

CHAPTER 65
TRANSPORTATION UTILITIES

Authority

N.J.S.A. 27:1A-5, 27:1A-6, 48:2-12, 48:2-13 and 52:14B-3;
and the October 5, 1978 Executive Reorganization Plan.

Source and Effective Date

R.2008 d.22, effective February 4, 2008.
See: 38 N.J.R. 5330(a), 40 N.J.R. 796(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 65, Transportation Utilities, expires on August 3, 2015. See: 47 N.J.R. 640(a).

Chapter Historical Note

Chapter 65 was recodified as N.J.A.C. 16:44. See: 15 N.J.R. 1772(a).

Chapter 65, Transportation Utilities, was adopted as new rules by R.2008 d.22, effective February 4, 2008. See: Source and Effective Date.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 65, Transportation Utilities, was scheduled to expire on February 4, 2015. See: 43 N.J.R. 1203(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

16:65-1.1 Scope

(a) This chapter governs the practice and procedures before the Department of Transportation regarding transportation utility matters, other than contested case hearings, and sets forth the operational and administrative duties of transportation utilities. The Department may impose restrictions upon transportation utilities as public convenience and necessity requires.

(b) Upon determination that a matter constitutes a contested case, the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, shall apply.

(c) This chapter shall be liberally construed to permit the Department to effectively carry out its statutory functions and to secure just and expeditious determinations of matters presented to the Department.

(d) When compliance will be unduly burdensome, impractical, or otherwise not in the public interest, the Department may relax or permit deviations from this chapter. Requests for a waiver from the provisions of this chapter shall be made in writing to the Director and shall include an explanation of the provisions to be waived and a justification for that waiver. The requestor shall be advised of the Department's decision in writing. The Department's decision shall be final.

(e) This chapter is applicable to transportation utilities to the extent not otherwise prohibited by the Federal Constitution and Federal law.

(f) A certificate may be suspended when the utility has State tax indebtedness, pursuant to N.J.S.A. 54:50-26.3.

16:65-1.2 Definitions

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

“Answer” means the pleading filed in response to a motion or a complaint petition.

“Certificate of operation” or “certificate” means a final administrative order of the New Jersey Department of Transportation granting authority to a person to operate a transportation utility passenger service within the State of New Jersey.

“Commissioner” means the Commissioner of the Department of Transportation or the Commissioner's designee.

“Complaint petition” means a petition or a letter, by which a party seeks to have the Department invoke its jurisdiction for the purpose of enforcing the New Jersey Revised Statutes, the New Jersey Administrative Code or Departmental directives and orders against a transportation utility.

“Department” means the New Jersey Department of Transportation.

“Director” means the Director of the Division of Intermodal Services, or any other person duly authorized by the Commissioner to act in such a capacity.

“Division” means the Division of Intermodal Services in the New Jersey Department of Transportation.

“Intervenor” means a movant whose motion to intervene has been granted by the Department, and who thereby has standing to, among other things: present testimony to the Office of Administrative Law in contested cases; cross-examine witnesses in such cases; and to file exceptions, and replies thereto, to initial decisions of the Office of Administrative Law.

“Motion to Intervene” means the pleading filed by a party requesting leave to intervene in a proceeding before the Department.

“Movant” means a person that has filed a motion with the Department.

“Person” means an individual, corporation, partnership, association, group of persons or organizations, or any body politic, political subdivision or governmental instrumentality.

“Personal property” means, but is not limited to, rolling stock, cars, locomotives and other tangible personal property of a railroad company, and also the locomotives and cars not belonging to such railroad company, but built for its use and actually used in this State, or run under its control in this State. The rolling stock of other persons or corporations temporarily used on any such railroad, but not forming part of the equipment of such railroad, shall not be included in the term.

“Petition” means the pleading filed to initiate a proceeding invoking the jurisdiction of the Department.

“Petitioner” means a person who has filed a petition with the Department or, in the case of a petition for transfer, the person who is the proposed certificate holder.

“Proposed service area” means, in the case of a petition concerning regular route service, the proposed or the approved route plus that area within one and one-quarter miles of any passenger pickup or drop off point on the petitioner's proposed or approved route.

“Reply” means the pleading filed by the intervenor in response to an answer.

“Respondent” means any party against whom a complaint petition is directed.

“Service area” means, in the case of a petition for discontinuance of passenger service, that area which constitutes a one and one-quarter mile radius from any passenger pickup

or drop off point on the regular route that the petitioner is currently authorized by the Department to serve, and in which the petitioner seeks to discontinue service.

“Transportation utility” or “utility” means all utilities defined as public utilities in Title 48 of the New Jersey Revised Statutes as under the jurisdiction of the Department and includes intrastate railroad passenger service, street railways, traction railways, and subways, and excludes interstate passenger and all freight railroads, except as otherwise provided in N.J.A.C. 16:65-3.5.

16:65-1.3 Communications

(a) All pleadings, correspondence and other papers shall be addressed to the New Jersey Department of Transportation, Director, Division of Intermodal Services, PO Box 600, Trenton, New Jersey 08625.

(b) Copies of all pleading, correspondence and other papers shall be directed to the parties of record and to movants whose filed motions relating to such matters have not been denied by the Department.

SUBCHAPTER 2. PLEADINGS

16:65-2.1 Form and filing

(a) Pleadings shall be in the form of petitions, motions, answers and replies.

(b) The date of filing shall mean the date upon which the petition, motion, answer or reply is received by the Department.

16:65-2.2 Service and notice of proceedings

Unless otherwise provided for by statute or by this chapter, or unless otherwise ordered or permitted by the Department, the service and notice of proceedings shall be in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

16:65-2.3 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 the application;
2. If the application to the regulatory body or bodies has been filed, a copy of each application shall be attached to the petition to the Department, together with a copy of any order or certificate issued relating to the application; and

3. If an application or amendment of an application is filed with another State or Federal regulatory body subsequent to the date of filing with the Department, but prior to its determination, a copy of the application or amendment of the application, together with a copy of any order or certificate issued relating to the application, shall be filed with the Department and served upon all parties of record.

SUBCHAPTER 3. PETITIONS

16:65-3.1 Petitions for granting a certificate of operation

(a) Petitions for the granting of a certificate shall conform to N.J.A.C. 16:65-2 and shall:

1. Clearly and concisely state the facts and relief sought;
2. Cite the statutory provision or other authority under which the Department’s action is sought;
3. Contain information or statements as are required by statute, this chapter, orders adopted by the Department or as may be required by the Department; and
4. Contain other information required by this section.

(b) Complaint petitions shall conclude with a request that the respondent satisfy the request 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 this chapter. Petitions shall include the address of the respondents.

