

CHAPTER 51

PRACTICES AND PROCEDURES BEFORE THE OFFICE OF REGULATORY AFFAIRS

Authority

N.J.S.A. 27:1A-5, 27:1A-6, 48:2-12, 48:4-2.1a, 52:14B-3, 52:14D-6 and October 5, 1978 Executive Reorganization Plan.

Source and Effective Date

R.2001 d.384, effective September 21, 2001.
See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 51, Practices and Procedures Before the Office of Regulatory Affairs, expires on March 20, 2007. See: 38 N.J.R. 4638(a).

Chapter Historical Note

Chapter 51, Reduced Fare Transportation Program, was adopted as R.1975 d.113, effective April 30, 1975. See: 7 N.J.R. 63(b), 7 N.J.R. 280(b).

Subchapter 1, Introduction, Subchapter 2, Identification and Registration, and Subchapter 3, Agreements with Carriers for Services and Payment, were adopted as R.1977 d.224, effective June 23, 1977. See: 9 N.J.R. 97(a), 9 N.J.R. 349(a).

Chapter 51, Reduced Fare Transportation Program, was recodified to N.J.A.C. 16:73 by R.1982 d.40, effective February 16, 1982. See: 13 N.J.R. 881(a), 14 N.J.R. 209(a).

Chapter 51, Practices and Procedures before the Office of Regulatory Affairs, was adopted as new rules by R.1987 d.148, effective April 6, 1987. See: 19 N.J.R. 182(a), 19 N.J.R. 553(c).

Pursuant to Executive Order No. 66(1978), Chapter 51, Practices and Procedures before the Office of Regulatory Affairs, was readopted as R.1992 d.116, effective February 14, 1992. See: 24 N.J.R. 78(b), 24 N.J.R. 968(c).

Pursuant to Executive Order No. 66(1978), Chapter 51, Practices and Procedures before the Office of Regulatory Affairs, was readopted as R.1997 d.115, effective February 13, 1997. See: 29 N.J.R. 100(b), 29 N.J.R. 912(a).

Chapter 51, Practices and Procedures before the Office of Regulatory Affairs, was readopted as R.2001 d.384, effective September 21, 2001. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

16:51-1.1 Scope

(a) These rules shall govern the filing of all pleadings and the practice and procedure of matters other than contested case hearings before the Office of Regulatory Affairs, Department of Transportation of the State of New Jersey, unless otherwise ordered by the Office or the Department in any proceeding. These rules also set forth operational and administrative duties of licensed autobus companies and street railways.

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

16:51-1.2 Construction and amendment

(a) These rules shall be liberally construed to permit the Office to effectively carry out its statutory functions and to secure just and expeditious determinations of issues properly presented to the Office.

(b) In special cases and for good cause shown, the Office may relax or permit deviations from these rules.

16:51-1.3 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 pleadings filed by a Petitioner in response to either a motion or a complaint petition.

“Autobus” means and includes any motor vehicle or motorbus operated over public highways or public places in this State for the transportation of passengers for hire in intrastate business, whether used in regular route, casino, charter or special bus operations, notwithstanding that such motor vehicle or motorbus may be used in interstate commerce.

“Autobus company” or “autobus carrier” means any person or party who possesses a valid Certificate of Public Convenience and Necessity to conduct autobus operations. Such a Certificate shall have been issued by the New Jersey Department of Transportation or, if issued prior to January 1, 1979, by the State’s Board of Public Utilities.

“Certificate” means a Certificate of Public Convenience and Necessity.

“Certificate of Public Convenience and Necessity” means a final administrative order of the New Jersey Department of Transportation granting authority to a person to operate a specific type (or types) of autobus service(s) within the State of New Jersey.

“Charter” or “charter bus operation” means and includes the operation of an autobus, not on a regular schedule, by the person owning or leasing such bus or buses pursuant to a contract, agreement or arrangement to furnish an autobus or autobuses and a driver or drivers thereof to a person, group of persons or organization (corporate or otherwise) for a trip designated by such person, group of persons or organization for a fixed charge per trip, per autobus, per period of time or per mile.

“Commissioner” means the Commissioner of the Department of Transportation or, in his or her absence, the Assistant Commissioner for Policy and Planning.

"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 one or more provisions of the New Jersey Revised Statutes, the New Jersey Administrative Code or Departmental directives and orders against an autobus company.

"Department" means the Department of Transportation of the State of New Jersey.

"Director" means the Director of the Office of Regulatory Affairs, or any other person duly authorized by the Commissioner to act in such a capacity.

"Exception Letter" means the Department's first correspondence with the petitioner after the Department's initial review of a filed petition which indicates whether the petition is incomplete.

"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 formal pleading filed by a party requesting that said party be granted leave to intervene in a proceeding before the Office.

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

"Objector" means a person that has filed with the Department a written objection to a petition pending before the Office, but who is not an Intervenor.

"Office" means the Office of Regulatory Affairs, Department of Transportation, State of New Jersey.

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

"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 Office of Regulatory Affairs, New Jersey Department of Transportation 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 primarily concerning regular route service, the proposed or the approved route plus that area within one and one-quarter miles of any pickup or drop off point on the petitioner's proposed or approved route; and, in the case of a petition primarily concerning charter or special service,

any county in which the petitioner seeks authority from the Department to make pickups.

"Regular route" or **"regular route bus operation"** means and includes the operation of an autobus between fixed termini, on a regular schedule and with a provision for convenient one-way fare/transportation in either direction and shall also include all existing regular route operations to and from any casino licensed under the Casino Control Act, P.L. 1977, c.110 (N.J.S.A. 5:12-1 et seq.) unless that operation to and from casinos has been determined by the Commissioner to be other than a regular route operation.

"Regular route in the nature of special bus operation" or **"casino route bus operation"** means and includes the operation of an autobus to or from any casino licensed under the Casino Control Act, P.L. 1977, c.110 (N.J.S.A. 5:12-1 et seq.) unless that operation has been determined by the Commissioner to be a regular route bus operation.

"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 service, that area which constitutes a one and one-quarter mile radius from any pickup or drop off point on the regular route that the petitioner is currently authorized by the Department to serve, and in which he seeks to discontinue service; or in the case of a charter or special service, the county or counties in which the petitioner is authorized to serve but seeks to discontinue service.

"Special" or **"special bus operation"** means and includes the operation by the owner or lessee of an autobus or autobuses for the purpose of carrying passengers for hire, not on a regular schedule, each passenger paying a fixed charge for his or her carriage, on a special trip arranged and designated by such owner or lessee, which fixed charge may or may not include special premiums.

"Special premiums" means and includes the provision of meals, gifts, lodging, entertainment, sightseeing services or similar inducements in connection with the purchase or issuing of a ticket. No casino bonuses shall be included in this definition.

Amended by R.1989 d.144, effective March 20, 1989.
See: 20 N.J.R. 2635(b), 21 N.J.R. 776(a).

"Charter bus operation", **"regular route bus operation"** and **"special bus operation"** more fully defined. **"Regular route in nature of special bus operation"** and **"special premiums"**, definitions added.

Amended by R.1992 d.116, effective March 16, 1992.

See: 24 N.J.R. 78(b), 24 N.J.R. 968(c).

Revised "Commissioner".

Case Notes

Resort's "no-fare" transportation service was not subject to DOT regulations. In the Matter of the Petition of Seapointe Recreation, Inc., 94 N.J.A.R.2d (TRP) 1.

16:51-1.4 Offices

The address of the Office of Regulatory Affairs is 225 East State Street, PO Box 611, Trenton, NJ 08666-0611, or such other location as publicly noted.

