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Article 1. General.

Rule R2-1. Carriers required to obtain and keep copy of act and copy of Commission's rules.

Every motor carrier shall keep at all times a copy of the Public Utilities Act and these rules and regulations. Copies of same may be obtained from the Commission at the minimum cost

Article 2. Exemptions.

Rule R2-2. Certificate; vehicle identification, etc.

(a) Repealed.

(b) Repealed.

(c) Passengers, fire-fighting equipment, medical and hospital supplies, food, feed, clothing, and other articles necessary for immediate relief of or direct prevention of fires, sickness, accident, storm, flood, or similar catastrophes, may be transported by any person in any available vehicle without notice to or authority from the Commission.

(d) Repealed.

(e) Repealed.

(f) Repealed.

(g) The lease of equipment with driver for use in private transportation of property is prohibited unless the private carrier leases vehicle(s) and driver(s) from a single source on an intrastate basis and the lease contains the following requirements:

- (1) the leased equipment must be exclusively committed to the lessee's use for the term of the lease;
- (2) the lessee must have exclusive dominion and control over the transportation service during the term of the lease;
- (3) the lessee must maintain liability insurance for any injury caused in the course of performing the transportation service;
- (4) the lessee must be responsible for compliance with safety regulations;
- (5) the lessee must bear the risk of damage to cargo; and
- (6) the term of the lease must be for a minimum period of 30 days.

(h) Repealed

(NCUC Docket No. M-100, Sub 14, 10/5/67; NCUC Docket No. M-100, Sub 18, 6/4/69; NCUC Docket No. M-100, Sub 75, 10/27/77; NCUC Docket No. M-100, Sub 105, 5/14/85; NCUC Docket No. M-100, Sub 109, 5/20/86; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R2-3. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.

Rule R2-4. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.

Rule R2-5. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.

Rule R2-5.1. Insurance and safety regulation of exempt passenger carriers.

In the application of the insurance regulations of the Commission under G.S. 62-260(f) and certificates of exemption under G.S. 62-260(g) the Commission deems that the term "motor carriers" as included in said sections should be construed under the definition in G.S. 62-3(17) to be limited to motor common carriers or motor contract carriers of exempt passengers for hire who have been issued certificates of exemption by the Division of Motor Vehicles.

(NCUC Docket No. M-100, Sub 16, 2/5/68; NCUC Docket No. M-100, Sub 109, 5/20/86.)

Article 3. Rented or Leased Vehicles.

Rule R2-6. Use of rented or leased vehicles.

(a) No carrier authorized to operate as a common carrier of household goods shall use any vehicle of which such carrier is not the owner for the transportation of household goods for compensation, except under a bona fide written lease from the owner, subject to the following conditions:

- (1) The lessee shall use such vehicles only for purposes and within the territory covered by his certificate of exemption and for the term of the lease.
- (2) The household goods transported shall be transported in the name of and under the responsibility of the said lessee, and under the direct supervision and control of the lessee.
- (3) The drivers of said leased equipment shall be directly supervised and controlled by lessee.
- (4) The name, address, and certificate of exemption number assigned to the lessee shall be displayed on the leased vehicle as required by Rule R2-26.
- (5) The vehicle shall be covered by insurance in the name of the lessee as required by Rule R2-36.
- (6) The lease shall specify a definite effective period, the amount of consideration to the lessor, and shall list and describe the equipment covered.
- (7) A legible copy of the executed lease shall be carried in the leased vehicle at all times, unless a certificate as provided in subsection (a)(8) of this rule is carried in lieu thereof.
- (8) Unless a copy of the lease is carried on the equipment as provided in subsection (a) (7) of this rule, the authorized carrier shall prepare a statement certifying that the equipment is being operated by it, which shall specify the name of the owner, the date of the lease, the period thereof, any restrictions therein relative to the commodities to be transported, and the location of the premises where the original of the lease is kept by the authorized carrier, which certificate shall be carried with the equipment at all times during the entire period of the lease. Such certificate shall be in the following form or on such other form as may be submitted to and approved in advance by the Commission:

CERTIFICATE OF LEASE

This is to certify that this unit
is being operated by (Name of Authorized Carrier)

..... (Address)

Under a written lease from: (Name of Owner)

Address:

Date of Lease:

Equipment: Make: Year: Model:

Serial Number:

Period of Lease:

Commodities Authorized:

I hereby certify that the original lease is on file at

.....

(Name of Authorized Operating Carrier)

BY:

(Duly Authorized Officer)

Exception: The provisions of this rule shall not apply to the interchange of trailers.

(b) No common carrier of household goods shall lease its equipment for private use in the transportation of commodities which it is authorized to transport by authority of the Commission, and no common carrier of household goods shall lease equipment with drivers to private carriers or shippers under any circumstance.

(c) Repealed.

(NCUC Docket No. M-100, Sub 6, 10/15/65; NCUC Docket No. M-100, Sub 18, 6/4/69, 6/9/69; NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R2-7. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.

Article 4. Applications.

Rule R2-8. Applications for certificates of public convenience and necessity; transfers; and notice.

(a) For Operating Authority.

- (1) Application for authority to operate as a common carrier must be made on forms furnished by the Commission, and all the required exhibits must be attached to and made a part of the application. The original and three (3) complete copies of the application, including exhibits, must be filed with the Commission with a copy to the Public Staff. The original and the copies shall be fastened separately. A filing fee as set forth in G.S. 62-300 must accompany the application before it is considered as being filed.
- (2) The application shall be signed and sworn to by the applicant. If the applicant is a partnership, one partner may sign and verify for all; but the names and addresses of all partners must appear in the application and a certified copy of the partnership agreement, as filed in the county wherein the principal office of the partnership is located, must be filed with the Commission. Trade names will not be allowed unless the names and addresses of all owners are given. If the applicant is a corporation, a duly authorized officer of the corporation must verify the application. The names and addresses of the principal managing officers of the corporation must be given and a certified copy of the corporate charter filed with the application.

(b) For Approval of Sale, Lease, or Other Transfer of Operating Authority. (Also see Rule R2-9.)

- (1) Application for approval of sale, lease, or other transfer of operating authority shall be typewritten, shall be filed with the Commission with a copy to the Public Staff, by providing an original and three (3) copies and shall be accompanied by a filing fee as set forth in G.S. 62-300. Such applications may necessarily differ according to the nature of the transaction involved, but must include the following:
 - a. The names and addresses of all parties to the transaction.
 - b. A full and complete explanation of the nature of the transaction and its purpose.
- (2) If the application is for approval of a lease of operating rights, a copy of the proposed lease agreement must be filed with the application and must contain the entire agreement between the parties.
- (3) If the application is for approval of a sale of operating rights, a copy of the proposed sales agreement must be filed with the application and must contain the entire agreement between parties, including (i) an accurate description of the operating rights and other property to be transferred, and (ii) the purchase price agreed upon, and all the terms and conditions with respect to the payment of the same.
- (4) No sale of a certificate will be approved unless the seller complies with the provisions of G.S. 62-111 by filing a statement under oath, as therein required, with respect to debts and claims; a statement showing gross

operating revenues and total number of miles traveled for the latest three months' period preceding the date of filing the application, or for the latest three months' period preceding the date of authority to suspend operations, if theretofore granted by this Commission; and no such sale will be approved unless the purchaser files with the Commission a statement under oath of his assets and liabilities from which it must appear that the purchaser is solvent and in financial condition to meet such reasonable demands as the business may require.

- (5) If the transferee is a corporation, a photostatic copy or certified copy of its corporate charter must be filed with said application unless same is already on file with the Commission.
- (6) If the application is for approval of a merger of two or more carriers, or of any agreement by which one carrier seeks to acquire an interest in or control over another carrier, the application shall set out the purpose of such merger, combination or agreement, and the extent of any transfers of operating rights or other properties of the carriers involved, the changes in the financial status and obligations of the individual carriers involved, and all other matters necessary to a full understanding of the transaction and its effect upon other motor carriers.

(c) Notice of Application and Hearings.

- (1) Upon receipt of an application for a certificate for the transportation of household goods, same shall be set for hearing and at least twenty (20) days' notice shall be given in the Commission's calendar of truck hearings, a copy of which shall be mailed to applicant and to any other person desiring it, upon payment of charges to be fixed by the Commission. If no protests are filed to the application within the time provided for in Rule R2-11, or as extended by order of the Commission, the hearing may be cancelled and the Commission may proceed to decide the application on the basis of information contained in the application and sworn affidavits.
- (2) Repealed.
- (3) Upon receipt of an application to operate as a bus company over fixed routes, the Commission, within ten (10) days after the filing of the application, shall cause notice thereof to be given by mail to the applicant, to other bus companies holding certificates to operate in the territory proposed to be served by the applicant, and to other bus companies who have pending applications to so operate. If no protests, raising material issues of fact to the granting of the application, are filed with the Commission within thirty (30) days after the notice is given, the Commission shall proceed to decide the application. If protests are filed raising material issues of fact to the granting of the application, the Commission shall set the application for hearing as soon as possible and cause notice thereof to be given to the applicant and all other parties of record.
- (4) The notice shall give the general nature and scope of the proposed operations and shall also fix the time within which protests, if any, shall be filed to the application. (See Rule R2-11.) See G.S. 62-300.

(NCUC Docket No. M-100, Sub 56, 5/24/74; NCUC Docket No. M-100, Sub 75, 10/27/77; NCUC Docket No. M-100, Sub 109, 5/20/86; NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100 Sub 44, 11/24/98; NCUC Docket No. M-100, Sub 128, 11/30/01; NCUC Docket No. T-100, Sub 49, 02/02/04.)

**RULE R2-8.1. APPLICATIONS FOR CERTIFICATES OF EXEMPTION;
TRANSFERS, AND NOTICE.**

(a) For New Applications.