(c) Petitions requesting the granting of a certificate of operation shall include:

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 of equipment to be used in the proposed service area;
 - ii. States that a petition for approval to operate in the proposed service has been filed with the Department;
 - iii. States that objections and other comments should be addressed to the Department;
 - iv. Furnishes the address of the Department; and
 - v. Lists each municipality and county in which the petitioner seeks to provide service;

2. A schedule of equipment, including, but not limited to, type and passenger capacity to be used in the service. In the case of a petition for sale or lease of property, include a schedule of the equipment to be sold or leased and the identification of the owner or 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 current balance sheet and income statement, or, in the case of a petition for sale or lease of property, the transferee's current balance sheet and income statement;

6. If a petitioner does not hold a certificate of operation, include a copy of petitioner's certificate of incorporation filed with, and stamped by, the New Jersey Department of the Treasury, if applicable, or if the petitioner is a foreign corporation, include 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, the partners or owners of the petitioner and the extent of their interests in the petitioner;

9. A petition filing fee as prescribed at N.J.S.A. 48:2-56;

10. A tariff filing fee as prescribed at N.J.S.A. 48:2-56;

11. A proposed operating restrictions;

12. A proposed tariff;

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

14. A copy of the petition and any amendments to the petition.

(d) Petitions for either the granting of a certificate to conduct regular route operations or the approval of extensions to existing regular route operations shall include the following information:

1. The names of:

i. All regularly scheduled passenger carrier service operating in the proposed service area; and

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

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

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 and counties in which the petitioner proposes to establish service;

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 establish service;

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

6. A list of all proposed passenger pickup and drop off locations together with 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 proposed fare schedule; and

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

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

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

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

16:65-3.2 Petitions for the approval of modification of a certificate

(a) Petitions for the approval of the modification or removal of operating restrictions contained in a certificate, and petitions to extend or enlarge the operating authority granted by the Department shall include the following information:

1. A statement that describes the petitioner's existing authority and existing restrictions, proposed restriction removal or other changes and reasons for the proposed changes;

2. In the case of a proposed modification of service, a copy of the current schedule of operations and the proposed schedule of operations to be commenced, if the modification is approved;

3. A map of the current route and of the proposed modified route;

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

i. All companies currently operating regularly scheduled authorized passenger carrier service in the proposed service area; and

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

5. Proof of service of the petition upon the companies and persons referred to in (a)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 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 Department, giving the address of the Department; and

iv. Lists each municipality and county in which the petitioner seeks to extend or enlarge the operating authority granted by the Department; and

7. Proof of service of the petition upon the clerk of all municipalities and counties in which the petitioner proposes to establish additional service.

16:65-3.3 Petitions for approval of the transfer of a certificate of operations

(a) Petitions for approval of the transfer of a certificate of operations shall conform to the requirements of N.J.A.C. 16:65-2 to the extent applicable, and shall contain the following:

1. A copy of the certificate proposed to be transferred;

2. A complete description of the service 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 Department and includes the address of the Department; and

iv. Lists each municipality and county in which the proposed transferee seeks to operate under the proposed transfer of authority;

4. A list of all companies currently operating regularly scheduled authorized passenger carrier service in the transferee's proposed service area;

5. Proof of service of the petition upon the companies identified pursuant to (a)4 above;

6. Proof of service of the petition upon the clerk of each municipality and county in which the authority is operative;

7. A copy of the signed assignments, contracts, leases, or other written agreements by which the proposed transfer is to be made;

8. An affidavit by the transferor describing all judgments, tax claims or liens against the transferor or against property or equipment involved in or associated with the proposed transfer;

9. A balance sheet, income statement and pro forma financial statement of the proposed transferee;

10. A statement of the proposed transferee's qualifications to operate and maintain safe, adequate and proper service;

11. A schedule of equipment to be used by the proposed transferee;

12. The names and addresses of officers, directors and shareholders or partners or owners of the proposed transferee and the extent of their interests in the proposed transferee;

13. A statement as to the operating restrictions in effect at the time the petition is filed;

14. A copy of the certificate of incorporation of the transferee, as filed with, and stamped by, the New Jersey Department of the Treasury, if applicable;

15. The petition filing fee as prescribed at N.J.S.A. 48:2-56;

16. The current schedule of fares for the subject service; and

17. In the case of a proposed transfer of service authority, a copy of:

i. The currently effective schedule of operations; and

ii. The proposed schedule of operations of the proposed transferee.

16:65-3.4 Ex parte or emergency relief; and minor modification of regular service

(a) If a petitioner seeks an ex parte action granting emergency relief, pending either the Department's petition review process or a full hearing, a petitioner shall demonstrate the necessity for emergent action. The petition must be supported by affidavits sufficient to make a prima facie case that the public interest will be subject to irreparable harm if the requested emergency relief is not granted.

(b) Where the method of giving notice is not provided in this chapter, notice in advance of filing shall be given, if practical, to any affected party. The petitioner must certify by affidavit that interested parties, including all transportation utilities operating in the proposed or actual service area, were served copies of the petition by certified mail.

(c) The Department may grant a minor modification of service as part of ex parte relief, provided the notice requirements in (a) and (b) above have been met.

1. A minor modification of service means a temporary change in service lasting no longer than 90 days.

2. The transportation utility requesting the change shall submit with its request, proof of notification to any municipality or county affected by the minor modification of service.

(d) Relief granted under (c) above shall be provisional, pending final Department approval of the modification or upon other nullification of the provisional relief by the Department.

16:65-3.5 Petitions for the approval of the sale or lease of property

(a) The sale, conveyance or lease of real or personal property, or the granting of an easement, or like interest therein, which has been dedicated for use by this chapter for a transportation utility, including an interstate or freight railroad that has abandoned a line pursuant to the Surface Transportation Board's regulatory procedures, shall have prior approval by the Department. The petition for Department approval shall contain the following information:

1. A description of real property, showing the location, by municipality and county, a metes and bounds or other adequate description including, but not limited to, tax lot and block descriptions and descriptions in prior deeds, and a description of personal property, including sufficient information to identify the property;

2. Name of transferee or lessee, the consideration or rental and method of payment thereof, and rights reserved by the transferrer or lessor;

3. A copy of the written agreement if any. If there is no written agreement, the petition shall so state;

4. A certified copy of the resolution of the board of directors or other authority authorizing the conveyance or lease;

5. The purpose for which the property was originally acquired, the date of acquisition, the use made of the property for transportation utility purposes, the date when the circumstances under which it ceased to be useful for such purposes, the present use, the possible prospective use by the buyer or tenant, and the identity of the official or officials who determined that the property is not now or

prospectively required or useful for transportation utility purposes;

6. The basis of the price or rental as determined by assessed valuation, appraisal, comparable sales, or other basis, and whether the consideration is the best attainable. Appraisals, if any, shall be included;

7. Whether the consideration or rental is, or is equivalent to, the fair market value or fair market rental value of the property;

8. How the property was marketed, and if bids were solicited, the names of bidders and the consideration or rental offered;

9. Whether the relationship between the parties is other than that of transferor and transferee or lessor and lessee, and if so, describe the relationship;

10. The cost of the property as of the date of acquisition, and the cost and description of any improvements made since acquisition;

11. The amount at which the property is now carried on the utility's books;

12. Copies of proposed journal entries to record the transaction when the consideration is more than \$50,000;

13. If the property is income producing, include the carrying charges, taxes, and assessed valuation;

14. If the property is encumbered by a mortgage, describe the terms of the mortgage, state the amount of the obligation secured by the mortgage, and the time required to obtain a discharge, satisfaction or release of the mortgage;

