

(b) Unless otherwise provided, when any party has appeared by attorney, service upon such attorney shall be deemed valid service upon the party for all future pleadings, until notice of withdrawal or dismissal of such attorney is received in writing by the Director and served on all parties of record to the proceeding.

(c) Whenever a party has the right or is required to respond within a prescribed period after the serving of a notice or other paper upon him, and notice or paper is served upon him by mail, three days from the date of mailing shall be added to the service period prescribed for the response.

16:51-2.9 Withdrawal of petition or dismissal of proceeding

(a) A petition may be withdrawn without order of the Department by filing a notice of withdrawal at any stage of the proceeding prior to either the issuance of the Department's decision on the petition or other final disposition of the proceeding. A proceeding may also be terminated by filing a stipulation signed by all parties who have appeared in the proceeding prior to the entry of the Department's decision or order disposing of the proceeding. However, if the Department finds that the public interest so requires, the Department by order may continue such proceeding.

(b) The Department may on its own motion, or upon motion of any party to the proceeding, dismiss the proceeding for good cause shown.

(c) Unless otherwise specified or ordered, a withdrawal or dismissal under this rule shall be without prejudice.

16:51-2.10 Applications to other regulatory bodies

(a) Where the relief sought in a petition also requires the approval or authorization of any other State or Federal regulatory body, the petition to the Department shall so state and include the following:

1. The current status of such application;
2. If the application to the other regulatory body or bodies has already been filed, a copy of each such application shall be attached to the petition to the Department, together with a copy of any order or certificate issued relating thereto;
3. If such an application or amendment thereof is filed with another State or Federal regulatory body subsequent to date of filing with this Department but prior to its determination, three copies of such application or amendment thereof, together with three copies of any order or certificate issued relating thereto, shall be filed with the Department and served upon other parties of record.

SUBCHAPTER 3. PETITIONS

16:51-3.1 Petitions for the granting of a certificate of public convenience and necessity to conduct autobus operations; complaint petitions

(a) Petitions for the granting of a Certificate shall conform to N.J.A.C. 16:51-2 (Pleadings) and shall clearly and concisely state the facts and relief sought; shall cite by appropriate reference the statutory provision or other authority under which the Department's action is sought; shall contain such information or statements as are required by statute, these rules, or orders adopted by the Department or as may be required by the Department in a particular proceeding; and shall also provide such other information required by this Section.

(b) Complaint petitions directed against any particular respondent shall conclude with a direction that the respondent satisfy the prayer of the petition or file and serve an answer within 20 days of the date of service of the petition upon the respondent in accordance with these rules. Such petitions shall also include the current address(es) of the respondent(s).

(c) The following information shall also be included in all petitions requesting the granting of a certificate to conduct autobus operations:

1. Proof of publication of public notice, twice, seven days apart, in a newspaper of general and regular circulation in the proposed service area which:
 - i. Briefly describes the purpose of the petition and the type(s) of equipment to be used in the proposed service area;
 - ii. States that a petition for approval to operate the proposed service has been filed with the Department;
 - iii. States that objections and other comments should be addressed to the Office of Regulatory Affairs, New Jersey Department of Transportation;
 - iv. Furnishes the address of said Office;
 - v. Includes the appropriate Department docket number; and
 - vi. Lists each municipality (in the case of a petition for regular and/or casino route authority) or county (in the case of a petition for special authority) in which the petitioner seeks to provide pickup and/or drop off service.
2. A schedule of equipment, including but not limited to type and passenger capacity of the vehicle(s) to be used in the subject service (or in the case of a petition for sale or lease of property, a schedule of the equipment to be sold or leased and identification of the owner/lessor.)
3. A statement as to petitioner's qualifications to operate and maintain the proposed service.

4. A copy of petitioner's pro forma balance sheet and income statement for the first two years of petitioner's proposed service.

5. A copy of the petitioner's (or in the case of a petition for sale or lease of property, the transferee's) current balance sheet and income statement.

6. In the case of a petitioner who does not already hold a Certificate, a copy of petitioner's certificate of incorporation filed with, and stamped by, the New Jersey Department of the Treasury (if applicable); or if a foreign corporation, the petitioner's service of process agent and a Certificate of Good Standing issued by the New Jersey Department of the Treasury bearing the Treasury Department's registration stamp.

7. The total number of shares of the petitioner's capital stock issued and outstanding (if applicable).

8. The names and addresses of officers, directors and shareholders, that have five percent or more voting control, partners or owners, as the case may be, of the petitioner and the extent of their respective interests in the petitioner.

9. Petition filing fee as prescribed by statute.

10. Tariff filing fee as determined by the Department.

11. Restrictions to be accepted by the petitioner.

12. Proposed tariff.

13. The street address and telephone number of the petitioner's principal place of business.

14. Three copies of the petition and, if applicable, any amendments thereto.

(d) The Department may impose restrictions as public convenience and necessity require.