- (1) Application to operate as a common carrier of household goods must be made on forms furnished by the Commission, and all the required exhibits must be attached to and made a part of the application. The original and three (3) complete copies of the application, including exhibits, must be filed with the Commission with a fourth copy for the Public Staff's Transportation Division.
- (2) The application shall be signed and sworn to by the applicant. If the applicant is a partnership, one partner may sign and verify for all; but the names and addresses of all partners must appear in the application and a certified copy of the partnership agreement, as filed in the county wherein the principal office of the partnership is located, must be filed with the Commission. This does not alleviate the responsibility that all the partners or principals are required to submit individual certified criminal records and citizen certifications or employment authorization as set forth in Rule R2-8.1(a)(3)(f and g). Trade names will not be allowed unless the names and addresses of all owners are given. If the applicant is a corporation, a duly authorized officer of the corporation must verify the application. The names and addresses of the principal managing officers of the corporation must be given and a certified copy of the corporate charter filed with the application.
- (3) Pursuant to G.S. 62-261(8), the applicant shall provide proof or certification of the following:
 - a. That the applicant is fit, willing, and able to properly provide the transportation of household goods in intrastate commerce and has a reasonable and adequate knowledge of the moving industry;
 - b. That the applicant is financially solvent and able to furnish adequate service on a continuing basis, including adequate insurance protection, maintenance of safe, dependable equipment, and the financial ability to settle any damage claims for which it is liable;
 - c. That the applicant maintains minimum limits of liability insurance coverage of \$100,000/\$300,000/\$50,000, or such higher amount as may be required by federal law, and cargo insurance coverage of \$35,000/\$50,000; and
 - d. That the applicant maintains a minimum amount of \$50,000 general liability insurance coverage.
 - e. That the applicant certifies that only persons possessing valid driver's licenses will operate the motor vehicles that will be used for transporting household goods;
 - f. That the applicant or all its partners/principals submit a certified criminal history records check for the immediately preceding 10-year period; and

- g. That the applicant or all its partners/principals certifies that he or she (1) is a United States citizen or (2) if not a United States citizen, to submit employment authorization document(s) proving legal status to work within the United States.

(b) For Approval of Sale, Lease, or Other Transfer of Certificate of Exemption. (Also see Rule R2-9.)

- (1) Application for approval of sale, lease, or other transfer of certificate of exemption shall be typewritten, shall be filed with the Commission with a copy to the Public Staff, by providing an original and three (3) copies. Such applications may necessarily differ according to the nature of the transaction involved, but must include the following:
 - a. The names and addresses of all parties to the transaction.
 - b. A full and complete explanation of the nature of the transaction and its purpose.
 - c. That the applicant or all its partners/principals complete the requirements set forth in R2-8.1(a)(3).
- (2) If the application is for approval of a lease of certificate of exemption, a copy of the proposed lease agreement must be filed with the application and must contain the entire agreement between the parties.
- (3) If the application is for approval of a sale of certificate of exemption, a copy of the proposed sales agreement must be filed with the application and must contain the entire agreement between the parties, including the purchase price agreed upon, and all the terms and conditions with respect to the payment of same.
- (4) No sale of a certificate of exemption will be approved unless the seller complies with the provisions of G.S. 62-111 by filing a statement under oath, as therein required, with respect to debts and claims; a statement showing gross operating revenues and total number of miles traveled for the latest three months' period preceding the date of filing the application, or for the latest three months' period preceding the date of authority to suspend operations, if theretofore granted by this Commission; and no such sale will be approved unless the purchaser files with the Commission a statement under oath attesting to his fitness and ability to provide household goods transportation service and of his assets and liabilities from which it must appear that the purchaser is solvent and in financial condition to meet such reasonable demands as the business may require.
- (5) If the transferee is a corporation, a certified copy of its corporate charter must be filed with said application unless same is already on file with the Commission.
- (6) If the application is for approval of a merger of two or more carriers, or of any agreement by which one carrier seeks to acquire an interest in or control over another carrier, the application shall set out the purpose of such merger, combination or agreement, and the extent of any transfers of other properties of the carriers involved, the changes in the financial status and obligations of the individual carriers involved, and all other matters

necessary to a full understanding of the transaction and its effect upon other motor carriers.

(c) Notice of Application and Hearings.

- (1) Upon receipt of an application for a certificate of exemption for the transportation of household goods, same shall be made available for review on the Commission's website. Any party desiring to file a protest must do so in writing by setting forth the reasons for the protest and filing that protest with the Commission no later than 15 days from the filing date of the application. Protests may be filed based only upon the applicant's fitness or financial solvency.
- (2) If no protests are filed to the application within the 15-day time period provided for in Rule R2-8.1(c)(1), or as extended by order of the Commission, the Commission may proceed to decide the application on the basis of information contained in the application and such additional information as the Commission may choose to obtain.

(NCUC Docket No. T-100, Sub 49, 02/02/04; NCUC Docket No. T-100, Sub 69, 8/29/08.)

Rule R2-9. Sale, lease or other transfer.

(a) Any carrier operating as a common carrier under any certificate issued by the Commission which proposes to sell, assign, pledge, lease or transfer any right or interest in such certificate or to change its name, or trade name, or enter into any merger, combination, or joint control with any other carrier through purchase of stock or otherwise, shall apply in writing to the Commission with a copy to the Public Staff and obtain its written approval. This rule includes the following:

- (1) A change of name or trade name which does not involve any change of ownership or control.
- (2) Any change in the membership of a partnership, or the creation or dissolution of a partnership, which does not amount to a transfer of the controlling interest in the business to a new party.
- (3) The incorporation of a transportation business which does not involve any substantial change of ownership or control of the business.
- (4) Any pledge of a certificate for the purpose of securing a loan in furtherance of the transportation business of the carrier or any change of control through stock transfer except as provided in example (7).
- (5) A lease of all or any part of the rights represented by a certificate.
- (6) A sale or assignment of rights represented by a certificate.
- (7) Any merger, combination or agreement through purchases of stock or by any other means by which joint or common control of two or more carriers is effectuated.

(b) In examples (1) through (4) the Commission will not give notice to other carriers or conduct formal hearings unless some matter in the particular application appears to require notice and formal hearing.

(c) In examples (5) through (7) notice shall be given and hearings held as in applications for certificates.

(NCUC Docket No. M-100, Sub 75, 10/27/77; NCUC Docket No. T-100, Sub 32, 8/23/95.)

Rule R2-10. Granting authority.

(a) Unless the applicant elects to accept only the type of authority set out in the application, the Commission will grant such authority as the evidence shows the applicant is entitled to receive; that is to say, if the applicant has misconceived the nature of his proposed operation, or has misconstrued the meaning of terms used in his application, the Commission will disregard the form of the application and grant such authority within the scope of the application as the applicant is entitled to receive upon the facts.

(b) Repealed.

(c) Repealed.

(d) Repealed.

(NCUC Docket No. M-100, Sub 13, 10/5/67; NCUC Docket No. M-100, Sub 34, 6/4/70; NCUC Docket No. T-100, Sub 32, 8/23/95.)

Rule R2-11. Protests of applications for certificates of public convenience and necessity.

(a) Except for good cause shown, no party shall be heard in opposition to an application for a certificate unless such party shall have filed a protest to such application not less than ten (10) days prior to the date set for the hearing or within the time specified in the notice.

(b) No person shall be heard in opposition to any other matter set for hearing before the Commission unless such person shall have filed a protest to such matter not less than ten (10) days before the date set for the hearing unless otherwise specified by the Commission.

(c) All protests shall be in writing, shall be verified by the protestant and shall show whether or not the protestant holds authority from the Commission, the type of service authorized and the particular way in which the protestant is adversely affected. Parties holding similar authority may join in one protest signed and verified by one of the parties.

(d) The original and seventeen complete copies of the protest must be mailed or delivered to the Commission within the time fixed for filing protests, and it must appear in the verification or in some statement attached to the protest that a copy thereof has been mailed or delivered to the applicant and a copy to his attorney, if any, appearing in the notice of hearing.

(NCUC Docket No. M-100, Sub 56, 5/24/74; NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100, Sub 49, 02/02/04.)

Rule R2-11.1 Protests of applications for certificates of exemption.

(a) Except for good cause shown, no party or person shall be heard in opposition to an application for a certificate of exemption unless such party or person shall have filed a protest to such application no more than 15 days from the filing date of the application.

(b) All protests shall be in writing, shall be verified by the protestant, and shall show whether or not the protestant holds a certificate of exemption from the Commission. The protests shall only be based upon the applicant's fitness or financial solvency. Parties holding certificates of exemption may join in one protest signed and verified by one of the parties.

(c) The original and two (2) complete copies of the protest must be filed with the Commission within the 15-day time period fixed for filing protests, and it must appear in the verification or in some statement attached to the protest that a copy thereof has been mailed or delivered to the applicant or to his attorney, if any, as shown in the application.

(d) The Commission shall set the application for hearing upon receipt of a valid protest. (NCUC Docket No. T-100, Sub 49, 02/02/04.)

Rule R2-12. Interveners.

Upon request in writing and for good cause shown, a carrier or other person may, in the discretion of the Commission, intervene in support of or against a pending application, subject to such terms and conditions as the Commission may prescribe; provided, however, no person shall be permitted to intervene in opposition to an application who could have with reasonable diligence filed a protest in compliance with Rule R2-11.

Rule R2-13. Motion for continuance of hearing.

No application which has been set for hearing will be continued or postponed except upon written motion filed with the Commission and all parties not less than ten (10) days prior to the date of the hearing.

Rule R2-14. Testimony.

Testimony for or against the granting of an application may be oral, in the form of exhibits, or both. Sufficient copies of all exhibits shall be made available for the use of the parties and the Commission and the Public Staff. Exhibits shall contain statements of facts relevant to the particular application without argument or conclusions.

The Commission will limit the time for direct and cross-examination of witnesses when in its judgment such examinations are repetitious and unnecessarily prolonged. In cases in which protests are substantially the same, the Commission may, in its discretion, limit the cross-examination of witnesses by protestants to one attorney or party. Cumulative testimony or repetition of facts will be limited to reasonable bounds.

(NCUC Docket No. M-100, Sub 75, 10/27/77.)

Rule R2-15. Proof required.

(a) If the application is for a certificate of exemption to operate as a common carrier of household goods, the applicant shall establish by proof that the requirements of Rule R-8.1(a)(3) are satisfied.

(b) Repealed.

(c) If the application is for a certificate to operate as a bus company in the transportation of passengers over fixed routes, the applicant shall establish that it is fit, willing and able to provide the transportation to be authorized by the certificate and to comply with the provisions of Chapter 62 of the Public Utilities Act, and that the transportation to be authorized is consistent with the public interest.

In making any findings relating to public interest under section (c) of this Rule, the Commission shall consider, to the extent applicable, (i) the transportation policy of this State as it relates to bus companies under G.S. 62-259.1 and Chapter 62 of the Public Utilities Act; (ii) the value of competition to the traveling and shipping public; (iii) the effect of issuance of the certificate on bus company service and small communities; and (iv) whether issuance of the certificate would impair the ability of any other fixed route carrier of passengers to provide a substantial portion of its fixed route passenger service, except that diversion of revenue or traffic from a fixed route carrier of passengers, alone, shall not be sufficient to support a finding that issuance of the certificate would impair the ability of the carrier to provide a substantial portion of its fixed route passenger service.

(d) Repealed.

(NCUC Docket No. M-100, Sub 75, 10/27/77; NCUC Docket No. M-100, Sub 109, 5/20/86; NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100, Sub 44, 11/24/98; NCUC Docket No. T-100, Sub 49, 02/02/04.)

