

**PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

**RULES GOVERNING THE PROCESSING, INVESTIGATION, AND DISPOSITION
OF OVERCHARGE OR DUPLICATE PAYMENT CLAIMS BY COMMON CARRIERS.**

Adopted April 6, 1994. Effective May 6, 1994.
(Decision 94-04-041 in R.93-06-032)

RULE 1—APPLICABILITY

The following rules govern the processing, investigation, and disposition of claims for overcharge or duplicate payment for the transportation of property in intrastate commerce by common carriers subject to the Public Utilities Act, other than a railroad corporation. These rules are in addition and supplementary to the provisions of the Public Utilities (PU) Code and, in particular, of the following sections:

- a. § 494—Tariffs must be strictly observed.
- b. § 532—Assessment of tariff rates.
- c. § 736—Complaints resulting from violation of provisions of §§ 494 and 532.
- d. § 738—Accrual of cause of action.

RULE 2—DEFINITIONS

- a. "Carrier" means a common carrier of property as defined in PU Code §§ 211 and 212, other than a railroad corporation.
 - b. "Claimant" means any shipper or receiver, or its authorized agent, filing a request with a carrier for the refund of an overcharge or duplicate payment.
 - c. "Duplicate payment" means two or more payments for transporting the same shipment. Where one or more payment is not in the exact amount of the applicable tariff rates and charges, refunds shall be made on the basis of the excess amount over the applicable tariff rates and charges.
 - d. "Overcharge" means a charge for transportation services, billed and collected by a carrier, in excess of the charge applicable under the terms of the tariffs lawfully on file with the Commission.
 - e. "Transportation services" means the services of transporting property for hire, and includes any accessorial services.
 - f. "Unidentified payment" means a payment which a carrier has received for the performance of transportation services but which the carrier is unable to match with its open accounts receivable or otherwise identify as being due.
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RULE 3—FILING AND PROCESSING OF CLAIMS

- a. A claim for overcharge or duplicate payment shall not be paid unless filed in writing.
- b. In connection with interline shipments, claimant should file its claim with the carrier that collected the transportation charges. The collecting carrier shall be the carrier to process all such claims. When a claim is filed with another carrier that participated in the transportation, that carrier shall transmit the claim to the collecting carrier within 15 days after receipt of the claim. If the collecting carrier is unable to dispose of the claim for any reason, the claim may be filed with or transferred to any participating carrier for final disposition.
- c. A single claim may include more than one shipment provided the claim on each shipment involves (1) the same tariff issue or authority of circumstances, (2) single line service by the same carrier, or (3) service by the same interline carriers.

RULE 4—DOCUMENTATION OF CLAIMS

- a. Claims for overcharge or duplicate payment shall be accompanied by sufficient information to allow the carrier(s) to conduct an investigation and pay or decline the claim within the time limitations set forth in paragraph 8. Claims shall include the name of the claimant, its file number (if any), and the amount of the refund sought to be recovered, if known (see subparagraph d for exception).
- b. Claims for overcharge shall be accompanied by the original freight bill. Additional information may include, but is not limited to, the following (see subparagraph d for exception):
 - (1) The rate, classification, or commodity description or weight claimed to have been applicable.
 - (2) Complete tariff authority for the rate classification or commodity description claimed.
 - (3) Freight bill payment information.
 - (4) Other documents of data which are believed by claimant to substantiate the basis for its claim.
- c. Claims for duplicate payment shall be accompanied by the original freight bill(s) for which charges were paid and by freight bill payment information (see subparagraph d for exception).
- d. Regardless of the provisions of subparagraphs a, b, and c, of this paragraph, the failure of a claimant to provide sufficient information and documentation to allow a carrier to conduct an investigation and pay or decline the claim within the allowable time limitation shall not constitute grounds for disallowance of claim. Rather, the carrier shall comply with paragraph 5c to obtain the additional information required.

- e. A carrier shall accept copies instead of the original documents required to be submitted in this paragraph where the carrier is furnished with an agreement entered into by the claimant which indemnifies the carrier for subsequent duplicate claims which might be filed and supported by the original documents.

RULE 5—INVESTIGATION OF CLAIMS

- a. Upon receipt of a claim, whether written or otherwise, the processing carrier shall promptly initiate an investigation and establish a file, as required by paragraph 6.
- b. If a carrier discovers an overcharge or duplicate payment which has not been the subject of a claim, it shall promptly initiate an investigation and comply with the provisions of paragraph 9.
- c. In the event the carrier processing the claim requires information or documents in addition to that submitted with the claim, the carrier shall promptly notify the claimant and request the information required. This includes notifying the claimant that a written claim must be filed before the carrier becomes subject to the time limits for settling such a claim under paragraph 8.