Amended by R.1989 d.144, effective March 20, 1989.
See: 20 N.J.R. 2635(a), 21 N.J.R. 776(a).

Change of address.

Amended by R.1992 d.116, effective March 16, 1992.
See: 24 N.J.R. 78(b), 24 N.J.R. 968(c).

Revised text.

Amended by R.2001 d.384, effective October 15, 2001.
See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).

Rewrote the section.

16:51-1.5 Hours

(a) The Office is open on weekdays from 8:30 A.M. to 4:30 P.M. unless otherwise authorized by the Office.

(b) The Office is closed on legal holidays, Saturday and Sunday.

16:51-1.6 Communications

(a) All pleadings, correspondence and other papers shall be addressed to the Director, Office of Regulatory Affairs, New Jersey Department of Transportation, 225 East State Street, PO Box 611, Trenton, NJ 08666-0611 and shall include the appropriate Department docket number.

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

(c) Except as otherwise stated in this Chapter, all such pleadings and correspondence shall be deemed to be officially received when delivered to the Office of Regulatory Affairs.

Amended by R.1989 d.144, effective March 20, 1989.
See: 20 N.J.R. 2635(a), 21 N.J.R. 776(a).

Change of address.

Amended by R.1992 d.116, effective March 16, 1992.
See: 24 N.J.R. 78(b), 24 N.J.R. 968(c).

Revised text.

Amended by R.2001 d.384, effective October 15, 2001.
See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).

Rewrote (a); deleted (b) and recodified former (c) and (d) as (b) and (c).

16:51-1.7 Official records

(a) The Office shall retain custody of all its official records.

(b) Copies of rules and regulations and orders may be obtained from the Director upon payment of all statutorily prescribed fees, or, if not so prescribed, upon payment of fees covering reasonable copying costs.

16:51-1.8 Appearance

(a) No person or party as defined in N.J.A.C. 16:51-1.3, except an individual appearing on his own behalf, shall be permitted to participate in any proceeding before the Office unless such person or party is represented by an attorney of this State in good standing who is domiciled in this State. Any attorney or counselor from any other jurisdiction, of good standing there, may, at the discretion of the Director, be admitted pro hoc vice to participate in a proceeding in the same manner as an attorney of this State; provided, however, that all pleadings, briefs and other papers filed with the Office shall be signed by an attorney of record authorized to practice in this State who shall be held responsible for them.

(b) Any attorney wishing to withdraw from a proceeding before the Office shall, in writing, immediately notify the Director, the party whom he represents, and all other parties of record.

(c) Any person appearing before or transacting business with the Office in a representative capacity may be required by the Office to file evidence of his authority to act in such capacity.

16:51-1.9 Ethical conduct and ex parte communications

(a) All attorneys appearing in proceedings before the Office in a representative capacity shall conform to the standards of the ethical conduct required of attorneys before the courts of the State of New Jersey.

(b) If any such attorney does not conform to the standards specified in subsection (a) of this section, the Director may decline to permit such attorney to appear in a representative capacity in any proceeding before the Office.

(c) After the filing of a complaint or petition in a contested formal proceeding and prior to the issuance of a final order thereon, no parties to the proceeding, or their counsel, shall discuss the merits of such matter or proceeding with the Commissioner, the Director or with any member or employee of the Office, unless reasonable notice is given to all parties who have appeared therein to enable such parties to be present at the conference. After the filing of a complaint or petition and prior to the issuance of a final order thereon, no parties to the proceedings, or their counsel, shall discuss the merits of such matter or proceeding, with the Commissioner, or with the Director unless reasonable notice is given to all parties who have appeared therein, to enable such parties to be present at the conference. When, after the filing of a complaint or petition and prior to the issuance of a final order thereon, letters are directed to the Office, or any member of its staff, regarding a formal proceeding, copies of such letters shall be mailed to all parties of record and proof of such service furnished upon request.

(d) In matters pending before the Office of Administrative Law, the provisions of N.J.A.C. 1:1-3.8 shall apply to the extent applicable.

16:51-1.10 Former employees

Except with the written permission of the Commissioner, no former member or employee of the Office or member of the Attorney General's staff assigned to the Office may appear in a representative capacity or as an expert witness on behalf of other parties at any time within six months after severing his association with the Office nor may he appear after said six month period in any proceeding wherein he previously took an active part when associated with the Office.

SUBCHAPTER 2. PLEADINGS

16:51-2.1 Pleadings generally

Pleadings before the Department shall be in the form of petitions, motions, answers and replies.

16:51-2.2 Formal requirements for pleadings

(a) The form and size for pleadings shall be as follows:

1. Except where otherwise specifically provided, all pleadings and other papers filed under these rules shall be typewritten or printed, cut or folded to 8½ inches by 11 inches in size.
2. They shall be double spaced except that quotations may be single spaced and indented.
3. Where larger sheets are required for exhibits, they shall be folded substantially to the size herein prescribed.
4. Any process may be used for the reproduction of typewriting provided all copies are clear and permanently legible.

(b) Signature shall be as follows:

1. All pleadings must be signed in ink by the attorney of record, if any.
2. When a firm acts as attorney of record, the signature shall be in the name of the firm, followed by the signature of the partner or associate acting on behalf of the firm.
3. When a party acts in his own behalf under these rules, signature shall be by the party, except that in the case of a corporation, signature shall be by the corporate officer or attorney duly authorized by the corporation to sign in its behalf.
4. Beneath the signature of every attorney of record, party or other person appearing on a paper to be filed,

there shall be typed, stamped or printed his name and address.

(c) Caption and docket number shall be included as follows:

1. There shall be included at the head of the pleading or on a title page a caption setting forth the name of the Department, the title of the action, the docket number, if known, and a designation as petition or the like.
2. Case titles shall be brief and concise.

(d) Description of parties shall be as follows:

1. The title of the action shall include the legal names of all parties.
2. The first pleading of any party shall state the party's address; and, if the party is a corporation, partnership or other group, there shall also be set forth the state in which, and the law under which, the party was incorporated or organized.

(e) Designation of persons to whom communications should be sent is as follows:

1. Petitions or other pleadings filed with the Department by or on behalf of any person shall state the name, title and address of the agent to whom correspondence or communications concerning the matter are to be sent.
2. If the agent designated to receive correspondence and communications is not the individual owner, a partner in or a corporate director or officer of the person on whose behalf pleadings have been filed, the Department shall serve all notices, decisions, orders and other papers it issues on both the agent and the individual owner, partners or corporate officer or directors, as the case may be.

(f) Attestation and verification shall be as follows:

1. All pleadings initiating a proceeding or otherwise seeking affirmative relief shall be verified, except for those matters brought upon either the Department's own motion or the motion of the Attorney General of the State of New Jersey.
2. If a party is represented by an attorney, the original of each paper filed shall be signed in ink by the attorney, whose address shall be stated. The signature of the attorney constitutes a certification that the representative:
 - i. Has read the pleading, document or paper;
 - ii. Is authorized to file it;
 - iii. Believes that there is good ground for the document; and
 - iv. Has not interposed the document for delay.

3. A pleading, document or paper signed as in (f)2 above need not be verified or accompanied by affidavit unless required elsewhere in these rules.

4. The original of each document not signed by an attorney must be:

- i. Signed in ink;
- ii. Accompanied by the signer's address; and
- iii. Verified, if it contains allegations of fact, under oath by the person in whose behalf it is filed, or by a duly authorized officer of the corporation in whose behalf it is filed. If the pleading is a complaint petition, at least one complainant must sign and verify the pleading.

Amended by R.2001 d.384, effective October 15, 2001.
See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).
Rewrote (a)1.