(e) The following information shall be included in all petitions for either the granting of a certificate to conduct regular route operations or the approval of extensions to existing regular route operations.

1. The names of:

i. All regular route autobus passenger carriers operating in the proposed service area; and

ii. Other petitioners seeking to conduct regular route autobus operations in the proposed service area.

2. Proof of service of the petition and all petition attachments including proposed route description and list of stops upon those persons noted in (e)1 above.

3. Proof of service of the petition and all petition attachments including proposed route description and list of stops upon the clerks of all municipalities in which the petitioner proposes to establish pickup and/or drop off locations.

4. A clear and concise statement as to how the proposed service will serve public convenience and necessity in each municipality in which the petitioner proposes to make a pickup.

5. An accurate and complete street-by-street description of the route for which authority is sought.

6. A list of all proposed passenger pickup and/or drop off locations together with the following:

i. Certification that said locations are state or municipally approved pickup and/or drop off points in accordance with N.J.S.A. 27:1A-44 and N.J.S.A. 39:4-197; or

ii. Proof of the owner's or authorized lessee's written approval to access private property.

7. A copy of the proposed schedule of operations.

8. The schedule of the fares proposed to be charged.

9. A map of the proposed route, as well as the routes operated by any other carrier partially or wholly within the proposed service area.

(f) When a change in an existing route is required by any municipality for the purpose of designating one-way streets or requiring other minor reroutings to eliminate traffic congestion or traffic hazards, if neither fares nor the operations of other passenger carriers operating in the area are affected, then such petitions are not required to conform to N.J.A.C. 16:51-3.1(c)1 through 8 and 10 through 12 and N.J.A.C. 16:51-3.1(b)1(h).

(g) All petitions for the granting of a certificate to conduct special autobus operations shall include proof of service of the petition upon the clerk of each county in which pickup service is proposed.

(h) Upon written request of any of the following parties, a petitioner for special operations shall serve said party or parties with a copy of the petition:

1. Autobus passenger carriers currently operating in the proposed service area;

2. Other persons who have petitions pending before the Department for authority to provide special service in the proposed service area; and

3. Any county or municipality located in the proposed service area.

(i) The petitioner shall not be required to honor any request of any party for a copy of the petition made later than 20 days after the last date of publication of public notice as required under N.J.A.C. 16:51-3.1(c)1.

(j) The following information shall be included in all petitions for the granting of a certificate to conduct casino route operations or for the approval of extensions to existing authorized regular route operations to Atlantic City licensed casino hotels.

1. The names of:

i. All casino route and regular route carriers to Atlantic City licensed casino hotels operating in the proposed service area; and

ii. Other petitioners seeking to conduct autobus operations as noted in (j)1i above;

2. Proof of service of the petition and all petition attachments including proposed route description and list of stops upon those persons as noted in (j)1 above;

3. Proof of service of the petition and all petition attachments including proposed route description and list of stops upon the clerks of all municipalities in which the petition proposes to establish pick up and/or drop off locations;

4. A clear and concise statement as to how the proposed service will serve public convenience and necessity in each municipality in which the petitioner proposes to make a pickup;

5. An accurate and complete street-by-street description of the route for which authority is sought;

6. A list of all proposed passenger pickup and/or drop off locations together with the following:

i. Certification that said locations are state or municipally approved pickup and/or drop off points in accordance with N.J.S.A. 27:1A-44 and N.J.S.A. 39:4-197; or

ii. Proof of the owner's or authorized lessee's written approval to access private property.

7. A copy of the proposed schedule of operations;

8. The schedule of the fares proposed to be charged; and

9. A map of the proposed route, as well as the routes operated by any other carrier partially or wholly within the proposed service area.

(k) The following information shall be included in all complaint petitions initiated by the Department for reclassification of regular route autobus operations and answers thereto:

1. Proof of regular route authority;

2. Proof of continuous regular route operation since date of approval or within 60 days of said approval;

3. A copy of the current schedule of operations;

4. A copy of the approved tariff and proof of existing convenient one-way fare/transportation in either direction;

5. A list of all approved passenger pickup and/or drop off locations together with the following:

i. Certification that said locations are state and/or municipally approved pickup and/or drop off points, in accordance with N.J.S.A. 27:1A-44 and N.J.S.A. 39:4-197; or

ii. Proof of owner's written approval to access private property.

6. A map of the approved route, as well as the routes operated by any other carrier partially or wholly within the approved service area;

7. The total number of shares of the petitioner's capital stock issued and outstanding, if applicable; and

8. The names and addresses of officers, directors and shareholders, that have five percent or more voting control, partners or owners, as the case may be, of the petitioner and the extent of their respective interests in the petitioner.

Amended by R.1989 d.144, effective March 20, 1989.

See: 20 N.J.R. 2635(a), 21 N.J.R. 776(a).

