FILED
MAY 07 2025
EXECUTIVE SECRETARY
GPSC

COMMISSIONERS:

JASON SHAW, Chairman
TIM G. ECHOLS, Vice-Chairman
FITZ JOHNSON
LAUREN "BUBBA" McDONALD
TRICIA PRIDEMORE

REECE McALISTER
EXECUTIVE DIRECTOR

SALLIE TANNER
EXECUTIVE SECRETARY

Georgia Public Service Commission

(404) 656-4501
(800) 282-5813

244 WASHINGTON STREET, SW
ATLANTA, GEORGIA 30334-5701

FAX: (404) 656-2341
psc.ga.gov

DOCKET# 56198
DOCUMENT# 222548

NOTICE OF PROPOSED RULEMAKING

TO: (a) Legislative Counsel – State of Georgia
(b) Affected Commission Staff
(c) All Parties on the Commission's Rulemaking Mailing Lists

FROM: Georgia Public Service Commission
244 Washington St., S.W.
Atlanta, Georgia 30334

Docket No. 56198: Notice of Proposed Rulemaking to Amend Chapter 515-16 of Georgia Public Service Commission Rules

All interested parties are hereby notified pursuant to Ga. Laws 1964, pp. 338, 342, as amended (Official Code of Georgia Annotated ("O.C.G.A.") § 50-13-4) that the Georgia Public Service Commission ("Commission") intends to consider amending Chapter 515-16 including the following rules:

515-16-1. Organization
515-16-2. Additional Rules of Practice and Procedure in Transportation Cases
515-16-3. General Transportation Rules
515-16-4. Motor Carrier Safety Rules
515-16-5. General Provisions
515-16-6. Household Goods Carriers
515-16-7. Passenger Carriers
515-16-8. Limousine Carriers
515-16-9. Rates and Tariffs
515-16-10. Permitted Carriers
515-16-11. Motor Carrier Insurance
515-16-12. Motor Vehicles

515-16-13. Motor Carrier Leasing Regulations
515-16-14. Procedure for Imposing Civil Penalties and Recommended Criminal Penalties
515-16-15. Non-Consensual Towing
515-16-16. Railroad Condemnations Proceedings

BY THE COMMISSION:

At its regularly scheduled May 6, 2025 Administrative Session, the Commission issued this Notice of Proposed Rulemaking ("NOPR"). Chapter 515-16 of Commission Rules shall be considered for amendment at the Commission's regularly scheduled Administrative Session on **June 17, 2025** at 9:30 a.m., which will be held at the Commission's offices located at 244 Washington Street, S.W., Atlanta, Georgia 30334.

If adopted, the amendments to Chapter 515-16 shall become effective as provided for by law twenty (20) days after their adoption by the Commission and subsequent filing with the Secretary of State.

I. NOTICE OF PROPOSED RULEMAKING

A. Introduction and Jurisdiction

The Commission is governed by the Administrative Procedure Act, O.C.G.A. § 50-13-1 *et seq.* The Commission is authorized to promulgate rules for procedure. O.C.G.A. § 46-2-30.

On July 1, 2012, Title 40 of the Official Code of Georgia Annotated, relating to Motor Vehicles and Traffic, was amended to transfer the functions of regulating motor carriers and limousine carriers from the Georgia Public Service Commission to the Georgia Department of Public Safety.

B. Synopsis and Explanation of Proposed Rules

Due to the change of law eliminating Commission jurisdiction over motor carriers and limousine carriers, the Commission has proposed amending Chapter 515-16 to change the title of the chapter, delete Commission Rules 515-16-1 through 515-16-15, and amend Commission Rule 515-16-16. Because the Commission retains jurisdiction over railroad condemnation, the chapter would be renamed "Railroad Condemnation" and the existing rule pertaining to railroad condemnation would be renumbered but otherwise largely unchanged. The reference to the Consumer's Utilities Counsel of the Governor's Office of Consumer Affairs would be deleted because the Consumer's Utilities Counsel no longer exists.

II. PROPOSED RULE

Pursuant to the requirements of the Georgia Administrative Procedures Act at O.C.G.A.§ 50-13-4(a)(1), the Commission intends to amend the rules previously adopted in Chapter 515-16 of Commission Rules. The proposed amendments to Chapter 515-16 are set forth below.

RULES OF GEORGIA PUBLIC SERVICE COMMISSION

Chapter 515-16. ~~TRANSPORTATION~~RAILROAD CONDEMNATION

~~**Subject 515-16-1 ORGANIZATION**~~

~~**Rule 515-16-1-.01 Organization**~~

~~The Transportation Unit of the Commission has oversight for the enforcement of the statutory provisions and rules and regulations governing carriers as defined in O.C.G.A. §§ 46-1-1, 46-1-3, 46-1-4, 46-2-30, 44-1-13, 46-7-1 through 46-7-101, and 50-13-3. Specifically, the Transportation Unit's duties include but are not limited to:~~

~~(a) Scheduling public hearings;~~

~~(b) Conducting audits of carrier's books, to ensure compliance with rules and regulations;~~

~~(c) Maintaining all official orders, books, files, and records;~~

~~(d) Investigating complaints against carriers;~~

~~(e) Establishing reasonable rates, charges, and fares;~~

~~(f) Inspecting facilities;~~

~~(g) Recommending and imposing civil penalties on carriers who violate applicable laws, rules, regulations, or orders;~~

~~(h) Consideration of issuance of certificates and permits; and~~

~~(i) Consideration of issuance of nonconsensual towing authority.~~

~~**Rule 515-16-1-.02 Transportation Unit**~~

~~(1) Director of Transportation Unit. Subject to the appointment and direction of the Commission, the Director of the Transportation Unit has the responsibility for the direction and coordination of the activities of the Unit staff in accordance with the rules and regulations established by the Commission.~~

(2) Executive Secretary. Subject to the direction of the Commission, the Executive Secretary is responsible for recording all appearances at public hearings of the Commission; maintaining all books, files and records of the Commission; preparing, or reviewing and co-signing with the Commission Chairman all Commission orders, except Initial Decisions by Hearing Officers to which no exceptions are taken and which become Commission Decisions by operation of law; scheduling matters for hearing; recording all Commission hearing decisions in the Official Book of Minutes; certifying copies of Commission documents and records; handling administrative details of office management, including routing of Commission correspondence to proper department heads and the Commission; receiving and routing all petitions and complaints for disposition as directed by the Commission; and maintaining mailing lists and publications of all matters assigned for public hearing before the Commission.

(3) Official Reporter. The Official Reporter shall record and keep a complete record of all proceedings and evidence of matters heard before the Hearing Officer(s) at public hearings, and shall have transcribed copies thereof available for the Commission and parties of record when requested.

Rule 515-16-1-.03 Hearings

(1) Administrative Hearing Officers. The Commission, may through Administrative Order, appoint administrative hearing officers to preside over matters which are not subject to the Georgia Administrative Procedures Act. Hearing Officer(s) shall be authorized to conduct hearings and perform the following functions in conjunction therewith: administer oaths and affirmations, sign and issue subpoenas; rule upon offers of proof; regulate the course of the hearing, set the time and place for continued hearings, and fix the time for filing briefs; dispose of motions to dismiss for lack of agency jurisdiction over the subject matter or parties or for any other grounds; dispose of motions to amend or to intervene; provide for the taking of testimony by deposition or interrogatory; and reprimand or exclude from the hearing any person for any indecorous or improper conduct committed in the presence of the agency or the hearing officer.

(2) Public Hearings. Public hearings in transportation cases are held pursuant to O.C.G.A. §§ 46-7-7, 46-7-10, 46-7-33, 46-7-85.13, and 50-13-17 and will generally be conducted at 244 Washington St. SW, Atlanta Georgia, 30334, although the Commission is authorized to hold hearings in different parts of the State when it is deemed necessary to best serve the interest and convenience of the public. All evidence presented at public hearings is recorded by the Official Reporter of the Commission. All hearing records of the Commission are open to public inspection under the Georgia Open Records Act; provided, however, that such inspection and copying of hearing records shall not relieve any party to the case or its successor in interest from paying the Commission's Official Recorder or Reporter from paying for the take down at hearing or production of a transcript.

Subject 515-16-2 ADDITIONAL RULES OF PRACTICE AND PROCEDURE IN TRANSPORTATION CASES

~~Rule 515-16-2-.01 Scope and Applicability~~

~~The rules contained in this Chapter 515-16-2 are in addition to, and designed to supplement, the Commission's general Rules of Practice and Procedure contained in Chapter 515-2-1, where different or supplemental rules of practice and procedure are needed in processing transportation cases. Use of such different or supplemental rules in processing transportation cases shall be at the discretion of the Hearing Officer or the Commission conducting a transportation hearing.~~

~~Rule 515-16-2-.02 Applications and Petitions~~

~~(1) All applications and petitions for Interim Certificates will be filed in such form as prescribed by the Commission. All applications must be accompanied by a current financial statement and an affidavit executed by an officer of the applicant corporation (if a corporation), applicant's owner (if a proprietorship), or a partner (if applicant is a partnership), containing information describing the number and types of vehicles being used. All applicants must meet a minimum net worth requirement, the dollar amount of which may be set from time to time by Commission Order. All applications will contain an affirmation by applicant of the applicant's familiarity with the Commission's rules and regulations and willingness to take and pass a written test thereon or to attend one monthly training course per year on such rules and regulations.~~

~~(2) All applicants submitting applications for passenger certificates or permits shall submit with, or as part of, each application filed with the Commission, a consent form to a criminal background check being performed on such applicant(s) and corporate officer(s).~~

~~(3) In proceedings involving applications for Interim Certificates, thirty (30) days' notice will be given. Publication of notice of assignment of hearing in the Fulton County Daily Report and posting a copy of the Transportation Division notice of assignment of hearing on the Commission's website at http://www.psc.state.ga.us will constitute notice.~~

~~(4) After notice has been posted for a period of ten (10) days if no protests have been received, the Commission will place application on the next Transportation Committee Agenda for consideration. If the Commission finds that application is in order at the Transportation Committee meeting, the application will be placed on the Administrative Session Agenda for approval to issue a twelve (12) month interim certificate.~~

~~(5) If application is protested, the respective parties must present oral testimony at the scheduled hearing. Copies of the application and supporting documents must be served upon the opposite party, his counsel or agent having control of the case not less than 5 days prior to the date matter has been assigned for hearing.~~

~~(6) Any motor carrier or motor carrier representative desiring to appear before the Commission at public hearing in opposition to an application seeking an interim certificate or amendment to existing certificate, need not file a formal petition for such appearance, but may become a party protestant at the public hearing provided he has notified the applicant and the Commission of his intention to appear at the hearing to protest the application. Such notification and request shall be made by letter or fax so as~~

to reach applicant and the Commission at least fifteen (15) days prior to the assigned hearing date. No person who fails to so notify the applicant and the Commission as provided for above will be permitted to intervene in such a proceeding before the Commission except upon a showing of substantial reasons submitted in writing to the Commission prior to the hearing. Nothing in this rule shall be construed to deny any member of the general public the right to appear at public hearing to protest such application, and the Commission reserves the right, in its discretion, to waive the provisions of this portion of the rule.

(7) After applicant and protestant have presented all evidence and testimony at the public hearing, the Commission will take the matter under advisement and render a decision accordingly in the matter. If the Commission issues a favorable decision, a twelve (12) month interim certificate will be issued.

(8) Prior to the end of the twelve (12) month period, the Commission staff will review the carrier's records to determine the actual area being served, whether the applicant has complied with Commission rules and regulations, whether applicant has undergone the Commission's training program for books, record-keeping and compliance, and whether any complaints have been received. At that time the findings would be brought before the Commission for approval or denial of permanent certificate.

Rule 515-16-2-.03 Complaints

All complaints made to the Georgia Public Service Commission involving motor carriers must plainly and distinctly state the grounds thereof, all being set forth in writing. In like manner, all defenses must be made in writing and must plainly and distinctly state the grounds thereof. The complaint must be accompanied by supporting documentation such as invoice, bill of lading and/or claim forms. Other than matters pertaining to a statute rule violation where a customer refund is expressly authorized and the recovery of carrier overcharge above maximum tariff rates and except for disallowed towing rates and storage fees under O.C.G.A. § 44-1-13, the Commission is not empowered to adjudicate disputed freight loss, freight damage or other monetary claims between carriers and customers in transportation matters. Notwithstanding the previous sentence, nothing shall prevent the Commission staff from mediating a pre-litigation settlement of such monetary claims between a carrier and a customer and accepting carrier refund or payment for loss or damage to a customer in lieu of recommending assessment by the Commission of all or a portion of civil penalties authorized by statute or these Transportation Rules. If the involved parties reach an impasse, the parties would have to be referred to the appropriate court of competent jurisdiction for further resolution.

Rule 515-16-2-.04 Public Hearings

Unless otherwise directed by the Commission, all transportation applications, petitions or complaints, filed with the Commission, or actions initiated by the Commission shall be promptly assigned for hearing on at least thirty (30) days' notice or, in emergency situations, on any other date designated by the Commission; provided that a continued or postponed hearing requested by a carrier may be rescheduled in less than thirty (30) days' notice.

Rule 515-16-2-.05 Suspend, Revoke, Alter or Amend Certificate or Permit

(1) The Commission may at any time, after notice and opportunity to be heard, suspend, revoke, alter or amend any certificate or permit, if it shall be made to appear that the holder has willfully violated or refused to observe orders, rules, or regulations prescribed by the Commission or provisions of the Motor Carrier Acts, or any other law of this State regulating or taxing motor vehicles, for hire, and applicable to the holder of such certificate, or if, in the opinion of the Commission, the motor carrier is unfit, or not furnishing adequate service, or it is no longer compatible with the public interest to continue said certificate or permit in force or the continuance of said certificate or permit is not in conformity with the spirit and purpose of the law.

(2) It shall be unlawful for a carrier to conduct any operations after their authority has been canceled or during a period in which the certificate or permit is in suspension.

Rule 515-16-2-.06 Inspections by Commission's Representatives

(1) Commissioners or representatives of the Commission authorized to make inspections and to enforce these Transportation Rules and Regulations, upon providing proper identification as a Commissioner or Commission employee to any carrier or carrier officer or employee requesting such, shall have the right at any time to enter into or upon any terminal, station, garage, office, warehouse, impound lot, parking lot, or other premises owned, leased, operated or used by any carrier subject to the Commission's jurisdiction or upon any vehicle operated by such carrier in intrastate commerce within Georgia in order for the purpose of inspecting such carrier's books and records and motor carrier equipment and vehicles to ascertain such carrier's past and present compliance with the statutes and Transportation Rules administered by this Commission.

(2) Willful refusal of any person to produce its records for, and to permit such inspection or on-premises audit of records produced, by a visiting Commissioner or Commission Transportation Staff employee, with or without prior notice having been given for such visit, shall be sufficient grounds for suspension or cancellation of such carrier's Commission-issued registration, permit or certificate; provided, however, that the carrier affected thereby shall have 30 days to petition the Commission for a hearing as to any registration receipt, permit or certificate so suspended or cancelled.

Rule 515-16-2-.07 Failure to Observe Rules

Failure by any carrier subject to the jurisdiction of the Commission to comply with the Rules of the Commission, as amended from time to time, or with any Commission Order shall be cause for suspension, revocation of a certificate, permit, or registration receipt, and/or for assessment of civil or criminal penalties as specified in Chapters 515-16-3 and 515-16-14 of these Transportation Rules.

Subject 515-16-3 GENERAL TRANSPORTATION RULES

Rule 515-16-3-.01 Transportation Jurisdiction of the Commission

The Commission has such jurisdiction over carriers as provided by statute and such jurisdiction over motor carriers is statewide, covering all operations between points within the State, with no exception for operations conducted wholly within a municipality. Local governments shall not

burden intrastate commerce and shall have no jurisdiction over Commission-regulated carriers operating within or transiting the boundaries of a local government other than that expressly provided by statute.

Rule 515-16-3-.02 Application of Rules

The rules herein promulgated state the conditions and regulations under which carriers regulated by the Commission are permitted to operate over the highways of this State and elaborate upon statutory penalties for noncompliance by authorized and unauthorized carriers.

Rule 515-16-3-.03 Defintions

Unless specifically defined elsewhere, when used in this rulebook, the term

(a) Carrier means:

1. For the purposes of safety and/or hazardous materials regulation, any person who owns, controls, or manages a motor vehicle subject to the jurisdiction of the Commission, including, but not limited to, for hire motor common carriers, for hire motor contract carriers, forest products carriers, limousine carriers, private carriers, and any other person subject to the Commission's safety and hazardous materials jurisdiction (ref. O.C.G.A. § 46-1-1, § 46-7-37, § 46-7-85.1, § 46-11-3); or

2. For the purposes of insurance filing, obtaining of certificates, obtaining of permits or vehicle registrations, any person who operates a motor vehicle to transport persons or property, or both, for compensation (ref. O.C.G.A. § 46-1-1).

(b) *Carrier Class* means the classification or type of certificate, permit, or registration issued to a for hire carrier pursuant to the provisions of O.C.G.A. Title 46. Carriers may have one or more of the following classifications: (See Note)

(c) *Class B* carrier means common carriers of passengers or common carriers of household goods operating over the highways of the State of Georgia over no fixed route in intrastate commerce under certificates.

(d) *Class IE* carrier means a for hire passenger carrier not using limousines as defined in O.C.G.A. § 46-7-85.1(4)transporting 10 or less passengers (ref. O.C.G.A. § 46-1-1(9)(c)(xiii) and § 46-7-15(a)).

(e) *Certificate* means a certificate issued by the Georgia Public Service Commission, whether interim or permanent (ref. O.C.G.A. § 46-1-1).

(f) *CFR* means the United States Code of Federal Regulations, and as it may be amended from time to time in the Federal Register.

(g) *Chauffeur* means any person who meets the qualifications as prescribed in O.C.G.A. § 46-7-85.10 and who is authorized by the Georgia Department of Driver Services to drive a limousine (ref. O.C.G.A. § 46-7-85.1).

(h) *Commission* means the Georgia Public Service Commission (ref. O.C.G.A. § 46-1-1).

(i) *Company* means a corporation, a firm, a partnership, an association, or an individual (ref. O.C.G.A. § 46-1-1).

(j) *FHWA* means the Federal Highway Administration and any successor agencies of the United States Department of Transportation.

(k) *FMCSA* means the Federal Motor Carrier Safety Administration and any successor agencies of the United States Department of Transportation.

(l) *For-hire* means an activity wherein for compensation a motor vehicle and driver are furnished to a person by another person, acting directly or knowingly and willfully acting with another to provide the combined service of the vehicle and driver, and includes every person acting in concert with, under the control of, or under common control with a motor carrier who shall offer to furnish transportation for compensation (ref. O.C.G.A. § 46-1-1(6)).

(m) *Highway* or *Public Highway* means every public street, road, highway or thoroughfare of any kind in this state and includes the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel (ref. O.C.G.A. § 40-1-1 and § 46-1-1).