16:51-2.3 Time for filing

(a) Unless otherwise provided in these rules or ordered by the Department, a petition for approval, modification or transfer of a Certificate of Public Convenience and Necessity or approval of a proposed merger or consolidation involving an autobus company must be filed in its entirety and in accordance with these rules within 60 days of the date of the Department's exception letter to petitioner.

(b) With respect to petitions, motions, answers and replies, the date of filing shall mean the date upon which the petition, motion, answer or reply, as the case may be is stamped received by the Office of Regulatory Affairs, New Jersey Department of Transportation.

16:51-2.4 Number of copies

(a) Unless otherwise required by the Department, there shall be filed with the Department for its own use an original and three conformed copies of each pleading or other paper and amendment thereof.

(b) Where a pleading initiating a proceeding is filed by a party other than an autobus company subject to the jurisdiction of the Department, one additional conformed copy shall be filed for each respondent named therein, for service by the Director in accordance with the provisions of N.J.A.C. 16:51-2.7 (Service and notice of proceedings) of this subchapter.

16:51-2.5 Defective pleadings

Pleadings will be liberally construed in the interest of justice. The Department may disregard errors or defects in pleadings which do not affect the substantial rights of the parties. If the defect in a pleading prejudices a substantial right of any party, the Department may, on notice, strike the pleading or take such other action as it deems appropriate.

16:51-2.6 Amendments

(a) The Department may in its discretion before or after the conclusion of any proceedings it conducts allow any pleadings to be amended or corrected or any omission therein to be supplied upon such terms as may be lawful and just, provided such amendment, correction or addition does not prejudice a substantial right of any party.

(b) Whenever, subsequent to the date of the pleading, there is any significant change with respect to a matter contained in such a pleading, the party who filed the pleading shall promptly file an amendment showing or explaining the changed facts or circumstances.

(c) The filing of such amendment shall be considered a new filing as of the date of its filing unless otherwise ordered or permitted by the Department.

16:51-2.7 Service and notice of proceedings

(a) Unless otherwise provided for by statute or by these rules, or unless otherwise ordered or permitted by the Department, the following provisions shall govern:

1. A petition filed on behalf of an autobus company shall be served by such carrier or its agent or attorney upon each respondent named in such petition.

2. A petition initiating a proceeding filed by a party other than an autobus company shall be served by the Director upon each respondent named in such petition. Every other pleading, including all motions, answers, replies, briefs and other papers, shall be served by the party filing same on all other parties of record concurrently with or prior to the filing of such pleading, motion, etc., regardless of whether the filing party is an autobus company.

3. Except when service is made by the Director, proof of service shall be by affidavit, by certificate of counsel or by acknowledgement of service; and in every such case such proof shall indicate the parties served and the method and date of service. Such proof of service shall be filed at the time of filing the pleading, or immediately thereafter.

4. Whenever public notice is required, it shall be at the expense of the party directed to give such notice; and proof of public notice shall be made and filed in accordance with (a)3 above.

16:51-2.8 Valid service

(a) Unless otherwise directed by the Department, service of pleadings, notices, decisions, orders and other papers shall be deemed valid if made by delivering one copy to each party (or his attorney of record) in person or by depositing it in the United States mail first class, postage prepaid, directed to the party (or his attorney of record) at his post office address.

(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

The Department of Transportation has no statutory or regulatory authority to force private or public landowners to place or continue a bus stop on their land. In the Matter of the Complaint Petition of Five Mile Beach Electric Railway Co., 775 A.2d 708 (2001).

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;

8. A copy of the signed assignment(s), contract(s), lease(s), or other written agreement(s) by which the proposed transfer is to be made;

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

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

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

12. A schedule of equipment to be used by the proposed transferee under the subject authority;

13. The names and addresses of officers, directors and shareholders or partners or owner, as the case may be, of the proposed transferee and the extent of their respective interests in the proposed transferee;

14. A statement as to operating restrictions in effect at the time the petition is filed. The Department may impose restrictions as public convenience and necessity requires;

15. 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);

16. Petition filing fee as prescribed by statute;

17. The current schedule of fares for the subject autobus operation; and

18. In the case of a proposed transfer of regular route authority, a copy of:

i. The currently effective schedule of operations; and

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

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), substituted "seven days" for "one week" in 3, deleted "charter and/or" in 3v, deleted "and county" in 6, deleted "charter and/or" in 7 and substituted "Department of the Treasury" for "Office of the Secretary of State, State of" in 15.

16:51-3.4 Ex parte or emergency relief; and minor modification of regular route

(a) If a petitioner seeks ex parte action granting emergency relief, pending either the Department's petition review process or a full hearing, it shall particularize 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 already provided for in these rules, notice in advance of filing shall be given if practical or otherwise required by these regulations for any party affected. The petitioner must certify by affidavit at the time of the application that other interested parties were served copies of the petition by certified mail. For purposes of this subsection, interested parties shall include all passenger-carrying trolleys, subways and autobus lines operating in the proposed (or actual) service area.

(c) Notwithstanding subsections (a) and (b) above, the Department may grant a request for a minor modification of a regular route if the request is made through a petition for ex parte relief. The notice requirements contained in subsections (a) and (b) shall apply to minor modification petitions, however. A minor modification of a regular route shall mean a change in pickup or drop off location; provided:

1. The proposed new pickup and/or drop off location is within 1,000 feet of the route stop for which modification is requested;

2. The carrier requesting such change submits with its request proof of municipal, county or state approval, as the case may be, of the proposed stop; or in lieu of such approval, proof that the proposed stop is located on private property together with the property owner's written approval of the proposed stop;

3. The proposed pickup and/or drop off point is not closer to any authorized pickup and/or drop off location (respectively) of any other autobus company than:

i. 500 feet, if the proposed stop is located in a municipality of the First Class (as defined in N.J.S.A. 40A:6-4);

ii. 750 feet, if the proposed stop is located in a municipality of the Second Class (as defined in N.J.S.A. 40A:6-4);

iii. 1,250 feet, if the proposed stop is located in a municipality of the Third Class (as defined in N.J.S.A. 40A:6-4);

iv. Five hundred feet, if the proposed stop is located in a municipality of the Fourth Class (as defined in N.J.S.A. 40A:6-4); and

4. That, in the opinion of the Department, the need for the minor modification is due to circumstances beyond the practicable control of the carrier requesting the change.

(d) Relief granted under (c) above shall be provisional. Final disposition of matters relating to minor modifications under (c) above shall be made upon petition for a final order of the Department approving such a modification or upon other nullification of the provisional relief by the Department.

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), deleted the first sentence and deleted "and draft order" in the third sentence.

