



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

3033

April 22, 2015

The Honorable John F. Mizner
Chairman
Independent Regulatory Review Commission
14th Floor, Harrisstown II
333 Market Street
Harrisburg, PA 17101

2015 APR 22 AM 11:08

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IRRC

Re: Regulation # 57-296 (IRRC #3033) (L-2013-2349042)
Pennsylvania Public Utility Commission
Motor Carrier Vehicle List and Vehicle Age Requirements, 52 Pa. Code § 29.314

Dear Chairman Mizner:

On April 20, 2015, the Public Utility Commission (PUC) received your disapproval order on behalf of the Independent Regulatory Review Commission (IRRC), disapproving the PUC's rulemaking due to an issue of clarity in the language in Section 29.314. In response to IRRC's concerns, the PUC has reviewed Section 29.314 and has clarified that the illustrative examples for vehicle age limitations do not negate the mileage limitations for taxi carriers under the PUC's jurisdiction.

Per Section 7(c) of the Regulatory Review Act and 1 Pa. Code § 311.4, the PUC submits this letter as part of its report along with the following attachments: 1) the Executive Summary of the final regulation; 2) the revised annex to the final regulation with the additional clarifying language in bold; 3) IRRC's April 20, 2015 Disapproval Letter; 4) and a signed transmittal sheet indicating the report was delivered to the legislative committees on the same date that the report was delivered to IRRC.

The PUC has provided notice of the clarification to all commentators to the rulemaking. Please let me know if you have any further questions.

Sincerely,

Bohdan R. Pankiw
Chief Counsel

cc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Robert Godshall
The Honorable Peter J. Daley, II
Eric A. Rohrbaugh, Deputy Chief Counsel
Kenneth R. Stark, Assistant Counsel
Regulatory Coordinator DelBiondo

EXECUTIVE SUMMARY

L-2013-2349042/57-296

Final Rulemaking Re Vehicle List, Age, and Mileage Requirements for Taxis and Limousines

52 Pa. Code § 29.314(c)-(d) and 52 Pa. Code § 29.333(d)-(e)

Section 1501 of the Public Utility Code requires every public utility in Pennsylvania to “maintain adequate, efficient, safe, and reasonable service and facilities” and to “make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.” 66 Pa. C.S. § 1501. Pursuant to that authority and Section 501 of the Public Utility Code, the Pennsylvania Public Utility Commission (Commission) is amending its motor carrier passenger regulations to ensure the availability of safe and reliable taxi and limousine fleets for the public.

On April 4, 2013, the Commission sought public comment on proposed revisions to its motor carrier regulations in Sections 29.314 and 29.333 in Title 52 of the Pennsylvania Code. The Commission analyzed the public comments, reevaluated its proposed regulations, and entered a Final Rulemaking Order on November 19, 2014, wherein the Commission eliminated the vehicle list requirement for taxis and limousines, as the vehicle list did not effectively aid the Commission in enforcement efforts. The Commission also eliminated the vehicle waiver program for both taxis and limousines, finding that the waiver exception no longer served the public interest, as limited Commission resources could be more effectively and efficiently utilized in other areas of motor carrier enforcement. As a result of eliminating the vehicle waiver program, the Commission replaced the 8-year vehicle age limitation for taxis with either a 10-year age limitation or a 350,000 mileage limitation, whichever comes first. The Commission also replaced the 8-year vehicle age limitation for limousines with a vehicle mileage limitation of 350,000 miles. The final regulations also incentivize the use of alternative fuel vehicles (AFVs) by allowing AFVs to operate in taxi service until reaching the age of 12 model years.

PUC contacts for this final rulemaking are Ken Stark, 717-787-5558 (legal) and Rob Bingaman, 717-787-1168 (technical).

ANNEX A
TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart B. CARRIERS OF PASSENGERS OR PROPERTY
CHAPTER 29. MOTOR CARRIERS OF PASSENGERS
Subchapter D. SUPPLEMENTAL REGULATIONS

CALL OR DEMAND SERVICE

§ 29.314. Vehicle and equipment requirements.

* * * * *

(c) [*Vehicle list.* Between December 1 and December 31 of each year, carriers shall provide the Commission with a current list of all vehicles utilized under its call or demand authority. The list must contain the year, make, vehicle identification number and registration number for each vehicle. The list shall be mailed to Director, Bureau of Transportation and Safety, Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265.

(d)] *Vehicle age AND MILEAGE.* [Unless otherwise permitted by the Commission, a vehicle may not be operated in call and demand service which] A vehicle that is more than 810 model years old OR HAS MORE THAN 350,000 MILES OF CUMULATIVE MILEAGE REGISTERED ON ITS ODOMETER may not be operated in call and demand service. For example, **FOR A VEHICLE WITH LESS THAN 350,000 MILES**, the last day on which a [1996] ~~2014~~2016 model year vehicle may be operated in taxi service is December 31, [2004] ~~2022~~2026. ELECTRIC VEHICLES, HYBRID ELECTRIC VEHICLES, AND VEHICLES UTILIZING ALTERNATIVE FUELS, AS DEFINED IN THE MOTOR VEHICLE CODE AT 75 PA. C.S. § 102 (RELATING TO DEFINITIONS) AND § 9002 (RELATING TO DEFINITIONS), MAY OPERATE IN CALL AND DEMAND SERVICE UNTIL THE VEHICLE AGE OF 12 MODEL YEARS OR THE CUMULATIVE MILEAGE LEVEL OF 350,000 MILES REGISTERED ON THE ODOMETER. FOR EXAMPLE, **FOR A VEHICLE WITH LESS THAN 350,000 MILES**, THE LAST DAY ON WHICH A QUALIFYING MODEL YEAR 2016 ALTERNATIVE FUEL VEHICLE, HYBRID ELECTRIC VEHICLE, OR ELECTRIC VEHICLE MAY BE OPERATED IN TAXI SERVICE IS DECEMBER 31, 2028. This provision is effective 6 MONTHS after [August 6, 2007]____. (*Editor's Note: the blank refers to the effective date of adoption of this proposed rulemaking*).