(e)6.ii, added (j) and (k) added.

Amended by R.2001 d.384, effective October 15, 2001.

See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).

In (c), substituted "seven days" for "one week" in 1, deleted "charter and/or" in 1vi, rewrote 6, added a new 13 and recodified former 13 as 14; in (e), rewrote 2 and 3; in (g), deleted "charter and/or"; in (h), deleted "charter and/or" in the introductory paragraph and 2; in (j), rewrote 2 and 3.

Case Notes

Fitness to operate routes and show of need justified permanent certificate for routes favoring senior citizen bus service. In the Matter of the Petition of Henray Bus Company, 96 N.J.A.R.2d (TYP.) 1.

16:51-3.2 Petition for the approval of modification of a certificate of public convenience and necessity

(a) Petitions for the approval of the modification or removal of operating restrictions contained in a certificate, and petitions whose purpose is to extend or enlarge upon operating authority granted by the Department, shall conform to the provisions of N.J.A.C. 16:51-2 (Pleadings) to the extent applicable, and shall in the body thereof, or attached thereto, also provide the information required by this Section.

(b) The following information shall be included in such petitions:

1. A specific reference to petitioner's pertinent existing authority;

2. A statement showing existing restrictions;

3. A street-by-street description and map of the current route and of the proposed modified route (if regular route);

4. In the case of a petition pertaining to regular route authority, a list of:

i. All regular autobus companies currently operating authorized regular route service in the petitioner's proposed service area; and

ii. All other persons having petitions pending before the Department for approval of regular route service in the proposed service area.

5. Proof of service of the petition upon the carriers and persons referred to in (b)4 above (if applicable);

6. Proof of publication of public notice, twice, seven days apart, in a newspaper of general and regular circulation in the proposed service area which:

i. Briefly describes the purpose of the petition and the type(s) of equipment to be used in the proposed service area;

ii. States that a petition to modify an existing certificate has been filed with the Department;

iii. States that objections and other comments should be addressed to the Office of Regulatory Affairs, New Jersey Department of Transportation, giving the address of said Office;

iv. Includes the appropriate New Jersey Department of Transportation docket number (and route file number, if applicable); and

v. Lists each municipality (in the case of a petition for modification of regular route authority) or county (in the case of a petition for modification of charter and/or special authority) in which the petitioner seeks to extend or enlarge upon operating authority granted by the Department.

7. Proof of service of the petition upon the clerk(s) of all municipalities in which the petitioner proposes to establish additional pickup and/or drop off locations that are different from such locations for which the petitioner has authority;

8. A statement that describes the proposed restriction removal or other change in existing operating authority, and gives the reason(s) for any of the changes proposed; and

9. In the case of proposed modification of regular route authority, a copy of the currently effective schedule of operations and the schedule of operations to be put into effect if the modification is approved.

(c) The Department may impose restrictions as public convenience and necessity requires.

(d) A petition filed pursuant to this section shall not be approved if the relief thereby requested is for an addition to or reduction of the number of counties in which pickups are authorized under a certificate for special service.

Amended by R.2001 d.384, effective October 15, 2001.

See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).

In (b)6, substituted "seven days" for "one week"; in (d), deleted "charter and/or".

16:51-3.3 Petitions for approval of the transfer of a certificate of public convenience and necessity for autobuses

(a) Petitions for approval of the transfer of a certificate shall conform to the requirements of N.J.A.C. 16:51-2 (Pleadings) to the extent applicable, and shall in the body thereof or in the attached exhibits also provide the information required by this Section.

(b) The petition shall contain the following:

1. A copy of the certificate proposed to be transferred (including its appropriate Schedule "A" and/or Schedule "B").

2. In the case of a proposed transfer of a regular route authority, an accurate and complete street-by-street description of the route to be transferred;

3. Proof of publication of public notice twice, seven days apart, in a newspaper of general and regular circulation in the proposed service area which:

i. States that a petition for the proposed transfer has been filed with the Department;

ii. Briefly describes the purpose of the petition;

iii. States that objections and other comments should be addressed to the Office of Regulatory Affairs, New Jersey Department of Transportation and includes the address of said Office;

iv. Includes the appropriate Department docket number and, if applicable, route file number; and

v. Lists each municipality (in the case of a petition for transfer of regular route authority) or county (in the case of a petition for transfer of special authority) in which the proposed transferee seeks to operate under the subject authority.

4. In the case of a proposed transfer of regular route authority, a list of all autobus passenger carriers currently operating authorized regular route service in the transferee's proposed service area;

5. Proof of service of the petition upon all the carriers referred to in (b)4 above (if applicable);

6. In the case of a proposed transfer of regular route authority, proof of service of the petition upon the clerk of each municipality in which the subject authority is operative;

7. In the case of a proposed transfer of special authority, proof of service of the petition upon the clerk of each county in which the subject authority permits pickups;