16:51-3.5 Petitions for the approval of the sale or lease of property

(a) Petitions for the approval of the sale, conveyance or lease of real or personal property, or the granting of an easement, or like interest therein as required by law shall conform to provisions of N.J.A.C. 16:51-1; 16:51-3.1(a), (b), (c), (i); N.J.S.A. 16:51-3.4, 3.8, 3.9 and N.J.A.C. 16:51-2.10, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. Five copies on a separate sheet or sheets designated Schedule "A" containing a description of the property (For real property, show the location by municipality and county, a metes and bounds or other adequate description of the property, together with a description of the property and rights, if any, reserved by the utility; and for personal property, include sufficient information to identify the property adequately);
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 (but if there is no written agreement, it shall be so stated);
4. A certified copy of the resolution of the board of directors or other authority authorizing the transfer or lease;
5. The purpose for which the property was originally acquired, the date of acquisition, the use made of the property for utility purposes, the date when the circumstances under which it ceased to be useful for such purposes, the present use, the possible prospective use and the identity of the official or officials who determined that the property is not now or prospectively required or useful for utility purposes;
6. The basis of the price or rental: assessed valuation, appraisal, comparable sales, or other basis; whether it is the best price or rental attainable (attach appraisal, if any, as exhibit);
7. Whether the proposed consideration or rental represent the fair market value of the property to be conveyed or leased;
8. What steps were taken to put this property on the market and accomplish its sale or lease (If bids were solicited, give names of bidders and the consideration or rental offered.);
9. Whether there is any relationship between the parties other than that of transferrer and transferee, or lessor and lessee;

10. The actual cost of date of acquisition, the cost and nature of any improvements;

11. The amount of 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 property is income producing, give details, such as carrying charges, taxes, and assessed valuation;

14. If the property is encumbered by any mortgage, describe the mortgage, state the amount thereof, and the time required to obtain a release;

15. Where the property to be sold or leased involves the transfer of certificates of public convenience and necessity, petitioner shall also comply with N.J.A.C. 16:51-3.3 (Petitions for approval of the transfer of certificates of public convenience and necessity) of this Chapter to the extent applicable;

16. When the property to be sold or leased has a net book cost or fair market value of more than \$100,000, the petitioner must attach to the petition copies of the advertisement required by (b) below, and proof of publication;

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

(b) Where the Department's approval of sale or lease is required by law and the property has a net book cost or fair market value of more than \$100,000, 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 petition for the approval of the sale or lease, except the advertising shall not be required for sales or leases of property for public utility purposes to another public utility or other person subject to any jurisdiction of the Department. The advertisement shall contain the following:

1. A description of the property to be sold or leased and improvements thereon. In the case of land, this shall include the street address, if any, and a description sufficient to identify 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 property is located or may be inspected, together with the street address, if any;
3. Conditions of the sale or lease, if any, together with a provision that the utility may reject any or all bids;
4. A statement that the sale or lease is subject to the approval of the Department of Transportation;

5. A statement of the place and final date for submitting sealed bids which shall not be less than 10 days after publication of the second advertisement together with a statement of the time and place of the opening of said bids, which shall not be more than five days following the final date for submitting bids, at a place in New Jersey;

6. A sealed bid, in accordance with the requirements of (b)5 above, must be submitted by a prospective purchaser or lessee. However, an offer or agreement to purchase or lease in writing received by the utility or executed before the first date of advertising and still in effect at such date, shall be considered as if it were a sealed bid, provided such offer or agreement is in writing and meets all other conditions of sale or lease, if any, included within the advertising.

(c) In addition to any other transactions not requiring approval or which on their merits may be deemed to be in the ordinary course of business, any lease, grant or permission by a utility to occupy or use its real property or any interest therein which is terminable at the option of the utility upon notice not to exceed 90 days, and any release, by lease, easement, or other permission to occupy or use real property for a period of not more than one year shall be deemed to be in the ordinary course of its business. Neither notice to the Department nor petition for its approval shall be required with respect thereto.

(d) In addition to any other transactions which on their merits may be deemed to be in the ordinary course of business, the sale, lease, encumbrance or other disposition by any utility of such of its property or an interest therein as is set forth in this subsection, may be consummated without petition to the Department for approval, provided, however, that the utility shall have given written notice thereof to the Department, to be received not less than 15 days prior to the effective date of the proposed sale, lease, encumbrance or other disposition of such property. The transactions which may be completed without petition to the Department are as follows:

1. The sale of personal property, other than autobuses, 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. Except as provided in this Section, 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;

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) On expiration of the notice period and on payment of the statutory fee, the Director will certify on a true copy of the notice to be furnished to the Department that such sale, lease or release is deemed by the Department to be in the ordinary course of business and within the statutory provi-

sion. Such notice shall contain, to the extent applicable, the following:

1. Name of transferee or lessee, the consideration or rental and method of payment thereof, 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. In addition, such 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;

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 aforesaid 15-day notice period, or at any time prior to the actual consummation of the transaction, suspend the provisions of this rule and require the filing of a petition for the approval of the sale, lease, encumbrance or other disposition.

(g) Any buses of an age of 10 years or over from the end of the year of manufacture, or where the sales price is \$500,000 or less, which is owned by autobus utilities under the jurisdiction of this Department may be sold without formal petition to the Department for approval of the sale thereof, provided that the autobus utility shall first notify the Department in writing 20 days prior to the date of the proposed sale. (See N.J.S.A. 48:3-7(b), as amended.)

1. The Department may, following receipt of the notice, suspend the provisions of this subsection and require the filing of a formal petition for approval of the sale. However, if no such action is taken by the Department

within 20 days of filing, a notice filed under this paragraph shall be considered approved.

2. The notice shall contain the following information:

- i. A complete description including make, model, year of manufacture, serial number and year when acquired, of the bus or buses proposed to be sold;
- ii. The name and address of the vendee and the amount of the selling price of the bus or buses;
- iii. Whether the selling price is attainable;
- iv. What steps were taken to place the bus or buses on the market to accomplish the sale;
- v. What other offers were received, if any, and how it was determined that the proposed offer is the best price obtainable;
- vi. The relationship between the autobus utility and the vendee;
- vii. Whether the bus is encumbered and, if so, state the amount and the date when the release will be granted;
- viii. A statement that the equipment is not used or considered economically useful in the vendor's public utility operations;
- ix. A statement that the utility has sufficient available autobus equipment to meet its service requirements (indicate the number of buses owned before and after the proposed sale and what arrangements were or will be made to replace the equipment proposed to be sold); and
- x. A statement that the sale will not adversely affect the ability of the vendor to render safe, adequate and proper service on its regular New Jersey intrastate bus routes.

Notice of Address for Petitions.

See: 24 N.J.R. 3183(b).

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

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

In (g), substituted "\$500,000" for "\$50,000".

16:51-3.6 Petitions for authority to transfer capital stock

(a) Petitions for authority to transfer upon the books and records of any autobus company, under N.J.S.A. 48:3-10, any share or shares of its capital stock, shall conform to the provisions of N.J.A.C. 16:51-2.7, 3.1 through 3.6 to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. The respective 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 of the autobus company 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 Office of Regulatory Affairs, New Jersey Department of Transportation and provides the address of said office; and
 - iv. Lists each municipality served by the transferor under its regular route authority, if any, and each county in which the proposed transferor is authorized to make pickups under its special authority, if any.

5. Proof of service of a copy of the petition upon:
 - i. The clerk of each county in which the transferor is authorized to make special pickups; and
 - ii. The clerk of each municipality in which regular route 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 autobus 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, as the case may be, of the proposed transferee and the extent of their respective 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. Petition filing fee as prescribed by statute.

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

Amended by R.2001 d.384, effective October 15, 2001.
See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).

In (a), substituted "twice, seven days" for "thrice, one week" in 4, deleted "charter and/or" in 4iv and 5i, substituted "municipality" for "county" in 5ii and substituted "Department of the Treasury" for "Office of the Secretary of State, State of" in 10.

16:51-3.7 Petitions for discontinuance of service

(a) A petition for discontinuance of service, under N.J.S.A. 48:2-24, shall conform to the provisions of N.J.A.C. 16:51-2.7, and N.J.A.C. 16:51-3.1 through 3.6, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. Whether the service to be discontinued is the only one of its type in the subject service area;
2. Whether reasonable alternative transportation service to that service area is available;
3. The reason(s) 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.

Amended by R.2001 d.384, effective October 15, 2001.
See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).
In (a), added 4.

16:51-3.8 Joinder of requests for relief

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

(b) The Department may in its discretion sever matters so joined for hearing and determination or take such other action as may be in the public interest.