Rule R2-16. Rates and charges.

(a) Every common carrier of household goods by motor vehicle and the motor carriers voluntarily participating in this rule pursuant to G.S. 62-152.2 shall be subject to and strictly observe the provisions, rates, and charges of the Maximum Rate Tariff issued by the Commission for the transportation of household goods in intrastate commerce between all points within the area authorized to be served. All common carriers of passengers by motor vehicle shall file with the Commission, publish and keep open for public inspection and strictly observe all tariffs showing all rates and charges for the transportation of passengers in intrastate commerce between all points within the area authorized to be serviced (G.S. 62-138)

(b) Repealed.

(c) Repealed.

(d) Repealed.

(e) Repealed.

(f) Repealed.

(NCUC Docket No. T-100, Sub 15, 1/24/92 and 3/6/92, effective 2/23/92; NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R2-16.1. Rescinded by NCUC Docket No. M-100, Sub 121, 1/18/91.

Rule R2-17. Collection of charges by common carriers of household goods.

(a) Upon taking precautions deemed by them to be sufficient to assure payment of the tariff charges within the credit period herein specified, common carriers of household goods by motor vehicle may relinquish possession of household goods in advance of the payment of the tariff charges thereon and may extend credit in the amount of such charges to those who undertake to pay them, such persons herein being called shippers, for a period of fifteen (15) days. When the bill of lading covering a shipment is presented to the shipper on or before the date of delivery, the credit period shall run from the first 12 o'clock midnight following delivery of the household goods. When the bill of lading is not presented to the shipper on or before the date of delivery, the credit period shall run from the first 12 o'clock midnight following the presentation of the bill of lading.

(b) Where a common carrier by motor vehicle has relinquished possession of household goods and collected the amount of tariff charges represented in the bill of lading presented by it as the total amount of such charges, and another bill of lading for additional charges is thereafter presented to the shipper, the carrier may extend credit in the amount of such additional charges for a period of thirty (30) calendar days, to be computed from the first 12 o'clock midnight following the presentation of the subsequently presented bill of lading.

(c) Bills of lading for all transportation charges shall be presented to the shippers within seven (7) calendar days from the first 12 o'clock midnight following delivery of freight.

(d) Shippers may elect to have their bills of lading presented by means of the United States mails, and when the mail service is so used the time of mailing by the carrier shall be deemed to be the time of presentation of the bills. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.

(e) The mailing by the shipper of valid checks, drafts, or money orders, which are satisfactory to the carrier, in payment of freight charges within the credit period allowed such shipper, may be deemed to be the collection of the tariff charges within the credit period for the purpose of these rules. In case of dispute as to the time of mailing, the postmark shall be accepted as showing such time.

(NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R2-18. Repealed by NCUC Docket No. T-100, Sub 49, 01/09/04

Rule R2-19. Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.

Article 5. Loss and Damage

Rule R2-20. Settlement of household goods claims.

G.S. 62-203 specifically sets forth the carrier's liability for damaged property in transit. The carrier issuing a bill of lading for transportation of household goods in intrastate commerce and the motor carriers voluntarily participating in this rule pursuant to G.S. 62-152.2 shall be liable to the lawful holder thereof for any loss, damage or injury to such property caused by it or by any carrier participating in the haul and transporting it on a through bill of lading, and such carrier delivering said property so received and transported shall be liable to the lawful holder of said bill of lading or to any party entitled to recover thereon for such loss, damage or injury, notwithstanding any contract or agreement to the contrary; that is to say, that once the validity of a claim is established by the originating and/or delivering carrier, settlement of said valid claim shall be promptly made to the claimant. In the case of a claim where more than one carrier participated in the haul, either the originating or delivering carrier after establishing the validity of said claim shall make prompt settlement to the party in interest filing said claim, and the proration of any settlement thereof shall be a matter between the participating carriers and not between the shipper or receiver and each of said participating carriers. THIS RULE DOES NOT APPLY TO MOTOR CARRIERS OF PASSENGERS.

(NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R2-20.1. Repealed by NCUC Docket No. T-100, Sub 49, 01/09/04.

Article 6. Operations.

Rule R2-21. Authorized operations.

No carrier shall engage in transportation in intrastate commerce for compensation in North Carolina until and unless such carrier shall have applied to and obtained from the North Carolina Utilities Commission the appropriate certificate of exemption to so operate. Any authority granted by the Federal Motor Carrier Safety Administration does not confer, and does not purport to confer, upon any carrier the right to engage in intrastate commerce in North Carolina. Such certificate of exemption may be obtained in the manner set out in the Public Utilities Act, and in no other way. Interstate carriers who engage in transportation in intrastate commerce for compensation in North Carolina without first obtaining a certificate of exemption in the manner provided in said Act will be subject to the penalties prescribed in G.S. 62-325 of said Act.

(NCUC Docket No. M-100, Sub 7, 12/30/65; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R2-22. Beginning operations under a certificate or certificate of exemption for the transportation of passengers.

(a) An order of the Commission, approving an application, or the issuance of a certificate does not within itself authorize the carrier to begin operations. Operations are unlawful until the carrier shall have complied with the following:

- (1) Registration of its rolling equipment with the Division of Motor Vehicles on Form NCMC 19.
- (2) Filing insurance with the Division of Motor Vehicles covering its rolling equipment or by providing other security for the protection of the public, as provided by Rule R2-36.
- (3) In the case of common carriers, filing tariffs to be made for the transportation service authorized, as provided by Rule R2-16.

(b) Unless a common carrier complies with the foregoing requirements and begins operating, as authorized, within a period of thirty (30) days after the Commission's order approving the application becomes final, unless the time is extended in writing by the Commission upon written request, the operating rights therein granted will cease and determine.

(NCUC Docket No. M-100, Sub 14, 10/5/67; NCUC Docket No. M-100, Sub 109, 5/20/86; NCUC Docket No. T-100, Sub 32, 8/23/95.)

Rule R2-23. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.

Rule R2-24. Unauthorized use of operating rights.

All motor carriers will be held to strict account for the use of their operating rights, and to permit the use of the same by others for the transportation of persons or household goods for compensation shall be deemed just cause for the revocation of such rights.

This rule positively forbids the party to whom operating rights have been granted from permitting others to use the name or operating authority of such party.

(NCUC Docket No. M-100, Sub 38, 12/1/70; NCUC Docket No. T-100, Sub 32, 8/23/95.)

Rule R2-25. Assignment of identification numbers.

(a) All household goods common carriers shall be identified by the letter "C", and each such carrier shall be assigned a number. Example: N.C. No. C-25.

(b) Repealed.

(c) Repealed.

(d) Repealed.

(e) All motor passenger carriers shall be identified by the letter "B", and each such carrier shall be assigned a number. Example: N.C. No. B-25.

(NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. R-100, Sub 4, 03/09/99; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R2-26. Marking or identification of vehicles.

(a) No carrier shall operate any motor vehicle upon the highways in the transportation of household goods or passengers for compensation unless the name, or trade name, home address and the North Carolina number assigned to such carrier, as provided in Rule R2-25 appear on both sides of such vehicle in letters and figures not less than three (3) inches high.

Example: John Doe Trucking (Bus) Co.
 Greensboro, N.C.
 N.C. No. C-132(B-132)

The North Carolina number assigned to such carrier shall also be placed on the rear, left upper quadrant, of such vehicle in letters and figures not less than three (3) inches high. In case of a tractor-trailer unit, the side markings must be on the tractor and the rear markings must be on the trailer.

(b) The markings required may be printed on the vehicle, or on durable placards securely fastened on the vehicle.

(c) Subject to the exceptions noted below, this rule applies to every vehicle used by the carrier in his operation whether owned, rented, leased or otherwise; but in case of rented or leased vehicles the words "Operated By" shall also appear above or preceding the name of the carrier, unless such vehicles are under permanent lease, in which case the name of the lessor and the words "Operated By" need not appear.

(d) This rule does not apply to carriers engaged only in interstate commerce. If the carrier is engaged in both interstate and intrastate commerce and is marked as required by the Federal Motor Carrier Safety Administration, then in that case, it will only be necessary for the carrier to print his North Carolina number in a conspicuous place near his name in letters and figures corresponding in size with Federal Motor Carrier Safety Administration regulations.

(NCUC Docket No. M-100, Sub 6, 10/15/65; NC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100, Sub 49, 01/09/04; NCUC Docket No. T-100, Sub 80, 04/30/10.)

Rule R2-27. Repealed by NCUC Docket No. M-100, Sub 59, 9/21/77.

Rule R2-28. Repealed by NCUC Docket No. T-100, Sub 49, 01/09/04.

Rule R2-29. Supervision of leased operating rights.

The lessor of operating rights shall supervise the operation of its lessee to the extent of requiring said lessee, during the term of the lease, to promptly pay all debts of the nature set out in G.S. 62-111, and upon the termination of the lease, whether by agreement between the parties, by order of the Commission, or otherwise, operations shall not be resumed by the lessor, or by any transferee of the lessor, until all such debts shall have been paid.

Rule R2-30. Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.

Rule R2-31. Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.

Rule R2-32. Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.

Rule R2-33. Private carriage by regulated carriers.

A common carrier may conduct intrastate regulated and private carriage on a tandem or commingled basis provided that separate accounting records of regulated and proprietary transportation operations are maintained.

(NCUC Docket No. M-100, Sub 111, 5/13/86; NCUC Docket No. M-100, Sub 111, 5/16/86; NCUC Docket No. T-100, Sub 32, 8/25/95.)

Rule R2-34. Motor freight carriers obligated.

When any common carrier has been authorized by this Commission to transport household goods, such carrier is thereafter obligated to transport said household goods as authorized. Refusal of transportation offered or any discrimination or undue preference in the movement thereof is prohibited.

(NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R2-35. Repealed by NCUC Docket No. T-100, Sub 49, 01/09/04.

Rule R2-35.1. Authorized suspension of operations.

Any franchise may be suspended, in whole or in part, at the discretion of the Commission, upon application of the holder thereof. The application for authorized suspension may be in the form of a letter or formal motion and shall include the carrier's name, address, certificate number, the reason for the request for authorized suspension, and the length of time for which the authorized suspension is requested, up to one year per request. During an authorized suspension of operations, a carrier shall continue to file with the Commission an annual report and quarterly public utility regulatory fee reports and pay the applicable regulatory fees. If a carrier desires to commence operations while under an authorized suspension of operations, the carrier shall inform the Commission in writing and shall also comply with the filing requirements in Rule R2-22 prior to commencing operations.

(NCUC Docket No. T-100, Sub 29, 2/3/95.)

Article 7. Insurance.

Rule R2-36. Security for the protection of the public.

