

Regulatory Analysis Form		This space for use by IRRC
(1) Agency Pennsylvania Public Utility Commission		<p>ELIOTT-G. AMB: 22</p> <p>IRRC Number: 9247</p>
(2) I.D. Number (Governor*s Office Use) L-00010154/57-225		
(3) Short Title Deletion of Obsolete Street Railway Transportation Regulations		
(4) PA Code Cite 52 Pa. Code 35.1-35.44	(5) Agency Contacts & Telephone Numbers Primary Contact: David A. Salapa 717-783-2841, Bureau of Transportation and Safety (Legal Division) Secondary Contact:	
(6) Type of Rulemaking (check one) <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. <p>The final rulemaking deletes existing regulations governing street railway transportation in the Commonwealth. The existing regulations are outdated in light of changes in street railway operations in the Commonwealth. The existing regulations govern private companies providing street railway transportation in the Commonwealth. Currently only Southeastern Pennsylvania Transportation Authority and the Port Authority of Allegheny County provide street railway transportation in the Commonwealth. Both these entities are public bodies whose enabling legislation excludes the Commission from regulating their rates, facilities and service. In addition since both entities receive federal funds, they are subject to federal regulations governing the safety of their operations.</p>		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. 66 Pa. C.S. §501		

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Since Southeastern Pennsylvania Transportation Authority and Port Authority of Allegheny County are the only entities operating street railway transportation in the Commonwealth and their enabling legislation precludes the Commission from regulating their rates, facilities and service, the regulations are not needed.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

None.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Southeastern Pennsylvania Transportation Authority and the Port Authority of Allegheny County will benefit from this rulemaking because it will remove any ambiguity regarding PUC oversight of their street railway operations and lessen any regulatory burdens resulting from the regulations. Customers of Southeastern Pennsylvania Transportation Authority and Port Authority of Allegheny County will benefit since eliminating the regulations will eliminate any confusion over what rules govern those entities' street railway operations.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No person or entity will be adversely affected by this regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

None.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Commission contacted representatives of Southeastern Pennsylvania Transportation Authority and Port Authority of Allegheny County. Neither entity voiced any objection to eliminating the regulations. The Commission also contacted representatives of the Pennsylvania Department of Transportation regarding the conditions imposed on federal funds received by Southeastern Pennsylvania Transportation Authority and Port Authority of Allegheny County.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

None

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

None

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

None

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

Not Applicable.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Not Applicable				

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Not Applicable.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Not Applicable

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Not Applicable.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

Not Applicable.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Comparison with other states was not made.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Not Applicable.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will become effective upon publication in the Pennsylvania Bulletin following review by the standing committees and the Independent Regulatory Review Commission.

(31) Provide the schedule for continual review of the regulation.

Not Applicable.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

2002-06-13 10:22
LEGISLATIVE REFERENCE BUREAU

2247

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General.

BY _____
(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-00010154/57-225

DATE OF ADOPTION June 13, 2002

BY James J. McNulty
James J. McNulty

TITLE (SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

BY _____
Bohdan R. Pankiw
Chief Counsel

6-13-02
DATE OF APPROVAL

Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-00010154/57-225
Final Rulemaking
Deletion of Obsolete Street
Railway Transportation Regulations
52 Pa. Code, Chapter 35

The Pennsylvania Public Utility Commission on June 13, 2002, adopted a final rulemaking order which proposes to delete street railway transportation regulations which have become obsolete. The contact person is David Salapa, Bureau of Transportation and Safety, 783-2841.

EXECUTIVE SUMMARY

**L-00010154/57-225
Final Rulemaking
Re: Deletion of Obsolete Street Railway
Transportation Regulations
52 Pa. Code Chapter 35**

The Commission will delete the existing regulations governing street railway transportation in the Commonwealth. The existing regulations are outdated in light of changes in street railway operations in the Commonwealth.

At one time, street railway companies provided passenger service to many areas of the Commonwealth. Over the years, many of these street railway companies went out of business due to the widespread use of automobiles. In order to preserve street railway passenger service in the Pittsburgh and Philadelphia metropolitan areas, the General Assembly passed legislation authorizing the creation of transportation authorities and empowered those transportation authorities to purchase the assets of the street railway companies operating in those metropolitan areas. These transportation authorities, Southeastern Pennsylvania Transportation Authority (SEPTA) and Port Authority of Allegheny County (PAT) purchased the assets of the street railway companies and began operating street railway systems in the Philadelphia and Pittsburgh metropolitan areas. The Philadelphia and Pittsburgh metropolitan areas are the only places in the Commonwealth where street railway systems still operate.