16:51-3.9 Procedure of department on filing of petition

(a) If, in the opinion of the Department, a petition complies substantially with these rules and appears on its

face to state a matter within the Department's jurisdiction, and necessary copies have been received and fees paid, the Director shall file same.

(b) Unless otherwise directed by the Department, petitions and subsequent pleadings shall be served by the parties as provided for in N.J.A.C. 16:51-2.7 and 2.8.

(c) If, within the time allowed for answer, the respondent makes an offer of satisfaction which is accepted by the petitioner, such offer and acceptance signed by the parties or their attorneys shall be filed with the Office and if not disapproved by the Department within 30 days of the Office's receipt of such offer and acceptance, the petition shall be deemed satisfied and the proceedings closed without further action.

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

16:51-3.10 Tariff filings which 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. 16:51-2 (Pleadings Generally) and N.J.A.C. 16:51-3.1 through 3.5, to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. Four copies of the proposed tariff or revision, change or alteration thereof, 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 to be filed;

3. A statement of notices given, if any, together with a copy of the text of each of said notices;

4. A statement as to the date on which it is proposed 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.

5. In the case of initial tariffs pro forma income statements for each of the first two years of operations and actual or estimated balance sheets as at the beginning and end of each year of said two-year period.

Cross References

Exceptions to tariff filing requirements, see N.J.A.C. 16:53D-1.1.

16:51-3.11 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. 16:51-2 and N.J.A.C. 16:51-3.1 through 3.5, to the extent applicable, and shall in the body thereof or in attached exhibits contain all applicable information and data set forth in N.J.A.C. 16:51-3.10 (Tariff filings which do not propose increases in charges to customers), and in addition shall contain the following: (financial statements shall be prepared in accordance with the Uniform System of Accounts):

1. A comparative balance sheet for the most recent three-year period (calendar year or fiscal year);
2. Comparative income statement for the most recent three-year period (calendar year or fiscal year);
3. A balance sheet at the most recent date available;
4. A statement of the amount of revenue derived in the calendar year last preceding the institution of the proceedings from the intrastate sales of the product supplied, or intrastate service rendered, the rates, tolls, fares or charges which are the subject matter of the filing;
5. A pro forma income statement reflecting operating income at present and proposed rates and an explanation of all adjustments thereon, 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. If the request for rate relief is based upon N.J.S.A. 48:2-21.2, there shall be included, in lieu of the requirements of the foregoing paragraph, a statement showing that the facts of the particular situation meet the statutory requirements.

i. In any such proceeding on a tariff filing or petition pursuant to N.J.A.C. 16:51-3.11, the parties shall be given an opportunity to be heard on issues relating to the design of the proposed tariffs after the determination by the Department of the amount of any rate relief, but prior to the acceptance of the new tariffs. No new evidence shall be submitted except by permission of the Department and the parties shall address themselves only to matters in the existing record. The opportunity to be heard shall be on written comment filed within five days of the company's filing of its proposed rate design. The Department may in its discretion set oral argument on short notice concerning rate design issues;

ii. In providing the information required by the immediately preceding subsection, a company may also file, in addition to the new rates proposed to become effective, 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;

7. A copy of the form of notice to customers.

(b) Financial statements shall be prepared in accordance with the Uniform System of Accounts.

(c) Each utility that makes a filing under (a) above shall, unless otherwise ordered or permitted by the Department, give notice thereof 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 Treasury, or its successor agency;
3. Notice of the filing and the effect upon patrons of various classes shall be given by posting of notices in the stations, cars and buses on the affected route of such utility, and by publication in newspapers published and circulated in the utility's service area.

(d) Each utility that makes a filing under (a) above shall, 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 serve notice of the hearing at least 20 days prior to such time on those persons specified in (c) above and shall give such 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 hearing, in newspapers published and circulated in the utility's service area and by posting in the stations, cars and buses on the affected route of such utility, at least 20 days prior to the date set for hearing. Such notices shall remain posted in said vehicles through the hearing date.

(e) Where notice is prescribed under this rule it shall be at the cost and expense of the party obligated to give or serve the notice.

(f) Proof of service and/or notice required by this rule shall be filed with the Department at least five days before the date set for hearing. (Also see N.J.A.C. 16:51-11.1 et seq.)

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), rewrote the introductory paragraph and 2.

Cross References

Exceptions to tariff filing requirements, see N.J.A.C. 16:53D-1.1.

16:51-3.12 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 conform to the provisions of N.J.A.C. 14:1-5 and N.J.A.C. 14:1-6.1 through 6.5 to the extent applicable, and shall in the body thereof or in attached exhibits also 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 that of maintaining the records at the New Jersey location;
7. The extent of the financial advantage to the customers and other benefits to the public 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, on notice in writing of 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, if the Department grants said permission;
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 pay bills, file complaints and conduct other business with the utility;

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

16:51-3.13 Filing or petition that proposes a change of name

(a) Filings or petitions for the purpose of changing the name of an existing autobus public utility shall conform to the provisions of N.J.A.C. 16:51-2.1 and 3.1 to the extent applicable and shall in the body thereof, 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 Office of Regulatory Affairs/Commercial Bus Inspection, New Jersey Department of Transportation and includes the address of said office; and
 - iv. Lists each municipality (in the case of a petition for change of name for regular route authority) or county (in the case of a petition for change of name for charter/special authority);
2. A detailed explanation of any reasonably expected changes to be made, if the petition is approved, in the subject autobus 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 in which the petitioner provides pickup and/or drop off locations or upon the county clerk in each county in which the petitioner provides special operations;
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.

New Rule, R.2001 d.384, effective October 15, 2001.
See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).

SUBCHAPTER 4. MOTIONS: INTERVENTION

16:51-4.1 Motions; generally

(a) Where a party other than a petitioner seeks an order of the Department, the party shall apply by motion.

1. A movant shall make each motion in writing, unless it is made orally during an informal department hearing.
2. No technical forms of motion are required. In a motion, a party shall state the grounds upon which the motion is made and the relief or order being sought.

(b) A party shall submit a proposed form of order with each motion, unless this requirement is waived by the Director.

(c) A party shall file each motion with the Director, except for motions made during an informal Department hearing and emergency motions.

1. If the party provides an extra copy of the motion and a self-addressed stamped envelope, the Director shall mark the copy filed and mail it to the movant.

(d) If a motion for substantially the same relief as that previously denied, a party shall specifically identify the previous proceeding and its disposition.

16:51-4.2 Motions in writing with no oral argument, generally; time limits

(a) With the exception of emergency relief applications made under N.J.A.C. 16:51-3.4, when a motion is in writing no action shall be taken thereon 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 responsive papers, that is, an answer, no later than 10 days after receiving the moving papers.

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

(e) All motions in writing shall be submitted for disposition on the papers unless a settlement conference or an informal Department hearing is arranged for by the Director.

(f) All motions shall be deemed denied if not decided within 60 days from the filing thereof, except as otherwise specified in these rules.

(g) 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. 16:51-3.1(c)1. In any event, such 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.

(h) The time requirements of this rule may be modified in the discretion of the Commissioner for good cause shown.

16:51-4.3 Affidavits; briefs and supporting statements

(a) Motions and answering papers, that is, answers and replies, shall be accompanied by all necessary supporting affidavits and briefs or supporting documents, clearly delineating material facts in contest. All motions and answering papers shall be supported by affidavits for facts relied upon which are not of record or which are not the subject of official notice. Such affidavits shall set forth only facts to which the affiants are competent to testify. Properly verified copies of all papers or parts of papers referred to in such affidavits may be annexed thereto.