(a) All common motor carriers, including exempt for-hire passenger carriers, shall obtain and keep in force and maintain on file at all times with the Division of Motor Vehicles public liability and property damage insurance issued by a company authorized to do business in North Carolina in amounts not less than the following:

SCHEDULE OF LIMITS			
Motor Carriers -- Bodily Injury Liability -- Property Damage Liability			
(1)	(2)	(3)	(4)
Kind of Equipment	Limit for bodily injuries to or death to one person	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)	Limit for loss or damage in any one accident to property of others (excluding cargo)
Freight Equipment: All motor vehicles used in the transportation of household goods with a GVW of 26,000 lbs. or less.	\$100,000	\$300,000	\$50,000
All motor vehicles used in the transportation of household goods with a GVW of 26,001 lbs. or more shall maintain coverage in the amount of \$750,000 for public liability and property damage as required by federal law.			
Passenger Equipment: The minimum levels of financial responsibility are as prescribed for motor carriers of passengers pursuant to the provisions of 49 U.S.C. § 10927(a)(1), which are \$5,000,000 for vehicles with a seating capacity of 16 passengers or more and \$1,500,000 for vehicles with a seating capacity of 15 passengers or less. Provided, however, that a passenger carrier providing transportation of passengers exclusively			

for or under the control of a local Board of Education operating under the authority of the State, or the State Department of Education, or the United States Department of Defense, to the extent that said arm of the United States Government maintains local boards of education in the State of North Carolina, shall obtain and keep in force at all times public liability and property damage insurance in the minimum amounts provided for in 49 U.S.C. § 10927(a)(1) or in a minimum amount not less than said limits as may be specified and approved by the local Board of Education or State Department of Education, or the United States Department of Defense contracting with said passenger carrier, provided, however, that in no event shall the minimum level of financial responsibility be less than \$1,000,000.00. Provided, further, that no bus company operating solely within the State of North Carolina and which is exempt from regulation under the provisions of G.S. 62-260(a)(7) shall be required to file with the Commission proof of the financial responsibility in excess of one million five hundred thousand dollars (\$1,500,000).

(b) The policy shall have attached thereto endorsement Form F and as evidence of such insurance there shall be filed with the Division of Motor Vehicles certificate of insurance Form E.

(c) In addition to the foregoing insurance, all common carriers of household goods and the motor carriers voluntarily participating in this rule pursuant to G.S. 62-152.2 shall maintain the following cargo and general liability insurance coverage to compensate shippers or consignees for loss of or damage to household goods belonging to shippers or consignees and coming into the possession of motor common carriers in connection with their transportation service, in not less than the following amounts: (1) Cargo insurance: for loss of or damage to household goods carried on any one motor vehicle - \$35,000; and for loss of or damage to or aggregate of losses or damages of or to household goods occurring at any one time and place - \$50,000. The policy shall have attached thereof endorsement Form I or a facsimile thereof and as evidence of such insurance there shall be filed with the Division of Motor Vehicles certificate of insurance Form H or a facsimile thereof. (2) General liability insurance: for loss of or damage to property of shipper or consignee in the amount of \$50,000. A certificate of insurance proving such coverage shall be provided to the Commission (a) prior to being issued a certificate of exemption and (b) with the filing of each annual report.

(d) No insurance policy, endorsement, rider or certificate of insurance issued by any insurance company, covering the liability of any motor carrier authorized to operate in North Carolina under a certificate issued by the North Carolina Utilities Commission will be accepted by the Division of Motor Vehicles for filing, unless the same is signed by an officer of the insurance company or by a North Carolina resident agent of the insurance company duly licensed by the Insurance Commissioner of the State of North Carolina.

(e) To the end that the Commission or Division of Motor Vehicles may be advised of the risks and liabilities assumed by such motor carriers under such insurance policies, no deductible agreement between insurer and insured shall be deemed valid and enforceable against the insured unless a true and correct copy of such agreement, countersigned as required in subsection (d) hereof, shall have been first filed with and approved by the Commission.

(f) A common carrier or exempt for-hire passenger carrier may qualify as self-insurer, or be permitted to post bond in lieu of insurance upon application to and written approval by the Commission, but no such application will be approved unless it shall appear to the satisfaction of the Commission that the applicant is in such financial condition as to be able to pay personal injury and property damage claims arising out of motor vehicle accidents from its own assets without seriously affecting its financial stability and the continuation of its operations. The Division of Motor Vehicles will accept only surety companies, authorized to do business in North Carolina, as surety on bonds referred to in this rule.

(g) In all cases under this rule, actual filing must be made with the Division of Motor Vehicles before operations begin. Household goods carriers must also provide the certificate of insurance providing proof of general liability coverage in the amount of \$50,000 before operations begin. Letters or telegrams to the effect that insurance is in force will not be accepted in lieu of actual filing.

(h) Repealed.

(NCUC Docket No. M-100, Sub 12, 10/5/67; NCUC Docket No. M-100, Sub 30, 5/25/70; NCUC Docket No. M-100, Sub 75, 10/27/77; NCUC Docket No. M-100, Sub 81, 3/1/79; NCUC Docket No. M-100, Sub 112, 7/1/86; NCUC Docket No. M-100, Sub 112, 11/12/86; NCUC Docket No. M-100, Sub 115, 2/23/88; NCUC Docket No. T-100, Sub 32, 8/25/95; T-100, Sub 49, 02/22/02; NCUC Docket No. T-100, Sub 49, 02/02/04.)

Article 8. Commodities.

Rule R2-37. Commodity description.

- Group 1. *General Commodities.* — [Repealed.]
- Group 2. *Heavy Commodities.* — [Repealed.]
- Group 3. *Petroleum and Petroleum Products, Liquid, in Bulk in Tank Trucks.* — [Repealed.]
- Group 4. *Liquid Refrigerated Products in Bulk.* — [Repealed.]
- Group 5. *Solid Refrigerated Products.* — [Repealed.]
- Group 6. *Agricultural Commodities.* — [Repealed.]
- Group 7. *Cotton in Bales.* — [Repealed.]
- Group 8. *Dry Fertilizer and Dry Fertilizer Materials.* — [Deleted.]
- Group 9. *Forest Products.* — [Deleted.]
- Group 10. *Building Materials.* — [Repealed.]
- Group 11. *Livestock.* — [Repealed.]
- Group 12. *Explosives and Other Dangerous Articles.* — [Repealed.]
- Group 13. *Motor Vehicles.* — [Repealed.]
- Group 14. *Dump Truck Operations.* — [Repealed.]
- Group 15. *Retail Store Delivery Service.* — [Repealed.]
- Group 16. *Furniture Factory Goods and Supplies.* — [Repealed.]
- Group 17. *Textile Mill Goods and Supplies.* — [Repealed.]
- Group 18. *Household Goods.* — The term "household goods", as used in connection with transportation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is arranged and paid for by the householder or another party.
- Group 18-B. *Household Goods Retail Delivery.* — [Repealed.]
- Group 19. *Unmanufactured Tobacco and Accessories.* — [Repealed.]
- Group 20. *Motion Picture Film and Special Service.* — [Repealed.]
- Group 21. *Other Specific Commodities.* — [Repealed.]

(NCUC Docket No. M-100, Sub 1, 5/12/65; NCUC Docket No. M-100, Sub 31, 1/14/71; NCUC Docket No. M-100, Sub 87, 5/8/81; NCUC Docket No. M-100, Sub 106, 9/16/85; NCUC Docket No. T-100, Sub 14, 1/16/92; NCUC Docket No. T-100, Sub 14, 7/21/92; NCUC Docket No. T-100, Sub 18, 3/24/93; NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100, Sub 38, 7/26/96; 9/19/96; T-100, Sub 49, 02/22/02; NCUC Docket No. T-100, Sub 49, 02/02/04.)

Rule R2-38. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.

Article 9. Miscellaneous.

Rule R2-39. Repealed by NCUC Docket No. T-100, Sub 49, 01/09/04.

Rule R2-40. Bill of lading.

(a) Every common carrier of household goods by motor vehicle and the motor carriers voluntarily participating in this rule pursuant to G.S. 62-152.2 receiving property for transportation shall issue a uniform bill of lading therefore, the form, terms, and conditions to be set out in the Maximum Rate Tariff issued by the Commission.

(b) A complete copy of every such bill of lading, or a full and complete record thereof made at the time the same is issued, shall be kept by the carrier in numerical or chronological order separate from other records for a period of three (3) years, and the same shall be available for inspection by the Commission or its agents.

(NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R2-41. Repealed by NCUC Docket No. T-100, Sub 49, 01/09/04.

Rule R2-42. Inspection of vehicles, books, records, etc.

(a) Auditors, accountants, inspectors, examiners of the Public Staff or Commission Staff or their agents, upon demand and display of proper credentials, shall be permitted by any carrier transporting, or authorized to transport, household goods or passengers over the public highways of North Carolina for compensation to examine the books, records, accounts, bills of lading, or other records of such carrier relating to the transportation of household goods or passengers and the terminals, building, and other facilities used by such carrier in such transportation business; and all such carriers shall instruct their drivers, agents and employees in charge of such records and facilities to permit such examination.

(b) Repealed.

(c) No inspector or other agent of the Commission or the Public Staff shall knowingly and wilfully divulge any fact or information which may come to his knowledge during the course of any such examination or inspection, except to the Commission or as may be directed by the Commission or upon approval of request to the Commission by the Public Staff or by a court or judge thereof. See G.S. 62-316.

(NUCU Docket No. M-100, Sub 14, 10/5/67; NCUC Docket No. M-100, Sub 75, 10/27/77; NCUC Docket No. M-100, Sub 109, 5/20/86; NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R2-43. Service of papers.

Any citation, summons, subpoena, order or process issued by the Commission in any proceeding may be served:

- (1) By any peace officer authorized to serve process.
- (2) By any person designated by the Commission to serve the same.
- (3) By certified or registered mail.

Reference: G.S. 62-62 and G.S. 62-63.

Rule R2-44. Process agent.

(a) All motor carriers operating under certificates of public convenience and necessity, or having pending applications to so operate, shall file with the Division of Motor Vehicles a designation in writing of the name and post-office address of a person residing in the State of North Carolina upon whom notice of applications, hearings and orders in proceedings under said Act may be made.

(b) In proceedings before the Commission involving the lawfulness of rates, charges, or practices, service of notice upon the person or agent who has filed a tariff in behalf of such carrier shall be deemed to be due and sufficient service upon the carrier.

(NCUC Docket No. M-100, Sub 109, 5/20/86; NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R2-45. Schedule of fees.

The fees and charges of the North Carolina Utilities Commission for motor carriers are set forth in G.S. 62-300.

Rule R2-46. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.

Rule R2-47. Discontinuance of service.