(n) *Household goods* means any personal effects and property used or to be used in a dwelling when a part of the equipment or supplies of such dwelling and such other similar property as the Commission may provide for by regulation; provided, however, that such term shall not include property being moved from a factory or store except when such property has been purchased by a householder with the intent to use such property in a dwelling and such property is transported at the request of, and with transportation charges paid by, the householder (ref. O.C.G.A. § 46-1-1(7)).

(o) *Intercorporate carrier* means a carrier who engages in compensated intercorporate hauling whereby transportation of property is provided by a person who is a member of a corporate family for other members of such corporate family. Intercorporate carriers engaged in intrastate commerce must obtain property permits (ref. O.C.G.A. § 46-1-1).

(p) *Interim Certificate* means a certificate issued by the Commission for a twelve (12) month period prior to the issuance of a permanent certificate.

(q) *Lightweight commercial motor vehicle* means any self propelled or towed vehicle less than 10,000 pounds gross vehicle weight rating or gross combination weight rating operated by:

1. A for hire motor carrier;

2. A carrier exempt from the economic jurisdiction of the Commission, but otherwise subject to the safety rules of the Commission; or

3. A private carrier transporting hazardous materials in a quantity not required to be placarded.

(r) *Limousine* means any motor vehicle that meets the manufacturer's specifications for a limousine. No vehicle shall be permitted to be operated both as a taxicab and a limousine carrier.

(s) *Limousine carrier* means any person operating a prearranged service regularly rendered to the public by furnishing transportation as a motor common carrier for hire, not over fixed routes, by means of one or more unmetered:

1. Limousines;

2. Extended limousines;

3. Sedans;

4. Extended sedans;

5. Sport utility vehicles;

6. Extended sport utility vehicles;

7. Other vehicles with a capacity for transporting no more than 10 persons for hire; or

8. Any combination of subparagraphs (a) through (g) of this paragraph on the basis of telephone contract or written contract. A limousine carrier shall not use per capita rates or charges (ref. O.C.G.A. § 46-7-85.1).

(t) *Motor carrier of property* means a motor common or contract carrier engaged in transporting property, except household goods, in intrastate commerce in this state (ref. O.C.G.A. § 46-1-1(8)).

(u) Subject to the exceptions contained in O.C.G.A. § 46-1-1(9)(C),

1. *Motor contract carrier* means every person, except common carriers, owning, controlling, operating, or managing any motor propelled vehicle including the lessees or trustees of such persons or receivers appointed by any court used in the business of transporting persons or property for hire over any public highway in this state (ref. O.C.G.A. § 46-1-1(9)(A)).

2. *Motor common carrier* means every person owning, controlling, operating, or managing any motor propelled vehicle, and the lessees, receivers, or trustees of such person, used in the business of transporting for hire of persons or property, or both, otherwise than over permanent rail tracks, on the public highways of Georgia as a common carrier. The term includes, but is not limited to, limousine carriers as defined in paragraph (5) of Code Section 46-7-85.1 (ref. O.C.G.A. § 46-1-1(9)(B)).

(v) *Motor vehicle* means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof, determined by the Georgia Public Service Commission (ref. O.C.G.A. § 46-1-1).

(w) *O.C.G.A.* means the Official Code of Georgia, Annotated.

(x) *Nonconsensual towing* means the removal or relocation of an illegally parked or trespassing motor vehicle from private real property at the request of the owner of such real property on which such vehicle is parked, or at the request of such real property owner's agent designated in writing, without the knowledge or consent of the owner of the vehicle being removed or relocated.

(y) *Nonconsensual tow truck operator* means any person or carrier operating the vehicle conducting the nonconsensual towing as defined in the previous definition in this Rule.

(z) *Out of service order* means a prohibition against driving or operating a motor vehicle(s), moving or causing cargo to be moved, or conducting a motor carrier operation (ref. 49 CFR §§ 383.5 and 390.5 and O.C.G.A. § 40-5-152).

(aa) *Passenger* means a person who travels in a public conveyance by virtue of a contract, either express or implied, with the carrier as to the payment of the fare or that, which is accepted as an equivalent therefore. The prepayment of fare is not necessary to establish the relationship of passenger and carrier. The term "passenger" shall mean and include express, mail, newspapers and/or baggage of passengers in the same vehicle or combination of vehicles with passengers, except as otherwise restricted in a certificate or by rule or regulation (ref. O.C.G.A. § 46-1-1(10)).

(bb) *Passenger permit* means a motor carrier of passenger permit issued to motor carriers engaged in transporting more than 10 passengers (excluding the driver) for compensation in charter service.

(cc) *Permit* means a registration permit issued by the state revenue commissioner authorizing interstate transportation for hire exempt from the jurisdiction of the United States Department of Transportation or intrastate passenger transportation for hire exempt from the jurisdiction of the state revenue commissioner or intrastate transportation by a motor carrier of property (ref. O.C.G.A. § 46-1-1(11)).

(dd) *Person* means any individual, partnership, trust, private or public corporation, municipality, county, political subdivision, public authority, cooperative, association, or public or private organization of any character (ref. O.C.G.A. § 46-1-1(12)).

(ee) *Principle Place of Domicile* means the principal place in which a carrier conducts its business.

(ff) *Property Permit* carrier means common or contract carriers engaged in the transportation of general commodities (except household goods) operating over the highways of the State of Georgia over no fixed route (ref. O.C.G.A. § 46-7-15(1)).

(gg) *Private carrier* means every person except motor common carriers or motor contract carriers owning, controlling, operating, or managing any motor propelled vehicle, and the lessees or trustees thereof or receivers appointed by any court whatsoever, used in the business of transporting persons or property in private transportation not for hire over any public highway in this state. The term "private carrier" shall not include:

1. Motor vehicles not for hire engaged solely in the harvesting or transportation of forest products; provided, however, that motor vehicles not for hire with a manufacturer's gross weight rated capacity of 44,000 pounds or more engaged solely in the transportation of unmanufactured forest products shall be subject only to the Georgia Forest Products Trucking Rules provided for in division (9)(c)(x) of this Code section;

2. Motor vehicles not for hire engaged solely in the transportation of road-building materials;

3. Motor vehicles not for hire engaged solely in the transportation of unmanufactured agricultural or dairy products between farm, market, gin, warehouse, or mill whether such vehicle is owned by the owner or producer of such agricultural or dairy products or not, so long as the title remains in the producer; or

4. Except for the motor vehicles excluded under subparagraph (c) of this paragraph, motor vehicles having a manufacturer's gross vehicle weight rating of 10,000 pounds or less; provided, however, that motor vehicles which have a manufacturer's gross vehicle weight rating of 10,000 pounds or less and which are transporting hazardous materials, as the term "hazardous materials" is defined in Title 49 C.F.R., Parts 107, 171-173, and 177-178, shall be included within the meaning of the term "private carrier" (ref. O.C.G.A. § 46-1-1(13)).

(hh) *Public highway* means every public street, road, highway, or thoroughfare of any kind in this state (ref. O.C.G.A. § 46-1-1(14)).

(ii) *RSPA* means the Research and Special Programs Administration of the United States Department of Transportation or any successor agency.

(jj) *Road-building material* means fill dirt, rock or other sub-base, concrete, asphalt or any other material to be used in the actual construction of a public highway, provided, however,"road-building material" does not include materials designated as hazardous materials pursuant to Title 49 U.S.C. § 5101, et. seq.

(kk) *Railroad Corporation* or *Railroad Co.* means all corporations, companies, individuals, or associations of persons, whether incorporated or otherwise, that engage in business as common carriers upon any of the lines of railroads operating in this state.

(ll) *Single Source Leasing* means whereby a leasing company whose primary business is leasing vehicles and who operates a fleet of ten or more vehicles provides vehicle equipment and drivers in a single transaction to a private carrier and is presumed to result in private carriage by the shipper if the requirements enumerated in O.C.G.A. § 46-1-1(9)(c)(ix) are met and are subject only to the Commission's safety rules.

(mm) *Single State Registration Receipt* means a registration receipt issued to interstate motor carriers by their base state, identifying the carrier and specifying the states in which the carrier is authorized to operate pursuant to 49 CFR § 367.5.

(nn) *Single State Registration System (SSRS)* means the requirements for registration of interstate carriers with their base state for issuance of registration receipts as described in 49 CFR Part 367 ; and SSRS is being superseded by Unified Carrier Registration (UCR) when and if the FMCSA completes refining of the computer database and programming for UCR.

(oo) *Temporary Emergency Authority* means a temporary grant of operating authority by the Commission under the provisions of Commission Transportation Rule 515-16-5-.15. A Temporary Emergency is an immediate and unmet need for which there is no certificated

carrier authorized and capable of meeting such need, or the refusal by all such authorized carriers to provide service to the involved shipper or to the involved origin or destination points. To qualify for a grant of Temporary Emergence Authority, the applicant must show that it is qualified and ready, willing and able to meet such need. Such Temporary Emergency Authority shall expire within sixty days after the Commission Order granting such authority unless otherwise provided by Commission Order.

(pp) *Unified Carrier Registration System* or *URS* means the national registration system established by the FMCSA pursuant to 49 USC § 13908, which is superseding SSRS.

(qq) *USDOT* means the United States Department of Transportation.

(rr) *Utility* means any person who is subject in any way to the lawful jurisdiction of the Commission (ref. O.C.G.A. § 46-1-1).

(ss) *Vehicle* means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof, determined by the Georgia Public Service Commission (ref. O.C.G.A. § 46-1-1).

Rule 515-16-3-.04 Operations Conducted in Certificate or Permit Name

All operations must be conducted and business transacted under the name of the owner, or owner with an operating name, or name of incorporation shown on the certificate, permit, or registration receipt. Individuals, partnerships or corporate owners of certificates or permits may request a change in the doing business as (D.B.A.) name by filing a request with the Commission. Certificated carriers may make application for transfer of a permanent certificate to a different individual, partnership or corporate owner by complying with all the rules relating to transfer of permanent certificates (*See* Commission Transportation Rules Chapter 515-16-5). Permitted carriers must apply for a new permit if there is a change in name or ownership.

Rule 515-16-3-.05 Cancellation Due to Fraud

Any certificate, permit or registration receipt obtained by any fraudulent means shall be subject to cancellation upon discovery of such.

Rule 515-16-3-.06 Designation of Process Agent

No for hire motor carrier shall engage in intrastate or interstate operations within the borders of the State of Georgia unless and until there shall have been filed with and accepted by this Commission a currently effective designation of a local agent for service and process. Said carrier shall file such designation by showing the name and address of such agent on forms prescribed by the Commission or by furnishing this Commission with a true copy of the designation of such agent filed with the Federal Highway Administration.

Rule 515-16-3-.07 Civil Penalties - General. (See also Chapter 515-16-14 for Civil Penalty Procedures)

(1) Any person, firm or corporation (hereinafter referred to as "utility"), subject to the jurisdiction of the Georgia Public Service Commission, who shall willfully violate any law administered by the Commission, or any duly promulgated rule or regulation issued

~~thereunder or who fails, neglects or refuses to comply with any order, after notice thereof, shall be liable to a penalty not to exceed $15,000.00 for said violation and an additional penalty not to exceed $10,000.00 for each day during which such violation continues.~~

~~(2) The Commission, after hearing as provided for in Chapter 515-16-14 of the Commission's Transportation Rules, upon not less than 30 days notice, shall determine whether any carrier has willfully violated any law administered by the Commission, or any duly promulgated regulation issued thereunder, or has failed, neglected or refused to comply with any order of the Commission, and upon appropriate finding thereof may impose such civil penalties as herein provided by order for such violations. In each such proceeding, the Commission shall maintain a record including all pleadings, a transcript of proceedings, a statement of each matter of which the Commission takes official notice, and all staff memoranda or data submitted to the Commission in connection with their consideration of the case. All penalties and interest thereon (at the rate of 10 percent per annum) recovered by the Commission shall be paid into the general fund of the State treasury.~~

~~(3) Any party aggrieved by a decision of the Commission may seek judicial review as provided in (4) below.~~

~~(4) Any party who has exhausted all administrative remedies available before the Georgia Public Service Commission and who is aggrieved by a final decision of the Commission in a proceeding described in subsection (2) of this section may seek judicial review of the final order of the Commission in the Superior Court of Fulton County.~~

~~(a) Proceedings for review shall be instituted by filing a petition within 30 days after the service of the final decision of the Commission or, if a rehearing is requested, within 30 days after the decision thereon. A motion for rehearing or reconsideration after a final decision by the Commission shall not be a prerequisite to the filing of a petition for review. Copies of the petition shall be served upon the Commission and all parties of record before the Commission.~~

~~(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is aggrieved by the decision and the ground, as specified in subsection (4)(f) of this section, upon which the petitioner contends that the decision should be reversed. The petition may be amended by leave of court.~~

~~(c) Within 30 days after service of the petition, or within such further time as is stipulated by the parties or as is allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceedings under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate that the record be limited may be taxed for the additional costs. The court may require or permit subsequent corrections or additions to the record.~~

(d) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and there were good reasons for failure to present it in the proceedings before the agency, the court may order that the additional evidence be taken before the Commission upon such procedure as is determined by the court. The Commission may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(e) The review shall be conducted by the court without a jury and shall be confined to the record. The court shall not substitute its judgment for that of the Commission as to the weight of the evidence on questions of fact. The court may affirm the decision of the Commission or remand the case for further proceedings. The court may reverse the decision of the Commission if substantial rights of the petitioner have been prejudiced because the Commission's findings, inferences, conclusions, or decisions are:

1. In violation of constitutional or statutory provisions;

2. In excess of the statutory authority of the Commission;

3. Made upon unlawful procedure;

4. Clearly not supported by any reliable, probative, and substantial evidence on the record as a whole; or

5. Arbitrary or capricious.

(f) A party aggrieved by an order of the court in a proceeding authorized under subsection (4) of this rule may appeal to the Supreme Court of Georgia or to the Court of Appeals of Georgia in accordance with Article 2 of Chapter 6 of Title 5 of O.C.G.A., the "Appellate Practice Act."

Rule 515-16-3-.08 Criminal Penalties - General

Every officer, agent, or employee of any company under the jurisdiction of the Commission who violates or procures, aids, or abets any violation by any such company of any provision of Title 46 O.C.G.A.; or who fails to obey, observe, or comply with any order of the Commission; or who aids or abets any such company in its failure to obey, observe, and comply with any such order, direction, or provision, shall be guilty of a misdemeanor. Such officer, agent, or employee shall be subject to prosecution in any county in which the company or the officer, agent, or employee violates any provision of this title or any provision of any order of the Commission, or in any county through which the company operates. Such officer, agent, or employee shall also be subject to prosecution under this title in any county in which a subordinate agent or employee of the

company violates any provision of this title, by the approval or direction, or in consequence of the approval or direction, of such officer, agent, or employee; and the agent or employee who locally in any county violates the rules or directions of said Commission pursuant to the direction or authority of a superior officer may be called as a witness and be compelled to testify as to the authority by which he acted. Such testimony shall not be used against such subordinate employee or agent, nor shall he thereafter be subject to prosecution for said offense.

Subject 515-16-4 MOTOR CARRIER SAFETY RULES

Rule 515-16-4-.01 Motor Carrier Safety (Adoption of Federal Motor Carrier Safety Rules)

The Motor Carrier Safety Regulations issued by the United States Department of Transportation, Federal Motor Carrier Safety Administration (hereinafter "FMCSA"), contained in Title 49 of the Code of Federal Regulations, Parts 350, 382, 383, and 390 through 397, as now in force and as hereafter amended (hereinafter referee to as "the Federal Safety Rules"), are by this Rule made Transportation Rules of this Commission for all carriers regulated by this Commission; and the Commission Staff shall enforce such Federal Motor Carrier Safety Rules and cooperate with other State and local law enforcement agencies in doing so to the extent such Federal Safety Rules are applicable to carriers regulated by the Commission. These Federal Safety Rules are prescribed by the FMCSA as minimum standards for observance and enforcement by cooperating State agencies, and the individual states such as Georgia cannot promulgate less stringent motor carrier safety rules. Due to the volume of such Federal Safety Rules and to the frequent changes made therein by the FMCSA and because the FMCSA publishes and makes readily available such Federal Motor Carrier Safety Rules at minimal cost, the Commission will not reproduce such Federal Safety Rules here. Current copies of the above-referenced and adopted Federal Motor Carrier Safety Rules may be obtained from the FMCSA in Washington, D.C., from the U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or from local U.S. Government Bookstores in the Atlanta area. In addition, such Federal Motor Carrier Safety Rules may be accessed on-line at the FMSCA website on the Internet. If and when this Commission undertakes to adopt motor carrier safety rules more stringent than such Federal Motor Carrier Safety Rules, the Commission will adhere to the provisions of the Georgia Administrative Procedure Act with due publication, notice, and solicitation and consideration of comments from regulated carriers and the public. Moreover the Commission recognizes that the Georgia Department of Public Safety ("GDPS") has primary authority for promulgating and enforcing motor carrier safety rules under O.C.G.A. § 46-7-26; and the Commission will defer to and cooperate with the GDPS in enforcing such Rules to insure that motor carriers under the jurisdiction of this Commission abide by such State motor carrier safety regulations (including the Federal Motor Carrier Safety Regulations). In the Federal Motor Carrier Safety Regulations adopted by reference in this Rule and applicable throughout this Chapter 515-16-4, any reference to the "Operations Manager" and/or "Associate Administrator, Federal Motor Carrier Safety Administration," shall be interpreted to mean Director, Transportation Unit, Georgia Public Service Commission, except insofar as the term relates to preemption. All references to "interstate" commerce in the Federal Motor Carrier Safety Regulations adopted hereby shall be interpreted for the purposes of this Chapter 515-16-4 to mean "intrastate" commerce in Georgia. It is the intent of the Commission that its Transportation Rules (including its motor carrier safety rules) shall apply only to intrastate carriers and operations.

Rule 515-16-4-.02 Limousine Carrier Safety Rules

(1) To the extent applicable to vehicles classified as limousines in O.C.G.A. §§ 46-7-85.1*et seq.*, the Federal Motor Carrier Safety Rules adopted by the Commission in Georgia Public Service Commission Transportation Rule 515-16-4-.01 for all motor carriers operating in intrastate commerce shall also apply to limousine carriers as minimum safety requirements for all vehicles operated by limousine carriers operated for hire in interstate and intrastate commerce in Georgia to the "Operations Manager" and/or "Associate Administrator, Federal Motor Carrier Safety Administration," shall be interpreted to mean Manager, Transportation Unit, Georgia Public Service Commission, except insofar as the term relates to preemption. All references to "interstate" commerce shall be interpreted to include "intrastate" commerce. It is the intent of the Commission that the regulations shall apply to intrastate carriers and operations.

(2) Where the Federal Motor Carrier Safety Regulations as adopted by the Commission refer to "carriers" or "motor carriers," the term shall be taken to mean all for hire limousine carriers subject to the Commission's jurisdiction pursuant to O.C.G.A Title 46. All reports required by the Federal Motor Carrier Safety Regulations shall be also sent with regard to intrastate traffic or transportation to the Georgia Public Service Commission, Transportation Unit, 244 Washington St., SW, Georgia 30334, in addition to any copies required to be sent to any Federal Agency. The Commission will accept forms prescribed by the United States Department of Transportation where required by the safety regulations.