(b) In the discretion of the Commissioner, a party or parties may be required to submit briefs or supporting statements pursuant to the schedule established in N.J.A.C. 16:51-4.2 or as ordered by the Commissioner.

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

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

At (a) . . . "documents, clearly delineating material facts in contest.", added.

16:51-4.4 Disposition of motions to intervene; generally

(a) If a movant demonstrates, through the introduction of documentary evidence clearly delineating material facts, that it has a substantial and specific interest in the subject matter which will be affected by the proceeding, and if such interest with respect to the proceeding 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, as the case may be, may prescribe.

(b) Whenever it appears during the course of a proceeding that an intervenor has no substantial and specific interest which 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.

Amended by R.1989 d.144, effective March 20, 1989.
See: 20 N.J.R. 2635(a), 21 N.J.R. 776(a).

Language added regarding evidence clearly delineating material facts.

16:51-4.5 Disposition of motions to intervene in proceedings involving regular route operations petitions

(a) With respect to petitions for regular route service (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, as follows:

1. It operates an authorized regular route service in the proposed service area; and that the granting of the relief sought may jeopardize the profitability of said 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. That the petitioner is unfit to conduct the proposed regular route service.

(b) 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);
4. Whether petitioner has otherwise acted in such a way that it would be inimical to the public interest to grant petitioner's relief request.

Amended by R.1989 d.144, effective March 20, 1989.
See: 20 N.J.R. 2635(a), 21 N.J.R. 776(a).

Language added regarding evidence clearly delineating material facts.

16:51-4.6 Disposition of motions to intervene in proceedings involving charter and/or special operations petitions

(a) With respect to petitions for special autobus service, 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, as follows:

1. That the petitioner has failed to make a request for which the Department can grant relief;
2. The petition lacks veracity; or
3. That the petitioner is unfit to conduct the proposed service.

(b) For purposes of (a)3 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); or
4. Whether petitioner has otherwise acted in such a way that it would be inimical to the public interest to grant petitioner's relief request.

Amended by R.1989 d.144, effective March 20, 1989.
See: 20 N.J.R. 2635(a), 21 N.J.R. 776(a).

Language added regarding evidence clearly delineating material facts.
Amended by R.2001 d.384, effective October 15, 2001.
See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).

In (a), deleted "charter and/or" in the introductory paragraph.

16:51-4.7 Disposition of motions to intervene in proceedings involving regular route in the nature of special or casino bus operations petitions

(a) With respect to petitions for regular route in the nature of special or casino autobus service, 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, as follows:

1. It operates an authorized regular route service to and from Atlantic City casino hotels in the proposed service area, and that the granting of the relief sought may jeopardize the profitability of said movant's regular route service(s);
2. There is insufficient public need for the proposed casino bus service;
3. The petitioner has failed to make a request for which the Department can grant relief;
4. The petition lacks veracity; or
5. That the petitioner is unfit to conduct the proposed casino bus service.

(b) 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 casino bus 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 petitioner has otherwise acted in such a way that it would be inimical to the public interest to grant petitioner's relief request.

New rule: R.1989 d.144, effective March 20, 1989.
See: 20 N.J.R. 2635(a), 21 N.J.R. 776(a).

SUBCHAPTER 5. REHEARING, REARGUMENT OR RECONSIDERATION

16:51-5.1 Method of instituting

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

1. Such motion shall state in separately numbered paragraphs the alleged errors of law or fact relied upon and shall specify whether reconsideration, reargument, 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. Where opportunity is also sought to introduce additional evidence, the evidence to be adduced shall be stated briefly together with reasons for failure to previously adduce said evidence.

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

16:51-5.2 Motions and answers on rehearing

(a) A copy of the motion shall be served by the moving party upon all other parties or their attorneys of record, forthwith upon the filing hereunder, the moving party shall also give such notice, as the Department may direct, of the filing of the motion to all other persons to whom notice of the original proceeding had been given.

(b) Any 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) Any motion hereunder which 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 rule shall not operate as a stay of the Department's decision or order. A stay will be granted only for good cause shown.

SUBCHAPTER 6. CONFERENCES

16:51-6.1 Purposes

(a) Informal conferences of parties or their attorneys may be held at any time to provide opportunity for settlement, subject to the approval of the Department of a proceeding or any of the issues therein, 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

16:51-7.1 Procedures

(a) Accidents resulting from the operations, use or maintenance of autobuses or street cars under the jurisdiction of the Department of Transportation shall be reported as follows:

1. Report by mail to the Department's Office of Commercial Bus Inspection, PO Box 177, Trenton, NJ 08666-0177, on the form prepared for this purpose (Form 501) within 48 hours of the occurrence of the accident. (Forms may be obtained from the Office of Commercial Bus Inspection.)
2. Notify the Office immediately by telephone between 8:30 A.M. and 4:30 P.M., and at all other times notify one of the persons listed in the Department's Autobus Accident Contact Persons List (available from the Office of Commercial Bus Inspection) immediately by telephone, in the case of:
 - i. Grade crossing accidents;
 - ii. Overturning of buses;
 - iii. Runaway buses 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.

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

(c) The autobus company shall not take corrective measures prior to the inspection of said utility's vehicle involved in the accident by an employee of the Department trained to perform post accident autobus inspection, if the accident is of a type described in N.J.A.C. 16:51-7.1(a)2.

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

Amended by R.2001 d.384, effective October 15, 2001.
See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).

In (a), rewrote 1 and substituted "Commercial Bus Inspection" for "Regulatory Affairs" in 2.

SUBCHAPTER 8. PROVISION OF SERVICE

16:51-8.1 Commencement of operations

The operation of a route which has been approved by the Department shall be inaugurated within 60 days from the date of said approval. Failure to do so shall terminate the Department's approval and make the same inoperative and void.

16:51-8.2 Change of route

There shall be no deviation from the approved route without the approval of the Department except in emergency, in which case the Department shall be promptly notified of such change. The approved route must be resumed immediately upon approval of the cause for temporary rerouting.

16:51-8.3 Discontinuance of service

(a) No autobus or trolley utility shall discontinue the operation of a route or routes, or a portion thereof, without first filing a petition with the Department, which petition shall give the reasons for such discontinuance. Such proposed discontinuance shall not become effective until approved by the Department.

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

16:51-8.4 Interruption of service

Where service on a route or routes has been interrupted and such interruption appears likely to continue for a period in excess of four hours, a report shall be made to the Department by the speediest means of communication available, with a full statement of the cause and probable duration. The public along the route or routes shall be promptly notified of service interruptions by such means as are feasible and practicable including announcements and notices at terminals and ticket offices, if any, and notification to news disseminating agencies and municipalities affected. Telephone reports shall be promptly confirmed by a telefax or other written report.

Amended by R.2001 d.384, effective October 15, 2001.
See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).
Substituted "telefax" for "telegraphic".

16:51-8.5 Emergency equipment

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

16:51-8.6 Stops before grade crossings

All autobus and trolley utilities shall have their vehicles come to a full stop before crossing the tracks of any railroad at grade: such stop to be made not less than 15 feet nor more than 50 feet from the nearest rail, the stopping point to be determined by the physical conditions at the crossing permitting a view of approaching trains from the near rail of the tracks before proceeding from stop position.

16:51-8.7 Doors to be closed

All autobus and trolley utilities shall keep the doors of the vehicles closed when the vehicles are in motion.

16:51-8.8 Drivers conversing

Autobus and trolley utilities shall not allow the drivers of any autobus or trolley to engage in any unnecessary conversation with the passengers.

16:51-8.9 Filling fuel tanks

(a) Fuel tanks on autobuses shall be filled from outside the autobus and shall not be filled or replenished with fuel while passengers are in said autobus.