(a) No common carrier shall abandon or discontinue any service authorized by its certificate without first obtaining written authority from the Commission. The petition for such authority shall be filed with the Commission at least thirty (30) days prior to any discontinuance, unless otherwise authorized by the Commission, and if petitioner is a motor carrier of passengers, shall show in support thereof the information set forth in paragraph (c) herein. The discontinuance or nonuse of a service authorized by a certificate for a period of thirty (30) days or longer without the written consent of the Commission shall be considered good cause for cancellation, seasonal service excepted. Upon receipt of a petition for authority to discontinue or abandon service, the Commission may designate a time and place for hearing on the petition. If a petitioning bus company proposes to discontinue service over any intrastate route or proposes to reduce its level of service to any points on a route to a level of service which is less than one trip per day, excluding Saturdays and Sundays, the Commission shall, within ten (10) days after the filing of the petition, require notice to be given to the public by posting notice of the petition in buses serving such routes and in bus stations or other prominent places along said routes. If no objections are filed to the petition by any person or the Public Staff within thirty (30) days after notice is given, the Commission may proceed to decide the petition based on the record and without a hearing.

(b) All interruptions of passenger service, where likely to continue for more than twenty-four hours, shall be reported promptly to the Commission and to the public along the route, with full statement of the cause and its possible duration.

(c) In support of any petition or schedule which proposes to reduce motor passenger carrier service over any North Carolina route or to any North Carolina point to a level which is less than one (1) trip per five (5) days per week excluding Saturdays and Sundays, the proponent carrier shall furnish the data set forth hereinbelow:

- (1) A listing of the origin, termination and all intermediate points which will lose the proponent carrier's service.
- (2) A statement as to whether the proponent carrier is the last or only intercity motor carrier of passengers to or from the issue points or over the issue route.
- (3) A statement identifying any reasonable alternative to the proponent carrier's passenger and express services on the issue route and to or from the issue points, which statement shall identify the location of the alternative services relative to the issue route and points.
- (4) For the latest twelve months available to the proponent carrier, a statement showing:
 - a. total system bus miles operated;
 - b. total N.C. bus miles operated;
 - c. scheduled system bus miles operated; and
 - d. scheduled N.C. bus miles operated.
- (5) A statement or exhibits calculating and showing:
 - a. estimated or actual passenger revenues, at actual and present annualized levels, attributable to that portion of the proponent carrier's operations proposed to be abandoned, but not including

- passenger revenues which the carrier expects to retain in connection with other services which it will still operate;
- b. estimated or actual express revenues, at actual and present annualized levels, attributable to that portion of the proponent carrier's operations proposed to be abandoned, but not including express revenues which the carrier expects to retain in connection with other services which it will still operate;
 - c. actual or scheduled N.C. bus miles, for the latest twelve (12) months available, operated in service over that portion of the route proposed to be discontinued; and
 - d. estimated or actual number of interstate and intrastate passengers transported over the issue route or to or from the issue points during the latest twelve (12) months available.

The statements or exhibits containing the calculations and information required under Items A, B, C and D above shall be presented in such a manner and in such detail that the Commission can verify the sampling and apportionment methodologies used and can determine the treatment by the proponent carrier of revenues originating outside the issue route but within the carrier's system going to any issue point; revenues originating at an issue point going to points within the carrier's system but outside the issue route; and revenues originating and terminating along the issue route. The proponent carrier also shall, at a site in North Carolina designated by it, make available for inspection by all parties, and upon order of the Commission shall file, copies of ticket samples, driver reports, station reports, bus bills, schedule information reports, trend sheets or any other source documents which show or were used to develop revenues or passenger counts (whether by schedule, points or route) as determined in Items A through D above.

- (6) The proponent carrier shall calculate and furnish its system variable costs and the fully allocated costs attributable to service along and to the issue route and points, with an explanation of how the costs were calculated, and of any assumptions underlying the calculations, which assumptions must be consistent with any used to calculate revenues. The proponent carrier shall furnish such information pursuant to forms and in the format as from time to time shall be approved by the Commission, if any, but nothing herein shall preclude the carrier from submitting, in addition to the above, the same data in a different form or format if it so desires.

(NCUC Docket No. M-100, Sub 98, 6/6/84; NCUC Docket No. M-100, Sub 109, 5/20/86; NCUC Docket No. T-100, Sub 32, 8/23/95.)

Rule R2-48. Accounts; annual reports.

(a) The Uniform Systems of Accounts adopted by the Interstate Commerce Commission are hereby prescribed for use of Class I, Class II, and Class III Common Carriers of Passengers, who operate under the jurisdiction of this Commission pursuant to the Public Utilities Act or through the Commission's authority to fix rates and charges. (G.S. 62-260, subsection (b)).

For purposes of annual, other periodical and special reports commencing with the year beginning January 1, 1980, and thereafter until further ordered, common carriers of passengers subject to the North Carolina Utilities Commission's jurisdiction will assume their classification according to the most current dollar amounts in effect and prescribed by the Interstate Commerce Commission. Classifications in effect as of January 1, 1980, are as follows:

CLASS I: Carriers having annual carrier operating revenues (including interstate and intrastate) of \$3 million or more.

CLASS II: Carriers having annual carrier operating revenues (including interstate and intrastate) of \$500,000 but less than \$3 million.

CLASS III: Carriers having annual carrier operating revenues (including interstate and intrastate) of less than \$500,000.

The class to which any carrier belongs shall be determined by annual carrier operating revenue by the following manner and procedure:

- (1) If at the end of any calendar year or of 13 four-week periods, such annual carrier operating revenue is greater than the maximum for the class in which the carrier is classified, the carrier shall adopt the accounting and reporting requirements of the higher class in which it falls. For Class III carriers, adoption of Class II classification shall be effective as of January 1 of the following year. For Class II carriers, adoption of a higher classification shall be effective as of January 1 of the second succeeding year after the carrier meets the minimum revenue limit for Class I.
- (2) If at the end of a calendar year, or accounting year of 13 four-week periods, a carrier's annual operating revenue is less than the minimum of the class in which the carrier is classified, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements of the lower class in which the current year revenue falls. Adoption of the lower class shall be effective as of January 1 of the following year.
- (3) Carriers shall notify the Commission by letter of any change in classification by October 31 of each year.
- (4) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual gross carrier operating revenues.
- (5) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred.

- (6) In unusual circumstances, such as partial liquidation and curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying conditions justifying an exception.

(b) Repealed.

(c) Repealed.

(NCUC Docket No. M-100, Sub 25, 9/15/69; NCUC Docket No. M-100, Sub 55, 5/24/74; NCUC Docket No. M-100, Sub 68, 12/17/76; NCUC Docket No. M-100, Sub 68, 2/5/82; NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. T-100, Sub 49, 02/02/04.)

Rule R2-48.1. Practices of household goods carriers relating to released values.

(a) Motor carriers of household goods in intrastate commerce in North Carolina shall use the uniform bill of lading in connection with all shipments handled by them.

(b) Motor carriers of household goods shall not charge rates and charges in excess of those as provided in the Maximum Rate Tariff issued by the Commission.

(c) Motor carriers of household goods shall not engage in or be a party to the sale of insurance coverage for any shipment for the purpose of keeping declared value at a figure less than the declared value stated by the shipper, nor shall such carriers at any time apply a base rate applicable to a declared value when the declared value is in excess of the base rate value, nor shall they include on the bill of lading or any other bill for transportation services any costs incident to insurance coverage.

(NCUC Docket No. T-825, Sub 18, 4/15/58; NCUC Docket No. M-100, Sub 42, 9/1/71; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R2-48.2. Advertising, solicitations, etc., of household goods carriers.

(a) Household goods carriers in intrastate commerce shall not use any name in the advertising, soliciting, or handling of intrastate business other than the name or trade name in which their operating authority is issued from the Utilities Commission.

(b) In the event that any household goods carriers in intrastate commerce uses joint advertising with any national carrier with which it has any connection, such advertising must state clearly that the intrastate hauling is performed solely by the North Carolina carrier and has no connection with the interstate carrier named in the advertisement.

(c) Household goods carriers operating in North Carolina intrastate commerce shall clearly display their certificate of exemption numbers in any paid print or other visual form of advertising.

(NCUC Docket No. M-100, Sub 8, 6/14/66; NCUC Docket No. T-100, Sub 49, 01/29/03; 01/09/04.)

Article 10.
Special Orders.

Rule R2-49. Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.

Rule R2-50. Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.

Rule R2-51. Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.

Rule R2-52. Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.

Rule R2-53. Embargoes.

(a) No carrier holding a franchise certificate has the right to issue an embargo on intrastate traffic against any carrier or any goods except upon application to, and approval by, the North Carolina Utilities Commission.

(b) A franchise certificate grants certain rights and the rights so granted therein presuppose a service to be rendered, and any embargo establishes a condition which the carrier does not have the right to impose; therefore, where the carrier desires to embargo any shipments, application must be made to the Commission for approval, and then the Commission will pass upon the necessity therefor.

(c) The procedure to be followed in connection with an embargo will be for the carrier desiring to establish same to notify the Commission in a letter with a copy to the Public Staff, sending a copy of said letter to any and all carriers affected, after which the carriers receiving such notice shall have three days within which to advise the proponent and the Commission of their attitude thereon, after which the Commission will notify all parties to the proceeding if it desires to hold a public hearing thereon.

(NCUC Docket No. M-100, Sub 75, 10/27/77.)

Rule R2-53.1. Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.

Rule R2-53.2. National emergency; adoption of mobilization orders of the Federal Motor Carrier Safety Administration.

(a) The following Orders adopted by the Federal Motor Carrier Safety Administration for control of motor transportation during the national emergency are hereby adopted for application to intrastate commerce within the State of North Carolina:

GENERAL ORDER ICC TM-1 — Preference and Priority for the Transportation by Carriers for Hire of United States Military Personnel, Accredited Civil Defense Workers and United States Mail.

GENERAL ORDER ICC TM-2 — Rail Freight Embargo — Appointment of Permit Agent.

GENERAL ORDER ICC TM-3 — Motor Freight Embargo.

GENERAL ORDER ICC TM-4 — Inland Waterways Freight Embargo.

GENERAL ORDER ICC TM-5 — Disposal by Carriers of Undeliverable Shipments.

GENERAL ORDER ICC TM-6 — Control of Railroad Tank Cars.

GENERAL ORDER ICC TM-7 — Rerouting of Rail Traffic.

GENERAL ORDER ICC TM-8 — Direction to Certain Over-The-Road Motor Carriers of Property Regarding Routes, Diversions and Service to Certain Destinations.

GENERAL ORDER ICC TM-9 — Direction to Certain Intercity Common Carriers of Persons by Bus to Serve Certain Points.

