

**PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

RULES GOVERNING THE ORGANIZATION AND OPERATION OF RATE BUREAUS AND THEIR COMMON CARRIER MEMBERS ENGAGED IN COLLECTIVE RATEMAKING

**Adopted November 5, 1986. Effective January 1, 1987.
Decision 86-11-026 in Case 10368**

**Amended March 6, 1987. Effective March 6, 1987.
Decision 87-033-005 in Case 10368**

RULE 1 APPLICATION AND SCOPE

- 1.1 This General Order governs highway common carriers, cement carriers and express corporations and their rate bureaus when obtaining, amending and exercising authority to conduct collective ratemaking; provided, that only those express corporations which are affiliated with a highway common carrier or a cement carrier are governed by this General Order.
- 1.2 This General Order implements Section 496 of the Public Utilities Code (PU Code) as to highway common carriers, cement carriers and those express corporations which are affiliated with a highway common carrier or a cement carrier.

RULE 2 DEFINITIONS

- 2.1 "Agreement" means a document setting forth the terms and conditions between or among two or more carriers pertaining to rules and procedures for joint consideration of rates, rules or charges for the transportation of property over any public highway in the State of California, as such agreement is more fully described in Section 496(b) of the PU Code.
 - 2.2 "Carrier" or "common carrier", as used herein, means a common carrier as defined in Section 211 of the PU Code.
 - 2.3 "Proxy" means the written authorization for a specific individual to act on behalf of a member.
 - 2.4 "Rate" means the figure stated in cents, dollars and cents or fractions thereof, including the charge and also any ratings, minimum weights and rules governing.
 - 2.5 "Rate bureau" means a conference, bureau, committee or other organization established or continued under any agreement approved by the Commission under the provisions of PU Code Section 496.
 - 2.6 "Rate proposal" means a proposal to establish, amend or cancel a tariff.
 - 2.7 "Scope of Operations" means the authority granted to a Common Carrier by the Commission with respect to the commodities which may be transported and the territories or specific
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points between which such transportation may take place, and the exclusions specified.

- 2.8 "Tariff" means a publication, on file with the Commission or intended to be so filed, containing rates, rules, operating rights, routes, distances, classifications, etc., including supplements, amendments or revised pages thereto or reissues thereof.

RULE 3 ORGANIZATIONAL REQUIREMENTS

- 3.1 A rate bureau shall be a non-profit organization.
- 3.2 Rate bureaus shall not merge without Commission authority.
- 3.3 A rate bureau shall obtain authority from the Commission prior to directly or indirectly acquiring, managing or otherwise gaining control of another bureau.

RULE 4 APPLICATIONS FOR APPROVAL OF AGREEMENT

- 4.1 In order to obtain approval under Section 496 of the PU Code of any agreement among carriers relating to rates, charges, classifications, or rules and regulations pertaining thereto, a prospective rate bureau shall file its application with the Commission in accordance with the Rules of Practice and Procedure.
- 4.2 In addition to requirements of the Rules of Practice and Procedure, the application shall contain the following:
- (a) A copy of the agreement;
 - (b) A copy of any by-laws or similar formal rules, in addition to those contained in the agreement, which specify powers, duties or responsibilities of officers, members or staff of the bureau organization;
 - (c) A verified statement as to whether or not the membership presently includes both carriers by highway and carriers by rail;
 - (d) An organization chart showing the structure of the bureau, its committees, and the titles of the officers who have the responsibilities to preside over the meetings of these committees; any officer who serves on more than one committee shall be so designated;
 - (e) A complete membership list which shall show the effective date of the list and shall include the following information for each member carrier:
 - (1) Carrier's name;
 - (2) Whether carrier is a corporation (showing state of incorporation), a partnership (listing names of partners) or an individual;
 - (3) Commission designation (i.e., Cal. T-number);
 - (4) Alpha code (abbreviation), if any, to be used to identify carrier in bureau tariffs;

- (5) Carrier's mailing address;
 - (6) The mode or class (e.g., highway common carrier) to which the carrier belongs; and
 - (7) The individual (and alternates, if desired) authorized by the member carrier to represent it before the bureau, cast its vote and issue proxies on its behalf.
- (f) In addition to all other requirements for service of documents, a copy of the application shall be served upon each of the following, which shall be evidenced in the certificate of service:
- (1) Attorney General
State of California
Attention: Antitrust Law Section
350 McAllister Street
San Francisco, CA 94102; and
 - (2) Antitrust Division
Department of Justice
Box 36046
450 Golden Gate Avenue
San Francisco, CA 94102.
- 4.3 Before admitting a carrier by rail to membership, a rate bureau which includes a carrier by highway in its membership shall obtain an order from the Commission authorizing such action.
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- 4.5 A rate bureau shall obtain an order from the Commission authorizing such action before:
- (a) Causing its Articles of Incorporation to be materially amended; or
 - (b) Materially amending a document named in Rule 4.2(a) or (b) herein.
- 4.6 The application of a rate bureau for authority required by Rule 4.5 shall make reference to the Commission order granting its outstanding authority under Section 496 of the PU Code. In addition, the application shall contain, as to each of the documents named in Rule 4.2 (a), (b), (c) and (d), either a copy of the revised document for which authority is sought or a statement that no change is being made in that particular document. The application shall be served on the parties named in Rule 4.2 (f).
- 4.7 Agreements filed on or after the effective date of this General Order shall be constructed and filed in conformity with the rules herein established.