(3) Identification of Vehicles Operated by Limousine Carriers:

(a) Prior to operating limousines over the highways of Georgia for which registration and licensing of such equipment has been procured, every limousine carrier holding a permit or certificate to transport passengers in shall affix to the front bumper a standard size license plate with the following information:

1. Limousine company name;

(i) City and state of principal domicile;

(ii) Company telephone number;

(iii) Vehicle classification IE-1; and

(iv) Limousines which also operate in interstate commerce must comply with the identification requirements of any federal agency with jurisdiction.

(4) Vehicle Condition and Maintenance; Commission Inspections; Driver Qualifications. The vehicles operated by limousine carriers in Georgia shall be equipped, maintained,

~~operated and inspected in accordance with the standards prescribed in 49 CFR PARTS 393-396; and vehicle drivers shall be qualified under and shall continuously comply with 49 CFR PARTS 392 and 395.~~

~~Rule 515-16-4-.03 Safety Operations Review of Georgia Public Serice Commission - Regulated Carriers~~

~~(1) The Commission or designated staff members are authorized to conduct Safety Operations Reviews of motor carriers under its jurisdiction for the purpose of determining compliance with the laws, rules, regulations, and orders of the Commission or the Federal Motor Carrier Safety and/or Hazardous Material Regulations. Said Commission or staff members are authorized to enter upon, to inspect, and to examine any and all lands, buildings, and equipment of motor carriers and other persons subject to the jurisdiction of the Commission, and to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of such carriers and other persons.~~

~~(2) Motor Carriers and other persons subject to the jurisdiction of Commission shall submit their accounts, books, records, memoranda, correspondence, and other documents for inspection and copying, and shall submit their lands, buildings, and equipment for examination and inspection. Upon request, display of a Commission issued credential identifying him/her or staff member shall be made. If a motor carrier uses photographic, microfilm, or electronic record keeping technology, it shall make such records available in accordance with Section 390.31 of the Commission's rules.~~

~~(3) The Commission and their staff members are authorized to conduct joint investigations and reviews of motor carriers and other persons with officials of the United States Department of Transportation and their administrations for the purpose of determining compliance with State or Federal laws, rules, regulations, and orders pertaining to motor carrier operations and the transportation of hazardous materials. Consistent with 49 C.F.R. Part 388, the Commission and its staff shall exchange information with the United States Department of Transportation that comes to their attention that is believed to indicate a violation of any provision of the safety or hazardous material laws, rules, regulations, or orders of the United States Department of Transportation.~~

~~Subject 515-16-5 GENERAL PROVISIONS~~

~~Rule 515-16-5-.01 Applicability~~

~~The provisions of this chapter apply to persons transporting household goods or passengers (excluding charter operations) for hire in intrastate transportation that are required to hold certificates under any of the Motor Carrier Acts of this state.~~

~~Rule 515-16-5-.02 Reports~~

~~It shall be the duty of the carrier to produce for inspection by the Commission or any of its representatives, any and all books, papers, contracts, agreements and other original records of any character whatsoever that may be in possession of said carrier, or within its power, custody or control, or copies thereof, as may be demanded and designated by the Commission. Failure to provide the Commission or its designated Staff with timely access to records, books, or documentation or copies of such material upon written request shall constitute sufficient grounds~~

for immediate suspension of the refusing carrier's Commission-issued certificate or permit and, after notice and hearing, to revoke such certificate or permit.

Rule 515-16-5-.03 Penalties

The criminal and civil penalties for violation of this Chapter are those set forth in O.C.G.A. §§ 46-2-90 through 46-2-93, 46-7-39, 46-7-90 and 46-7-91, and in Chapters 515-16-3 and 515-16-10 of these Transportation Rules; and such penalties can only be imposed by the Commission after notice and hearing, unless the violator consents in writing to such penalties.

Rule 515-16-5-.04 Unjust Discrimination Prohibited

All carriers, in the conduct of their intrastate business, shall afford to all persons equal facilities in the conduct of such business, without unjust discrimination in favor of, or against any; and wherever special facilities are afforded to one patron whether by special rate or fare authorized by this Commission or otherwise, such carrier shall be bound to afford to any other patron, or patrons, under substantially similar circumstances, like facilities upon like rates or fares, but the Commission will prescribe by general order to what persons motor carriers or railroads may issue passes or free transportation and reduced rates for special occasions.

Rule 515-16-5-.05 Duty to Accept and Transport Commodities

It shall be the duty of any household goods carrier to accept for transportation any authorized commodities, the carriage of which by such carrier is reasonably safe and practicable and to transport the same as soon as practicable.

Rule 515-16-5-.06 Free Service Forbidden

No carrier transporting household goods or passengers under a Certificate subject to the jurisdiction of this Commission, shall, directly or indirectly, give or furnish any free or reduced rate service in this State, except as lawfully prescribed by the Commission (Also see Commission Transportation Rule 515-16-7-.03).

Rule 515-16-5-.07 Rates and Services as Required by the Commission

(1) All rates, fares, charges, rules and regulations now in effect that relate to the transportation of household goods and passengers or which may hereafter become effective, which are not higher than the maximum rates, fares, or charges prescribed by the Commission are hereby established as the rates, fares, or charges of the Commission. No such rates, fares or charges shall, unless otherwise provided, be discontinued or changed without the consent of the Commission.

(2) Failure of the holder of any certificate to comply with schedules and/or rates and fares approved by the Commission and to hold itself out as ready, able and willing to provide adequate service in the transportation of any household goods or passengers authorized to be transported in said certificate, shall be reasonable cause to suspend, revoke, alter or amend said certificate at any time after notice and opportunity to be heard is afforded the carrier.

Rule 515-16-5-.08 Discontinuance of Service

(1) A motor common or contract carrier of passengers may discontinue its entire service on any route upon 30 days' published notice to be prescribed by the Commission, and thereupon its certificate therefore shall be canceled.

(2) A motor common or contract carrier of passengers may discontinue any part of its service on any route upon 30 days´ published notice, subject, however, to the right of the Commission to withdraw its certificate for such route if, in the opinion of the Commission, such diminished service is not adequate or is no longer compatible with the public interest.

Rule 515-16-5-.09 Claims for Overcharge and Loss

(1) All household goods claims for overcharge, loss or damage, shall be handled to completion within 90 days after claim is filed with the carrier. Claims for loss or damage shall be paid by the carrier at fault, but claims for overcharge shall be paid by the carrier which collected same.

(2) It is incumbent upon the carrier or the designated agent of the carrier to inspect any and all reported damage and to provide for repairs or compensation based on the level of liability selected and defined in the Addendum to Uniform Household Goods Bill of Lading, (Shipper Declaration of Value) form. If damage is alleged to have occurred to the shipper's dwelling or surroundings, for example but not limited to, damage to walls, floors, steps, ceiling, rails, doors, driveway, lawn, fence, patio, or garage, it is the carrier's responsibility or that of his designated agent, to inspect the alleged damage. If such damage is determined to be transit related, it is the carrier's obligation to repair or restore to original condition or to otherwise make whole by compensation. Transit related damage occurring to a shippers dwelling or surrounding area is not covered by the Shipper's Declaration of Value form.

Rule 515-16-5-.10 Application for Interim Certificates

(1) Every corporation or person owning, controlling, operating or managing any motor propelled vehicle (and lessees, or receivers, or trustees thereof, appointed by any court whatsoever), before operating any motor vehicle upon the public highways of the State for the transportation of passengers (except charter service) or household goods, for hire, within the purview of the Motor Carrier Acts, shall apply to the Commission for an interim Certificate in the following manner:

(2) Application shall be made to the Commission in writing on forms prescribed by the Commission. The application should be typewritten or legibly handwritten in ink.

(3) All information required on said application forms (where applicable) shall be given in full and all questions thereon shall be answered correctly. In the event portions of the application are not applicable to applicant, they must be answered "Not applicable."

(4) All applicants for an Interim Certificate to operate over no fixed route shall state in the application the physical location of the principal office of the carrier and the physical location of all terminals or warehouses in the State.

(5) When an interim certificate is sought by a partnership, such partnership shall designate in writing one of the partners who shall have authority and who shall be recognized by the Commission in all matters arising under the law or these rules.

Rule 515-16-5-.11 Application Fees

(1) Application for an Interim Certificate, amendment to an existing permanent Certificate, transfer of certificate, and application for emergency temporary authority, must be accompanied by cashier's check, certified check, U.S. Post Office money order or express money order, payable to "Georgia Public Service Commission" in amounts prescribed by law and set forth below:

(a) A fee of $75 where applicant owns or operates less than six (6) motor vehicles;

(b) A fee of $150 where applicant owns or operates six (6) to fifteen (15) motor vehicles;

(c) A fee of $200 where applicant owns or operates over fifteen (15) vehicles;

(d) A fee of $75 for transfer of a certificate;

(e) A fee of $75 for temporary emergency authority;

(f) An additional fee of $15.00 for advertising must accompany the application for a certificate or an amendment thereto.

(g) Notwithstanding subparagraphs (a)-(f) above, tow truck operators applying for a non-consensual towing permit shall pay $300.00 per year for an annual permit as per O.C.G.A. § 44-1-13.

(2) If O.C.G.A. §§ 44-1-13, 46-7-9 or 46-7-13, or any such statute, should be amended in the future to change the Commission filing fees, then the statutory fees set by such superveniuing legislation will supersede those specified herein.

(3) No application will be assigned for hearing or given consideration by the Commission unless accompanied by said fees and until applicant has complied with all of the foregoing requirements.

Rule 515-16-5-.12 Requirements for Issuance of Interim Certificate

(1) The Commission shall issue an interim certificate to a person authorizing transportation as a motor carrier subject to the jurisdiction of the Commission if it finds that:

(2) The applicant is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with regulations of the Commission. Fitness encompasses four (4) factors:

(a) the applicant's financial ability to perform the service it seeks to provide;

(b) its capability and willingness to properly and safely perform the proposed service;

(c) the applicant must attend a training class on the laws of Georgia and the rules and regulations of the Commission, given by the Commission, or test out of the class;

(d) its willingness to comply with the laws of Georgia and the rules and regulations of the Commission; and

(3) In case of application for Limousine certificate only, applicant has not been convicted of any felony as such violation or violations are related to the operation of a motor vehicle.

(4) Service performed during the interim period by applicant will be the basis for issuance of the permanent certificate.

(5) The initial burden of making out a prima facie case that applicant's service is needed, and that it is fit to provide such service, rests with the applicant.

(6) Upon applicant making out a prima facie case as to the need for the service and the carrier's ability to provide the service, the burden shifts to protestant(s) to show that the authority sought would not be consistent with the public convenience and necessity.

Rule 515-16-5-.13 Carrier Qualifications for Issuance of Interim Certificate or Transfer of Permanent Certificate

(1) When the Commission has given consideration to an application for an interim certificate or transfer of permanent certificate, applicant will be advised in writing of the action thereon. In the event of the approval of the application, applicant shall immediately, and before commencing operation,

(a) register its equipment;

(b) furnish a notarized statement certifying that each vehicle has been properly identified pursuant to Chapters 4 and 8 of these Transportation Rules;

(c) file evidence of insurance pursuant to Chapter 11 of these Transportation Rules;

(d) indicate the carrier's familiarity with and willingness and ability to abide by the Commission's Maximum Rate Tariff for household goods shipments; and

(e) furnish a statement of awareness of Commission's safety and hazardous material regulations.

(2) In the event applicant does not complete the application by complying with the requirements herein within ninety days from receipt of notice of approval of the application, approval will be automatically withdrawn and fees deposited forfeited.

Rule 515-16-5-.14 Application of Passenger Carriers to Abandon Service

An application for authority to abandon scheduled passenger bus service, or reduce service to less than one trip per day (excluding Saturday and Sunday), shall include the following exhibits:

NOTE: If more than one point, route, or route segment is included in the application, the indicated data is to be separately stated for each point, route, or route segment.

(a) Exhibit 1. Points and Routes Affected. A listing of points, routes, and route segments to be abandoned, including identification and a brief description of any other passenger transportation service available at the points or along the route affected.

(b) Exhibit 2. Maps. Maps to scale showing each point, route, and route segment to be abandoned.

(c) Exhibit 3. Timetables. Copies of current and proposed timetables covering the affected points and routes.

(d) Exhibit 4. Authority. Copies of current and proposed certificate authorities covering the affected points and route.

(e) Exhibit 5. Traffic. Traffic data for a recent representative period, showing numbers of intrastate passengers destined to and originating from each point to be abandoned.

(f) Exhibit 6. Fares and Rates. Description of fares and rates applicable to the affected services.

(g) Exhibit 7. Revenues. Calculation of the passenger, express, and other revenues which accrue as a result of the service to be abandoned, along with an explanation of how the revenues were calculated and of any assumptions underlying the calculations.

(h) Exhibit 8. Operating Statistics. Calculations of route miles, annual bus miles, and schedule operating time to be eliminated for each point, route, or route segment to be abandoned.

(i) Exhibit 9. Additional Evidence. Any additional evidence or legal argument applicant believes to be relevant to the application.

Rule 515-16-5-.15 Temporary Emergency Authority (Ref. 515-16-3-.03)

(1) Application for Temporary Emergency Authority for the transportation of passengers or household goods shall be made on forms, designated by the Commission, shall require applicants to supply in writing all the information called for in such application form, shall be accompanied by payment of the applicable application fee under Rule 515-16-5-.11, and shall indicate under oath the applicant's willingness and ability to comply with the requirements stated (or referred to) in the application, pursuant to the Commission's Transportation Rules and O.C.G.A. Chapter 46-7.

(2) The order granting such authority shall contain the Commission's findings supporting its determination under the authority of O.C.G.A. § 46-7-13 that there is an immediate and urgent need for the proposed emergency service (which other authorized carriers have not or will not provide and the length of time such emergency is expected to continue) and shall contain such conditions as the Commission finds necessary with respect to such authority. Absent sufficient evidence proving such emergency need for service, the Commission will not grant such temporary emergency authority.

(3) Unless otherwise provided, such temporary emergency motor carrier authority, shall be valid for such time as the Commission shall specify, but not for more than an aggregate of 30 days. When a motor carrier granted temporary emergency authority makes application to the Commission for corresponding interim authority, the applicant's temporary emergency authority, will be extended to the Commission's finalization of the interim authority application, unless sooner suspended or revoked for good cause shown within the extension period.

Rule 515-16-5-.16 Re-filing for Interim Certificate

When an application for an interim certificate has been in whole or in part denied, or has been granted and the order of the Commission granting same has been quashed or set aside by a court of competent jurisdiction, a new application to provide the same service by the same petitioner or applicant for the same commodities will not be again considered by the Commission within three months from the date of the order denying the same or the judgment of the court quashing or setting aside the order.

Rule 515-16-5-.17 Transfer of Permanent Certificates

(1) Certificates shall not be assigned or transferred or hypothecated through sale, ownership of stock pledged as security, or otherwise; nor shall the control and management of the operation under such certificate be changed through lease or otherwise without authority of the Commission. Interim Certificates are not transferable.

(2) Application for transfers must be made on proper forms and in the manner prescribed by the Commission. Hearings on applications for transfer will be assigned in accordance with

~~the provisions of Commission Transportation Rule 515-16-2-.04. Certificates must be active in order to be considered for transfer.~~

~~(3) There shall be attached to the application for transfer of a certificate a copy of the contract of purchase which shall contain a complete statement of the assets of the holder of the certificate to be sold and the amount to be paid therefore, and an affidavit from the holder of the certificate, of the authorized agent or officer thereof, that all accrued taxes and all station rents, wages of employees, and all other known indebtedness incident to said operation have been paid in full except as set out in the application for transfer. If there be unpaid indebtedness incident to said operation, a written itemized statement, under oath, of the names and addresses of all the creditors known to said certificate holder, loss or damage claims, together with the amount of indebtedness claimed to be due or owing each of said creditors incident to said operation shall be included in the application or attached as an exhibit and made a part thereof. There shall also be attached to the application for transfer of a certificate a statement signed and witnessed by the transferee (purchaser), or the authorized agent or officer thereof, guaranteeing the payment of all just obligations listed in the sworn itemized statement of the transferor (certificate holder) included in or made a part of the application for transfer, or any lawful indebtedness not included in the application for transfer where such indebtedness is determined to be incident to said operation.~~

~~Rule 515-16-5-.18 Reinstatement or Cancellation of Interim or Permanent Certificate~~

~~After a certificate has been suspended, unless reinstated by the Commission within twelve months from the date of the suspension, same will automatically be canceled and will not be reinstated. A certificate may be reinstated if canceled for lack of proper insurance when the carrier's insurance company files proof of insurance coverage back to the original date of suspension.~~

~~Rule 515-16-5-.19 Consent to Background Check Required for Completion of All Passenger Carrier Certificate and Permit Applications for Motor Carrier Authority~~

~~No application for motor carrier passenger authority filed with the Commission will be considered complete and ready for Commission consideration unless and until a consent to a criminal background check is signed and filed with the Commission on behalf of Applicant signed by the individual owner of any sole proprietorship, by all general or managing partners of any partnership applicant, by all officers of any corporate applicant, and by the manager and members of any limited liability company. Before Commission consideration of such Application, the results of such background check must be received by the Commission. In addition, the Commission must determine before granting emergency authority that any criminal violations by not to adversely affect the efficient and safe operation of such applicant as a motor carrier and of applicant's drivers in the safe operation of Applicant's motor vehicles in Georgia.~~

~~Rule 515-16-5-.20 Misrepresentation of Certificate Operations; Leasing of Certificate Prohibited~~

~~No certificate holder shall engage in any conduct which falsely tends to create the appearance that services being furnished or operations under such certificate are being provided by the holder when, in fact, they are not. No lease, device or arrangement constituting a leasing, loaning or renting of a certificate will be recognized unless otherwise ordered by the Commission.~~

Subject 515-16-6 HOUSEHOLD GOODS CARRIERS

Rule 515-16-6-.01 Scope

This Chapter applies to household goods carriers operating in intrastate commerce.

Rule 515-16-6-.02 Definitions

As used in this sub-Chapter, the term *Advertisement* means any communication to the public, in written or printed form, in connection with an offer or sale of any intrastate transportation service, including accessorial services, but shall not be construed to include listing of a carrier's name, address and telephone number.

Rule 515-16-6-.03 Penalties

(1) The criminal and civil penalties for violation of this Chapter are those set forth in O.C.G.A. §§ 46-2-90 through 46-2-93, 46-7-39, 46-7-90 and 46-7-91, and in Chapters 515-16-3 and 515-16-10 of these Transportation Rules; and such penalties can only be imposed by the Commission after notice and hearing, unless the violator consents in writing to such penalties.