15. When the property to be sold or leased involves the transfer of certificates, the petitioner shall comply with N.J.A.C. 16:65-3.3 to the extent applicable;

16. If an advertisement is required by (b) below, include a copy of the advertisement and a proof of publication; and

17. Railroads shall show the distance to the nearest railroad track or structure.

(b) When the property to be sold or leased has a net book cost or fair market value of more than \$125,000 or fair market rental value of more than \$15,000, as of the date of the petitioner's board resolution or other authority authorizing the conveyance, the property shall be advertised for sale or lease at least twice, one week apart, in a daily newspaper published or circulated in the county in which the property is located, within 90 days immediately prior to the filing of the request for the approval of the sale or lease. Advertising shall not be required for sales or leases for public utility purposes to another public utility or a person subject to the jurisdiction of the Department. The advertisement shall contain the following:

1. A description of the property and the improvements on or to the property. The description shall include the street address, if any, and the location of the property and its approximate size, which may be a description by metes and bounds or lot and block numbers;

2. The place where the personal property is located or may be inspected, with the street address, if applicable;

3. Conditions of the sale or lease, if any;

4. A statement that the utility may reject any bid;

5. A statement that the sale or lease is subject to the approval of the Department of Transportation; and

6. The place and date for submitting sealed bids, which shall not be less than 10 days after publication of the second advertisement; and the time and place in New Jersey of the opening of the bids, which shall not be more than five days following the final date for submitting bids.

(c) A sealed bid, in accordance with the requirements of (b)6 above, shall be submitted by a prospective purchaser or lessee.

(d) The following transactions may be consummated without petition to the Department for approval, if the utility gives written notice of the transaction to the Department, received not less than 15 days prior to the effective date of the conveyance:

1. The sale of personal property having a net book cost and sale price not in excess of \$75,000 and which is no longer used by or useful to the utility;

2. The lease or permission to use or occupy real property or any interest therein having a net book cost not in excess of \$125,000 and a net rental not in excess of \$15,000 per annum; and

3. The sale or release of real property, or any interest therein, not used by or useful to the utility and having a net book cost and sale price not in excess of \$125,000.

(e) Upon expiration of the notice period pursuant to (d) above, and payment of the filing fee, the Director will certify on a true copy of the notice to be furnished to the Department that the sale, lease or release is deemed by the Department to be in the ordinary course of business and within the provisions of N.J.S.A. 48:3-7. Such notice shall contain, to the extent applicable, the following:

1. Name of transferee or lessee, the consideration or rental and method of payment of the consideration or rental, and rights, if any, reserved by the transferrer or lessor;

2. A copy of the agreement or lease and a map of the real property;

3. A statement that the proposed consideration or rental represents the fair market value of the property to be

conveyed, or the fair rental value of the property to be leased, giving the basis for the conclusion reached;

4. A statement of any relationship between the parties, other than that of transferrer and transferee, or lessor and lessee, or a statement that there is no such other relationship, as the case may be;

5. The amount at which the property is carried on the utility's books;

6. A statement as to whether or not the property is income producing and, if so, details as to whether the petitioner pays all carrying charges, including taxes. The statement shall include the assessed valuation of the property;

7. A statement, in the case of a proposed sale, that the property is not used by or useful to the utility, and in the case of a proposed lease, grant or permission, that the transaction will not compromise the ability of the utility to render service;

8. A verification by a properly authorized officer, partner or proprietor of the statements contained in the notice; and

9. A blank space of three inches shall be provided at the bottom of the first page of the notice for the Department certification.

(f) The Department may, within the 15-day notice period in (d) above, or at any time prior to the consummation of the transaction, may require the filing of a petition for the approval of the sale, lease, encumbrance or other disposition.

16:65-3.6 Petitions for authority to transfer capital stock

(a) Petitions for authority to transfer upon the books and records of a transportation utility any share or shares of its capital stock, shall conform to the provisions of N.J.A.C. 16:65-2.2, 3.1 through 3.5 and this section to the extent applicable, and shall in the body thereof, or in attached exhibits, provide the following information:

1. The name and address of the proposed transferor and transferee;

2. A description of the capital stock proposed to be transferred, including the classification of shares, the number of shares of stock authorized for issuance, the par or stated value of the stock, and the total number of shares outstanding;

3. The percent and interest of the outstanding capital stock that, either by itself or in connection with other previous sales or transfers, will vest in the proposed transferee;

4. 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 transfer of capital stock 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 Department and provides the address of the Department; and
 - iv. Lists each municipality served by the transferor under its service authority, if any, and each county in which the proposed transferor is authorized to provide service, if any;
5. Proof of service of the petition upon:
- i. The clerk of each county in which the transferor is authorized to provide service; and
 - ii. The clerk of each municipality in which service is provided by the transferor;
6. A detailed explanation of any reasonably expected changes to be made, if the petition is approved, in the subject company's:
- i. Board of directors;
 - ii. Officers and active managers; or
 - iii. Policies with respect to its operations, financing, accounting, capitalization, rates, depreciation, maintenance, service or any matters affecting the public interest;
7. A statement as to the transferee's ability to provide the regular route service that it would be responsible for if the transfer were approved, if applicable;
8. A description of the proposed transferee, including information as to whether the proposed transferee is a public utility, a holding company, either separately, or by affiliation in a utility holding company system, or other domestic or foreign corporation or a natural person;
9. If applicable, the names and addresses of the officers, directors, and shareholders or partners or owners of the proposed transferee and the extent of their interest in the proposed transferee. If the proposed transferee is a public corporation, the list of shareholders shall include only those persons that own five percent or more of the transferee's voting class of stock. If the transferee is a privately held corporation, the shareholders list shall include all persons owning the transferee's voting class stock;
10. A copy of the certificate of incorporation of the proposed transferee as filed with, and stamped by, the New Jersey Department of the Treasury, if applicable; and
11. The petition filing fee as prescribed by N.J.S.A. 48:2-56.

(b) The Department may impose restrictions in the granting of a specific petition as public convenience and necessity reasonably require.

Administrative correction.
See: 40 N.J.R. 1923(a).

16:65-3.7 Petitions for discontinuance of service

(a) A petition for discontinuance of service pursuant to N.J.S.A. 48:2-24 shall conform to the provisions of N.J.A.C. 16:65-2.2, and 16:65-3.1 through 3.6, to the extent applicable, and shall, in the body of the petition, or in attached exhibits, provide the following information:

1. Whether the service to be discontinued is the only one of its type in the service area;
2. Whether reasonable alternative transportation service in the service area is available;
3. The reason for the proposed discontinuance; and
4. Proof of service of the petition upon the clerks of all municipalities in which the petitioner proposes to discontinue service.

Administrative correction.
See: 40 N.J.R. 1923(a).

16:65-3.8 Joinder of requests for relief

(a) A petitioner may join, in a single petition, more than one independent or alternative request for relief, subject to the payment of the filing fees applicable to each of the approvals sought.

(b) The Department may sever matters so joined or take such action as is in the public interest.