GENERAL ORDER ICC TM-10 — Control of Motor Transport Vehicles.

GENERAL ORDER ICC TM-11 — Control of Freight Shipments to or within Port or Storage Areas.

GENERAL ORDER ICC TM-12 — Inventory and Disposition of Shipments of Food and Medical Supplies Requisitioned by Government in Possession of Railroads and Motor Carriers.

PROCEDURAL ORDER ICC TM-11-PO-1 — Procedures and Delegations of Authority under General Order ICC TM-11 for Rail Shipments.

GENERAL ORDER ICC TM-13 — Control of Liquid Transport Vessels.

(b) The above Orders of the Federal Motor Carrier Safety Administration shall become effective as to intrastate commerce within North Carolina only upon the proclamation of the existence of a state of civil defense emergency by the President or by concurrent resolution of the Congress.

(NCUC General Order Docket No. D-1, 3/1/65; NCUC General Order Docket No. D-1, Sub 1, 2/19/70; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R2-53.3. Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.

Rule R2-53.4. Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.

Article 11. Specific Rules Applicable Only to Motor Passenger Carriers.

Rule R2-54. Bus stations in general.

(a) Adequate bus station facilities commensurate with the requirements of the traveling public must be provided by all motor carriers of passengers subject to the jurisdiction of the Commission in cities or towns in which service is rendered.

(b) All bus passenger waiting rooms shall be supplied with good, pure drinking water easily accessible to passengers; and shall be so lighted, heated, ventilated and equipped as to render occupants of the same reasonably comfortable, the circumstances of each case being considered.

(c) In all cities where the service requires full time employees, or exclusive station buildings, or exclusive space in buildings constructed primarily for other purposes, adequate accommodations shall be provided, including comfort stations and rest rooms with running water.

(d) In all towns and cities where agents are employed on commission and the station is located in a place with another business, adequate accommodations shall be provided, insofar as it is practicable to do so, the circumstances in each instance to be taken into consideration.

(e) In providing bus station facilities, the gross receipts from ticket sales shall be considered as a factor, but not necessarily the controlling factor in determining the cost of construction, operation and maintenance of the station.

(f) All bus station waiting rooms shall be equipped with a fire extinguisher, bearing the label of approval of the Fire Underwriters' Association, which shall be filled and kept in good serviceable condition, and shall be so placed as to be plainly visible and readily accessible and easily removable from the holders; provided, however, this requirement shall not apply to those ticket agencies where some other endeavor is the principal business or one of the principal businesses and the selling of bus tickets is incidental to such principal business or businesses.

Rule R2-55. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.

Rule R2-56. Tickets.

(a) Carriers to Provide Tickets. — All passenger carriers shall provide tickets at all agency stations and at such other places indicated on the published time schedules where satisfactory financial arrangements for handling can be made.

(b) Tickets to Be Accepted by Connecting and Interconnecting Carriers. — All passenger carriers shall join in publishing an interline tariff and furnish such tariff to all agents on all carriers' lines and all tickets when sold by one carrier over another line or lines shall be accepted by the other carrier, or carriers, at the value of the ticket set forth in the interline tariff, less the percentage charge for selling commission, and the accepting carrier shall render statements to originating carrier, or seller, at regular intervals of not less than thirty (30) days.

(c) Carriers Operating Between Common Points. — Passenger carriers operating from a common station where tickets are sold to a common destination, over the same or different routes, shall honor the tickets of one another between said points, and the carrier lifting the same shall be reimbursed therefor by the issuing carrier in the amount paid for same, less the applicable station charge at point of sale.

(d) Passenger to Determine Ticket Destination. — At the time of the sale of an interline ticket the passenger shall determine the destination and routing called for on the ticket, provided such destination be on a known carrier's line and recorded in the joint or interline tariff and such interline ticket shall not be reissued en route except at the passenger's request. The passenger shall be given the advantage of a reduction of fare, if any, because of the change in routing and the reissuing carrier shall make the adjustment and note same on the original ticket for the information of the original seller who shall reimburse the reissuing carrier upon the receipt of the statement in which the original ticket, or a portion of the original ticket, is rendered.

(e) "Closed Ticket". — No carrier or ticket agent shall issue so-called "closed tickets," or by any rule, practice, or device deter or prevent passengers from having their tickets reissued and rerouted at any interchange agency station upon the request of passengers.

(f) Reissue of Ticket to Permit Passenger to Reach Destination. — When passenger cannot board issuing carrier's bus out of station, ticket may be reissued so as to permit passenger to reach destination over most convenient route but the return ticket must not be taken up and reissued at this time.

(g) Reissue of Ticket to Returning Passenger. — When returning passenger cannot take issuing carrier's bus out of the station, ticket should be reissued for passenger to go to original issuing carrier's nearest station on passenger's most direct return route and then over original issuing carrier's route, unless passenger requests another routing.

(h) Sale of Tickets in Municipality Not on Carrier's Line. — No carrier shall sell, nor cause or permit its agent to sell, tickets in any town or city not on its line.

(i) Redemption of Tickets. — All tickets when sold shall have the date of sale stamped thereon. Tickets when sold shall be redeemable for transportation within the limits of the tariff when presented to driver on a bus or shall be redeemable at their sale price in money by the selling agent on duty at the station where the ticket was purchased on the date of sale or by the company within twelve months of the date of sale stamped thereon; if no date is stamped thereon at time of sale, such tickets shall be redeemable

upon presentation at any time; provided, that where tickets have been sold and baggage checked for transportation the carrier may deduct, at time of redemption, the usual amount to reimburse it for baggage transfer.

(j) Disposition of Redeemed Tickets. — Tickets redeemed at a station as provided for under subsection (i) shall not be resold and must be sent in to the home office of the company whose ticket was refunded for redemption.

Rule R2-57. Petitions for the establishment of interline ticket arrangement.

In any case where two or more passenger common carriers cannot agree among themselves upon the establishment of interline ticket arrangements, the Commission will, upon proper petition being filed with it with a copy of the Public Staff by an interested carrier or the public, enter into an investigation, and if justified, prescribe interline ticket arrangements for use between such carriers. In considering any such petition, the Commission, among other things, will take into consideration the fact of whether all carriers involved have in effect a system of accounting which will permit the easy checking accounting for all revenue and expenditures in connection with such interline ticket arrangement, and further provided, that satisfactory financial responsibility is shown by all carriers involved.

(NCUC Docket No. M-100, Sub 75, 10/27/77.)

Rule R2-58. Interchange of equipment.

Common carriers of passengers may interchange equipment for the purpose of providing through service without change of passengers from one bus to another, but no such interchange agreement shall become effective unless the parties thereto shall file a true copy thereof with the Commission with a copy to the Public Staff and give notice thereof to all common carriers operating to, from or through the interchange point at least twenty (20) days prior to the effective date of such agreement; provided, the Commission may upon its own motion, or upon protest, suspend or disapprove the agreement for reasons considered to be in the public interest.

(NCUC Docket No. M-100, Sub 75, 10/27/77.)

Rule R2-59. Time tables.

(a) Information in Table. — Every common carrier of passengers shall file with the Commission with a copy to the Public Staff a time table showing the time of arrival and departure of its coaches at each regular station or stop, and such time table shall further show the number of trips to be made daily over each route or routes. Time tables shall be available in each waiting room at bus stations. Time tables shall bear an issuing date and an effective date.

(b) Time Table Changes. — Any change in or addition to a time table shall be made by reissuing the time table. Each new time table shall cancel the previous time table. Every time table shall bear a number which shall be placed in the upper left-hand corner of the title page and shall be printed in bold type. Time tables shall be numbered consecutively. Five (5) copies of all changes in time schedules shall be filed with the Commission not less than twenty (20) days prior to the effective date of change, together with a certificate that copies thereof have been furnished by first class mail to all connecting carriers and that said changes have been posted in bus stations and at bus stops: Provided, however, that the Commission may order such changes to be made upon shorter notice.

(c) Protest. — Where changes in time schedules, other than changes relating to scheduling of interstate or intrastate transportation provided by a motor common carrier of passengers subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of Title 49 of the United States Code on an authorized interstate route, are properly posted in accordance with subsection (b) above and no protest is received by the Commission during the first fifteen (15) days after notice is properly posted, the carrier, unless otherwise directed by the Commission, will be allowed to make the change effective on date shown on the schedule, subject to complaint and further order of the Commission. No protest by a connecting or competing carrier to a change of schedule will be considered unless it is filed with the Commission in writing, gives the reasons for such protest and certifies that a copy thereof has been mailed by certified or registered mail to the carrier proposing the change.

(d) Adherence to Schedules. — Time schedules as filed with and approved by the Commission and posted for the information of the public shall be strictly complied with. Habitual or intentional delay to obtain passengers of a competitor will be considered just cause for removing the schedule of the offending carrier.

(e) Effective Date. — This amended rule shall be effective on and after July 1, 1986. (NCUC Docket No. M-100, Sub 10, 11/1/67; NCUC Docket No. M-100, Sub 75, 10/27/77; NCUC Docket No. M-100, Sub 109, 5/20/86.)

Rule R2-60. Baggage.

(a) Baggage, not exceeding a total weight of one hundred fifty (150) pounds shall be checked and carried free of charge on each adult ticket. Baggage not exceeding a total weight of seventy-five (75) pounds shall be checked and carried free of charge on each half-fare ticket. No allowance shall be permitted on tickets purchased for the sole purpose of avoiding payment of excess baggage.

(b) Subject to the provisions of subsection (a) of this rule, the transportation of baggage and other articles that may be transported in baggage service shall be governed by the uniform rules and regulations of the *National Bus Traffic Association, Inc., Agent*, tariff, and supplements thereto or revision thereof, as filed with the Commission.

(c) In all cases baggage of passengers is to receive priority over express packages, and shall be transported on the bus carrying the owner of said baggage when practicable.

Rule R2-61. Transportation of property in buses.

The transportation of property by passenger carriers, as authorized by subsection (g) of G.S. 62-262.1, shall be so limited as not to interfere with the comfort and convenience of passengers.

(NCUC Docket No. M-100, Sub 109, 5/20/86; NCUC Docket No. T-100, Sub 32, 8/23/95.)

Rule R2-62. Seating passengers in buses.

(a) No common carrier of passengers by bus shall accept any passenger for transportation whose destination is more than fifteen (15) miles without either providing such passenger with a seat before departure, or advising such passenger that all seats are occupied, and further advising such passenger when the next bus is scheduled to depart and arrive at the passenger's destination, the next schedule meaning the next scheduled of any carrier.

(b) Failure of a carrier to provide seats for its passengers shall be considered as evidence that the said carrier is unable or unwilling to provide buses sufficient to meet public demands and needs.