(2) Whenever the Commission, after a hearing conducted in accordance with the provisions of Chapter 3 of the Commission Transportation Rules, finds that any person, firm, or corporation is operating as a household goods carrier for hire without a valid certificate issued by the Commission or is holding itself out as such a carrier without such a certificate in violation of paragraph (b) of O.C.G.A. § 46-2-94, the Commission may impose a fine of not more than $5,000.00 for each violation. The Commission may assess the person, firm, or corporation an amount sufficient to cover the reasonable expense of investigation incurred by the Commission. The Commission may also assess interest at the rate specified in O.C.G.A. § 46-2-91 on any fine or assessment imposed, to commence on the day the fine or assessment becomes delinquent. All fines, assessments, and interest collected by the Commission shall be paid into the general fund of the state treasury. Any party aggrieved by a decision of the Commission under this rule may seek judicial review as provided in O.C.G.A. §§ 46-2-91 and 46-2-92.

Rule 515-16-6-.04 Designation of Household Goods Agents

(1) All appointments of an agent by a carrier holding a permanent certificate shall be evidenced by a contract in writing properly executed by all parties thereto. Such contracts shall set forth the duties, obligations, rights, method of compensation, and scope of authority of the parties thereto.

(2) Household goods carriers holding interim certificates may not appoint any agent to operate under their authority.

(3) A standard form contract shall be first submitted to the Commission for approval. If approved, it shall not be necessary to re-submit said standard form of contract except as provided in sub-paragraph (a)(5) of this rule.

(4) The carrier shall notify the Commission in writing at least ten (10) days prior to termination of an agency agreement by filing with the Commission a form entitled

~~"NOTICE OF TERMINATION." Such termination shall become effective on the date provided in the notice unless the Commission notifies the carrier of its disapproval before the effective date.~~

~~(5) No carrier shall appoint an agent to represent it if such agent represents another intrastate household goods carrier.~~

~~(6) No carrier shall be permitted to appoint an agent for the purpose of transporting household goods in any county or within a twenty (20) mile radius of a city, town or municipality in which it already has an established office or warehouse, or agent. A carrier would not be prohibited from itself performing specialized services in a locality where it has an agent. If carrier establishes an office or warehouse in a location where an agency has been established, the agency agreement must be cancelled.~~

~~(7) A copy of the agency contract must be maintained in each vehicle operated by agent under lease to the carrier and a copy of the contract is to be maintained on file both in the carrier's and agent's offices.~~

~~(8) Any vehicle operated under authority of the carrier shall be so identified with the carrier's name and other information as required by the Commission. The carrier shall purchase a vehicle registration in the carrier's name for each vehicle leased to the carrier.~~

~~(9) It shall be the responsibility of the carrier to supervise and train all of its agents and the agents' employees in relation to all of the applicable motor carrier safety and hazardous material rules and regulations as may be required. The carrier shall be responsible to see all the applicable rules and regulations are complied with.~~

~~(10) Nothing shall restrict the right of a carrier to appoint agents for booking of household goods only where the hauling of such goods is performed by the carrier or its legally established hauling agents.~~

~~(11) Unless otherwise exempted by law, carrier will be responsible to the public for any action of its agents, whether known or unknown, which results in loss or damage to the customers goods, or where overcharge is made.~~

~~Rule 515-16-6-.05 Advertising~~

~~(1) Every motor common carrier engaged in the transportation of household goods in intrastate transportation between points in the State of Georgia, including any such carrier providing any accessorial service incidental to or part of such intrastate transportation, shall include, and shall require each of its agents to include, in every advertisement as defined in Transportation Rule 515-16-6-.05, the name of the motor carrier under whose operating authority the advertised service will originate and the certificate number~~

assigned to such operating authority by the Commission. The name and certificate number must be the same as designated on the certificate issued by the Commission.

(2) Any person, firm, or corporation who knowingly and willfully issues, publishes, or affixes or causes or permits the issuance, publishing, or affixing of any oral or written advertisement, broadcast, or other holding out to the public, or any portion thereof, that the person, firm, or corporation is in operation as a household goods carrier for hire without having a valid certificate issued by the Commission is guilty of a misdemeanor. Any fine or assessment imposed by the Commission pursuant to the provisions of these Transportation Rules shall not bar criminal prosecution pursuant to the provisions O.C.G.A. §§ 46-2-91, 46-2-92, and 46-7-91.

(3) Any motor common carrier conducting household goods operations between points in Georgia must disclose in any advertisement for its services (whether on the Internet, in a Yellow Pages advertisement, any other print or broadcast advertisement, a brochure, or a flyer or handout) the exact physical location in Georgia of such advertising carrier's physical office, warehouse, terminals and truck parking lot and the number of the certificate issued by the Commission under which such carrier is legally authorized to conduct the household goods operations advertised. A post office box or commercial mail pickup station does not qualify as a physical address.

Rule 515-16-6-.06 Bills of Lading and Freight Bills

(1) Unless otherwise provided, all motor carriers of household goods shall issue to shippers a bill of lading in the form prescribed, approved and accepted by the Commission. The uniform bill of lading is to be issued in triplicate, and the carrier's copy of said bill of lading shall be retained for a period of three years.

(2) The name of only one shipper, one consignee and one destination shall be shown on one bill of lading. If there are stop offs in transit for partial loading or unloading, the stop off point(s) must also be listed.

(3) A legible copy of the bill of lading must be carried on board the transport vehicle during the time the shipment is in transit.

(4) A single shipment consists of one lot of household goods received from one shipper, at one point, at one time, or for one consignee at one destination and covered by one bill of lading.

(5) On shipments of household goods transported under weight and distance rates, the bill of lading must show the point of origin and destination of such shipment, mileage, weight, rate and total freight charge. Any charges for storage, accessorial charges, special services (third party services) or packing materials, shall be shown separately on said bill of lading.

(6) On shipments of household goods transported under hourly rates, the bill of lading must show the point of origin and the destination point of such shipment, the start and stop times of the move, the number of men and vans used, total number of hours worked (less lunchtime and breaks), hourly rate and total freight charge. Any accessorial charges, special services (third party services) or packing materials shall be shown separately on said bill of lading.

(7) An addendum to the household goods uniform bill of lading (Shipper Declaration of Value) which has been prescribed by the Commission, must accompany the bill of lading. Said addendum is to be executed by the shipper and carrier representative prior to the move. One copy is to be given to shipper and one copy is to be retained at the office of the carrier for a period of three years.

Rule 515-16-6-.07 Distribution of Public Information Pamphlet to Shippers

All motor carriers of household goods shall issue to shippers a copy of the Commission's public information pamphlet for household goods shippers. The pamphlet shall be issued to each shipper prior to the move and shall be provided free of charge. The pamphlet must be provided to the shippers at the time of the first in person contact, or it must be provided to the shipper by mail, e-mail, or facsimile (time allowing) if the move was arranged and confirmed by mail, e-mail, or telephone and no in person contact has been made prior to the day of the move. When the pamphlet is provided by hand delivery, the delivering carrier personnel shall obtain either (1) a written receipt from the customer for delivery of the pamphlet or (2) if the customer is absent and a copy is left at the address of the customer, then carrier personnel making such delivery shall sign a notation on a copy of the pamphlet noting the date and time of delivery. When the pamphlet is provided electronically (e.g., by e-mail or facsimile), the carrier must seek, print and retain an electronic receipt as part of the move documentation file. When the pamphlet is provided by mail, the carrier must obtain a return receipt for such mailed copy. Contents of the pamphlet shall be prescribed by the Commission, and a current copy of such pamphlet shall be maintained on the Commission's website. A carrier's printing such pamphlet from the Commission's website and providing the same in accordance with this Rule shall be sufficient; and a carrier shall retain a copy of the receipt, notated pamphlet, electronic receipt for e-mail or fax transmissions, return mail receipt or such other proof of carrier delivery and/or customer receipt of such pamphlet in the move file for each customer.

Rule 515-16-6-.08 Waiver Forms Prohibited

No carrier transporting household goods under a certificate subject to the jurisdiction of this Commission shall issue or require a shipper to sign a Waiver of Liability Form. The rights and responsibilities for both a household goods carrier and a shipper are defined in the Commission's Rules, and a shipper's rights cannot be otherwise abridged or modified. No Waiver of Liability or Release of Liability form of any kind may be tendered to a shipper. Use of such forms shall have no effect and any carrier that uses such forms will be subject to a penalty.

Rule 515-16-6-.09 Package Condition and Preparation

Unless otherwise provided, household goods will not be accepted for shipment if:

(a) Articles that are not in such condition, or enclosed in containers of such strength and security, or so prepared for shipment, as to render the transportation thereof by motor vehicle reasonably safe and practicable;

(b) Packages containing fragile articles or articles in glass or earthenware must be marked "GLASS" "FRAGILE-HANDLE WITH CARE," or with similar precautionary marks.

(c) Hazardous materials, when tendered for transportation, must conform to the requirements of law and any applicable regulations of the Georgia Department of Public Safety or they must be refused.

Rule 515-16-6-.10 Prepayment of Charges

All charges must be prepaid or guaranteed on any shipment which in the judgment of the carrier or its agent would not, at forced sale, be worth the total amount of charges which would be due thereon at destination.

Rule 515-16-6-.11 Freight Charges on Lost or Destroyed Shipments

No motor carrier transporting household goods in intrastate commerce shall collect or require a shipper to pay any published freight charges (including accessorial or terminal services) when a shipment is completely or totally lost or destroyed in transit. A carrier shall collect and the shipper would be required to pay any specific Valuation Charges that may be due. This rule shall not apply to the extent that any such loss or destruction is due to the act or omission of the shipper.

Rule 515-16-6-.12 Estimates on Household Goods Moves

(1) Motor carriers engaged in the transportation of household goods may provide written estimates of the approximate costs which will be assessed for the transportation of such shipments. Estimates shall be reasonably accurate and shall be furnished without charge and in writing to the shipper or other person responsible for payment of the freight charges. All such estimates shall have clearly indicated on the face thereof that the estimate is not binding on the carrier and that the charges shown are the approximate charges which will be assessed for the services identified in the estimate. The estimate must clearly describe the shipment and all services to be provided. At the time of delivery of a collect on delivery shipment, except when such shipment is being delivered to a warehouse for storage at the request of the shipper, on which an estimate of the approximate costs has been furnished by the carrier, the shipper may request delivery of the shipment upon payment, in a form acceptable to the carrier, an amount not exceeding 110% of the estimated charges. The carrier shall, upon request of the shipper, relinquish possession of the shipment upon payment of not more than 110% of the estimated charges and shall defer demand for the payment of the balance of any remaining charges for a period of 30 days following the date of delivery.

(2) This rule shall not apply on shipments being delivered to a warehouse for storage at shipper's request.

Rule 515-16-6-.13 Certified Scales, Weighing Procedures, and Weight Tickets

(1) Carriers transporting household goods shipments shall determine the weight of each shipment transported under the Weight and Distance Section of their tariffs prior to the assessment of any charges depending on the shipment weight. Except as otherwise provided in this item the weight shall be obtained on a certified scale designed for weighing motor vehicles, including trailers or semi-trailers not attached to the tractor, and certified by an authorized scale inspection and licensing authority. A certified scale may also be a platform or warehouse type scale properly inspected and certified.

(2) Except as otherwise provided in this rule, the weight of each shipment shall be obtained by determining the difference between the tare weight of the vehicle on which the shipment is to be loaded prior to the loading and the gross weight of this same vehicle after the shipment is loaded; or, the gross weight of the vehicle with the shipment loaded and the tare weight of the same vehicle after the shipment is unloaded.

(3) At the time of both weigh-ins the vehicle shall have installed or loaded all pads, dollies, hand trucks, ramps and other equipment required in the transportation of such shipments. Neither the driver nor any other persons shall be on the vehicle at the time of either weighing.

(4) The fuel tanks on the vehicle shall be full at the time of each weighing or, in the alternative, no fuel may be added between the two weigh-ins when the tare weighing is the first weighing performed.

(5) The trailer of a tractor-trailer vehicle combination may be detached from the tractor and the trailer weighed separately at each weighing provided the length of the scale platform is adequate to accommodate and support the entire trailer at one time.

(6) Shipments weighing 1,000 pounds or less may be weighed on a certified platform or warehouse scale prior to loading for transportation or subsequent to unloading.

(7) The net weight of shipments transported in containers shall be the difference between the tare weight of the container, including all pads, blocking and bracing used or to be used in the transportation of the shipment and the gross weight of the container with the shipments loaded therein.

(8) The shipper or any other person responsible for payment of the freight charges shall have the right to observe all weighing of the shipment. The carrier must advise the shipper or any other person entitled to observe the weighing of the time and specific location where each weighing will be performed and must give that person a reasonable opportunity to be present to observe the weighing. Waiver by a shipper of the right to observe any weighing or reweighing is permitted and does not affect any rights of the shipper under these regulations or otherwise.

(9) The carrier shall obtain a separate weight ticket for each weighing required under this item except when both weighs are performed on the same scale, one weight ticket may be used to record both weighs. Every weight ticket must be signed by the person performing the weighing and must contain the following minimum information:

(a) The complete name and location of the scale,

(b) The date of each weighing,

(c) Identification of the weight entries thereon as being the tare, gross and/or net weight,

(d) The company or carrier identification of the vehicle,

(e) The last name of the shipper as it appears on the bill of lading, and

(f) The carrier's shipment registration or bill of lading number.

(10) The original weight ticket or tickets relating to the determination of the weight of a shipment must be retained by the carrier as part of the file on the shipment. All freight bills presented to collect any shipment charges dependent on the weight transported must be accompanied by true copies of all weight tickets obtained in the determination of the shipment weight.

(11) Reweighing of shipments. Before the actual commencement of the unloading of a shipment weighed at origin and after the shipper is informed of the billing weight and total charges, the shipper may request a reweigh. The charges shall be based on the reweigh weight.

Subject 515-16-7 PASSENGER CARRIERS

Rule 515-16-7-.01 Applicability

The rules in this Chapter apply to persons transporting passengers for hire in intrastate transportation in motor vehicles designed to transport more than ten (10) passengers, excluding the driver.

Rule 515-16-7-.02 Passenger Carriers Transporting Certain Types of Property

Motor carriers of passengers must obtain either a Passenger Permit or Interim Certificate, or both, applicable to their operations. Motor carriers of passengers transporting express, mail and newspapers in the same vehicle with passengers and their baggage, are not required to obtain a Motor Carrier Property Permit and are relieved from the requirements to obtain and maintain cargo insurance for such express, mail and newspapers.

Rule 515-16-7-.03 Free Transportation

(1) Motor carriers transporting passengers shall not directly or indirectly issue, give, tender or honor, free transportation except during emergency situations or as provided by law,

and except to their bona fide officers, agents, employees, and to regularly employed attorneys and dependent members of their families; but may exchange free transportation within the limits of this rule.

(2) Motor carriers transporting passengers may carry any totally blind person accompanied by a guide at the usual and ordinary fare charged to one person.

(3) Motor carriers transporting passengers may carry at reduced rates or free, authorized ministers of the gospel or persons traveling for or representing institutions supported by public subscription or persons dependent upon charity upon such terms and conditions as may be prescribed by the motor carrier and if granted under conditions above enumerated shall apply uniformly to all persons coming into the same class.

(4) Motor passenger carriers may provide free transportation during bona fide emergencies.

Rule 515-16-7-.04 Tickets

(1) All passenger carriers must provide tickets at all agency stations and at such places indicated on the published time schedules where satisfactory financial arrangements for handling can be made.

(2) All tickets when sold must have the date of same stamped thereon. Tickets when sold shall be redeemable for transportation when presented to the driver of a bus. One-way tickets shall be redeemable at their sale price in money by the company or its agent within sixty days after the sale date stamped thereon and round trip tickets within thirty days; if no date of sale is stamped thereon such tickets shall be redeemable upon presentation at any time by the purchaser accompanied by satisfactory proof of purchase. This rule does not apply to excursion tickets or tickets sold for transportation on special occasions.

(3) Partially used tickets shall be redeemed on basis of difference between the sale price and the lawful fare, from and to the station between which the passenger was actually transported.

Rule 515-16-7-.05 Baggage

(1) Motor carriers will not be compelled to carry baggage of passengers, except hand baggage, the character, amount, size and value of which the motor carrier may limit by its rules or regulations, subject to the approval of the Commission.

(2) Each passenger motor carrier shall provide duplicate checks for baggage, when requested, to and from all points on all routes covered by its certificate. Baggage checks shall be issued for baggage, when requested, upon presentation of valid transportation only when the owner of the baggage is also the owner of the transportation and is a bona fide passenger over the same line to the destination of the baggage. In the event that the passenger fails to take advantage of this checking service, and the baggage is retained in

the physical possession of the owner, the company may proceed on the theory that the passenger has assumed full responsibility for his own baggage, and the company shall not be responsible to the passenger for loss or damage to said baggage. When, however, the passenger is required to surrender physical possession of his hand baggage upon entering the vehicle for storage in a separate compartment from that occupied by the passenger on the vehicle, the motor carrier shall provide duplicate identification tags for such hand baggage, and the motor carrier shall at all times furnish the drivers of its vehicles with an adequate supply of duplicate identification tags.

(3) Excess baggage shall not be transported with charges collect on delivery, but the charges must be paid in advance.

(4) At all agency destinations when arriving baggage is not immediately claimed by the passenger owner, the driver shall deliver same to the station agent and if delivered to owner on same date of arrival, no storage charge shall be made.

(5) Baggage containing money, jewelry, negotiable paper, liquids, glassware, perishable or fragile articles, must not be checked or received for transportation without a declared valuation and where such declared value exceeds the value provided for in paragraph (g) carriers may assess additional charges according to tariffs filed with and approved by the Commission. If baggage is checked or delivered for transportation by a passenger without making manifest of such contents and the value thereof, the carrier shall not be liable therefore in excess of the amount provided for in paragraph (g) and may reject entirely when baggage contains any of the articles enumerated in paragraph (h), or is in the opinion of the operator or driver, too heavy, bulky, fragile, or not in proper condition.

(6) Subject to the limitations and conditions set forth herein three pieces of hand baggage, not to exceed a total weight of one hundred pounds nor exceeding two hundred fifty dollars ($250.00) in value, shall be carried free of charge for each adult passenger. Children traveling on less than adult fare shall be limited on the above basis in the proportion that the child's fare bears to the adult fare. No allowance shall be permitted on tickets purchased for the sole purpose of avoiding the payment of excess baggage.

(7) Motor carriers of passengers, their drivers or their agents, shall not knowingly permit, and no person shall offer for transportation, any dangerous substance or material to be loaded in or upon any passenger carrying vehicle or to be stored as baggage in or upon the premises of any passenger bus station, which shall include the following but is not limited to the following:

(a) Loaded firearms;

(b) Illegal narcotics, dangerous drugs, or controlled substances;

(c) Materials of an offensive or disagreeable odor; or

(d) Any hazardous material or article prohibited to be transported aboard a passenger carrying vehicle provided for under 49 C.F.R. § 177.870.

(8) This rule does not apply to law enforcement officers carrying firearms.