(b) Fuel tanks shall not be filled or replenished while the motor is running.

16:51-8.10 Certificate of public convenience and necessity of limited duration for emergencies

(a) Certificates of public convenience and necessity authorizing autobus operations by private or public entities or carriers for a specified period of limited duration may be granted by an order of the Commissioner of Transportation for purposes of assuring that the transportation needs of the

public are met with respect to emergency, extraordinary, unusual or very rare events. Because of the emergent or extraordinary transportation needs of the public, the provisions of such order may supersede for the period of its limited duration the autobus regulations of the Commissioner or portions thereof.

(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, including evidence of coverage in accordance with N.J.S.A. 17:28-1.6;
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 of public convenience and necessity 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 aforementioned certificates of public convenience and necessity shall include a determination that the operation of such transportation service is in the public interest. The order may be issued by the Department for the public interest, with or without a request or petition therefor.

Emergency New Rule, R.1995 d.543, effective September 18, 1995 (expires November 17, 1995).

See: 27 N.J.R. 3843(a).

Adopted concurrent proposal R.1995 d.645, effective November 15, 1995.

See: 27 N.J.R. 3843(a), 27 N.J.R. 5039(a).

Provisions of Emergency New Rule R.1995 d.543 adopted without change.

16:51-8.11 Autobus Leases

(a) Autobus leases filed by any autobus company shall contain the following information:

1. The name, address and telephone number of the vehicle owner (lessor);
2. The name, address, and telephone number of the authorized carrier/autobus company (lessee);
3. The NJDOT Docket Number, charter number, special number, or route file number of the autobus company (lessee) or the FHWA/USDOT number of the autobus company (lessee);

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4. The term of the lease, that is, the lease effective date and expiration date;

5. An exclusive use clause, setting forth that the leased vehicle(s) will be for the lessee's exclusive use; if the lease does not provide for lessee's exclusive use, it must specify all others having use of the vehicle and the nature of said use. The lease must indicate any subleasing arrangements, if applicable;

6. An insurance clause providing that the autobus company (lessee) is responsible for maintaining the proper insurance coverage limits required by law;

7. A consideration clause showing the rental payment for the use of the vehicle;

8. A cancellation/amendment clause including provisions regarding:

- i. The duty of parties to notify the NJDOT Office of Regulatory Affairs within five days of the cancellation and/or amendment of a lease;
- ii. The duty of parties to return omnibus license plates to the State of New Jersey; and
- iii. The duty of parties to present vehicle to NJDOT for removal of inspection sticker and for return of certificate of inspection;

9. The fleet number, make, model, year, Vehicle Identification Number, seating capacity and NJDOT vehicle number (if known) of each vehicle covered by the lease; and

10. The signatures of the owner/lessor and the operator/lessee and the date.

(b) No more than five vehicles, where the owner of the vehicle is the same, shall be included in each lease.

(c) Each lease submitted shall be accompanied by payment for the lease filing fee established by the Legislature at N.J.S.A 48:2-56, specifically N.J.S.A 48:2-56F(4) as amended and supplemented and incorporated herein by reference.

New Rule, R.2001 d.384, effective October 15, 2001.

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

SUBCHAPTER 9. OFFICES

16:51-9.1 Location

(a) Each utility shall maintain in, or within reasonable proximity of, its service area an office (that is, 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 Department.

(b) Each utility shall furnish the Department 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.

Amended by R.2001 d.384, effective October 15, 2001.
See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).
Rewrote the section.

16:51-9.2 Personnel to be contacted

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

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

16:51-9.3 Emergency telephone numbers

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

SUBCHAPTER 10. RECORDS

16:51-10.1 Location and examination

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

16:51-10.2 Periodic reports

Every 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. In special instances, utilities may be required to submit reports quarterly and monthly as directed by the Department. Other periodic reports shall be filed on or before the due date noted on the report form.

16:51-10.3 Accidents

Each utility shall keep a record of and report to the Department all accidents, as set forth in N.J.A.C. 16:51-7.

16:51-10.4 Public records

(a) All records, except those records set forth in (d) below, which specifically are required by statute to be made, maintained or kept by and for the Department shall be public records within the meaning of N.J.S.A. 47:1A-1 et seq.

(b) All other records of the Department shall not be subject to the provisions of N.J.S.A. 47:1A-1 et seq., and shall be available for inspection and examination only to the extent and for such purposes as may be expressly authorized by the Commissioner of the Department.

(c) The fee for copies of records, instruments and documents of the Department shall be the fee established by law.

(d) All records which are required to be made, maintained or kept by and for the Department which relate to accidents and investigation of accidents concerning public utilities and to safety inspections and surveys of property and equipment of public utilities shall not be deemed public records, copies of which may be purchased or reproduced under the provisions of N.J.S.A. 47:1A-1 et seq.

SUBCHAPTER 11. TARIFFS

16:51-11.1 Filing with department access to public

Every autobus company and trolley company shall file with the Department and keep open to public inspection in each office where applications for service may be made, tariffs applicable to such territory, the business of which is commonly transacted at such office, 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. The same shall be readily accessible to the public at all times during office hours, and on demand by any person shall be produced for examination immediately. All tariffs legally filed with the Department and now in effect shall continue in force until legally changed. The Department may direct the reissue or modification of any tariff or any part thereof at any time.

16:51-11.2 Letter of transmittal

(a) Four copies of tariffs, parts of tariffs or supplements thereto shall be filed with the Department except that two copies shall be filed by railroads. All such tariffs, parts of tariffs, or supplements shall be accompanied by a letter of transmittal addressed to the Office of Regulatory Affairs. If acknowledgement is desired, such letter shall be in duplicate and shall be accompanied by a self-addressed stamped envelope.

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

LETTER OF TRANSMITTAL
(Name of Common Carrier)

Transmittal Advice No. _____ Place and Date _____

To: Office of Regulatory Affairs
State of New Jersey
Trenton, New Jersey

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. (P.U.C.N.J. or I.C.C.) No. _____ Effective _____

(Or if a revised page)

_____ Revised Page No. _____

Effective

(Or if a supplement)

Supplement No. _____ to N.J.D.O.T. (P.U.C.N.J. or I.C.C.)
No. _____

Effective _____

(Name of Utility)

(Signature of Officer Transmitting)

Amended by R.1992 d.116, effective March 16, 1992.

Sec: 24 N.J.R. 78(b), 24 N.J.R. 968(c).

Revised (b).

16:51-11.3 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 which are proposed to be made and the reason for each change.

16:51-11.4 Timelines of filing

Except as provided by N.J.A.C. 16:51-6.16, every tariff, part of tariff, or supplement thereto shall be filed with the Department, as hereinbefore provided, 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.

16:51-11.5 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 N.J.D.O.T. (or P.U.C.N.J.) as the case may be, 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 either an N.J.D.O.T. or a P.U.C.N.J. number or an I.C.C. number. Both numbers need not appear on any one tariff but a tariff bearing only an I.C.C. number will not be accepted unless it contains a reference note indicating that it applies in intrastate transportation within New Jersey.

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

1. Title Page;
2. Table of Contents;

3. General Information;

4. Classification and Rates.

16:51-11.6 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 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.

16:51-11.7 Preparation; paper

Tariffs and supplements shall be prepared on hard finished, durable paper. Sheets shall not exceed 8 x 11 inches in size. Typewriting, photocopying, or any printing process may be used.

16:51-11.8 Consecutively numbered pages

When a complete tariff is filed, each page, except the title page, which in all cases shall be considered as Page No. 1, shall be issued consecutively numbered. (Example: "Page No. 2," "Page No. 3," and so forth.)