[(e)] (d) * * *

LIMOUSINE SERVICE

§ 29.333. Vehicle and equipment requirements.

* * * * *

(d) [*Vehicle list.* Between December 1 and December 31 of each year, carriers shall provide the Commission with a current list of all vehicles utilized under its limousine authority. The list must contain the year, make, vehicle identification number and registration number for each vehicle. The list shall be mailed to Director, Bureau of Transportation and Safety, Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265.

(e) [*Vehicle [age] mileage.* [Unless otherwise permitted by the Commission, a] A vehicle with more than 350,000~~200,000~~ miles of cumulative mileage registered on its odometer may not be operated in limousine service[which is more than 8 model years old. For example, the last day on which a 1996 model year vehicle may be operated in limousine service is December 31, 2004]. This provision is effective 6 MONTHS [August 6, 2007] after _____. (*Editor's Note: the blank refers to the effective date of adoption of this proposed rulemaking*).



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INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

April 20, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Keystone Building, 400 North Street
2nd Floor, North Wing
Harrisburg, PA 17120

Re: Regulation #57-296 (IRRC #3033) (L-2013-234042)
Pennsylvania Public Utility Commission
Motor Carrier Vehicle List and Vehicle Age Requirements

Dear Secretary Chiavetta:

The Independent Regulatory Review Commission disapproved your regulation on April 16, 2015. Our order is enclosed.

Within 40 days of receipt of our order, Section 7(a) of the Regulatory Review Act requires you to select one of the following options: (1) proceed with promulgation under Section 7(b); (2) proceed with promulgation under Section 7(c); or (3) withdraw the regulation. If you do not take any action within this period, the regulation is deemed withdrawn.

If you or your staff have any questions, please contact me at 783-5506.

Very truly yours,

David Sumner
Executive Director
sfh
Enclosure

cc: Honorable Robert M. Tomlinson, Majority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Robert W. Godshall, Majority Chairman, House Consumer Affairs Committee
Honorable Peter J. Daley, II, Minority Chairman, House Consumer Affairs Committee

**INDEPENDENT REGULATORY REVIEW COMMISSION
DISAPPROVAL ORDER**

Commissioners Voting:

Public Meeting Held April 16, 2015

John F. Mizner, Esq., Chairman
George D. Bedwick, Vice Chairman
W. Russell Faber
Murray Ufberg, Esq.
Dennis A. Watson, Esq.

Order Issued April 20, 2015
Regulation No. 57-296 (#3033)
Pennsylvania Public Utility Commission
Motor Carrier Vehicle List and Vehicle Age
Requirements

On October 3, 2013, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Public Utility Commission (PUC). This rulemaking amends 52 Pa. Code § 29.314(c)-(d) and § 29.333(d)-(e). The proposed regulation was published in the October 19, 2013 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on February 27, 2015.

The regulation amends existing motor carrier passenger regulations by eliminating the vehicle list requirements for taxis and limousines; eliminating a waiver exception related to operating a taxi or limousine beyond the limitations set in regulation; replacing vehicle age limitations for taxis and limousines; and incentivizing the use of alternative fuel vehicles.

Upon review, we find that Section 29.314(c) (relating to vehicle and equipment requirements) is ambiguous and lacks clarity and therefore, does not satisfy the criterion set forth in Section 5.2(b)(3)(ii) of the Regulatory Review Act (Act) (71 P.S. § 745.5b(b)(3)(ii)). The PUC proposes that a vehicle that is more than ten model-years old or has more than 350,000 miles of cumulative mileage on its odometer may not be operated in call and demand service. However, this dual age or mileage limitation is followed by an example which states:

“For example, the last day on which a 2016 model year vehicle may be operated in taxi service is December 31, 2026.”

We are concerned that this language could be interpreted as negating the mileage limitation. Likewise, this clarity concern applies to the similar example provided later in this same subsection related to electric vehicles, hybrid electric vehicles and vehicles utilizing alternative fuels. We ask the PUC to review Section 29.314(c) and make clear that the age limitations do not negate the mileage limitations.

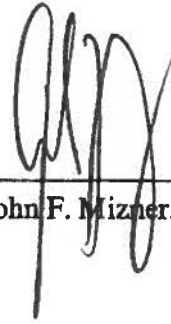
We have determined this regulation is consistent with the statutory authority of the PUC (66 Pa. C.S. § 501, 1301, 1501 and 2301) and the intention of the General Assembly. However, after considering the criterion of the Act discussed above, we find promulgation of this regulation is not in the public interest.

BY ORDER OF THE COMMISSION:

The regulation # 57-296 (IRRC # 3033) from the _____

Pennsylvania Public Utility Commission

was disapproved on April 16, 2015.



John F. Mizner, Chairman

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: L-2013-2349042/57-296

Subject: Proposed Rulemaking Re Motor Carrier Vehicle List and
Vehicle Age Requirements

Pennsylvania Public Utility Commission




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TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted.
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

FILING OF REPORT

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
4/22/15		<u>HOUSE COMMITTEE</u> (Godshall) Consumer Affairs
4/22/15		<u>SENATE COMMITTEE</u> (Tomlinson) Consumer Protection and Professional Licensure
4/22/15		Independent Regulatory Review Commission
_____	_____	Attorney General
_____	_____	Legislative Reference Bureau