Subject 515-16-8 LIMOUSINE CARRIERS

Rule 515-16-8-.01 Applicability

The rules in this Chapter apply to persons operating passenger vehicles as limousine carriers, as defined in Commission Transportation Rule 515-16-3-.03 for hire within this state in intrastate transportation.

Rule 515-16-8-.02 Certification Required for Limousine Carrier

No limousine carrier shall operate as a limousine carrier or a limousine (as those terms are defined in O.C.G.A. §§ 46-1-1 and 46-7-85.1) for the transportation of passengers for compensation on any public highway in this State unless such carrier has first acquired an interim or permanent certificate to do so from this Commission and except in accordance with the provisions of federal laws, state laws, the Commission certificate issued to such carrier and the Transportation Rules of this Commission.

Rule 515-16-8-.03 Interim Certificates

An interim certificate shall be issued to any qualified applicant, provided that such applicant is a limousine carrier business domiciled in this state, authorizing the operations covered by the application if it is found that the applicant is fit, willing, and able to perform properly the service and conform to the provisions of O.C.G.A. § 46-7-85 and the rules and regulations of the Commission and has not been convicted of any felony as such violation or violations are related to the operation of a motor vehicle.

Rule 515-16-8-.04 Chauffeur Permits and Requirements

All limousine carrier drivers, before operating any motor vehicle in intrastate commerce, shall first secure a Chauffeur Permit from the Georgia Department of Driver Services by making application on forms prescribed by the Georgia Department of Driver Services and by paying the required filing fee.

Rule 515-16-8-.05 Annual Inspection

All limousine carriers as defined in O.C.G.A. § 46-7-85.1 holding a Certificate issued by the Commission must have all vehicles inspected annually to be in compliance with the Department of Revenue rules and regulations. Inspection must be done by a certified mechanic.

Rule 515-16-8-.06 Identification of Limousines

Prior to operating limousines over the highways of Georgia for which registration and licensing of such equipment has been made, every motor carrier holding a certificate to transport passengers in limousines shall affix to the front bumper a standard size license plate with the following information:

(a) Limousine company name;

(b) City and state of principal domicile;

(c) Company telephone number; and

(d) Vehicle classification - IE-1.

Rule 515-16-8-.07 Motor Carrier Safety Regulations - Limousines

Limousines must comply with all safety rules and regulations.

Rule 515-16-8-.08 Suspension, Cancellation or Revocation of a Certficate

The Commission may cancel, revoke, or suspend any interim or permanent certificate issued under this chapter as provided in Commission Transportation Rule515-16-2-.05 and O.C.G.A. § 46-7-85.7.

Rule 515-16-8-.09 Limousines Temporary Permits

(1) The rules and regulations listed below in this part are the minimum requirements set forth by the Commission for issuance of temporary permits to limousine carriers.

(2) A limousine carrier may obtain a temporary permit for a period of 21 consecutive days beginning and ending on the dates specified on the face of the permit. Temporary permits shall be obtained by limousine carriers which make only infrequent trips within or through the State of Georgia and comply with the following:

(a) Pay a fee for each temporary permit in the amount of $100.00 per week and $20.00 for each vehicle.

(b) Meet the insurance requirements of the Commission.

(c) Obtain a chauffeur's permit for each operator.

(d) A temporary permit shall be carried in the motor vehicle for which it was issued at all times such vehicle is in this state.

Rule 515-16-8-.10 Limousine Tariffs

Amendments to O.C.G.A. §§ 46-7-85.1,*et seq*., in 2007 repealed the Commission's rate-making authority over limousine carriers, and hence, the Commission has voided its Maximum Rate Tariff over limousines. While limousine carriers are free to publish and distribute to customers schedules of rates and tariffs, such documents need not be filed with the Commission; and the Commission will no longer maintain tariff files on limousine carriers in the absence of rate-making authority.

Rule 515-16-8-.11 Advertisement for a Limousine Carrier

With regard to any advertisement for a limousine carrier, whether by print, radio, television, other broadcast, or electronic media including but not limited to Internet advertising and any listing or sites on the World Wide Web, the limousine carrier advertising its services shall include the motor carrier authorization number issued to it by the Georgia Public Service Commission and the physical address of such carrier's principal office, which physical address cannot be a post office box or commercial mail drop station such as Mail Boxes, Etc. or a UPS Store.

Rule 515-16-8-.12 Commercial Indemnity and Liability Insurance

Each limousine carrier shall obtain and maintain commercial indemnity and liability insurance with an insurance company authorized to do business in this state which policy shall provide for

~~the protection of passengers and property carried and of the public against injury proximately caused by the negligence of the limousine carrier, its servants, and its agents. The Commission shall determine and fix the amounts of such insurance and shall prescribe the provisions and limitations of such insurance.~~

~~Rule 515-16-8-.13 Petition By a Third Party~~

~~The Commission may hear a petition by a third party asserting that a limousine carrier has violated applicable provisions of O.C.G.A. Chapter 46-7 or of the Commission Transportation Rules; and, based upon findings of fact and conclusions of law after notice and hearing, the Commission may impose the penalties and seek the remedies if the Commission finds such a violation as specified elsewhere in these Transportation Rules.~~

~~Subject 515-16-9 RATES AND TARIFFS~~

~~Rule 515-16-9-.01 Applicability~~

~~The rules in this Chapter are general provisions relating to rates and tariffs and apply to all motor carriers required to hold Certificates, except limousine carriers. Specific rates and tariff provisions which apply only to household goods or passenger carriers and charter passenger bus carriers over which the Commission has no rate-making authority.~~

~~Rule 515-16-9-.02 Rates and Fares Apply in Both Directions~~

~~All rates and fares effective in this State, except in cases where otherwise specified in the tariff or schedule of rates on file with the Commission and otherwise authorized by law, shall apply in either direction, over the same line, between the same points.~~

~~Rule 515-16-9-.03 Method for Determining Distances Relating to Rates and Fares~~

~~(1) Unless otherwise authorized by the Commission, rates or fares shall be charged and computed by using the distances shown in either:~~

~~(a) MapQuest or any Internet website providing the shortest driving directions.~~

~~(b) Household Goods Carriers' Bureau Mileage Guide No. 17, supplements thereto or reissues thereof; or~~

~~(c) Southern Motor Carriers Rate Conference, Inc. ProMiles Mileage Calculation Program or reissues thereof.~~

~~(2) Unless otherwise authorized by the Commission, the carrier shall select one of the above listed mileage guides, and make reference in the rate tariff to the one selected as the governing publication for rate-making distances.~~

~~(3) Where the carrier's tariff refers to the household Goods Carriers' Bureau Mileage Guide No. 17 or Southern Motor Carriers Rate Conference, Inc. ProMiles software mileage calculation program for distances, the carrier must be a party to that Mileage Guide.~~

~~Rule 515-16-9-.04 No Change in Rates, Fares, Charges, or Service~~

~~(1) No change shall be made by any carrier transporting household goods or passengers (hereinafter referred to as "carrier") subject to the jurisdiction of the Commission in any~~

~~rate, fare, charge, or service or in any rule or regulation relating thereto, except after proper notice to the Commission and to the public, as prescribed below, unless the Commission otherwise orders, or has previously approved the same. Such notice shall be given by filing with the Commission and keeping open for public inspection new schedules stating plainly the change(s) to be made and the time when they shall take effect.~~

~~(2) The Commission shall have the authority, either upon written complaint or upon its own initiative without complaint, to conduct a hearing on lawfulness of such rate, fare, charge, or service. Pending such hearing and the decision thereon, the Commission, may suspend the operation of such schedule and defer the use of such rate, fare, charge, or service, by notifying the carrier in writing of the reason for suspension, but not for a longer period than five (5) months from the proposed effective date of the publication. The Commission may make such orders as are proper with references thereto within the authority vested in them. The Commission is empowered to reduce or revoke any such suspension with respect to all or any part of such schedule. If the proceeding has not been concluded and an order made at the expiration of the suspension period, the proposed change of rate, fare, charge, or service shall go into effect at the end of the suspension period.~~

~~(3) Notwithstanding other provisions of this Rule and Commission Transportation Rule 515-16-9-.05, the Commission, EXCEPT for the transportation of household goods:~~

~~(a) Shall not suspend or investigate a motor passenger carrier's proposed decrease in a rate, fare or charge on the basis of the level of such rate, fare or charge, unless it appears to the Commission on its own initiative or by a complaint that such decrease will result in unjust discrimination, constitute a predatory competitive practice or impose an unreasonable burden on intrastate commerce. In the case of a complaint, the burden of proof shall be on the complaining party to prove the allegations made;~~

~~(b) Shall, unless otherwise ordered by the Commission, require 15 days' notice for the filing of decreases and 20 days' notice for the filing of increases in carrier rates, fares or charges;~~

~~(c) Shall require only one day's notice by motor passenger carriers for reductions published to meet the competition of already published rates, fares or charges of other carriers.~~

~~(4) Any increase in household goods rates and charges must be filed with the Commission on not less than thirty days' notice. Any reduction in rates and charges which are published to meet competitions existing rates and charges may be filed on less than the thirty days' notice.~~

~~Rule 515-16-9-.05 Rate Schedules~~

~~(1) All schedules of rates, fares and charges for the transportation of passengers or household goods charged by motor carriers operating under certificates shall be approved or prescribed by the Commission.~~

~~(2) All rules, regulations and schedules applicable to household goods and passenger carriers shall be prescribed by the Commission.~~

~~(3) Motor carriers of household goods operating under certificates may publish and file tariffs with the Commission thirty days in advance of the effective date thereof, effecting changes in the said rates, fares, charges, rules or regulations and such tariffs shall, unless rejected by the Commission prior to the said effective date, be deemed to be approved by the Commission subject to complaint and further order; provided, however, that the filing of such tariffs with the Commission shall not be construed as an approval of any of the rates, fares or charges, rules or regulations which advance a charge or decrease a service, which change was not previously authorized by the Commission. Initial tariffs, rules, etc., when filed with an application for a Certificate to begin operations shall, unless rejected, be deemed to be approved by the Commission effective as of the date that such certificate is issued.~~

~~(4) When on the transportation of shipments paid for by the United States, the State of Georgia, or any county or municipality or other governmental subdivision of the State of Georgia, motor carriers are required to publish only maximum rates or charges and are permitted to charge lower than the published maximum.~~

~~(5) All tariff publications covering Georgia intrastate traffic shall conform in general style and make up to the form prescribed by the Commission.~~

~~(6) Changes in rates, charges, rules, regulations, etc., shall be symbolized and such explanation thereof made in the tariff as will indicate the character of the change.~~

~~(7) All tariffs shall bear at the top of the first or title page a Georgia Public Service Commission (GEORGIA PUBLIC SERVICE COMMISSION) number, and tariffs shall be numbered consecutively. Where any tariff cancels a previously filed tariff such cancellation shall be shown immediately following the number of the tariff.~~

~~Rule 515-16-9-.06 Tariffs~~

~~(1) All motor carriers of household goods or passengers (except carriers operating under maximum tariffs issued by the Commission) operating under a certificate shall publish and file tariffs of rates and charges and rules and regulations governing same, subject to approval and on such form as prescribed by the Commission.~~

~~(2) All tariffs, rules and regulations shall be accessible and subject to public inspection.~~

(3) Tariffs to be Kept Posted. Each motor carrier of passengers shall keep conspicuously posted at all of its stations, offices and agencies in Georgia, a copy of the schedules and rates or fares prescribed by the Commission. When any change is made in such schedule, either by a carrier voluntarily, or pursuant to an order of the Commission, the carrier shall immediately post copies thereof, as notice to the public, in the same manner as above specified, and furnish copy of said change to the office of the Commission.

Rule 515-16-9-.07 Procedures for Collective Rate-Making

(1) No person, tariff publishing agent, bureau or association (hereinafter referred to, collectively, as "tariff publishing agent") shall engage in collective rate-making activities unless and until said tariff publishing agent submits in writing to the Commission, for approval, its procedures for the docketing and handling of proposed prescribed rates. Such procedures shall, at a minimum, embrace the following essential elements:

(a) A reasonable and fair method whereby any interested party may propose a change in the rates or rules in a tariff published by a tariff publishing agent for consideration and vote by the participants to said tariff.

(b) The providing of notice to all participants in and subscribers to a tariff proposed to be changed regarding the proposal; said notice shall also fix a date, time and place for public hearing on the proposal whereby any interested party may appear at such hearing to give evidence or arguments in support of or in opposition to said proposal.

(c) A method whereby notice of rate proposals shall be available to anyone desiring same, including members of the public, upon payment of a reasonable subscription fee, except that such notice shall be mailed to all participants to the tariff without charge.

(d) Carrier participants to a tariff published by a tariff publishing agent may elect a rate committee for each type of carrier group to review proposed changes, to recommend as to the disposition of proposals, and to otherwise direct the affairs of their group, such as for the employment of counsel to handle petitions for rate changes, and for the direction of their tariff publishing agents in connection with docketing, tariff publications and other necessary routine requirements.

(e) Proposals for changes in tariffs, published by an agent for participating carriers as authorized by powers of attorney to the agent, shall be submitted in writing to the agent, or as may otherwise be directed by a governing rate committee. Meetings at which the public docket is to be considered will be called upon not less than ten (10) days' notice to the Committee and to the public.

(f) Each committee member will have one vote and the majority of the votes cast will govern. Proxy voting shall not be allowed.

(g) Formal minutes (not verbatim transcripts) must be kept on all meetings whereat collective rate-making matters are considered.

(h) A tariff publishing agent shall not, as such, file a protest with the Commission against any proposed tariff change.

(2) The procedures herein authorized may be utilized by motor carriers to develop combined financial data as to operating expenses, revenues and estimated projections related thereto, for analysis and for submission to the Commission as and when required.

(3) Nothing herein shall be construed to authorize the publication of any rate or tariff rule that is unlawful or otherwise prohibited by regulation of the Commission. Except when published to comply with the order of the Commission, all tariffs and amendments thereto will be subject to complaint by an interested party and may be suspended or rejected by the Commission.

Subject 515-16-10 PERMITTED CARRIERS

Rule 515-16-10-.01 Applicability

The provisions in this chapter apply to all for hire motor carriers that are required to hold Permits under the Motor Carriers Acts of this state and/or the provisions of 49 USC §§ 3101, 13702, 14501 and 14504 and regulations issued thereunder contained in 49 CFR.

Rule 515-16-10-.02 Penalties

The criminal and civil penalties for violation of this Chapter are those set forth in O.C.G.A. §§ 46-2-90 through 46-2-93, 46-7-39, 46-7-90 and 46-7-91, and in Chapters 515-16-2 and 515-16-10 of these Transportation Rules; and such penalties can only be imposed by the Commission after notice and hearing, unless the violator consents in writing to such penalties.

Rule 515-16-10-.03 Definitions

As used in this chapter the term C*orporate family* means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest.

Rule 515-16-10-.04 Registration Permits

Before any motor carrier transports persons or property for hire in interstate commerce, specifically exempt from the economic jurisdiction of the Federal Motor Carrier Safety Administration, said carrier shall first make application for a registration permit on forms prescribed by the Georgia Department of Revenue and by paying the required filing fee.

Rule 515-16-10-.05 Motor Carrier of Passenger Permits

Before any motor carrier of passengers, in a charter service, operates any motor vehicle, other than vehicles listed under limousine carriers, with a capacity for 11 or more passengers in intrastate commerce, said carrier shall first make application for a passenger permit on forms prescribed by the Commission and pay a filing fee of $75.00.

Rule 515-16-10-.06 Motor Carrier of Property Permits

Before any motor carrier of property shall operate any motor vehicle in intrastate commerce, it shall first secure a Motor Carrier of Property Permit from the Georgia Department of Revenue by making application on forms prescribed by the Georgia Department of Revenue and by paying the

required filing fee. This applies to common or contract carriers engaged in the transportation of general commodities (except household goods) operating over the highways of the State of Georgia over no fixed route.

Rule 515-16-10-.07 Qualifications for Commission Issued Certificates and Permits

(1) A carrier applying for a motor carrier certificate or permit issued by the Commission must demonstrate compliance with the laws of Georgia, and the rules and regulations of the Commission regarding insurance, safety, and hazardous materials. The Commission may refuse to issue a certificate or permit where the applicant has failed to show compliance. The applicant, upon request made in writing, shall be entitled to a hearing to protest said denial.

(2) The Commission may, at any time after notice and an opportunity to be heard, suspend, revoke, alter, or amend any certificate or permit issued under these rules, if the holder of the certificate or permit has violated or refused to observe any lawful and reasonable orders, rules, or regulations prescribed by the Commission, any of the applicable provisions of Title 46 O.C.G.A., or any other law of this State regulating or taxing motor vehicles.

Rule 515-16-10-.08 Class "IE" Permit Operations

Before any motor carrier of passenger (10 or less, except limousines) operates any motor vehicle in intrastate commerce, it shall first secure a registration permit from the Georgia Department of Revenue by making application on forms prescribed by the Georgia Department of Revenue and by paying the required filing fee.

Rule 515-16-10-.09 Discontinuance of Service

Upon thirty days' notice any motor carrier operating under a permit issued by the Commission may suspend or abandon service immediately by surrendering their permits for cancellation and returning to the Commission all licenses issued thereunder.

Rule 515-16-10-.10 Reserved

Prior Rule rescinded. Inter-corporate hauling regulation was abolished by Act No. 68, Georgia Laws 2005, Pages 334 - 450, repealing O.C.G.A. § 46-1-1(9)(c)(xii).

Rule 515-16-10-.11 Uniform Carrier Registration (Formerly Single State Registration Systems); Definitions

(1) Motor carriers engaged in interstate commerce within the borders of this state under authority issued by the Federal Motor Carrier Safety Administration shall comply with provisions of the Uniform Carrier Registration ("UCR") Program as provided for 49 USCA § 13908 and Federal Motor Carrier Regulations issued there under and in Commission Transportation Rule 515-16-3. To the extent the UCR has not been fully implemented to date, the Single State Registration System ("SSRS") will continue to apply.

(2) For convenience, certain definitions from Chapter 515-16-3 are repeated here:

(a) Unified Carrier Registration System or URS means the national registration system established by the FMCSA pursuant to 49 USC § 13908, which is superseding SSRS.

(b) Single State Registration Receipt means a registration receipt issued to interstate motor carriers by their base state, identifying the carrier and specifying the states in which the carrier is authorized to operate pursuant to 49 CFR § 367.5.

(c) Single State Registration System (SSRS) means the requirements for registration of interstate carriers with their base state for issuance of registration receipts as described in 49 CFR Part 367 ; and SSRS is being superseded by Unified Carrier Registration (UCR) when and if the FMCSA completes refining of the computer database and programming for UCR.

Rule 515-16-10-.12 Reinstatement or Cancellation of Permit

After a permit has been suspended by the Commission within twelve months from the date of the suspension, same will automatically be canceled and will not be reinstated.