16:65-3.9 Procedure upon the filing of a complaint petition

(a) If a complaint petition complies substantially with this chapter and on its face states a matter within the Department's jurisdiction, and copies have been received and fees paid, the Department will accept the complaint petition as filed.

(b) The Department will return an unacceptable complaint petition to the complaint petitioner with an itemization of the deficiencies that must be addressed in order for the petition to be accepted. The complaint petitioner may re-file the complaint petition within 30 days of receipt of the returned petition, without incurring an additional filing fee.

(c) Unless otherwise directed by the Department, petitions and subsequent pleadings shall be served by the parties as provided in N.J.A.C. 16:65-2.2.

(d) If, within the time allowed for answer, the respondent and the complaint petitioner agree to an offer of satisfaction, the parties or their attorneys shall file a signed offer and acceptance with the Department, for the Department's approval. If approved by the Department, the petition shall be deemed satisfied and no further action will be taken.

(e) When the respondent has not satisfied the petition, the Department may, for the purpose of administratively resolving the matter, schedule and conduct a conference among the Department, the respondent, and the petitioner, and any other person deemed by the Department to be an interested party. Thereafter, the Department may issue a decision or order as the facts and circumstances require; or, the Department may transmit the matter to the Office of Administrative Law as a contested case.

16:65-3.10 Initial tariff filings or tariff filings that do not propose increases in charges to customers

(a) Tariff filings, for the purpose of making effective initial tariffs or revisions, changes or alterations of existing tariffs and which are not filed because of the need for additional revenue from products or services covered by existing tariffs and which do not propose increases in charges to customers, shall conform to the provisions of N.J.A.C. 16:65-2 and 16:65-3.1 through 3.5, to the extent applicable, and shall, in the body of the tariff filing, or in attached exhibits, provide the following information:

1. The proposed tariff or revision, change or alteration of the tariff, together with an explanation of the manner in which the tariff or change differs from the existing or a prior tariff, and the effect, if any, upon revenues;
2. A statement of the reasons why the tariff or change is proposed;
3. A statement of the recipients of the notice given and when the notice was given, together with a copy of the text of each notice;
4. The date on which the utility proposes to make the tariff or change effective, which date shall not be earlier than 30 days after the filing unless otherwise permitted by the Department; and
5. Initial tariff filings shall include pro forma income statements for each of the first two years of operations and actual or estimated balance sheets as of the beginning and end of each year of the two-year period.

16:65-3.11 Tariff filings or petitions that propose increases in charges to customers

(a) Filings or petitions for the purpose of making tariff effective or for making revisions, changes or alterations of existing tariffs which propose to increase any rate, fare, toll, rental or charge or to alter any classification, practice, rule or regulation so to result in such an increase (other than filings to effectuate the operation of an existing fuel adjustment clause) shall conform to the provisions of N.J.A.C. 16:65-2 and 16:65-3.1 through 3.5, to the extent applicable, and shall in the body of the filing or the petition or in attached exhibits, contain all applicable information and data set forth in N.J.A.C. 16:65-3.10, and shall contain the following:

1. A comparative balance sheet for the most recent calendar or fiscal three-year period;
 2. Comparative income statement for the most recent calendar or fiscal three-year period;
 3. Most recent balance sheet;
 4. A statement of the amount of revenue derived in the last calendar year preceding the institution of the proceedings from the intrastate service rendered, the rates, tolls, fares or charges, which are the subject matter of the filing;
 5. A pro forma income statement indicating the operating income at present and proposed rates and an explanation of all adjustments on the statement, as well as calculation showing the indicated rate of return on the average net investment (for the same period as that covered by the pro forma income statement), that is, investment in plant facilities plus supplies and working capital to the extent claimed, less the reserve for depreciation and advances and contributions for facilities. A request for rate relief based upon N.J.S.A. 48:2-21.2 shall contain, in lieu of the foregoing requirements, a statement that the facts meet the requirements of N.J.S.A. 48:2-21.2.
 - i. After the Department determines the amount of any rate relief, but prior to the acceptance of the new tariffs, a party will be heard on issues relating to the design of the proposed tariffs, if a party, within five days of the filing of the proposed rate design, files a written statement of its position on matters to be heard. No new evidence shall be submitted except by permission of the Department and the party shall address only matters in the existing record. The Department may set oral argument on short notice concerning rate design issues.
 - ii. A utility may file, in addition to the proposed new rates, alternative rate changes designed to produce the full revenue request, which alternatives are illustrative of the application of other possible rate designs to the filing;
 6. An itemized schedule showing all payments or accruals to affiliated companies or organizations and to those who own in excess of five percent of the utility's capital stock regardless of the form or manner in which such charges are paid or accrued and an explanation of the service performed for such charges; and
 7. A copy of the form of notice to customers.
- (b) Financial statements shall be prepared in accordance with generally accepted accounting principles.
- (c) Each utility, unless otherwise ordered or permitted by the Department, shall give notice as follows:
1. Serve a notice of the filing and a copy of the proposed tariff or a copy of the petition or a statement of the effect of the proposed filing upon the municipal clerk in each of the municipalities in which there is rendered a

regular route service, the charge for which is proposed to be increased;

2. Serve a notice of the filing and two copies of the petition or tariff on the Director, Division of Ratepayer Advocate, Department of the Public Advocate, or its successor agency; and

3. Post notices of the filing in the stations, in cars on the affected route of the utility, and by publication in newspapers published and circulated in the utility's service area.

(d) Each utility, after being advised by the Department or the Office of Administrative Law of the time and place fixed for hearing, if any, and unless otherwise ordered or permitted by the Department or the Office of Administrative Law, shall serve notice of the hearing at least 20 days prior to such time on those persons specified in (c) above, and shall give notice to those persons designated in (c)3 above, no more than 30 days and no less than 20 days prior to the date set for the hearing, in newspapers published and circulated in the utility's service area and by posting in the stations, and cars on the affected route, at least 20 days prior to the date set for hearing. Such notices shall remain posted in the vehicles through the hearing date.

(e) Notice shall be at the cost and expense of the party obligated to give or serve the notice.

(f) Proof of service and notice shall be filed with the Department at least five days before the date set for hearing.