Both SEPTA's and PAT's enabling legislation provides that those agencies shall determine the facilities they will operate, the services they will provide and the rates they

will charge. The Commission is thus precluded from regulating SEPTA or PAT in these areas. In addition, SEPTA and PAT receive federal funds for their operations. Receipt of the federal funds is conditioned upon the authorities having safety programs in place that are monitored by the Pennsylvania Department of Transportation. Since the Pennsylvania Department of Transportation monitors the safety programs initiated by SEPTA and PAT, the Commission's regulations at 52 Pa. Code §§35.1-35.44 are unnecessary.

The Commission initiated this rulemaking by order adopted November 30, 2001. On December 18, 2001, the Office of Attorney General approved the proposed regulations as to form and content. The Pennsylvania Bulletin published the proposed rulemaking on February 9, 2002. The only comments to the proposed rulemaking were filed by the Independent Regulatory Review Commission. The Commission has incorporated those comments into the final rulemaking. The regulations will become effective upon publication in the Pennsylvania Bulletin.

The contact person is David A. Salapa (717) 783-2841 in the Law Bureau.

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held June 13, 2002

Commissioners Present:

Glen R. Thomas, Chairman
Robert K. Bloom, Vice-Chairman
Aaron Wilson, Jr.
Terrance J. Fitzpatrick
Kim Pizzingrilli

Deletion of Street Railway Transportation
Regulations at 52 Pa. Code §35.1
through §35.44.

Docket No. L-00010154

ORDER

BY THE COMMISSION:

By Order adopted November 30, 2001, at L-00010154, we initiated a proposed rulemaking pursuant to §501 and §1501 of the Public Utility Code (66 Pa. C.S. §§501 and 1501) and the Commonwealth Documents Law (45 P.S. §§1201, *et seq.*) and regulations promulgated thereunder at 1 Pa. Code §§7.1, 7.2 and 7.5. The purpose of the proposed rulemaking was to delete existing Commission regulations governing street railway transportation in the Commonwealth. The current regulations are outdated in light of changes in street railway operations in the Commonwealth.

On December 18, 2001, the Office of Attorney General issued its approval of the proposed regulations as to form and legality. On January 24, 2002, we delivered copies of the proposed rulemaking to the House Committee on Consumer Affairs, the Senate Consumer Protection and Professional Licensure Committee, the Independent

Regulatory Review Commission (IRRC) and the Legislative Reference Bureau. The Pennsylvania Bulletin published the proposed rulemaking for comment at 32 Pa. B. 797 (February 9, 2002).

The only comments to the proposed rulemaking were filed by IRRC on April 11, 2002. IRRC noted that three additional sections of 52 Pa. Code refer to terms found at 52 Pa. Code Chapter 35, which these regulations propose to delete. IRRC's comments state that 52 Pa. Code §5.11(b) refers to 52 Pa. Code §35.1; that 52 Pa. Code §29.73 uses the term "street railway cars" in the posting notice prohibiting conversation; and that 52 Pa. Code §33.1 uses the term "street railway" in the definition of "carrier." IRRC recommends that these terms and references should be deleted in the final form regulation since they will become obsolete with the deletion of Chapter 35.

The Commission notes that the regulation at 52 Pa. Code §5.11(b), cited to in IRRC's comments, actually refers to 1 Pa. Code §35.1, not 52 Pa. Code §35.1. The Commission therefore declines to make this change suggested by IRRC.

The Commission agrees with the remaining comments filed by IRRC regarding references to Chapter 35 in 52 Pa. Code §29.73 and 52 Pa. Code §33.1. Section 29.73 refers to "street railway cars" in the posting notice, which prohibits operators of motor or trackless trolley buses, as well as street railway cars, from conversing with passengers while the vehicle is in motion. Our deletion of Chapter 35 eliminates Commission authority over street railway operations. Since the Commission will no longer regulate street railway operations in the Commonwealth, the prohibition of conversation between operators and passengers on street railway cars is unnecessary and will be deleted.

The regulation at 52 Pa. Code §33.1 includes the term “street railway” in the definition of “carrier.” Since deleting Chapter 35 will eliminate the Commission’s regulations regarding street railway operations in the Commonwealth, street railways will no longer be carriers for purposes of our regulations. Therefore, it is appropriate to delete their inclusion within the definition of carriers at 52 Pa. Code §33.1.