Subject 515-16-11 MOTOR CARRIER INSURANCE

Rule 515-16-11-.01 Applicability

This chapter describes the requirements for insurance or other surety required for motor carriers engaged in intrastate, interstate, or foreign commerce.

Rule 515-16-11-.02 Penalties

The criminal and civil penalties for violation of this Chapter are those set forth in O.C.G.A. §§ 46-2-90 through 46-2-93, 46-7-39, 46-7-90 and 46-7-91, and in Chapters 515-16-3 and 515-16-10 of these Transportation Rules; and such penalties can only be imposed by the Commission after notice and hearing, unless the violator consents in writing to such penalties.

Rule 515-16-11-.03 Public Liability and Property Damage Insurance

(1) No certificate or permit shall be issued or continued in operation unless the applicant or holder shall give and maintain bond, with adequate security, for the protection, in case of passenger vehicles, of the passengers and baggage carried and of the public against injury proximately caused by the negligence of such motor common or contract carrier, its servants, or its agents. In cases of vehicles transporting freight, the applicant or holder shall give bond, with adequate security, to secure the owner or person entitled to recover therefore against loss or damage to such freight for which the motor common or contract carrier may be legally liable and for the protection of the public against injuries proximately caused by the negligence of such motor carrier, its servants, or its agents.

(2) The Commission shall approve, determine, and fix the amount of such bonds and shall prescribe the provisions and limitations thereof; and such bonds shall be for the benefit of and subject to action thereon by any person who shall sustain actionable injury or loss protected thereby.

(3) The Commission may, in its discretion, allow the filing of a certificate of insurance on forms prescribed by the Commission, in lieu of such bond, evidencing a policy of indemnity insurance in some indemnity insurance company authorized to do business in this state, which policy must substantially conform to all of the provisions of this article relating to bonds. The insurer shall file such certificate. The failure to file any form required by the Commission shall not diminish the rights of any person to pursue an action directly against a motor carrier's insurer.

(4) It shall be permissible under this rule for any person having a cause of action arising under this rule in tort or contract to join in the same action the motor carrier and its surety, in the event a bond is given. If a policy of indemnity insurance is given in lieu of bond, it shall be permissible to join the motor carrier and the insurance carrier in the same action, whether arising in tort or contract.

(5) The liability of the insurance or bonding company on each motor vehicle for the following minimum limits shall be a continuing one notwithstanding any recovery hereunder:
SCHEDULE OF LIMITS

Kind of equipment	Limit for bodily injury to or death of one person:	Limit of 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):
Passenger equipment (seating capacity): 12 passengers or less Over 12 passengers	$100,000.00 $100,000.00	$300,000.00 $500,000.00	$50,000.00 $50,000.00
Freight equipment: All motor vehicles used in the transportation of property	$100,000.00	$300,000.00	$50,000.00

Rule 515-16-11-.04 Cargo Insurance

(1) Except as otherwise provided by law no motor carrier transporting household goods by motor vehicle required to hold a certificate from the Commission shall engage in intrastate commerce, nor shall any certificate be issued to such carrier, nor remain in force unless and until there shall have been filed with and approved by the Commission a surety bond,

policy of insurance (or certificate of insurance in the form prescribed herein in lieu thereof), or other securities or agreements in not less than the amounts hereinafter prescribed, conditioned upon such carrier making compensation to shippers or consignees for all property belonging to shippers or consignees and coming into the possession of such carrier in connection with its transportation service within the boundaries of the State of Georgia, regardless of whether such motor vehicle is described in the policy or not.

(2) Within the limits of liability hereinafter provided it is further required that no condition, provisions, stipulation, or limitation contained in the policy, or any other endorsement thereon or violation thereof, or of this rule by the insured, shall affect in any way the right of any shipper or consignee, or relieve the insurance or bonding company from liability for the payment of any claim for which the insured may be held legally liable to compensate shippers or consignees, irrespective of the financial responsibility or lack thereof or insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy are to remain in full force and effect as binding between the insured and the insurance or bonding company.

(3) The liability of the insurance or bonding company for the following minimum limits shall be a continuing one notwithstanding any recovery hereunder:

(a) For loss of or damage to property carried on any one motor vehicle..... $25,000.00

(b) For loss of or damage to aggregate of losses or damage of or to property occurring at any one time and place..... $50,000.00

Rule 515-16-11-.05 Reserved

Rule 515-16-11-.06 Qualified Insurance and Minimum Requirements

Each certificate of insurance provided by these rules covering bodily injury liability; property damage liability and cargo liability filed with the Commission for approval must be for not less than the full limits of liability required under these rules and regulations and in each case the insurance company must be legally authorized to transact business in the State of Georgia.

Rule 515-16-11-.07 Retention of Insurance Filings and Surety Bonds

Certificates of insurance when filed with and accepted by the Commission are public documents and after cancellation or expiration shall be retained in the files of the Commission for a period of not less than two years or such longer time as may be deemed necessary for the protection of the insured.

Rule 515-16-11-.08 Forms and Procedures

(1) Certificates of insurance evidencing coverage shall be written in the full and correct name of the individual, partnership, corporation, or other person to whom the certificate, permit, or license is now or is to be issued. In case of a partnership all partners shall be named.

(2) Certificates of insurance evidencing coverage shall be continuous and NO LAPSE IN INSURANCE COVERAGE IS PERMITTED. Certificates of insurance evidencing

coverage shall be continuous and shall not be canceled or withdrawn until after thirty (30) days' notice in writing by the insurance company, surety or sureties, motor carrier, or other party thereto, as the case may be, has first been given to the Commission at its offices in Atlanta, Georgia, which period of thirty days shall commence to run from the date such notice is actually received at the office of the Commission. Upon receipt of the notice, original stamped copy will be retained in the files of the Commission as evidence of the date of cancellation thereof and attached to the certificate of insurance or the surety bond. Except that the Commission will waive the required thirty (30) days' notice where a motor carrier elects to substitute a certificate of insurance evidencing coverage for insurance previously filed by a different insurance company where such substituted certificate is accompanied by an affidavit of the motor carrier that substitution has been authorized by the motor carrier and that waiving of the thirty (30) days' notice is requested for the purpose of avoiding the payment of double insurance premium.

(3) Forms:

(a) *Form E.* Uniform motor carrier bodily injury and property damage liability certificate of insurance shall be in "Form E" prescribed by the Commission.

(b) *Form H.* Uniform motor carrier cargo certificate of insurance shall be in "Form H" prescribed by the Commission.

(c) *Form K.* Uniform notice of cancellation of motor carrier insurance policies shall be in "Form K" prescribed by the Commission.

Rule 515-16-11-.09 Revocation

The Commission may revoke its approval of any certificate of insurance, or other securities or agreements if it finds at any time such security no longer complies with these rules. Any carrier which has its permit or certificate automatically suspended or revoked can request and receive an oral hearing before the Commission regarding such Commission action, but such revoked or suspended certificate or permit will not be reinstated unless and until acceptable proof of insurance (without lapse) has been received by the Commission.

Subject 515-16-12 MOTOR VEHICLES (RESERVED)

Subject 515-16-13 MOTOR CARRIER LEASING REGULATIONS
Rule 515-16-13-.01 General Applicability

(1) The regulations in this part apply to the following actions by motor carriers regulated by the Commission and engaged in intrastate motor carrier transportation within the State of Georgia.

(2) The leasing of equipment with which to perform transportation regulated by the Commission.

(3) The interchange of equipment between motor common carriers in the performance of transportation regulated by the Commission.

Rule 515-16-13-.02 Definitions

(1) Authorized Carrier – A person or persons authorized to engage in the transportation of property as a motor carrier by the Commission under the provisions of O.C.G.A. § 44-1-13 and Chapter 46-7.

(2) Equipment – A motor vehicle, straight truck, tractor, semitrailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in the transportation of property for hire.

(3) Interchange – The receipt of equipment by one motor common carrier of property from another such carrier, at a point which both carriers are authorized to serve, with which to continue a through movement.

(4) Owner - A person (1) to who title to equipment has been issued, or (2) who, without title, has the right to exclusive use of equipment, or (3) who has lawful possession of equipment, registered and licensed in any State in the name of that person.

(5) Lease – A contract or arrangement in which the owner grants the use of equipment, with or without driver, for a specified period to an authorized carrier for use in the regulated transportation of property, in exchange for compensation.

(6) Lessor - In a lease, the party granting the use of equipment, with or without driver, to another.

(7) Lessee - In a lease, the party acquiring the use of equipment with or without driver, from another.

(8) Sublease - A written contract in which the lessee grants the use of leased equipment, with or without driver, to another.

(9) Addendum - A supplement to an existing lease which is not effective until signed by the lessor and lessee.

(10) Private carrier – A person, other than a motor carrier, transporting property by motor vehicle in interstate or foreign commerce when (1) the person is the owner, lessee, or bailee of the property being transported; and (2) the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise.

(11) Shipper – A person who sends or receives property which is transported in interstate or foreign commerce.

(12) Escrow fund - Money deposited by the lessor with either a third party or the lessee to guarantee performance, to repay advances, to cover repair expenses, to handle claims, to handle license and State permit costs, and for any other purposes mutually agreed upon by the lessor and lessee.

(13) Detention - The holding by a consignor or consignee of a trailer, with or without power unit and driver, beyond the free time allocated for the shipment, under circumstances not attributable to the performance of the carrier.

Rule 515-16-13-.03 General Leasing Requirements

(1) Other than through the interchange of equipment as set forth in Commission Transportation Rule 515-16-13-.08 and under the exemptions set forth in of these regulations, the authorized carrier may perform authorized transportation in Commission Transportation Rules 515-16-13-.05 and 515-16-13-.06; the authorized carrier may perform authorized transportation in equipment it does not own only under the following circumstances:

(a) Lease - There shall be a written lease granting the use of the equipment and meeting the requirements contained in Commission Transportation Rule 515-16-13-.04.

(b) Receipts for equipment - Receipts, specifically identifying the equipment to be leased and stating the date and time of day possession is transferred, shall be given as follows:

1. When possession of the equipment is taken by the authorized carrier, it shall give the owner of the equipment a receipt. The receipt identified in this Rule may be transmitted by mail, telegraph, facsimile, e-mail or other similar means of communications.

2. When possession of the equipment by the authorized carrier ends, a receipt shall be given in accordance with the terms of the lease agreement if the lease agreement requires a receipt.

3. Authorized representatives of the carrier and the owner may take possession of leased equipment and give and receive the receipts required under this subparagraph.

(c) Identification of equipment - The authorized carrier acquiring the use of equipment under this Rule shall identify the equipment as being in its service as follows:

1. During the period of the lease, the carrier shall identify the equipment in accordance with the FMCSA's requirements in 49 CFR part 390 of this chapter (Identification of Vehicles).

2. Unless a copy of the lease is carried on the equipment, the authorized carrier shall keep a statement with the equipment during the period of the lease certifying that the equipment is being operated by it. The statement shall also specify the name of the owner, the date and length of the lease, any restrictions in the lease relative to the commodities to be transported, and the address at which the original lease is kept by the authorized carrier. This statement shall be prepared by the authorized carrier or its authorized representative.

(d) Records of equipment - The authorized carrier using equipment leased under this Rule shall keep records of the equipment as follows:

1. The authorized carrier shall prepare and keep documents covering each trip for which the equipment is used in its service. These documents shall contain the name and address of the owner of the equipment, the point of origin, the time and date of departure, and the point of final destination. Also, the authorized carrier shall carry papers with the leased equipment during its operation containing this information and identifying the lading and clearly indicating that the transportation is under its responsibility. These papers shall be preserved by the authorized carrier as part of its transportation records. Leases which contain the information required by the provisions in this paragraph may be used and retained instead of such documents or papers. As to lease agreements negotiated under a master lease, this provision is complied with by having a copy of a master lease in the unit of equipment in question and where the balance of documentation called for by this paragraph is included in the freight documents prepared for the specific movement.

Rule 515-16-13-.04 Written Lease Requirements

(1) Except as provided in the exemptions set forth in subpart C of this part, the written lease required under Commission Transportation Rule 515-16-13-.03(1)(a) shall contain the following provisions. The required lease provisions shall be adhered to and performed by the authorized carrier.

(a) Parties - The lease shall be made between the authorized carrier and the owner of the equipment. The lease shall be signed by these parties or by their authorized representatives.

(b) Duration to be specific – The lease shall specify the time and date or the circumstances on which the lease begins and ends. These times or circumstances shall coincide with the times for the giving of receipts required by Commission Transportation Rule 515-16-13-.03(1)(b).

(c) Exclusive possession and responsibilities – The lease shall provide that the authorized carrier lessee shall have exclusive possession, control, and use of the equipment for the duration of the lease. The lease shall further provide that the authorized carrier lessee shall assume complete responsibility for the operation of the equipment for the duration of the lease.

1. Provision may be made in the lease for considering the authorized carrier lessee as the owner of the equipment for the purpose of subleasing it under these regulations to other authorized carriers during the lease.

2. When an authorized carrier of household goods leases equipment for the transportation of household goods, the parties may provide in the lease that the provisions required by paragraph (1)(c) of this Rule apply only during the time the equipment is operated by or for the authorized carrier lessee.

3. Nothing in the provisions required by paragraph (1)(c) of this Rule is intended to affect whether the lessor or driver provided by the lessor is an independent contractor or an employee of the authorized carrier lessee. An independent contractor relationship may exist when a carrier lessee complies with applicable provisions of Georgia and Federal law.

(d) Compensation to be specified – The amount to be paid by the authorized carrier for equipment and driver's services shall be clearly stated on the face of the lease or in an addendum which is attached to the lease. Such lease or addendum shall be delivered to the lessor prior to the commencement of any trip in the service of the authorized carrier. An authorized representative of the lessor may accept these documents. The amount to be paid may be expressed as a percentage of gross revenue, a flat rate per mile, a variable rate depending on the direction traveled or the type of commodity transported, or by any other method of compensation mutually agreed upon by the parties to the lease. The compensation stated on the lease or in the attached addendum may apply to equipment and driver's services either separately or as a combined amount.

(e) Items specified in lease – The lease shall clearly specify which party is responsible for removing identification devices from the equipment upon the termination of the lease and when and how these devices, other than those painted directly on the equipment, will be returned to the carrier. The lease shall clearly

~~specify the manner in which a receipt will be given to the authorized carrier by the equipment owner when the latter retakes possession of the equipment upon termination of the lease agreement, if a receipt is required at all by the lease. The lease shall clearly specify the responsibility of each party with respect to the cost of fuel, fuel taxes, empty mileage, permits of all types, tolls, ferries, detention and accessorial services, base plates and licenses, and any unused portions of such items. The lease shall clearly specify who is responsible for loading and unloading the property onto and from the motor vehicle, and the compensation, if any, to be paid for this service. Except when the violation results from the acts or omissions of the lessor, the authorized carrier lessee shall assume the risks and costs of fines for overweight and oversize trailers when the trailers are pre-loaded, sealed, or the load is containerized, or when the trailer or lading is otherwise outside of the lessor's control, and for improperly permitted overdimension and overweight loads and shall reimburse the lessor for any fines paid by the lessor. If the authorized carrier is authorized to receive a refund or a credit for base plates purchased by the lessor from, and issued in the name of, the authorized carrier, or if the base plates are authorized to be sold by the authorized carrier to another lessor the authorized carrier shall refund to the initial lessor on whose behalf the base plate was first obtained a prorated share of the amount received.~~

~~(f) Payment period - The lease shall specify that payment to the lessor shall be made within 15 days after submission of the necessary delivery documents and other paperwork concerning a trip in the service of the authorized carrier. The paperwork required before the lessor can receive payment is limited to log books required by the Department of Transportation and those documents necessary for the authorized carrier to secure payment from the shipper. In addition, the lease may provide that, upon termination of the lease agreement as a condition precedent to payment, the lessor shall remove all identification devices of the authorized carrier and, except in the case of identification painted directly on equipment, return them to the carrier. If the identification devices has been lost or stolen, a letter certifying its removal will satisfy this requirement. Until this requirement is complied with the carrier may withhold final payment. The authorized carrier may require the submission of additional documents by the lessor but not as a prerequisite to payment. Payment to the lessor shall not be made contingent upon submission of a bill of lading to which no exceptions have been taken. The authorized carrier shall not set time limits for the submission by the lessor of required delivery documents and other paperwork.~~

~~(g) Copies of freight bill or other form of freight documentation - When a lessor's revenue is based on a percentage of the gross revenue for a shipment, the lease must specify that the authorized carrier will give the lessor, before or at the time of settlement, a copy of the rated freight bill or a computer-generated document~~

~~containing the same information, or, in the case of contract carriers, any other form of documentation actually used for a shipment containing the same information that would appear on a rated freight bill. When a computer-generated document is provided, the lease will permit lessor to view, during normal business hours, a copy of any actual document underlying the computer-generated document. Regardless of the method of compensation, the lease must permit lessor to examine copies of the carrier's tariff or, in the case of contract carriers, other documents from which rates and charges are computed, provided that where rates and charges are computed from a contract of a contract carrier, only those portions of the contract containing the same information that would appear on a rated freight bill need be disclosed. The authorized carrier may delete the names of shippers and consignees shown on the freight bill or other form of documentation.~~

~~(h) Charge-back items - The lease shall clearly specify all items that may be initially paid for by the authorized carrier, but ultimately deducted from the lessor's compensation at time of payment or settlement, together with a recitation as to how the amount of each item is to be computed. The lessor shall be afforded copies of those documents which are necessary to determine the validity of the charge.~~

~~(i) Products, equipment, or services from authorized carrier - The lease shall specify that the lessor is not required to purchase or rent any products, equipment, or services from the authorized carrier as a condition of entering into the lease arrangement. The lease shall specify the terms of any agreement in which the lessor is a party to an equipment purchase or rental contract which gives the authorized carrier the right to make deductions from the lessor's compensation for purchase or rental payments.~~

~~(j) Insurance –~~

~~1. The lease shall clearly specify the legal obligation of the authorized carrier lessee to maintain cargo insurance and public liability insurance coverage for the protection of the public pursuant to Chapter 11 of the Commission's Transportation Rules and O.C.G.A. § 44-1-13 and Chapter 46-7. The lease shall further specify who is responsible for providing any other insurance coverage for the operation of the leased equipment, such as bobtail insurance. If the authorized carrier will make a charge back to the lessor for any of this insurance, the lease shall specify the amount which will be charged back to the lessor.~~

~~2. If the lessor purchases any insurance coverage for the operation of the leased equipment from or through the authorized carrier, the lease shall~~

~~specify that the authorized carrier will provide the lessor with a copy of each policy upon the request of the lessor. Also, where the lessor purchases such insurance in this manner, the lease shall specify that the authorized carrier will provide the lessor with a certificate of insurance for each such policy. Each certificate of insurance shall include the name of the insurer, the policy number, the effective dates of the policy, the amounts and types of coverage, the cost to the lessor for each type of coverage, and the deductible amount for each type of coverage for which the lessor may be liable.~~

3. ~~The lease shall clearly specify the conditions under which deductions for cargo or property damage may be made from the lessor's settlements. The lease shall further specify that the authorized carrier must provide the lessor with a written explanation and itemization of any deductions for cargo or property damage made from any compensation of money owed to the lessor. The written explanation and itemization must be delivered to the lessor before any deductions are made.~~

(k) ~~Escrow funds - If escrow funds are required, the lease shall specify:~~

1. ~~The amount of any escrow fund or performance bond required to be paid by the lessor to the authorized carrier or to a third party.~~

2. ~~The specific items to which the escrow fund can be applied.~~

3. ~~That while the escrow fund is under the control of the authorized carrier, the authorized carrier shall provide an accounting to the lessor of any transactions involving such fund. The carrier shall perform this accounting in one of the following ways:~~

(i) ~~By clearly indicating in individual settlement sheets the amount and description of any deduction or addition made to the escrow fund; or~~

(ii) ~~By providing a separate accounting to the lessor of any transactions involving the escrow fund. This separate accounting shall be done on a monthly basis.~~

4. ~~The right of the lessor to demand to have an accounting for transactions involving the escrow fund at any time.~~

5. That while the escrow fund is under the control of the carrier, the carrier shall pay interest on the escrow fund on at least a quarterly basis. For purposes of calculating the balance of the escrow fund on which interest must be paid, the carrier may deduct a sum equal to the average advance made to the individual lessor during the period of time for which interest is paid. The interest rate shall be established on the date the interest period begins and shall be at least equal to the average yield or equivalent coupon issue yield on 91-day, 13-week Treasury bills as established in the weekly auction by the Department of Treasury.

