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South Carolina - Partial Deregulation of Household Goods Movers Entry and Rates



David Popowski*

On May 23, 2022, South Carolina Governor Henry McMaster signed Act No. 214, *An Act To Amend Section 58-23-20, Code of Laws Of South Carolina, 1976, Relating To Regulations For Transportation By Motor Vehicles For Compensation, et al* (the "Act"). The Act traveled without objection through the South Carolina House of Representatives and Senate.¹

The South Carolina Trucking Association lead the lobbying effort here in response to household goods mover members that were particularly concerned about implementing rate increases expeditiously in this inflationary environment. As a practitioner before the South Carolina Public Service Commission for 41 years and working with South Carolina's regulatory investigatory arm, the Office of Regulatory Staff, I must commend both for the highly professional and effective manner in which they have always implemented the laws that governed them.

The key points of the new legislation are as follows:

Entry

The public convenience and necessity standard has now been abolished and new applications are now granted based a showing that they are fit, willing and able - i.e. have equipment, adequate insurance, and knowledge of the safety laws. The revised provisions read:

*Popowski Law Firm, LLC (Charleston, SC)

Section 58-23-210. (A) An applicant applying for a certificate or applying to amend a certificate to operate as a motor vehicle common carrier must submit a written application to the commission on a form provided by the commission. The commission must post information regarding an application to apply for a certificate or amend a certificate for fifteen days immediately following receipt of the application. Any person who may be affected by the issuance or amendment of the requested certificate or amendment may file a written objection with the commission within fourteen days after the commission posts the notice regarding the application.

(B)(1) If no objection to an application is filed pursuant to subsection (A), the commission may meet to determine if the applicant is fit, willing, and able to perform the proposed service, upon a showing based upon criteria established by the commission. If the commission issues a directive approving the application, the Office of Regulatory Staff may then issue the certificate. The directive of the commission shall serve as the commission's order thirty days after issuance.

(2) If an objection is filed with the commission, the commission must hold a hearing to determine if the applicant is fit, willing, and able to perform the proposed service. The commission must publish a notice of hearing for an application for a certificate on the

commission's website for not less than thirty days before the date of the hearing.

(C) If an application is denied, another application may not be made until at least six months have elapsed since the date of the denial.

Rates

South Carolina household goods movers now may file "maximum rates" and thus are free to charge that amount or less without violating the previous strict tariff enforcement regime. The revised method of operation can be found in Section 58-23-1010 of the South Carolina Code:

(B) As to holders of a certificate E, the carrier shall file a maximum rate schedule with the commission. The commission must post the maximum rate schedule filing within one business day of receipt. The new maximum rate schedule shall go into effect one business day following the commission's posting of the new schedule. Holders of certificate E shall have the flexibility for adjustment of the rates below the maximum rate levels without commission approval. The commission shall publish the maximum rate schedule on its website.

Availability of Information

Finally, the Act issued the following directive:

Availability of information by the Public Service Commission

SECTION 25. The Public Service Commission must make information

readily available so that the general public can easily access information regarding the requirements in Articles 3 and 9 in Chapter

23, Title 58. This includes, but is not limited to, the commission posting on its website information regarding the following: list of

certified companies, maximum rates, insurance, and complaint resolution. 

Endnotes

¹ For the legislative history, see <https://www.scstatehouse.gov/billsearch.php?billnumbers=1045&session=124&summary=B&PRINT=1>. The text of the legislation can be found at https://www.scstatehouse.gov/sess124_2021-2022/bills/1045.htm.