16:65-3.12 Petitions for permission to keep books and records outside the State of New Jersey

(a) Petitions for authority to keep books, records, accounts, documents and other writings outside the State of New Jersey, filed with the Department as required under N.J.S.A. 48:3-7.8, shall, in the body of the petition, or in attached exhibits, provide the following information:

1. Complete description of the specific books, records, accounts, documents and other writings proposed to be kept outside the State of New Jersey;

2. The exact location where the books and records will be kept;

3. If all books and records will not be kept outside the State, what remaining records will be kept at the New Jersey location;

4. The reason for proposing to keep its books and records at a location outside the State;

5. The availability of adequate required space, facilities and experienced personnel at the new location;

6. The cost to the petitioner of maintaining the books and records at the new location as compared with the cost of maintaining the records at the New Jersey location;

7. The extent of the financial advantage to the customers and other benefits to the utility which will result from keeping the books and records outside the State;

8. Whether the books and records, which will be kept at the location outside the State will be, upon written notice by the Department, produced at such time and place within this State as the Department may designate;

9. Whether the petitioner will pay to the Department any reasonable expenses or charges incurred by the Department for any investigation or examination;

10. The location where the petitioner will continue to maintain an office within the State of New Jersey for the convenience of its customers to file complaints and conduct other business with the utility; and

11. The name and address of the petitioner's statutory agent.

16:65-3.13 Filing or petition that proposes a change of name

(a) Filings or petitions for the purpose of changing the name of an existing utility, shall conform to the provisions of N.J.A.C. 16:65-2.1 and 3.1, to the extent applicable, and shall, in the body of the filing, or petition, or in attached exhibits, also provide the following information:

1. Proof of publication of public notice twice, seven days apart, in a newspaper of general and regular circulation within the petitioner's proposed service area that:

i. States that a petition for a change of name has been filed with the Department;

ii. Briefly describes the purpose of the petition;

iii. States that objections and comments are to be sent to the Department and includes the address of the Department; and

iv. Lists each municipality and county in which the petitioner provides service;

2. A detailed explanation of any reasonably expected changes to be made, if the petition is approved, in the company's:

i. Board of directors;

ii. Officers or managers; or

iii. Policies with respect to its operations, financing accounting, capitalization, rates, depreciation, maintenance, services or any other matters affecting the public interest;

3. Proof of service of the petition upon the municipal clerk of all municipalities and counties in which the petitioner provides service;

4. The names and addresses of partners, owners, officers, directors, and shareholders that have five percent or more rating control of the petitioner and the extent of their respective interests in the petitioner; and

5. A copy of the amendment changing the corporate name, filed pursuant to the provisions of the New Jersey Business Corporation Act, which displays the registration stamp of the New Jersey Department of the Treasury.

16:65-3.14 Petitions for authority to exercise power of eminent domain

(a) No utility may, without the approval of the Commissioner, exercise the power of eminent domain and take, acquire, or condemn any property or other interest therein.

(b) Petitions for approval to exercise the power of eminent domain and acquire property by condemnation shall conform to the requirements of N.J.A.C. 16:65-2.1 and 3.1 to the extent applicable, and shall contain the following:

1. The names and addresses if known, of the owners of the property or of any persons having an interest in the property, with a description of the property interest of each owner or person;

2. The names of any owner or person whose whereabouts or address is unknown;

3. A map or plot plan, and a metes and bounds description of the property;

4. A brief description of the improvements on the property, if any, and the present and potential character and uses of the property;

5. A verified statement by an officer or agent of the utility that the property is reasonably necessary for the service, accommodation, convenience and safety of the public, and that the taking of the property is not incompatible with the public interest, and would not unduly injure the owners of private property;

6. A copy of the offer letter and an appraisal of the property;

7. A statement of the reasons why the property cannot be purchased by negotiation; and

8. When the utility, after diligent search, is unable to determine the name and address of the owner of the property or of any person having an interest therein, the utility shall state such facts in an affidavit of inquiry prepared in the manner as provided in the New Jersey Court Rules, R. 4:4-5.

(c) When the utility, after diligent search, is unable to determine the names and address of any person having ownership or other interest in the property, the utility shall publish a notice of hearing, addressed to the person by name, or other appropriate designation if the name is unknown. The publication shall be made twice in consecutive calendar

weeks, once in each week, in a newspaper published in the county where the property is situated, or if no newspaper is published in the county, then publication shall be made in a newspaper published in this State and circulated in that county. The second publication shall be made not less than 20 days prior to the hearing date. The publication shall contain a description of the property. Sworn proof of publication shall be filed with the Division at least five days prior to the hearing date.

SUBCHAPTER 4. MOTIONS: INTERVENTION

16:65-4.1 Motions; generally

(a) When a party, other than a petitioner, seeks an order of the Department, the party shall apply in writing by motion to the Department.

(b) A party shall state the grounds upon which the motion is made and the relief or order being sought.

(c) If a motion for substantially the same relief was denied in a prior proceeding, a party shall identify the proceeding and the disposition of the motion.

16:65-4.2 Motions in writing with no oral argument, generally; time limits

(a) With the exception of emergency relief applications made under N.J.A.C. 16:65-3.4, when a motion is in writing, no action shall be taken on a motion until at least 20 days have expired from the date of service upon the opposing party unless an expedited schedule is ordered for good cause shown.

(b) The moving papers shall establish a submission date at least 20 days from the date of service upon the opposing party, when the matter will be submitted to the Department for disposition. Proof of service shall be filed with the moving papers or promptly thereafter.

(c) The opposing parties shall file and serve an answer no later than 10 days after receiving the moving papers.

(d) The movant may file and serve a reply, responding to any matter raised by the opposing party and shall do so no later than five days after receiving the answer.

(e) All motions in writing shall be submitted for disposition on the papers unless a settlement conference is scheduled by the Director.

(f) A motion to intervene against a petition for approval, modification or transfer of a certificate must be filed with the Department no later than 30 days after the date of service of the petition upon the movant, in those cases where the movant has been served a copy of the petition; and, in all other such cases, 30 days after the last date of publication required

under N.J.A.C. 16:65-3.1(c)1. Motions must be filed either prior to the transmittal of the case to the Office of Administrative Law as a contested case or prior to the issuance of the Department's final decision on the matter, whichever is earlier.

(g) The time requirements of this section may be modified by the Commissioner for good cause shown.

16:65-4.3 Affidavits; briefs and supporting statements

(a) Motions, answers and replies shall be accompanied by supporting affidavits, briefs or documents, clearly delineating contested material facts. All motions, answers and replies shall be supported by affidavits for facts which are not of record or are not the subject of official notice. The affidavits shall set forth only facts to which the affiants are competent to testify. Properly verified copies of all papers or parts of papers referenced in the affidavits may be annexed to the affidavit.

(b) A party may be required to submit briefs or supporting statements pursuant to the schedule established in N.J.A.C. 16:65-4.2 or as ordered by the Commissioner.

16:65-4.4 Disposition of motions to intervene; generally

(a) If a movant demonstrates, through documentary evidence clearly delineating material facts, that the movant has a substantial and specific interest in the subject matter of the proceeding, and if the interest would not otherwise be adequately represented, the Commissioner or the Director may grant the motion to intervene by written order or decision on such terms as the Commissioner or the Director may prescribe.

(b) When an intervenor has no substantial and specific interest that would be affected by the proceeding, the Commissioner or the Director may dismiss the intervenor from the proceeding.

(c) Timely filed motions to intervene shall be considered prior to any disposition of the petition to which they are directed.