6. The conditions the lessor must fulfill in order to have the escrow fund returned. At the time of the return of the escrow fund, the authorized carrier may deduct monies for those obligations incurred by the lessor which have been previously specified in the lease, and shall provide a final accounting to the lessor or all such final deductions made to the escrow fund. The lease shall further specify that in no event shall the escrow fund be returned later than 45 days from the date of termination.

(l) Copies of the lease - An original and two copies of each lease shall be signed by the parties. The authorized carrier shall keep the original and shall place a copy of the lease on the equipment during the period of the lease unless a statement, as provided for in Commission Transportation Rule 515-16-13-.03(1)(c)2., is carried on the equipment instead. The owner of the equipment shall keep the other copy of the lease.

(m) This subparagraph applies to owners who are not agents but whose equipment is used by an agent of an authorized carrier in providing transportation on behalf of that authorized carrier. In this situation, the authorized carrier is obligated to ensure that these owners receive all the rights and benefits due an owner under the leasing regulations, especially those set forth in paragraphs (1)(a)-(l) of this Rule. This is true regardless of whether the lease for the equipment is directly between the authorized carrier and its agent rather than directly between the authorized carrier and each of these owners. The lease between an authorized carrier and its agent shall specify this obligation.

Rule 515-16-13-.05 General Exemptions

Except for Commission Transportation Rule 515-16-13-.03(1)(c) which requires the identification of equipment, the leasing regulations in this part shall not apply to:

(a) Equipment used in substituted motor-for-rail transportation of railroad freight moving between points that are railroad stations and on railroad billing.

(b) Equipment used in transportation performed exclusively within any commercial zone as defined by the Secretary.

(c) Equipment leased without drivers from a person who is principally engaged in such a business.

(d) Any type of trailer not drawn by a power unit leased from the same lessor.

Rule 515-16-13-.06 Exemption for Private Carrier Leasing and Leasing Between Authorized Carriers

Regardless of the leasing regulations set forth in this part, an authorized carrier may lease equipment to or from another authorized carrier, or a private carrier may lease equipment to an authorized carrier under the following conditions:

(a) The identification of equipment requirements in Commission Transportation Rule 515-16-13-.03(1)(c) must be complied with;

(b) The lessor must own the equipment or hold it under a lease;

(c) There must be a written agreement between the authorized carriers or between the private carrier and authorized carrier, as the case may be, concerning the equipment as follows:

1. It must be signed by the parties or their authorized representatives.

2. It must provide that control and responsibility for the operation of the equipment shall be that of the lessee from the time possession is taken by the lessee and the receipt required under Commission Transportation Rule 515-16-13-.03(1)(b) is given to the lessor until:

   (i) Possession of the equipment is returned to the lessor and the receipt required under is received by the authorized carrier; or

   (ii) in the event that the agreement is between authorized carriers, possession of the equipment is returned to the lessor or given to another authorized carrier in an interchange of equipment.

3. A copy of the agreement must be carried in the equipment while it is in the possession of the lessee.

4. Nothing in this Rule shall prohibit the use, by authorized carriers, private carriers, and all other entities conducting lease operations pursuant to this Rule of a master lease if a copy of that master lease is carried in the equipment while it is in the possession of the lessee, and if the master lease complies with the provisions of this Rule and receipts are exchanged in accordance with Commission

Transportation Rule 515-16-13-.03(1)(b) and if records of the equipment are prepared and maintained in accordance with Commission Transportation Rule 515-16-13-.03(1)(d).

(d) Authorized and private carriers under common ownership and control may lease equipment to each other under this Rule without complying with the requirements of paragraph (a) of this Rule pertaining to identification of equipment, and the requirements of paragraphs (c)2. and (c)4. of this Rule pertaining to equipment receipts. The leasing of equipment between such carriers will be subject to all other requirements of this Rule.

Rule 515-16-13-.07 Exemption for Leases Between Auhtorized Carriers and Their Agents

The leasing regulations set forth in Commission Transportation Rule 515-16-13-.03 do not apply to leases between authorized carriers and their agents.

Rule 515-16-13-.08 Interchange of Equipment

Authorized common carriers may interchange equipment under the following conditions:

(a) Interchange agreement - There shall be a written contract, lease, or other arrangement providing for the interchange and specifically describing the equipment to be interchanged. This written agreement shall set forth the specific points of interchange, how the equipment is to be used, and the compensation for such use. The interchange agreement shall be signed by the parties or by their authorized representatives.

(b) Operating authority - The carriers participating in the interchange shall be registered with the Secretary to provide the transportation of the commodities at the point where the physical exchange occurs.

(c) Through bills of lading - The traffic transported in interchange service must move on through bills of lading issued by the originating carrier. The rates charged and the revenues collected must be accounted for in the same manner as if there had been no interchange. Charges for the use of the interchanged equipment shall be kept separate from divisions of the joint rates or the proportions of such rates accruing to the carriers by the application of local or proportional rates.

(d) Identification of equipment - The authorized common carrier receiving the equipment shall identify equipment operated by it in interchange service as follows:

1. The authorized common carrier shall identify power units in accordance with the FMCSA's requirements in 49 CFR part 390 of this chapter (Identification of Vehicles). Before giving up possession of the equipment, the carrier shall remove all identification showing it as the operating carrier.

2. Unless a copy of the interchange agreement is carried on the equipment, the authorized common carrier shall carry a statement with each vehicle during

interchange service certifying that it is operating the equipment. The statement shall also identify the equipment by company or State registration number and shall show the specific point of interchange, the date and time it assumes responsibility for the equipment, and the use to be made of the equipment. This statement shall be signed by the parties to the interchange agreement or their authorized representatives. The requirements of this paragraph shall not apply where the equipment to be operated in interchange service consists only of trailers or semitrailers.

3. Authorized carriers under common ownership and control may interchange equipment with each other without complying with the requirements of paragraph (d)1. of this Rule pertaining to removal of identification from equipment.

(e) Connecting carriers considered as owner-An authorized carrier receiving equipment in connection with a through movement shall be considered to the owner of the equipment for the purpose of leasing the equipment to other authorized carriers in furtherance of the movement to destination or the return of the equipment after the movement is completed.

Rule 515-16-13-.09 Lease of Equipment by Regulated Carriers from Provate Carriers and Shippers

Authorized carriers may lease equipment and drivers from private carriers, for periods of less than 30 days, in the manner set forth in Commission Transportation Rule 515-16-13-.06.

Subject 515-16-14 PROCEDURE FOR IMPOSING CIVIL PENALTIES AND RECOMMENDING CRIMINAL PENALTIES

Rule 515-16-14-.01 Commission's Authority

The Georgia Public Service Commission is authorized to regulate the business of certain motor carriers (normally bus, limousine, household goods carriers and nonconsensual tow truck operators) and may impose civil penalties for such carrier's failure to comply with applicable law and/or Commission rules and regulations.

Rule 515-16-14-.02 Definitions

(1) Carrier. A person who undertakes the transporting of goods or passengers for compensation.

(2) Consent Agreement. An agreement entered into by the Commission and a carrier or person resolving allegations that the carrier or person violated applicable law and/or Commission rules and regulations.

(3) Contested Case. A proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.

(4) Civil Penalties. Monetary fines the Commission may assess against a carrier or person for willfully failing to comply with applicable laws and/or Commission rules and regulations.

(5) Hearing Officer. The Commission employee who presides over contested cases.

(6) Motor Carrier Safety Regulations. Any safety or hazardous material regulations that have been promulgated and adopted by the Commission.

(7) Notice of Noncompliance. Official notice issued by the Commission setting forth a carrier's violations of applicable laws and/or Commission rules and regulations.

(8) Person. Any individual, partnership, trust, private or public corporation, municipality, county, political subdivision, public authority, cooperative, association, or public or private organization of any character.

(9) Transportation Statutes. All statutes regulating motor carriers administered and enforced by the Commission, including O.C.G.A. Chapters 46-2 and 46-7 and §§ 46-1-1, 44-1-13, and 46-1-4, Act 68, Georgia Laws 2005, pages 334 – 450.

Rule 515-16-14-.03 Amount of Civil Penalties

(1) Except to the extent preclude by lower penalties specified in O.C.G.A. § 44-1-13, 46-7-91 or other specific federal or state statutes applicable to a given carrier conduct, the criminal and civil penalties for violation of this Chapter include those set forth in O.C.G.A. §§ 46-2-90 through 46-2-93, 46-7-39 and 46-7-90 and in Chapters 515-16-3 and 515-16-10 of these Transportation Rules; and such penalties ranging as high as $15,000.00 per violation, plus $10,000.00 per day for each day such violation continues, can only be imposed by the Commission after notice and hearing, unless the violator consents in writing to such penalties. Such higher civil penalties are applicable to those carriers who violate a Commission Order or these Transportation Rules repeatedly or otherwise demonstrate willful or wanton refusal to comply with, or disregard for, this Commission's jurisdiction, Georgia law and these Transportation Rules.

(2) As the exception to the foregoing paragraph (1) of this Rule notes, any person who knowingly violates 49 CFR § 171.2(g) or willfully violates any provision of the Federal Hazardous Materials Regulations may also be fined under Title 18 of the United States Code, or imprisoned for not more than five (5) years, or both.

(3) Any person who drives a commercial motor vehicle while in violation of the provisions of O.C.G.A. § 40-5-143 or any employer who knowingly allows, requires, permits, or authorizes a driver to drive a commercial motor vehicle in violation of the provisions of O.C.G.A. § 40-5-145 shall be guilty of a felony and, upon conviction thereof, shall be punished by a civil penalty of $2,500 for each offense and by a fine of $5,000 or imprisonment for not more than 90 days, or both, for each offense.

(4) The civil penalty assessed against an employer who knowingly allows, requires, permits, or authorizes a driver to drive a commercial motor vehicle in violation of any federal state or local law or regulation pertaining to railroad grade crossings shall not exceed $10,000.

(5) Any person who violates the statutory provisions of O.C.G.A. § 44-1-13 pertaining to nonconsensual towing shall be subject to civil penalties not to exceed $2,500 for each violation.

(6) The Commission may impose civil penalties not to exceed $5,000 for each violation if it is determined that any person, firm, or corporation is operating as a household goods carrier for hire without a valid certification or is holding itself out as a carrier without such a certificate.

Rule 515-16-14-.04 Notice of Noncompliance

(1) The Commission shall issue, by U.S. Mail or personal service, a Notice of Noncompliance to a person or carrier upon determination that the carrier or person has willfully:

(a) Violated any transportation laws administered by the Commission;

(b) Violated any rules or regulations administered by the Commission; or

(c) Failed, neglected or refused to comply with any order after receiving notice thereof.

(2) The Notice of Noncompliance shall include:

(a) Time, place, and nature of the hearing;

(b) Concise statement of violations and applicable statutes and regulations;

(c) Statement of the legal authority and jurisdiction under which the Notice of Compliance has been issued;

(d) Case name and number;

(e) Notice of amount claimed and notice of the maximum amount authorized pursuant to applicable statutory provisions;

(f) Statement as to the right of the carrier or person to subpoena witnesses and evidence through the agency;

(g) Statement regarding the carrier's or person's right to pay the penalties assessed or, within thirty (30) days of receipt of the Notice of Noncompliance, request a hearing to contest the imposition of the penalties.

(h) Such notice shall be deemed received three (3) days after mailing.

(3) In the event that the carrier or person fails to request a hearing within thirty (30) days' receipt of the Notice of Noncompliance:

(a) Any rights to an appeal and hearing shall be considered to have been waived; and

(b) The assessed penalties shall become effective upon the expiration of the thirty (30) day notice period.

Rule 515-16-14-.05 Commission Staff Action

Upon a determination that a violation of the Act may have occurred, the Commission Staff shall take one or more of the following actions:

(a) Recommend that warning letter be issued to the person alleged to have committed the violation (the "Respondent");

(b) Enter settlement negotiations with the Respondent. Upon reaching agreement on settlement terms, the Commission Staff shall present the proposed settlement to the Commission for acceptance or rejection. If the Commission Staff and the Respondent are unable to reach agreement on settlement terms, the Respondent may present additional facts to the Advisory Committee;

(c) Request that the Commission issue a Rule Nisi pursuant to Commission Rules.

Rule 515-16-14-.06 Commission Action

(1) The Commission may accept or reject a proposed settlement to resolve probable violations of the Act. If the Commission rejects a proposed settlement, a hearing may be scheduled to receive evidence and take appropriate enforcement action as provide by Commission Rule.

(2) At any hearing scheduled regarding assessment of civil penalties under the Chapter 14 of the Commission's Transportation Rules, the Commission may assign the case to a hearing officer pursuant to O.C.G.A. § 46-2-58 for the receipt of testimony, documentary, and other tangible evidence, oral argument and briefs by the parties; and upon closing of the said hearing, the hearing officer shall render a recommended decision or initial decision within forty-five (45) days of receipt of final briefs or close of the record, which ever last occurs.

(3) If the Commission finds, after a hearing, that a violation of the Act has occurred, it may impose a civil penalty as provided by Transportation Rule 515-16-14-.07 or in O.C.G.A. §§ 46-2-58, 46-2-90, 46-2-91, 46-7-27, 46-7-90, and 46-7-91.

Rule 515-16-14-.07 Civil Penalties

(1) In determining the amount of any civil penalty to be assessed under Transportation Rule 515-16-14-.03, the Commission may consider the nature, circumstances and gravity of the violation of the Act; the degree of the Respondent's culpability; the Respondent's history of prior violations of the Act; and such other factors as may be appropriate.

(2) A Respondent shall pay any civil penalty that has been assessed by submitting to the Commission, in care of Director of Transportation Unit, a certified check payable to the Georgia Public Service Commission.

(3) Except to the extent precluded by lower penalties specified in O.C.G.A. § 44-1-13, 46-7-91 or other specific federal or state statutes applicable to a given carrier conduct, the criminal and civil penalties for violation of this Chapter include those set forth in O.C.G.A. §§ 46-2-90 through 46-2-93, 46-7-39 and 46-7-90 and in Chapters 515-16-3 and 515-16-10 of these Transportation Rules; and such penalties ranging as high as $15,000.00 per violation, plus $10,000.00 per day for each day such violation continues, can only be imposed by the Commission after notice and hearing, unless the violator consents in writing to such penalties. Such higher civil penalties are applicable to those carriers who violate a Commission Order or these Transportation Rules repeatedly or otherwise demonstrate willful or wanton refusal to comply with, or disregard for, this Commission's jurisdiction, Georgia law and these Transportation Rules.

Rule 515-16-14-.08 Appeals Generally

Any person subject to an order from the Commission may petition the Commission for reconsideration of the order. Moreover, any person aggrieved by an order of the Commission may seek relief in Fulton County Superior Court and otherwise pursuant to O.C.G.A. §§ 46-2-58, 46-7-90, and 46-7-91.

Subject 515-16-15 NON-CONSENSUAL TOWING

Rule 515-16-15-.01 Definitions

In addition to the Definitions contained in Chapter 515-16-3 of these Rules, the following terms used in this Chapter 515-16-15 have the following meaning:

(a) Attendant means any person who is authorized by the impoundment facility to release a vehicle from the facility when presented with proper documentation of ownership and payment of appropriate fees. [See Para. (e) below for this definition]

(b) Corporate entity means any corporation, limited liability company, limited partnership, small business corporation or any other entity or organization registered with the Georgia Secretary of State's Corporations Division.