After considering the comments filed to the proposed rulemaking, the Commission believes that the regulations as set forth here in Annex A should be adopted as the final rulemaking. Accordingly, under §§501 and 1501 of the Public Utility Code (66 Pa. C. S. §501 and §1501) and 45 P.S. §§1201 et seq., known as the Commonwealth Document Law, and regulations promulgated thereunder at 1 Pa. Code §7.1, 7.2 and 7.5, we amend the regulations at 52 Pa. Code §29.73, 52 Pa. Code §33.1 and 52 Pa. Code §35.1 through §35.44 as set forth in Annex A; THEREFORE,

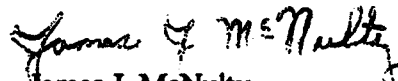
IT IS ORDERED:

1. That the regulations of the Pennsylvania Public Utility Commission at 52 Pa. Code §29.73, 52 Pa. Code §33.1 and 52 Pa. Code §35.1 through §35.44 are hereby amended as set forth in Annex A.
2. That the Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.
3. That the Secretary shall submit this order and Annex A to the Governor’s Budget Office for review of fiscal impact.
4. That the Secretary shall submit this order and Annex A for formal review by the designated standing committees of both Houses of the General Assembly and for formal review and approval by the Independent Regulatory Review Commission.

5. That the Secretary shall deposit this Order and Annex A with the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

6. That these regulations shall become effective upon publication in the Pennsylvania Bulletin.

BY THE COMMISSION,


James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: June 13, 2002

ORDER ENTERED: JUN 13 2002

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart B. CARRIERS OF PASSENGERS OR PROPERTY

§ 29.73. Posting notice prohibiting conversation.

The following notice or a notice approved by the Commission shall be posted in a conspicuous place in the front part of the interior of each bus having seating capacity in excess of nine passengers:

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
ORDER PROHIBITING CONVERSATION**

BY THE COMMISSION:

It is ordered: That operators of motor or trackless trolley buses [or street railway cars] engaged in intrastate common carrier service be and are hereby prohibited from conversing with passengers while the vehicle is in motion; and, further, that all passengers in such vehicles in motion be prohibited from distracting the attention of the operator by conversation or otherwise.

* * * * *

§ 33.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Carrier—Any railroad, railway company, or corporation [other than a street railway,] subject to Commission jurisdiction, which operates a steam or electric railroad in this Commonwealth.

* * * * *

CHAPTER 35. (Reserved)

(Editor's Note: As part of this proposal, the Commission is proposing to delete the existing text of Chapter 35, which appears at 52 Pa. Code pages 35-1--35-8, serial pages (239199)--(239206), in its entirety.)

§§ 35.1--35.3. (Reserved).

§§ 35.11--35.13. (Reserved).

§§ 35.21--35.26. (Reserved).

§§ 35.31--35.36. (Reserved).

§§ 35.41--35.44. (Reserved).



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA

GLEN R. THOMAS
CHAIRMAN

October 3, 2002

The Honorable John R. McGinley, Jr.
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

Re: L-00010154/57-225
Final Rulemaking
Deletion of Obsolete Street Railway
Transportation Regulations
52 Pa. Code Chapter 35

Dear Chairman McGinley:

Enclosed please find one (1) copy of the regulatory documents concerning the above-captioned rulemaking. Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission, on January 24, 2002, submitted a copy of the Notice of Proposed Rulemaking to the House Committee on Consumer Affairs, the Senate Committee on Consumer Protection and Professional Licensure and to the Independent Regulatory Review Commission (IRRC). This notice was published at 32 Pa.B. 797, on February 9, 2002. In compliance with Section 745.5(b.1) copies of all comments received were provided to your Commission and the Committees.

In preparing this final form rulemaking, the Public Utility Commission has considered all comments received from the Committees, IRRC and the public.

Very truly yours,

A handwritten signature in black ink that reads "Glen Thomas". The signature is written in a cursive, slightly slanted style.

Glen R. Thomas
Chairman

Enclosures

cc: Ms. Alexandra Matthews
The Honorable Lisa Boscola
The Honorable Dennis M. O'Brien
The Honorable Joseph Preston, Jr.
Legislative Affairs Director Perry
Chief Counsel Pankiw
Regulatory Coordinator DeIBiondo
Assistant Counsel Salapa
Mr. Kerr