16:65-4.5 Disposition of motions to intervene in proceedings involving regular service operations petitions

(a) With respect to petitions for regular service operations (original authority or modification requests), in order for a movant to demonstrate that it has an interest in the subject matter that will be substantially and specifically affected by the proceeding, its motion must clearly show through the introduction of documentation, evidence delineating material facts, that:

1. The movant operates an authorized regular route service in the proposed service area, and that the granting

of the relief sought may jeopardize the profitability of the regular route service;

2. There is insufficient public need for the proposed regular route service;

3. The petitioner has failed to make a request from which the Department can grant relief;

4. The petition lacks veracity; or

5. The petitioner is unfit to conduct the proposed regular route service.

i. For purposes of (a)5 above, items relating to fitness shall include, but are not limited to:

(1) The availability of the requisite equipment or personnel to provide the proposed service;

(2) Whether petitioner has a history of illegal operations such that to grant the relief requested by petitioner might disserve the public interest;

(3) Whether petitioner has been convicted of an offense listed in N.J.S.A. 5:12-86(c); and

(4) Whether the petitioner has acted in such a way that to grant the petitioner's request would be harmful to the public interest.

SUBCHAPTER 5. REHEARING OR RECONSIDERATION

16:65-5.1 Process for rehearing or reconsideration

(a) A motion for rehearing or reconsideration of a proceeding may be filed with the Department by any party within 10 days after the issuance of any final decision or order by the Department.

1. The motion shall state, in separately numbered paragraphs, the alleged errors of law or fact relied upon and shall specify whether reconsideration, rehearing, or further hearing is requested, and whether the ultimate relief sought is reversal, modification, vacation or suspension of the action taken by the Department, or other relief.

2. When the movant seeks the introduction of new evidence, the movant shall briefly state the evidence together with the reasons for failure to previously adduce the evidence.

(b) The Department, at any time, may order a rehearing or reconsideration on its own motion and extend, revoke or modify any prior decision or order.

16:65-5.2 Motions and answers on rehearing

(a) Upon the filing of the motion, the moving party shall serve all parties or their attorneys of record with a copy of the motion and give notice of the filing of the motion, and, as the

Department may direct, to all other persons to whom notice of the original proceeding had been given.

(b) An answer to the motion shall be filed within 10 days following the service of the motion. Failure to file an answer shall be deemed to be a waiver of any objection to the granting of the motion.

(c) A motion that is not granted or otherwise expressly acted upon by the Department within 30 days after the filing thereof, shall be deemed denied.

(d) The filing or granting of any motion under this section shall not stay the Department's decision or order. A stay will be granted only for good cause shown.

SUBCHAPTER 6. CONFERENCES

16:65-6.1 Purposes

(a) Subject to the approval of the Department, informal conferences of parties or their attorneys may be held at any time to provide opportunity for settlement of a proceeding or any matter, and for the submission and consideration of facts, arguments, offers of settlement or proposals of adjustment, as time, nature of proceeding and the public interest may permit.

(b) Unaccepted proposals of settlement and proposed stipulations not agreed to shall not be taken into account in the Department's disposition of a petition or other pleading.

SUBCHAPTER 7. REPORTING ACCIDENTS

16:65-7.1 Procedures

(a) Accidents resulting from the operations, use or maintenance of transportation utility vehicles under the jurisdiction of the Department of Transportation shall be reported as follows:

1. Notification by telephone (24-hours a day, 7 days a week) to New Jersey Department of Transportation Traffic Operations Center South at (856) 486-6610 in the case of:

- i. Grade crossing accidents;
- ii. Overturning of vehicles;
- iii. Runaway vehicles and other accidents of an unusual nature, whether or not bodily injury results;
- iv. Accidents involving serious bodily injury, for example, broken limbs or severe lacerations; or
- v. Accidents involving a fatality; or

2. Report in writing to the New Jersey Department of Transportation, Director, Division of Intermodal Services,

PO Box 600, Trenton, New Jersey 08625. The report shall be signed and dated and include:

- i. Name of reporting transportation utility and person filing the report;
- ii. Date and time of accident;
- iii. Location of accident;
- iv. Description of casualties to persons;
- v. The effect on service;
- vi. The nature and cause of the accident;
- vii. Corrective actions taken or to be taken; and
- viii. Recommendations to avoid recurrence of the accident.

(b) If, at the time of the submission of the written report, the utility company is unable to state the corrective measures taken or make recommendations to avoid a recurrence of the accident, the utility company shall, within 30 days of the date of the accident, file a report, which shall set forth the corrective measures and recommendations. This report shall show the same accident report number as the original accident report.

(c) The utility company shall not take corrective measures prior to the inspection of the utility's vehicle involved in the accident by an employee of the Department trained to perform post-accident vehicle inspection, if the accident is of a type described in (a)2 above.

(d) The Department may summarily invoke the sanctions provided for by law for violation of this subchapter.

SUBCHAPTER 8. SERVICE AND OPERATIONS

16:65-8.1 Commencement of operations

If a utility does not commence the operation of an approved route within 60 days from the date of approval, the approval shall terminate, be inoperative and void.

16:65-8.2 Change of route

Except in an emergency, a utility may not deviate from an approved route without the prior approval of the Department. In an emergency the Department shall be promptly notified. In all cases, the approved route shall be resumed immediately upon cessation or removal of the cause for the deviation from the approved route.

16:65-8.3 Discontinuance of service

(a) No transportation utility shall discontinue the operation of a route or a portion of a route, without first filing a petition for approval with the Department, giving the reasons for the

discontinuance. The proposed discontinuance shall not become effective until approved by the Department.

(b) Should any utility discontinue operation without the approval of the Department, the Department may summarily invoke the sanctions provided for by law.

16:65-8.4 Interruption of service

When an interruption of service on a route is likely to continue for more than four hours, the utility shall report to the Department by contacting the New Jersey Department of Transportation Traffic Operations South at (856)-486-6610 (24-hours a day, 7 days a week.) The report shall state the cause and probable duration of the interruption. The public along the route shall be promptly notified of the interruption by such means as are feasible and practicable including announcements and notices at terminals and ticket offices, if applicable, and notification to news disseminating agencies and to municipalities affected by the interruption. Telephone reports shall be promptly confirmed by a written report.

16:65-8.5 Emergency equipment

Transportation utilities shall maintain sufficient reserve equipment to insure the reasonable maintenance of the established routes and fixed time schedules.

16:65-8.6 Doors to be closed

Transportation utility vehicle drivers or operators shall keep the doors of the vehicle closed when the vehicle is in motion.

16:65-8.7 Drivers conversing

Transportation utility vehicle drivers or operators shall not engage in unnecessary conversation with passengers.

16:65-8.8 Certificate of limited duration for emergencies

(a) Certificates authorizing transportation utility operations for a specified period of limited duration may be granted by an order of the Commissioner due to emergency, extraordinary, unusual or very rare events. The order may supersede or suspend for its duration, any provisions of this chapter.

(b) The order of the Commissioner shall include the duration and extent of its applicability and controlling application, and shall establish such conditions and restrictions as the Commissioner deems necessary to protect the public interest. Conditions and restrictions specified in the order of the Commissioner shall include:

1. Vehicle and equipment limitations or specifications;
2. Requirements for vehicular or equipment inspections;

3. Requirements or procedures regarding evidence of insurance;

4. Conditions or limitations regarding any tariffs or charges;

5. Schedules or any other operational provisions;

6. Procedures, standards or criteria applicable to the selection, rejection or specification of vehicles, equipment or operators thereof; and

7. Any other condition, requirement, or limitation deemed necessary by the Commissioner for the public interest.

(c) Each certificate may include:

1. Limitations as to routes as permitted or prohibited areas of operation; and

2. Permitted places or conditions for passenger loading or unloading.

(d) The order authorizing the certificates shall include a determination that the operation of the transportation service is in the public interest. The order may be issued by the Department in the public interest, with or without a request or petition for an order.