16:51-11.9 Supplement or reissue

A supplement to or reissue of a filed tariff shall indicate the number of prior tariff or supplement in connection with the N.J.D.O.T. or (P.U.C.N.J. number) or I.C.C. number.

16:51-11.10 Suspension; supplement form

When a tariff or portion thereof 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."

16:51-11.11 Less than 30 days' notice request; application

(a) Any common carrier 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 herein requesting authority to put such tariff into effect in less than 30 days after filing, and indicating the date it is desired that such rates become effective. Where special conditions arise necessitating a change in the proposed effective date, extension may be requested. Such application shall be contained in the statement of tariff changes.

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

To: Office of Regulatory Affairs
State of New Jersey
Trenton, New Jersey

(Name of Common Carrier) by (Name of Officer)
Its (Title of Officer) _____ hereby applies for _____ au-
thority to make effective the following rates, N.J.D.O.T. (or
P.U.C.N.J. or I.C.C.) No. _____ on 20____ 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)

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

Amended by R.1992 d.116, effective March 16, 1992.

See: 24 N.J.R. 78(b), 24 N.J.R. 968(c).

Revised (a).

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

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

In (a), substituted "20____" for "19____" in the Application.

16:51-11.12 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 Transpor-
tation, State of New Jersey. Special Permission (Order
No.) ___, made _____"

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

16:51-11.13 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 such tariff bears shall not be used again. Such 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 super-
seded thereby, a notation in substantially the following form:

"Issued in lieu of _____, rejected by the Department."

EXAMPLE

Supplement No. 2 Issued in lieu of Supplement No. 1
rejected by the Department of Transportation, State of
New Jersey.

**16:51-11.14 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 tariff or tariffs affected, filed
and posted as provided in this Subchapter. Each title page
containing rates or provisions established pursuant to the
order of the Department shall bear the following notation:

Issued in compliance with decision (or order) of the
State of New Jersey, dated _____

16:51-11.15 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 properly be established on short
notice. To avoid the necessity for special application in
cases of this kind, the Department has made a general order
fixing the named time of notice of round-trip excursion
fares. Railroads may be governed accordingly.

(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 two
copies of 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 stations where tickets for such
excursions are sold and mailing two copies of tariff to the
Department.

(d) The term "limited to a designated period" 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 limit-
ed for designated period as set forth in (b) and (c) above,
the effectiveness of which extends over a period exceeding
30 days but not more than one year, may be published in the
same tariff and established as provided in (c) above as to
certain of the fares and accompanying provisions, and on
statutory notice as to the remainder. For example, tariff is
filed with the Department March 2 to be effective March 7,
14, 21, 28, April 4, 11, 18 and 25, with final return limit of
eight days in addition to date of sale. From March 7 to
final return limit of ticket sold, April 25, is 58 days. In
connection with the sales dates of March 7, 14, 21 and 28,
the tariff must indicate by appropriate symbol that insofar as
it is effective on those dates it is issued under authority of
the Department of Transportation, State of New Jersey.
The tariff insofar as it is effective on that date of April 4, 11,
18, 25, is filed on statutory notice, and no notation to that
effect is necessary.

(f) Supplement permitted; changes in tariff.

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;

iv. To reduce fares.

4. Changes specified in (f)3 above in a tariff issued under authority of (c) above established by supplement to the tariff in the same manner as authorized in said subsection (c) 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. 16:51-11.15)."

16:51-11.16 Agent authorization

If tariffs and supplements thereto, classifications, and so forth, are filed with the Department by a designated and authorized agent of the carrier, notice of such authorization must be filed with the Department, by and in the name of the carrier. In cases of change of agency similar authorization shall be filed by and in the name of the carrier. The type or form of such authorization is not hereby specified and one or more agents may be shown thereon.

**SUBCHAPTER 12. NOTICE REGARDING
CHANGES IN FARES OR OPERATING
SCHEDULES**
16:51-12.1 Notices regarding fares

(a) In order that adequate and proper notice may be given to the public of any hearing, change in schedule or fares, or any matter in which the Department may require that public notice be posted, every public utility owning, operating, managing or controlling any bus or rail service operation for public use within the State of New Jersey, by the approval of the Department shall post such notices 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 3/4 inch in size.

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

(d) Such notice or notices shall remain posted until after such hearing is had or such effective date or the occasion for such notice has passed.

16:51-12.2 Notices regarding operating schedules

(a) In order that adequate and proper service may be continuously assured, every public utility owning, operating, managing or controlling any autobus or service operation for public use within the State of New Jersey, with approval of the Department shall, not less than 20 days before putting into effect any change or alteration in 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 the vehicle, comply with the following:

1. File with the Department of Transportation, by mailing to Office or by delivery thereto, two copies of a notice setting forth therein the proposed change or alteration;

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

3. Immediately following the filing of the aforesaid notice, such public utility shall post notice of its intent to change or alter its schedule for a period of 25 days in the vehicles operated by it. Such notice shall contain the following information:

i. From whom and where information of the extent of such change or alteration may be obtained;

ii. That notice has been filed by the company with the Department of Transportation.

iii. That notice has been filed with the clerk of each municipality served and affected by the proposed changes or alterations.

(b) Such public utility may, 20 days after the expiration of the aforesaid 25-day notice period, place the change or alteration in effect unless the Department shall have otherwise provided. When under the provisions of this section it is permissible to place into effect such a change in schedules, the utility shall immediately notify the Department in writing whether or not the proposed schedule change is being effectuated.

Amended by R.2001 d.384, effective October 15, 2001.
See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).
In (a)3. substituted "25" for "15"; in (b), substituted "20" for "10" and "25-day" for "15-day".

SUBCHAPTER 13. COMPLIANCE WITH ORDERS, DECISIONS AND RECOMMENDATIONS

16:51-13.1 Orders and decisions

Upon issuance of an order or decision of the Department, the party to whom the same is directed must notify the Department in writing on or before the date specified in said order or decision whether or not compliance has been made in conformity therewith.

16:51-13.2 Recommendations

Upon the making of any recommendation by the Department, the party to whom the same is directed must within 15 days after the making of the recommendation, unless otherwise specifically required, notify the Department in writing of the acceptance or rejection thereof. Failure to comply with this rule will be deemed an acceptance of the recommendation.

16:51-13.3 Extension of time limits

In instances where the Department's decision or order contains a specific time or date of compliance, and the

petitioner desires extension of such time limit, petition to the Department shall be made in writing at least five days before the expiration of the time limit.

16:51-13.4 Answers to communications

Unless otherwise specified, any letter or telefax or other written communication from the Department directing investigation of any matter under its jurisdiction must be complied with by the autobus company and a report received by the Department within 15 days from the date of the letter or telegram. If circumstances prevent compliance with this rule, the autobus company must advise the Department in writing, within the above prescribed period, of its inability to comply and the reasons therefor.

**SAMPLE ACCIDENT REPORT FORM--
ALL OTHER UTILITIES
REPORT OF ACCIDENTS**

Report No. _____
Name of Reporting Utility: _____
Date of Accident: _____ Time of Day: _____
Place of Accident: _____
Details of Casualties to Persons: _____
Details of Effect on Service: _____
Details of Accident (Nature and Cause): _____
Corrective Measures: _____
Recommendations to Avoid Recurrence: _____
SIGNED: _____ TITLE: _____ DATE: _____

Amended by R.2001 d.384, effective October 15, 2001.
See: 33 N.J.R. 2271(a), 33 N.J.R. 3665(a).
Substituted "telefax or other written communication" for "telegram".