- 4.8 Agreements approved prior to the effective date of this General Order but which do not conform to the rules established herein must be amended or reissued. An application for approval thereof [rules 4.5 and 4.6, above] shall be filed with the Commission within 120 days following said effective date. Outstanding authority will remain in effect pending Commission action on the application. However, failure of a rate bureau to comply with this rule shall result in the automatic suspension of the bureau's authority to conduct collective ratemaking.

RULE 5 RULES OF GENERAL APPLICATION

- 5.1 Membership in a rate bureau shall be open to all persons, firms or corporations engaged in business as common carriers, operating between points in California.
- 5.2 A rate bureau shall not terminate membership except for good cause, such as failure to pay dues or violation of the bureau's by-laws.
- 5.3 Rate Bureau employees shall not have power to vote on any rate proposal.
- 5.4 The quorum for holding meetings at which rates, rules or classifications are discussed or considered shall be reasonable, shall be specified in the rate bureau's constitution, by-laws or other formal rules and shall not be less than thirty percent (30%) of the body involved. The number of votes required for approval of a matter shall not be less than a majority of the votes cast thereon.
- 5.5 All votes regarding a rate proposal shall be cast in person by the individual (or alternate) authorized by a member carrier or by proxy. Telephonic votes will not be acceptable.
- 5.6 A proxy vote shall be supported by signed written permission of the member authorizing the specified representative to act as its agent.
- 5.7 All meetings involving introduction or discussion of proposals to establish or amend rates or charges for transportation or related services, or rules attendant thereto, shall be open to the public and anyone present may express an opinion on any such proposal. Only rate bureau members in good standing may vote upon a proposal. Voting shall be conducted either in public or as specifically provided in Rules 5.16 and 5.17.
- 5.8 Minutes of each meeting shall be recorded, either in writing or electronically, and retained for a period of one year subject to inspection by the staff of the Public Utilities Commission.
- 5.9 Each rate proposal shall be docketed and assigned a docket number.

- 5.10 Notice of each docketed rate proposal shall be sent by first class mail not less than fourteen (14) days before the docket meeting to the following:
- (a) All members of the rate bureau participating in the involved tariff(s) (except any members that have waived notification);
 - (b) All interested parties that have requested notice;
 - (c) Freight Economics Branch
Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102; and
 - (d) Freight Economics Branch
Public Utilities Commission
107 South Broadway, Suite 5109
Los Angeles, CA 90012.
- 5.11 Public notice of docketed rate proposals need not identify the proponent carrier, but such identity shall be maintained in the rate bureau records and shall be made available to the Commission staff on request.
- 5.12 A rate bureau shall provide reasonable rules for internal appeal of committee or subcommittee decisions (e.g., from decision of a subcommittee to the overlying committee or from decision of a committee or subcommittee to the general membership or to an appeal board elected by the general membership).
- 5.13 The agreement required by Rule 4.2 (a) shall include a provision that any member carrier shall have the free and unrestrained right to take independent action.
- 5.14 A rate bureau shall provide in its agreement, or in its constitution, by-laws or other formal rules, for the Commission staff to attend its meetings.
- 5.15 As a condition to its exemption from the antitrust laws, a rate bureau shall not have standing to oppose a carrier exercising its right of independent action.
- 5.16 A rate bureau may conduct executive sessions from which the public is excluded, but discussion of public agenda items during such executive sessions shall be prohibited. This rule shall not be construed to prevent the voting (without discussion) upon public agenda items during executive sessions, provided that verbatim written or electronic records of executive sessions at which voting on public agenda items is conducted shall be made and retained, subject to inspection by the Commission staff, for a period of one year thereafter.
- 5.17 A member of the Commission or its staff, serving in an official capacity as observer at a meeting of a rate bureau or any committee thereof, may not be excluded from an executive session at which voting on public agenda items is conducted.

- 5.18 Rate Bureaus and their affiliates shall make their books and records available to the Commission staff for inspection.
- 5.19 Records or information obtained by the Commission or its staff under authority of paragraphs 5.12, 5.16, 5.17 or 5.18 herein shall not be open to public inspection. (PU Code Section 583; General Order 66-series.) Such records or information may be considered "official information" as defined in Evidence Code Section 1040.

RULE 6 DEPARTURES

Departure from the provisions of this General Order may be granted upon formal application to the Commission and a finding by the Commission that the departure is reasonable and necessary.

Dated November 5, 1986, at San Francisco, California.

**PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA**

By **VICTOR WEISSER**
Executive Director