SUBCHAPTER 9. OFFICES

16:65-9.1 Location

(a) Each utility shall maintain in, or within reasonable proximity of, its service area an office (in addition to any post office box) where applications for service, complaints, service inquiries, bill payments, and so forth, will be received. The utility shall furnish the street address and telephone number of the office, and any changes thereto, to the Division.

(b) Each utility shall furnish the Division with the current street address (not post office box) and telephone number, and any changes thereto, of the offices where maps and records covering the various service areas are available to supply, upon reasonable request, information to customers, governmental bodies, and other utilities and contractors.

16:65-9.2 Personnel to be contacted

(a) Each transportation utility shall furnish to the Division, and keep current, a list of names, addresses and telephone numbers of officials to be contacted in connection with routine matters during normal working hours.

(b) Each transportation utility shall also furnish to the Division, and keep current, a list of names, addresses, and telephone numbers of officials who may be contacted in event of emergency, during other than normal working hours.

16:65-9.3 Emergency telephone numbers

(a) Each transportation utility shall maintain a listed emergency number in appropriate telephone directories, and file the same with police departments, fire departments, municipal clerks and other appropriate governmental agencies.

SUBCHAPTER 10. RECORDS

16:65-10.1 Location and examination

Each transportation utility shall notify the Department, upon request, of the office or offices at which various records are kept. These records shall be available for examination by the Department's inspectors.

16:65-10.2 Periodic reports

Every transportation utility shall file with the Department on or before March 31 of each year, a summary of its finances and operations for the preceding calendar year on forms prescribed and furnished by the Department. Transportation utilities may be required to submit those reports quarterly, monthly or otherwise as directed by the Department.

16:65-10.3 Accidents

Each utility shall keep a record of and report all accidents to the Department, as set forth in N.J.A.C. 16:65-7.

SUBCHAPTER 11. TARIFFS

16:65-11.1 Filing with Department and access to public

(a) Every transportation utility shall file with the Department and make available and readily accessible for public inspection in each office where the utility commonly transacts business, tariffs applicable to the service area, showing all rates and charges made, established, or enforced, or to be charged or enforced, all rules and regulations relating to rates and charges or services used or to be used, and all general privileges and facilities granted or allowed.

(b) All tariffs filed with the Department and now in effect shall continue in force until changed in accordance with this chapter. The Department may direct the reissue or modification of any tariff or any part of any tariff at any time.

16:65-11.2 Letter of transmittal

(a) Tariffs, parts of tariffs or supplements to tariffs shall be filed with the Department accompanied by a letter of transmittal. If the utility desires acknowledgement, the letter shall be in duplicate with a self-addressed stamped envelope.

(b) The letter of transmittal shall take the following form:

LETTER OF TRANSMITTAL

(Name of Utility)

Transmittal Advice No. ___ Place and Date _____
To: New Jersey Department of Transportation
Division of Intermodal Services
PO Box 600
Trenton, New Jersey 08625

The enclosed tariff, issued _____ is transmitted for filing in compliance with the requirements of the Department of Transportation, State of New Jersey

(If a complete tariff)

N.J.D.O.T. No. _____ Effective _____

(Or if a revised page)

Revised Page No. _____

Effective _____

(Or if a supplement)

Supplement No. _____ to N.J.D.O.T. No. _____

Effective _____

(Name of Transportation Utility)

(Signature of Officer Transmitting)

16:65-11.3 Statement of proposed changes

Except in the case of tariffs published under an order of the Department, each letter of transmittal shall be accompanied by a statement showing the changes that are proposed to be made and the reason for each change.

16:65-11.4 Timeliness of filing

Except as otherwise provided, every tariff, part of tariff, or supplement to a tariff shall be filed with the Department, not less than 30 days prior to the date on which it is proposed to be made effective, unless the Department, for good cause shown, shall permit or require the proposed tariff, part of tariff, or supplement to become effective on less than 30 days' notice.

16:65-11.5 Separate series issuance; number; prefix

(a) Tariffs shall be issued in separate series and the tariffs in each series shall be numbered in consecutive order. Each number shall show as a prefix the New Jersey Department of Transportation reference number, and shall further show the number of the tariff or tariffs to be superseded, if any, except that the Department will receive for filing any tariffs which apply to the intrastate transportation of passengers or freight by railroad within New Jersey which are identified by the New Jersey Department of Transportation reference number.

(b) Rate tariffs shall be prepared and arranged as follows:

- 1. Title Page; then
- 2. Table of Contents; then
- 3. General Information; then
- 4. Classification and Rates.

16:65-11.6 Complete document; references

Each classification and rate shall be complete in itself, except that reference may be made to rules and regulations appearing in the schedule under General Information or in a separate schedule referred to therein. General rules and regulations appearing or referred to in a schedule under General Information shall apply to service to be furnished under each classification or rate unless otherwise expressly provided. Any exception to the application of a general rule or regulation must be clearly stated.

16:65-11.7 Supplement or reissue

A supplement to, or reissue of, a filed tariff shall indicate the number of the prior tariff or supplement in connection with the New Jersey Department of Transportation reference number.

16:65-11.8 Suspension; supplement form

When a tariff or portion of a tariff is suspended by order of the Department, a consecutively numbered supplement shall be issued bearing notice in substantially the following form:

“By order of the Department of Transportation, State of New Jersey, made (Here list suspended tariffs) has (have) been suspended to and including . Pending restoration, reissue or cancellation, the rates, rules and regulations in (Here list tariffs which it was proposed to supersede) shall apply.”

16:65-11.9 Less than 30-days notice request; application

(a) A utility desiring permission to change existing rates on less than 30-days notice shall file, with the Department, a tariff, part of tariff, or supplement, if necessary, containing the proposed change and the application in the form prescribed, requesting authority to put the tariff into effect in less than 30 days after filing, and indicating the date that the rates become effective. If a change in the proposed effective date becomes necessary, the utility may request a change. The application shall be contained in the statement of tariff changes.

(b) The application for authority to make changes effective on less than 30 days notice shall take the following form.

**APPLICATION FOR AUTHORITY TO MAKE CHANGES
EFFECTIVE ON LESS THAN 30 DAYS NOTICE**

To: New Jersey Department of Transportation
Division of Intermodal Services
PO Box 600
Trenton, New Jersey 08625

(Name of Utility) by (Name of Officer)
Its (Title of Officer) _____ hereby applies for _____ authority
to make effective the following rates, N.J.D.O.T. No. _____ on
(date) _____ by filing with the Department on _____

days notice. This application is based upon the following special circumstances and conditions:

(Name of Utility)

(Name and title of authorized representative)

(c) If the application is granted, the permission will specify the number of days on which such tariff may become effective after date of filing with the Department.