(c) Subject to the other provisions of this rule and to other rules and regulations promulgated by the Commission, the carriers themselves have full control and discretion as to the seating of passengers and the right to change such seats at any time during the trip shall be reserved by the carriers.

Rule R2-63. Sanitary coaches.

It shall be the duty of every motor carrier of passengers subject to the jurisdiction of the Commission to cleanse thoroughly all passenger-carrying vehicles in regular use at least once every twenty-four hours, and to keep the same in a clean and sanitary condition while in operation.

Rule R2-64. Heating system.

All passenger-carrying vehicles shall be equipped with a suitable heating system sufficient to keep the same reasonably comfortable for its passengers and shall be kept in such repair that fumes therefrom shall not escape into the passenger compartment.

Rule R2-65. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.

Rule R2-66. Brokers.

(a) License Required. — No person, firm or association shall engage in the business of broker in arranging for the transportation of passengers and their baggage by motor vehicle in intrastate commerce in North Carolina without a license therefor issued by the Commission upon application to the Commission, with a copy of the application also being furnished to the Public Staff, and after a hearing, or after notice and no protests being filed as provided by G.S. 62-263.

(b) Evidence. — No such license shall be issued unless it shall appear from the testimony offered at the hearing:

- (1) That the applicant is not a bona fide employee or agent of any motor carrier.
- (2) That the applicant proposes to engage only those motor carriers authorized by the Commission to transport passengers as common carriers by motor vehicle in intrastate commerce in North Carolina.
- (3) That the proposed service is desired and will be used by the public.
- (4) That the applicant is fit, willing and able to properly perform the proposed service.

(c) Bond. — No person shall engage in the business of a broker as defined in the Public Utilities Act unless and until such person shall have furnished a bond approved by the Commission in the amount of not less than \$5,000, and in such form as will insure the financial responsibility of such broker and the supplying of authorized transportation in accordance with agreements, contracts, and arrangements therefor.

(d) Vehicles and Drivers. — The vehicles and drivers used in performing the transportation service shall be under the exclusive control of the motor carrier engaged to perform the transportation service, and the operation of such vehicles shall be limited to the authority set out in such carrier's certificate.

(e) Rates and Charges. — The transportation charges shall be in all respects as prescribed in the carrier's published tariff. Commissions or other compensation for sale of tickets by brokers shall not be allowed.

(NCUC Docket No. M-100, Sub 75, 10/27/77.)

Rule R2-67. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.

Rule R2-68. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.

Rule R2-69. Intracity bus carriers.

(a) Towns and Municipalities. — Unless and until determined by the Commission in particular cases, all towns and municipalities shall for the purpose of the administration of G.S. 62-260 include a zone adjacent thereto as follows:

- (1) A zone within 1/4 mile of the corporate limits if the municipality has a population of 2,500 or less.
- (2) A zone within 1/2 mile of the corporate limits if the municipality has a population of between 2,500 and 10,000.
- (3) A zone within 1 mile of the corporate limits if the municipality has a population of between 10,000 and 100,000.
- (4) A zone within 2 miles of the corporate limits if the municipality has a population of more than 100,000.
- (5) Municipalities whose commercial zones join shall be considered as one municipality for the purpose of this rule.
- (6) The population of any municipality, for the purpose of this rule, shall be determined by the population shown by the latest United States Census.
- (7) The distances referred to shall be air-line distances.

(b) Routing Buses over Streets. — Carriers operating from outside zones described in subsection (a) into or through cities and towns shall operate over such streets as local municipal authorities may designate, subject to the approval of the Commission, and in case of a controversy between any such carrier and a municipality with respect to routing buses over the streets of such municipality, or to and from bus stations located therein, the procedure set out in subsections (c) and (d) of this rule shall be followed in bringing such controversy before the Commission.

(c) Rates and Controversies Determined by Commission. — As authorized by G.S. 62-260, the Commission will fix rates and hear and determine controversies with respect to extensions and services when brought before it upon a duly verified petition of a town, municipality, or carrier, from which it appears that a demand in writing has been made by the petitioner upon the adverse party for specific relief to be effected by extensions of services, or by specific change in existing services, and that the relief demanded has been denied or ignored. No particular form of petition is required, but the relief demanded and denied or ignored must be clearly and definitely stated. General complaints or broad-side allegations which do not present the particular matter or matters in controversy are not sufficient.

(d) Petition to Be Filed in Quintuplicate. — The petition must be filed with the Commission in quintuplicate (original and four copies.)

Rule R2-70. Application of rules.

(a) Rules R2-54 through R2-60 shall not apply to common carriers whose operations are found by the Commission to be of such a local nature as not to require compliance with said rules.

(b) All facilities, services and accommodations provided by these rules for intrastate passengers at bus stations and on buses shall apply in like manner to interstate passengers of carriers authorized to operate in both intrastate and interstate commerce in North Carolina.

(c) The Commission may permit relief from these rules in special cases in which it finds compliance therewith unjust, impracticable, contrary to law, or inconsistent with the public interest.

(NCUC Docket No. T-100, Sub 32, 8/23/95.)

Rule R2-71. Deviations by motor carriers of passengers from authorized regular routes.

(a) Applicability of Rule. — Subject to all other rules and regulations of the Commission, this rule is hereby found to be just and reasonable and adopted and made applicable so far as pertinent to the operations within the State of North Carolina under authority of certificates issued by the Commission to all motor carriers of passengers.

(b) Definitions. — As used in this rule, the following words and terms shall be construed to have meanings as follows:

- (1) Designated Highway. — A highway identified for record purposes by a number, letter, or name such as a turnpike, thruway, expressway, freeway, or as an "unnumbered county or state road," or in some other like manner.
- (2) Redesignated Highway. — A highway to which there has been assigned a new designation, either number, letter, name or other identifying reference, in lieu of a designation previously assigned thereto.
- (3) Relocated Highway. — A highway which has been constructed in a new location in lieu of an existing highway or a segment or segments thereof, and which is intended to replace such existing highway or a segment or segments thereof for public use.
- (4) Regular Service Route. — A designated highway or series of highways over which a regular route motor carrier is specifically authorized to operate with provision in the carrier's certificate for service at terminal, intermediate, or off route points as specified therein, as distinguished from an alternate route as defined in subdivision (5) of this subsection. Such regular service route may be described as a single route in a carrier's authority or as two or more routes which are combined by joinder at a common service point or points.
- (5) Alternate Route. — A designated highway or series of highways lying wholly within the State of North Carolina over which a regular route motor carrier may operate in the interest of economy or convenience or to avoid congested areas, dangerous grades, sharp curves, or other hazards on an authorized regular service route, deviating from a point on such authorized regular service route and returning at some other point on the same regular service route.
- (6) By Pass Route. — A route designated by proper authority for the general purpose of avoiding traffic congestion in a heavily populated area or areas.
- (7) Detour Route. — The highway or highways designated by proper authority for public use while the highway or highways normally used between specified points is, or are, temporarily closed or restricted, as by reduced weight limits, or for repairs or constructions, or for any other reason.
- (8) Deviation Route. — Any of the routes used by a motor carrier under authority of this rule.
- (9) Point of Deviation. — The point where a motor carrier using, or proposing to use, an alternate route, as defined in subdivision (5) of this subsection

or any other deviation route, under authority of this rule, departs from, or proposes to depart from, its specifically authorized regular service route.

- (10) Point of Return. — The point where a carrier using, or proposing to use, an alternate route, as defined in subdivision (5) of this subsection or any other deviation route, under authority of this rule returns to, or proposes to return to, its specifically authorized regular service route.
- (11) Deadheading Empty Vehicles. — The movement of empty vehicles incidental to either prior or subsequent transportation in intrastate commerce.

(c) Authority for Deviations by Carriers from Operating Authorities in Described Circumstances. — Subject to the special rules, requirements, and conditions governing particular situations hereinafter stated, and subject also, when reference is made thereto, to the general conditions and requirements set forth in subsection (d) of this rule, carriers holding operating authority from this Commission, are hereby authorized, in the circumstances hereinafter described, to deviate from their specifically authorized regular service routes, and otherwise to depart from their specific authority, in the circumstances and to the extent hereinafter stated without obtaining other prior specific authority therefor:

- (1) Redesignated Highways. — Where a carrier is authorized to operate over a specified highway and thereafter that highway or a segment thereof without relocation is redesignated, the carrier in order to facilitate appropriate corrections in its certificate and changes in the records of the Commission, shall so advise the Commission, by letter, giving sufficient information regarding the old and new designation, the points between which the highway designation has been changed, and the place or places where such highway is referred to in the carrier's authority. The new designation of the highway will be shown in the carrier's certificate when the Commission has occasion to reissue it.
- (2) Relocated Highway and Abandonment of Old Highway. — Where a carrier is authorized to operate over a specified highway and thereafter that highway or a segment or segments thereof are relocated, and where the old highway or any segment thereof is no longer maintained for use by the general public, the carrier may operate over such relocated highway or relocated segment or segments under its authority without notice to the Commission of such change, and in so doing may serve as intermediate or off route points, on or from, the new highway, those points previously authorized to be served as intermediate or off route points on or from the old highway, provided there is no other change in the service previously rendered in connection with operations over the old highway.
- (3) Relocated Highway and Maintenance of Old Highway under New Designation.
 - a. Where a carrier is authorized to operate over, and to serve points on, a specified highway and thereafter that highway or segment or segments thereof are relocated, but the old highway is maintained for use by the general public under a new designation, the carrier shall not, without first obtaining specific authority from the

Commission, transfer its operations to the relocated highway or relocated segments thereof, but must continue to operate over the old highway and advise the Commission of the change in the designation thereof, furnishing the same information as required in connection with subdivision (1) of this subsection. The new designation of the highway will be shown in the carrier's certificate when the Commission has occasion to reissue it.