~~(c) Maximum Rate Tariff means the publication containing the maximum rates as prescribed by the Commission that a wrecker company can assess for the towing and storage of vehicles removed pursuant to the authority granted in the "Nonconsensual Towing Permit".~~

~~(d) Nonconsensual Towing shall mean towing without the prior consent or authorization of the owner or operator of the motor vehicle being towed.~~

~~(e) Nonconsensual Towing Carrier or NCT Carrier means a wrecker service operator who or which engages in the towing or other removal of improperly parked vehicles and trespassing personal property (including, but not limited to, trespassing vehicles) from private property.~~

~~(f) Nonconsensual Towing Permit or NCT Permit means a permit issued by the Commission to a wrecker or towing service operator, authorizing removal of improperly parked vehicles and trespassing personal property from private property.~~

~~(g) Normal Business Hours means operating hours of a nonconsensual towing carrier as approved by the Commission.~~

~~(h) Receipt means a document issued by the attendant to the owner of the vehicle stating all charges have been paid for the towing and storage of vehicle.~~

~~(i) Secure Impoundment Facility means a facility owned or leased by a towing company for the purposes of providing secure storage of towed vehicles.~~

~~(j) Tow or towing means to utilize any automotive vehicle to pull, to load and carry or otherwise to transport another automotive vehicle or automotive vehicle trailer over a public highway or road, except that transportation by an automobile transport vehicle with a capacity of three (3) or more vehicles shall not be included in the definition of tow or towing, no matter how many vehicles such automobile transport vehicle is transporting at any given time.~~

~~(k) Wrecker means an automotive vehicle with hoisting apparatus and equipment for towing vehicles. The term "wrecker" also includes any vehicle otherwise equipped and used for the purposes of towing vehicles.~~

~~(l) Wrecker or towing service operator means the person or entity operating or in control of the provision of wrecker or towing services to the public or to property owners and shall include all officers or managers of any such services.~~

~~Rule 515-16-15-.02 Procedures~~

~~(1) Before any wrecker service shall transport vehicles in nonconsensual towing on or over any public highway of the State of Georgia, it shall first secure a nonconsensual towing permit from the Commission by making application on forms supplied by the Commission and paying an annual filing fee of $300.00. Such filing fee shall accompany the application, which shall not be complete and ready for favorable Commission action until such fee is paid; and such fee is nonrefundable upon Commission denial of the application, applicant's withdrawal of the application or for any other reason. The permit shall be issued on an annual basis.~~

~~(2) The Commission shall issue a nonconsensual towing permit if the application is complete and the applicant demonstrates the willingness and ability to comply with the laws of Georgia and the rules and regulations of the Commission related to NCT Carriers, including, but not limited to, secure impoundment facility, the maximum rate tariff, and with Commission insurance and safety requirements.~~

~~(3) The Commission may refuse to issue a permit where the applicant has failed to show compliance with the applicable laws of Georgia and the rules and regulations of the Commission. In such instance, the applicant, shall upon written request made within 30 days of the date of denial, be entitled to a hearing to contest said denial.~~

~~(4) Permits issued pursuant to this authority shall be valid except as otherwise provided herein, from the date of issuance through mid-night of the expiration date shown on the permit, unless revoked, suspended or amended. There is no grace period. Failure to renew a permit within the permit's twelve (12) month life shall result not only in the expiration of such permit, but also in the holder of such expired permit having to re-apply for a new permit in order to resume conducting nonconsensual towing operations after such expiration date.~~

~~(5) Any nonconsensual towing permit obtained from this Commission shall be posted and kept in a conspicuous place at the main office of the wrecker service to whom such permit is granted; and copies of such permits shall be carried in the cab of any wrecker or tow truck operated under such permit.~~

~~(6) Applications to renew a permit must be submitted on a form designated by the Commission. Renewal applications should be submitted no sooner than 30 days and no later than 10 days prior to the expiration date of the permit.~~

~~(7) The Commission may, at any time after notice and an opportunity to be heard, suspend, revoke, alter, or amend any permit issued under these rules if it shall appear that the holder of the permit has violated or refused to observe any of the lawful and reasonable orders, rules or regulations prescribed by the Commission, any of the applicable provisions of Title 46 or Title 40 of the Official Code of Georgia, or any other law of this state regulating or taxing motor vehicles.~~

(8) In the event of a change of name or ownership by the holder of a nonconsensual towing permit (including acquisition of controlling interest in a corporate entity), application for a new permit shall be made to the Commission and the old permit surrendered to the Commission before another permit can be issued to the new owner(s). The application for a permit by a new owner shall be made in the same manner as for an original nonconsensual towing permit and the fee shall be the same as for an original permit.

(9) Any nonconsensual permit issued by the Commission shall not be assignable or transferable to any other person, firm, corporation or other entity.

Rule 515-16-15-.03 Fees Charged for Nonconsensual Towing

(1) Any wrecker service engaged in the business of providing nonconsensual towing service shall not charge the owner or operator of any towed motor vehicle more than the maximum rates published in the "Nonconsensual Towing Maximum Rate Tariff" prescribed by the Commission. No storage fees shall be charged for the first 24-hour period from the time the motor vehicle is removed from the property. The fees stated in the maximum rate tariff shall be all inclusive; no additional fees may be charged for the use of dollies, trailers, lifts, slim jims or any other equipment or service. Only charges or rates for storage and removal that are approved by the Commission and contained in the Commission's Maximum Rate Tariff for Nonconsensual Towing shall be billed or collected by the wrecker service for towing or storage services; and it is a violation of this Rule for any wrecker service to bill or collect fees or charges which are not expressly permitted by such Maximum Rate Tariff.

(2) The fees stated in paragraph (1) above of this rule shall be payable, at the choice of the vehicle owner or payee, by cash, commonly-recognized travelers checks, money orders, certified checks or cashier's checks at no additional charge.

(3) No additional charges shall be assessed for storage of the vehicle once the vehicle has been claimed and payment is tendered to the towing company in the amount specified on the receipt and the vehicle has been removed from the impoundment facility. The receipt issued by the wrecker or towing service to the customer, and such service's office copy of such receipt, must reflect all fees collected for the redemption of the vehicle.

(4) The Maximum Rate Tariff will be reviewed annually by the Commission after receiving notification from towing firms as to their current cost for removal and storage of vehicles and personal property, and other pertinent information. Wrecker services shall submit the information described in this subparagraph by October 1 of each year, or at such other date as may be designated from time to time by the Commission, to the Commission's Transportation Unit.

(5) No storage fees may be charged or collected by any wrecker service or tow truck operator for days on which the impound lot where a towed vehicle is stored is closed or otherwise unavailable to the vehicle owner for redemption.

~~Rule 515-16-15-.04 Vehicle Not Towed Upon Operator Returning~~

~~(1) The operator or driver employed by a wrecker service summoned to tow away any vehicle from private property, shall not tow the vehicle away and shall not charge any fee if the operator or owner of the vehicle returns, and produces the ignition key to the vehicle, and immediately removes the vehicle from the private property.~~

~~(2) If the vehicle has been hooked with hoisting apparatus, including wheel dollies, or loaded by the wrecker service and the vehicle has not left the premises, the vehicle shall be released and the operator's fee as prescribed in the Maximum Rate Tariff may apply. A receipt, containing the date and time of the release of the vehicle, total amount charged, location of the private property, wrecker service's name, address, and telephone number shall be issued to the owner/operator of the vehicle.~~

~~(3) Once the wrecker service has left the location to which it was summoned charges may be assessed in accordance with the Maximum Rate Tariff. The operator's fee, as described in paragraph (b), shall not apply in this instance.~~

~~Rule 515-16-15-.05 Signs Specifications~~

~~(1) Owners of private property shall be required to place signs at each designated entrance to a parking lot or parking area where parking prohibitions apply. Where there is no designated entrance, such signs shall be posted so as to be clearly visible from each and every parking space. Such signs shall be a minimum of twelve (12) inches by eighteen (18) inches with a minimum of 3/4 inch lettering. The wording Private Parking shall be printed in Bold with a minimum of 11/2 inch lettering.~~

~~(2) Such signs located at a designated entrance to a parking lot shall be at least four (4) feet above the site grade. Where there is no designated entrance, such signs shall be six (6) feet above site grade. Posted signs must be free of any natural or man-made interference and be clearly visible.~~

~~(3) Such signs shall also include the following language:~~

~~(a) A warning that unauthorized vehicles will be towed;~~

~~(b) Towing company name, address, and telephone number and impound lot location where towed vehicle may be retrieved;~~

~~(c) Towing fees and daily storage fees;~~

~~(d) Hours of Operation; and~~

~~(e) Method or form of payment shall be as per vehicle owner choice as specified in Transportation Rule 515-16-15-.03(2).~~

(4) No vehicle shall be relocated from private property which does not, at the time of the tow and for at least 24 hours prior thereto, have signs posted which are in substantial compliance with the provisions of paragraphs (1) through (3) above. Notwithstanding the foregoing, the provisions of this section shall not apply to owner(s) of private residential property containing not more than four (4) residential units.

(5) All signs must be removed from private property within (15) days after the termination of the contract; or authorization from the property owner, or agent is withdrawn.

Rule 515-16-15-.06 Authorized Attendant

(1) An attendant must be available at the impoundment facility to provide reasonable access to any towed vehicle (6) days of each week. The attendant must be available by phone 24 hours per day. The attendant shall have the authority to release any impounded vehicle upon the owner meeting the legal requirements for release. Any person claiming a vehicle impounded under the nonconsensual towing permit shall produce evidence of such person's identity and ownership or right of possession and shall pay all towing charges and storage fees which shall have accrued with respect to the vehicle. No storage fees will be charged for any days the secure impoundment facility is closed and the owner is unable to claim the vehicle.

(2) The vehicle owner, or owner's agent, shall produce a valid driver's license plus an ignition key which operates the vehicle, and indicia of ownership such as a certificate of title, a valid and current registration card, bill of sale, or a lease or rental contract.

(3) A receipt listing the specific charges for towing and storage of the vehicle shall be issued to the owner or agent claiming the vehicle and the attendant shall retain a copy of the receipt. The receipt must be signed by the owner or agent claiming the vehicle and by the attendant. Such receipt shall identify the vehicle and shall become part of the wrecker service's record.

Rule 515-16-15-.07 Records and Reports

(1) Upon impoundment of any vehicle, the wrecker service shall maintain records, which shall include the following information:

(a) Date and time of initial towing;

(b) Place of initial towing;

(c) Date and time of arrival at the impound lot;

(d) Date and time of release to the owner;

(e) Name of the towing company driver and helper;

(f) Cost for towing of the vehicle;

(g) Cost of storage of the vehicle; and

(h) Any other authorized applicable charges with reference to Commission's Nonconsensual Towing Maximum Rate Tariff provisions authorizing such fees or charges.

(2) The records shall be maintained at a location where any Commission representative may review in person during normal business hours. Further, all wrecker companies shall provide a current telephone number of the person responsible for releasing the vehicles to the Commission.

(3) All records required by these rules shall be preserved for a period of three (3) years, unless otherwise specified by the Commission.

Rule 515-16-15-.08 Secure Impoundment Facility

(1) A wrecker service authorized to conduct nonconsensual towing by the Commission must maintain a secure storage area for towed vehicles in the county where the tow operator's office (as listed with the Commission) is located, unless otherwise authorized by the Commission.

(2) The wrecker service must provide for effective and efficient security for the lot at all times. The storage lot must be fenced with a minimum of six (6) feet fencing, lighted, and equipped with a lock or enclosed building.

(3) Impounded vehicles shall be delivered to the wrecker service's secure impoundment facility in a timely manner. No wrecker service shall utilize "drop zones" or leave impounded vehicles at any impound lot or other location that has not been approved by the Commission for use by the wrecker service making such tow or removal.

Rule 515-16-15-.09 Public Liability and Property Damage Insurance

(1) A wrecker service issued a permit to conduct nonconsensual towing must maintain a commercial insurance policy or policies with the minimum liability insurance coverages prescribed by the Commission and the Federal Motor Carrier Safety Administration on all vehicles used in its business in intrastate commerce as follows:

(a) Intrastate (origin and destination wholly within the state)

(b) Public Liability and Property Damage Insurance limits as set forth below:

1. $100,000 limit for bodily injury to or death of one person

2. $300,000 limit for bodily injuries to or death of total persons in one accident

3. $50,000 loss or damage in any one accident to property of others

(2) Garage Keeper's Legal Liability:

(a) Liability insurance, which covers stored vehicles and contents, must be maintained on the impound or storage lot(s) sufficient to cover the actual value of all stored vehicles towed or removed to such lot or storage facility under O.C.G.A. § 44-1-13. The minimum amount of garage keeper's or storage liability insurance for coverage of the stored vehicles and contents must be at least $50,000.00.

(3) A copy of the Certificates of Insurance must be furnished to the Commission on an annual basis. A 30-day advance cancellation notice must be provided to the Commission prior to any such insurance cancellation becoming effective. Insurance filings with the Commission must be on current forms prescribed by the Commission. No lapse in insurance coverage will be allowed.

(4) A permit issued by the Commission is in effect only while the wrecker service is in the vehicle or vehicles to be towed compliance with all requirements for filing proof of insurance.

Rule 515-16-15-.10 Office Requirements

(1) A wrecker service must maintain normal business hours and a listed public business telephone number. A wrecker service may maintain a maximum of two telephone numbers to be called for dispatching calls.

(2) All wrecker services will provide reasonable access to any towed vehicle six (6) days per week.

(3) A wrecker service must maintain proof of registration for each vehicle with the Commission and comply with the Commission's safety rules and regulations.

(4) A wrecker service must maintain and provide to the Commission upon request, a list of all personnel operating wrecker equipment, as well as a current Motor Vehicle Report on each driver.

(5) Drivers must maintain a valid driver's license of the appropriate class and with the appropriate endorsements required to operate the wrecker service's vehicles under Georgia law.

(6) It shall be unlawful for a wrecker service to engage in removal of vehicles without an authorized contract signed by the owner or other authorized agent for property owner and the towing company in the form prescribed by the Commission. A copy of the contract shall be made available to the Commission representatives, upon request. The contract must contain the name, address and phone number of the respective towing company, and the location of the impoundment facility, hours of operation, and the cost for removal of the vehicle and the charges for storage of the towed vehicle. The contract must also contain the names and contact number(s) of the person(s) authorized to request the removal of a vehicle from said property.

(7) For each and every requested nonconsensual towing movement, on the day the removal takes place, the real property owner or his contractually-designated agent (1) must place a telephone call, send a facsimile letter or send an e-mail message to the wrecker service identifying specifically, and requesting removal of, the vehicle or vehicles to be towed or removed and (2) must receive an original written tow authorization or tow bill dated and signed the date of the tow at the scene of the tow by the real property owner or such property owner's designated agent specifying the vehicle or vehicles to be towed or removed and having the name of the signing real property owner or such owner's designated agent typed or legibly printed below the signature. The wrecker service shall maintain for three (3) years copies of telephone records, faxes and e-mail messages requesting removal as proof of the time and date such removal was requested, as well as the signed authorization for removal from the property owner or such owner's agent.

Rule 515-16-15-.11 Equipment

(1) All wrecker services engaged in transporting vehicles in nonconsensual towing must maintain a Georgia Department of Revenue cab card with current year's identification stamp for intrastate carriers, or appropriate registration receipt for interstate carriers in the cab of each wrecker.

(2) Each vehicle operating under authority of a nonconsensual towing permit must carry a copy of the permit in the cab of the vehicle. The copy shall be presented to any investigator or enforcement officer of the Commission upon request.

(3) A Georgia DOT number must be affixed to the outside of the wrecker if the wrecker is operating within Georgia only.

(4) If carrier transports vehicles across state lines (interstate) a USDOT number or United State Motor Carrier (MC) number must be affixed to the outside of the wrecker.

~~(5) All vehicles utilized by the wrecker companies for nonconsensual towing must be equipped with the following:~~

~~(a) Valid registration tag;~~

~~(b) Fire extinguisher; and~~

~~(c) Tow away lamps (tail, stop and turn signal lights for vehicles being towed), and the name of the wrecker service, city, and telephone number permanently affixed to both sides. Letters must be readable at a distance of 50 feet while the vehicle is stationary.~~

~~(d) Augmentation of equipment by an NCT Carrier must comply with the Motor Carrier Leasing Rules contained in Chapter 515-16-13 of these Rules.~~

~~Rule 515-16-15-.12 Penalties~~

~~Except to the extent preclude by lower penalties specified in O.C.G.A. § 44-1-13 or other specific federal or state statutes applicable to a given carrier conduct, the criminal and civil penalties for violation of this Chapter include those set forth in O.C.G.A. §§ 46-2-90 through 46-2-93, 46-7-39 and 46-7-90 and in Chapters 515-16-3 and 515-16-10 of these Transportation Rules; and such penalties ranging as high as $15,000.00 per violation, plus $10,000.00 per day for each day such violation continues, can only be imposed by the Commission after notice and hearing, unless the violator consents in writing to such penalties. Such higher civil penalties are applicable to those carriers who violate a Commission Order or these Transportation Rules repeatedly or otherwise demonstrate willful or wanton refusal to comply with, or disregard for, this Commission's jurisdiction, Georgia law and these Transportation Rules.~~

Subject 515-16-~~16-~~1 RAILROAD CONDEMNATION~~S~~ PROCEEDINGS

Rule 515-16-~~16-~~1-.01 Purpose of Rail Condemnation Proceedings

O.C.G.A. §§ 46-8-120 through 46-8-124 requires Commission approval before any railroad company can file any action in the Superior Court to condemn real property for rail right-of-way or for erection of rail facilities.

Rule 515-16-~~16-~~1-.02 Procedure for Rail Condemnation Petitions

Upon receipt of a petition filed by a railroad company with the Commission seeking approval of proposed condemnation, (with proof of service of the same upon the property owner whose property is being condemned~~ and upon the Consumer's Utilities Counsel of the Governor's Office of Consumer Affairs~~), the Commission will assign such petition to a hearing officer for hearing pursuant to O.C.G.A. § 46-2-58. If the hearing officer cannot assist the parties in mediating a purchase agreement for such property proposed for condemnation within forty-five (45) days after the filing of such petition, then the hearing officer will set the matter down for hearing to determine if there is a legitimate public purpose for the proposed condemnation. Within thirty (30) days after the close of the record in such hearing, the hearing officer will render a recommended decision or initial decision, from which any party can seek reconsideration before the full Commission.

Rule 515-16-~~16~~-1-.03 Commission Order in Condemnation Cases
If the Commission ultimately determines such condemnation to serve a public purpose, it shall issue a final order approving any condemnation petition by a railroad company, and the Commission shall provide the petitioning railroad company with a certified copy of such order for use by such company in its condemnation action under Title 22.

*****

The Commission shall consider these amendments to Chapter 515-16 at its regularly scheduled Administrative Session to be held at 9:30 a.m. on **June 17, 2025**, at its offices located at 244 Washington Street, S.W., Atlanta, Georgia 30334.

All interested parties who desire to do so may submit comments, data, views, arguments, or any other relevant matters in writing to the Commission concerning the proposed repeal of the Rules. Such written material must be delivered to the Commission no later than **May 27, 2025**. The Commission requests that, where possible, comments include specific proposed edits to the Rules.

Any written materials are to be filed with:

Sallie Tanner
Executive Secretary
Georgia Public Service Commission
244 Washington St., S.W.
Atlanta, Georgia 30334

All persons interested in presenting views or arguments orally should present a written request for an oral hearing by **May 27, 2025**. If no request for oral hearing is made, the Commission shall consider only those written comments filed in accordance with the provisions of this notice. If oral hearing is requested, then the Commission shall hold oral hearings either virtually or in its First Floor Hearing Room at its offices located at 244 Washington Street, S.W., Atlanta, Georgia 30334 immediately following the 9:30 a.m. committee meetings on **June 12, 2025.**

The general authority to amend Commission rules is found in O.C.G.A. § 46-2-30. Upon request by any interested parties either prior to the exception of the Rule or within thirty (30) days thereafter, pursuant to O.C.G.A. § 50-13-4(a)(2), the Commission shall issue a concise statement of the principal reasons for and against adoption of amendments and incorporating the reasons for overruling the consideration, if any, urged against its adoption.

* * * * *

WHEREFORE IT IS ORDERED, that the Commission hereby issues this Notice of Proposed Rulemaking for consideration of amending Chapter 515-16 of Rules of Georgia Public Service Commission.

ORDERED FURTHER, that this Notice of Proposed Rulemaking shall be published in conformity with the requirements of the Administrative Procedure Act as provided in O.C.G.A. § 50-13-4.

ORDERED FURTHER, that all interested parties shall file comments and proposed edits no later than 4:00 p.m. on May 27, 2025.

ORDERED FURTHER, that all persons interested in presenting views or arguments orally should present a written request for an oral hearing by May 27, 2025. If requested, the Commission will hold a hearing to receive oral comments immediately following the 9:30 a.m. committee meetings on June 12, 2025.

The above by action of the Commission in Administrative Session on the 6th day of May 2025.

Sallie Tanner
Executive Secretary

5-7-25
DATE

Jason Shaw
Chairman

5-7-25
DATE