16:65-11.10 Notification form

(a) On tariffs authorized to be made effective on less than 30 days notice, a notation in the following form shall be shown:

“Effective on (date) _____ on _____ days notice,
under authority of the Department of Transportation, State of
New Jersey.

Special Permission (Order No.) ____, made _____.”

(b) For an entire tariff, the notation need appear on the title page only, immediately following the effective date. For separately issued supplements, the notation shall appear on each supplement immediately above the lower marginal line.

16:65-11.11 Late filing, rejection

Tariffs or supplements received for filing too late to give the Department the notice prescribed by permission of the Department, or which fail to plainly state the changes proposed to be made in the tariff then in force and the time when the changes proposed will go into effect, are subject to rejection and return. If a tariff is rejected, the number which the tariff bears shall not be used again. The tariff shall not thereafter be referred to as cancelled, amended, or otherwise, but the tariff issued in lieu of such rejected tariff shall bear, under the statement specifying the tariff superseded thereby, a notation in substantially the following form:

“Issued in lieu of _____, rejected by the Department.”

1. For example, “Supplement No. 2 issued in lieu of Supplement No. 1, rejected by the Department of Transportation, State of New Jersey.”

16:65-11.12 Rules or classifications prescribed by Department

When rates or classifications are prescribed by decision or by order of the Department, or when tariffs are to be revised in conformity with such decision or order, the changes made pursuant thereto shall be established by supplements or reissues of the affected tariff or tariffs, filed and posted as provided in this subchapter. Each title page containing rates or provisions established pursuant to the decision or order of the Department shall bear the following notation: “Issued in compliance with decision (or order) of the State of New Jersey, dated _____.”

16:65-11.13 Passenger fares for named or limited period

(a) Passenger fares covering a named and limited period, issued for special parties, conventions, excursions, and other extraordinary reasons, may be established on short notice. Special application is unnecessary, as the Department has made a general order fixing the named time of notice of round-trip excursion fares.

(b) Fares for an excursion limited to a designated period of not more than 10 days may be established upon posting a tariff one day in advance of the effective date in two public and conspicuous places in the waiting room of each station where tickets for such excursions are sold and mailing a copy of the tariff to the Department.

(c) Fares for an excursion limited to a designated period of more than 10 days and not more than 30 days may be established upon posting a tariff three days in advance of the effective date in two public and conspicuous places in the waiting room of each station where tickets for such excursions are sold and mailing a copy of the tariff to the Department.

(d) The term "Limited to a designated period" as used in this section means the period beginning with the first day on which the transportation can be used and ending with, and including, the day upon which the return trip must be completed.

(e) A series of temporary round-trip excursion fares as set forth in (b) and (c) above, with an effective time period that exceeds 30 days, but not more than one year, may be published in the tariff as provided in (c) above, and tariffs not limited to a designated period shall follow notice requirements pursuant to N.J.A.C. 16:65-3.10 and 3.11.

(f) Tariffs may be supplemented and changed in accordance with the following:

1. No supplement may be issued to a tariff filed under authority of (b) above, except for the purpose of cancelling the tariff, and the title page of tariff must so state.
2. A tariff issued under authority of (c) and (e) above may have only one supplement in effect at one time.
3. Changes in tariffs of two or more pages issued under authority of (c) and (e) above may be made for the following purposes:
 - i. To change or add dates of sale, but the effectiveness of a tariff, as amended, issued under authority of (e) above shall not extend over a period exceeding one year;
 - ii. To extend return limit;
 - iii. To add selling stations or destinations, routes, or privileges; or
 - iv. To reduce fares.

4. Changes specified in (f)3 above, in a tariff issued under authority of (c) above, shall be established by supplement to the tariff in the same manner as authorized in (c) above for the tariff.

5. Changes specified in (f)3 above, in tariffs issued under authority of (e) above, may be made by supplement, or reissue of the tariff, by filing and posting such changes not later than three days before they are to become effective.

(g) Each tariff or supplement issued hereunder must bear a notation on the title page "Issued under authority of the Department of Transportation, State of New Jersey, (N.J.A.C. 16:65-11.13)."

16:65-11.14 Agent authorization

The utility shall notify the Department in writing of agents authorized by the utility to file tariffs as prescribed in this subchapter.

SUBCHAPTER 12. NOTICE REGARDING CHANGES IN FARES OR OPERATING SCHEDULES
16:65-12.1 Notices

(a) Every utility shall post notice of any hearing, change in schedule or fares, or any matter in which the Department may require public notice, in the vehicles and places required by the Department so as to be plainly visible to the public.

(b) The heading of the notice, which shall contain information as to the title of the notice, such as "Notice of Public Hearing," "Notice of Change in Fare," "Notice of Change in Schedule," and so forth, shall be printed and set forth in letters not less than $\frac{3}{4}$ inch in size.

(c) The body of the notice shall contain full information as to the matter or matters upon which notice to the public is required and shall be printed and set forth in letters not less than $\frac{3}{8}$ inch in size.

(d) The notice or notices shall remain posted until after any hearing, effective date of the matter, or the occasion for the notice has passed.

16:65-12.2 Notices regarding operating schedules

(a) Every utility, not less than 20 days before changing or altering any existing operating schedule which would result in a substantial reduction of the service or materially change or alter headways and the arriving or leaving time of a vehicle, shall:

1. File with the Department, by mail or by hand delivery, a copy of the proposed notice setting forth the proposed change or alteration;

2. File with the clerk of each municipality served and affected by the proposed changes or alteration, a copy of the notice; and

3. Immediately following the filing of the notice, post for a period of 25 days in the vehicles operated by the utility, a separate notice containing the following information:

- i. From whom and where information of the extent of the change or alteration may be obtained;
- ii. That notice has been filed by the company with the Department of Transportation; and
- iii. That notice has been filed with the clerk of each municipality served and affected by the proposed changes or alterations.

(b) The utility may, 20 days after the expiration of the 25-day notice period set forth in (a)3 above, change or alter its schedule, unless the Department provides otherwise. When a change or alteration in schedule is permissible under this section, the utility shall immediately notify the Department in writing whether or not the proposed schedule change will be effective.

SUBCHAPTER 13. COMPLIANCE WITH ORDERS,
DECISIONS AND RECOMMENDATIONS

16:65-13.1 Orders and decisions

The party to whom an order or decision is directed must notify the Department in writing on or before the date

specified in the order or decision, whether or not the party has complied with the order or decision.

16:65-13.2 Recommendations

Within 15 days after the Department makes a recommendation to a party, and unless otherwise specifically required, the party shall notify the Department in writing whether the party accepts or rejects the recommendation. Failure to notify the Department will be deemed an acceptance of the recommendation.

16:65-13.3 Extension of time limits

A petitioner may request an extension of a specific time or date of compliance contained in the Department's decision or order, by petition to the Department made in writing at least five days before the expiration of the time limit.

16:65-13.4 Answers to communications

Unless otherwise specified, the transportation utility shall comply with any letter or electronic or other written communication from the Department directing investigation of any matter under the Department's jurisdiction, and file a report of the investigation with the Department no later than 15 days from the date of the communication. If the utility cannot comply, the utility must advise the Department in writing of the reasons for noncompliance within the 15-day period.