- b. Where a carrier is authorized to operate over a specified highway, but is not authorized to serve any point on such highway, and thereafter such highway or a segment or segments thereof are relocated, but the old highway is maintained for use by the public under a new designation, the carrier may, if it so desires, use as its operating route only the new or relocated highway, provided, it promptly advises the Commission of such change, giving descriptions of the old and new highways between the points involved and the other information required by subdivision (1) of this subsection.
- (4) By Pass Routes. — Where a by pass route has been designated to be used for the purpose of avoiding a congested area or areas, a carrier having an authorized regular route, or alternate route, through such area or areas, which desires to use such by pass route as an alternate route, may do so subject to the general conditions and requirements set forth in subsection (d) of this rule.
 - (5) Detour Routes. — When a federal, state, county or other government official, in the exercise of his powers, temporarily prohibits the use by a regular route carrier of an authorized service route or a segment or segments thereof, or when operations by a regular route carrier over an authorized service route or a segment or segments thereof are temporarily obstructed or rendered unsafe by any cause over which the carrier has no control, or when a highway or a segment thereof which comprises all or any portion of a carrier's authorized regular service route is, by appropriate authority, made subject to weight or other restrictions which temporarily prevent the operation of the equipment regularly and normally used by the carrier over that route, and when, because of any one or more of the foregoing, a detour route has been officially designated by proper authority for public use in lieu of the closed, obstructed, unsafe, or restricted highway, the carrier may use such officially designated detour route in lieu of the temporarily closed, obstructed, unsafe, or restricted highway, provided (i) that no service is rendered at any point the carrier is not specifically authorized to serve, (ii) that, so far as suitable detour routes are available, the carrier continues to furnish reasonable and adequate service at all points it is authorized to serve, and (iii) that if use of the detour route will continue for more than 30 days and if the distance over the detour route is less than 90 percent of the distance over the authorized service route, a statement shall be obtained from the governmental authority exercising control over the highways involved and filed by the

carrier with the Commission, together with a notice in writing of its intent to use such detour route under authority of this subdivision, which notice shall show the nature of the condition which prevents operation over the authorized route, the period of time it is anticipated that the service route will not be usable and proper identification of the official detour route. Where a detour route is used under the provisions of this subdivision, the carrier shall discontinue operations over such route and resume operations over its authorized service route immediately upon removal of the condition which necessitated use of the detour route.

- (6) Alternate Routes for Operating Convenience Only. — Where a regular route motor carrier is authorized to operate over a regular service route and there is wholly within the State of North Carolina another highway which extends in the same general direction as such regular service route and affords a reasonably direct and practicable route between any two points on such regular service route, it may, subject to the general conditions and requirements set forth in subsection (d) of this rule, use such other highway as an alternate route for operating convenience only, with no service at any intermediate point thereon, and with no service at the termini except as otherwise authorized, in the manner and to the extent, as follows:
- a. Superhighways as alternate routes. — Where a regular route motor carrier is authorized to operate over a regular service route and there is extending in the same general direction as such service route, and wholly within the State of North Carolina, a so called superhighway, turnpike, thruway, freeway, or expressway, which is substantially the same in purpose, design, and construction as the National System of Interstate Highways, such superhighway, turnpike, thruway, freeway, or expressway and such additional highways as it may be necessary to use in traveling by the shortest practicable route between the carrier's authorized regular service route and the superhighway, turnpike, thruway, freeway, or expressway may be used as an alternate route between two points on the carrier's regular service route regardless of the ratio of the distance over such alternate route between the point of deviation and the point of return to the distance over the carrier's regular service route between the same points, and regardless of whether or not such alternate route crosses or intersects or passes over or under, any other specifically authorized service or alternate routes of the carrier at any place intermediate to the points of deviation and return: Provided, that use of the alternate route will not materially change the competitive situation between such carrier and any other.
 - b. Highways other than superhighways. — Where a regular route motor carrier is authorized to operate over a regular service route and there is extending in the same general direction as such service route and wholly within the State of North Carolina, another

highway which is not a so called superhighway, turnpike, thruway, freeway, or expressway, the carrier may use such other highway as an alternate route for operating convenience only, provided (i) that the distance over such alternate route between the points of deviation and return is not less than 90 percent of the distance over the authorized regular service route between the same points, and (ii) that such alternate route does not duplicate, or involve operations over, any part of any authorized service route described in the carrier's certificate and does not cross or otherwise intersect any authorized service route of the carrier or pass through any authorized off route point or any part of the commercial zone of any authorized point either off route or other, except at the points of deviation and return.

c. For the purpose of this paragraph:

1. The crossing of another route by overpass or underpass shall be deemed to be a crossing or an intersection except in those instances where a transfer of a vehicle from one highway to the other at a point of such underpass or overpass is physically impossible because of the absence of any connecting access roads.
2. The prohibition against the inclusion of any alternate route used under this paragraph of any part of any authorized service route of the carrier shall not be deemed to prohibit the inclusion of an alternate route used under this paragraph, of a segment of the specifically authorized alternate route, provided, the distance over the alternate route used under this paragraph is computed from point of deviation from a service route to the point of return to the same service route, including the embraced segment of the specifically authorized alternate route.
3. The prohibition against the crossing by any alternate route used under this paragraph of any authorized service route shall not be deemed to prohibit the crossing of a specifically authorized alternate route.

(7) Deadheading Empty Vehicles. — A motor carrier may deadhead empty vehicles over any highway, the use of which is necessary or desirable to accomplish a reasonably direct and practicable movement thereof between any two points incidental to either prior or subsequent transportation in intrastate commerce.

(d) General Conditions and Requirements. — Where reference is made thereto in subsection (c) of this rule governing particular situations, the following general conditions and requirements shall be applicable and shall be complied with as a condition to the granting of authority herein for the particular deviation:

- (1) Any proposed deviation under this rule, except one over an alternate route under subsection (c)(6) of this rule, may be instituted by a carrier without prior notice to the Commission.

- (2) If a deviation proposed under this rule, other than one under subsection (c)(6) of this rule, is to continue for not more than 30 days, no notice to the Commission concerning it is required.
- (3) If any deviation, other than one over an alternate route under subsection (c)(6) of this section, is to continue for more than 30 days, the carrier shall, not later than one day after the deviation operations are begun, give notice thereof to the Commission and others in the manner provided in subdivision (5) of this subsection, giving the information therein required.
- (4) When an alternate route deviation under subsection (c)(6) of this rule is proposed, the carrier shall give prior notice thereof to the Commission and to others in the manner provided in subdivision (5) of this subsection. A summary of such notice must be prepared by the carrier and published in a newspaper of general circulation in the area involved and operation over such deviation route shall not, under any circumstances, be commenced until the elapse of 30 days after the date of such publication and if a protest against any such proposed deviation is filed within such 30 day period, the proposed deviation shall not be commenced until the Commission has considered and overruled the protest and found that the proposed deviation meets the requirements of, and is permissible under, this rule.
- (5) If notice of a deviation proposed under this rule is required by either subdivision (3) or (4) of this subsection, it shall contain:
 - a. A complete description by highway designations of the carrier's authorized service route between the point of deviation and the point of return, including authorized off route points;
 - b. A complete description by highway designations of its proposed deviation route between the point of deviation and the point of return;
 - c. A complete description by highway designations of all segments of other specifically authorized service and alternate routes, including authorized off route points, of the carrier adjacent either to the authorized service route from which deviation is to be made or to the proposed deviation route; and
 - d. Where the deviation is subject to a comparative distance limitation, the distance (actual mileage) over any proposed deviation route and also over the authorized regular service route between the points of deviation and return shall be stated. Such distances shall be computed not from municipal or commercial zone limits, but from actual junction points of the carrier's specifically authorized service route and the proposed deviation route, whether such junction points be within or without city limits, and shall include that portion of any specifically authorized alternate route which is embraced in any proposed alternate deviation route.
- (6) The notice described in subdivision (5) of this subsection shall be accompanied by a map on which there shall be shown so much as may be practicable of the information required by that subdivision and in case of

an alternate route deviation under subsection (c)(6)(a) or (b) of this rule, such map must clearly show in different colors the routes involved and authorized off route points, including in each instance the official highway designations of the authorized regular service route, from which deviation is proposed, and other service routes of the carriers, if any, in the area, also the highway designations of the proposed deviation route and other specifically authorized alternate routes, if any, in the area, and the distances (actual mileage) between the points of deviation and return (the actual junctions) over the regular service route from which deviation is proposed and over the deviation route.

- (7) The notice of an alternate route deviation required by subdivision (4) of this subsection shall also contain a statement to the effect that the carrier filing it will continue to furnish reasonable and adequate service from and to all authorized points on its regular service route; that it will not serve any intermediate point or points on such deviation route; and that deviation from its authorized regular service route as proposed, will not enable it to render a materially different service than that rendered over its regular service route or enable it to engage in transportation between any points between which operation is not practicable over its regular service route because of the circuitry or otherwise.
- (8) The notice of any deviation required by subdivision (3) or (4) of this subsection shall also contain a statement indicating that a copy thereof, accompanied by a copy of the map required by subdivision (5) of this subsection, has been served by mail or in person on the following, listed by names and addresses in each instance:
All carriers which, after diligent inquiry, have been found to be competitive with the carrier's proposed operation over the deviation route.
- (9) Where a notice of a deviation or proposed deviation is required by subdivision (3) or (4) of this subsection and such notice is not timely filed and served on competing carriers and others as required by subdivision (8) of this subsection, any deviation operation begun prior to the actual filing and service of notice is unauthorized and where a notice though filed is defective for want of required information or insufficient service on competing carriers, or for any other reason, it shall be subject to rejection and if rejected, any deviation operation covered thereby which has been begun, shall immediately be discontinued and shall not be resumed until a sufficient notice has been filed and served on interested parties as required by subdivision (8) of this subsection, and the carrier has been notified by the Commission that the operation may be resumed.
- (10) The right to operate over a deviation route which is subject to the general conditions and requirements set forth in this subsection shall continue only so long as the carrier is performing, when required by this rule, reasonable and adequate service over specifically authorized routes, and only so long as the conditions set forth in this rule are observed.

(e) Protest and Replies Thereto. — Any person who considers that he is or will be adversely affected by a deviation described or proposed in any notice filed under

subsection (d) of this rule may file at any time a protest against such deviation. Such protest may be in the form of a letter, but shall contain a recital of facts and information showing protestant's interest and supporting his opinion that the facts and circumstances upon which the right to deviate depends, are nonexistent, or have been incorrectly described, or that the carrier filing the deviation notice has not met the applicable conditions and requirements, and shall show that a copy thereof has been furnished to the carrier filing the notice. If such a protest is filed, the carrier which has filed the deviation notice may reply thereto within 20 days, after which the Commission will give due consideration to all facts of record or otherwise available to it in the particular case, including the notice and protest, and will make a determination in accordance therewith.

(f) Commission May Forbid Deviation. — The Commission may forbid the commencement of operations over any deviation route under this rule, or require discontinuance of any such operations already commenced, whenever, in its opinion, such deviation results in inadequate service over specifically authorized routes, or is unreasonable, undesirable, or otherwise repugnant to the public interest, or is not in harmony with the general purpose and intent of the rules and regulations established by this rule.

Article 12.
Specific Rules Applicable Only to Interstate Carriers.

Rules R2-72 through R2-78. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.

Article 13.
Records.

Rule R2-79. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.

Article 14.
Registration of Exempt Interstate Motor Carriers.

Rules R2-80 through R2-86. Repealed by NCUC Docket No. M-100, Sub 109, 5/20/86.