of Electronic Documents and Signatures,” at the time of your first contact with the carrier and prior to you entering into an Agreement for Moving Services with the carrier.

Item 10 of the MAX 4 Tariff provides that you (shipper) have the option and right to withdraw your consent to conduct business with the carrier by electronic means provided you give the carrier written notice of your withdrawal before you sign the Agreement for Moving Services (Item 450). Carriers are prohibited from charging you a fee in the event of such withdrawal. Under Item 10 of the MAX 4 Tariff, you have the right to request paper copies of any and all electronic documents related to your business with the carrier at any time, not to exceed a period of three years from the date the you signed Item 475, and the carrier is required to provide you with paper copies without charge either in person at carrier’s place of business, or through fax or U.S. mail within two (2) business days of your request.

Do you (shipper) agree to conduct business by electronic means with the carrier and to accept electronic documents and to use electronic signatures in lieu of paper copies?

Yes \_\_\_\_\_ No \_\_\_\_\_

Please Print Shipper’s name: \_\_\_\_\_

Signature of Shipper: \_\_\_\_\_

Date: \_\_\_\_\_

Please print Carrier’s name: \_\_\_\_\_

Signature of Carrier: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT 5**

**LIST OF REVISED AND NEW PAGES TO  
MAXIMUM RATE TARIFF 4:**

**ITEM 4  
ADDENDUM A TO THIRD REVISED PAGE 2**

**ITEM 88  
SECOND REVISED PAGE 15 (Cancels First Revised Page 15)  
SECOND REVISED PAGE 16 (Cancels First Revised Page 16)**

**ITEM 10  
ADDENDUM A TO FIRST REVISED PAGE 5**

**ITEM 475  
ORIGINAL PAGE 101**