RULE 6—CLAIM RECORDS

At the time a claim is received the carrier shall create a separate file and assign it a successive claim number and note that number on all documents filed in support of the claim and, all records and correspondence with respect to the claim, including the written acknowledgement of receipt required under paragraph 7. If pertinent to the disposition of the claim, the carrier shall also note that number on the shipping order and delivery receipt, if any, covering the shipment involved.

RULE 7—ACKNOWLEDGEMENT OF CLAIMS

Upon receipt of a written claim, the carrier shall acknowledge its receipt in writing to the claimant within 30 days after the date of receipt except where the carrier shall have paid or declined the claim in writing within that period. The carrier shall include the date of receipt in its written acknowledgment and shall also enter this date on the face of the written claim which shall be placed in the file for that claim.

RULE 8—DISPOSITION OF CLAIMS

The processing carrier shall pay, decline to pay, or settle each written claim within 60 days after its receipt by the carrier, except where the claimant and the carrier agree in writing to a specific extension based upon extenuating circumstances. If the carrier declines to pay a claim or makes a settlement in an amount different from that sought, the carrier shall notify the claimant in writing of the reason(s) for its actions, citing tariff authority or other pertinent information developed as a result of its investigation.

**RULE 9—DISPOSITION OF UNIDENTIFIED PAYMENTS, OVERCHARGES,
AND DUPLICATE PAYMENTS, NOT THE SUBJECT OF CLAIMS**

- a. (1) Carriers shall establish procedures for identifying and properly applying all unidentified payments, if a carrier does not have sufficient information with which properly to apply such a payment, the carrier shall notify the payor of the unidentified payment. If the carrier does not receive the information requested within 90 days from the date of the notice, the carrier may treat the unidentified payment as a payment in fact of freight charges owing to it. Following the 90-day period, the regular claims procedure under this Order shall be applicable.
- (2) Notice shall be in writing and clearly indicate that it is a final notice and not a bill. Notice shall include: the check number, amount, and date; the payor's name; and any additional basic information the carrier is able to provide. The final notice must also inform payor that: (a) applicable regulations allow the carrier to conditionally retain the payment as revenue in the absence of a timely response by the payor; and (b) following the 90-day period the regular claims procedure shall be applicable.
- (3) Upon carrier's receipt of information from the payor, the carrier shall, within 14 days: (a) make a complete cash refund of such funds to the payor; or (b) notify the payor that the information supplied is not sufficient to identify the unapplied payment and request additional information; or (c) notify the payor of the carrier's determination that such payment was applicable to particular freight charges lawfully due the carrier. Where no refund is made by the carrier, the carrier shall advise the payor of its right to file a formal claim for refund with the carrier in accordance with the regular claims procedure under this Order.
- b. When a collecting carrier discovers that an overcharge or duplicate payment exists for any transportation charge which has not been the subject of a claim, it shall create a file as if a claim had been submitted and shall then refund the amount of the overpayment to the person who paid the transportation charges or to the person who made the duplicate payment within 30 days from the date of such discovery.
- c. When a carrier which participated in a transportation movement but did not collect the transportation charges finds that an overpayment has been made, that carrier shall immediately notify the collecting carrier and shall send a written notice to the collecting carrier within 7 days. Upon such initial notification, the collecting carrier shall create a file as if a claim had been submitted and shall record in the file the date it was so notified. The collecting carrier shall treat notification by a drayman,

subhauler, broker, or other party (other than a claimant) in the same manner as notification by a participating carrier, regardless of whether or not such other party is itself subject to this Order. Unless it disagrees that an overpayment exists, the collecting carrier shall then refund the amount of the overpayment to the person who paid the transportation charges or to the person who made duplicate payment within 30 days from the date it was notified. In the event that the collecting carrier disagrees that an overpayment exists, it shall process the notification as a claim in which case the acknowledgment of receipt, required by paragraph 7, shall be directed to the payor of transportation charges or of duplicate payment who shall then be considered a claimant.

RULE 10—THE USE OF NON-PAPER ALTERNATIVES BY HIGHWAY COMMON CARRIERS

- 10.1 The following provisions are applicable only to highway common carriers as defined in PU Code Section 213. By offering or using a non-paper alternative pursuant to this rule, each carrier so doing acknowledges that the Commission's grant of authority to use a non-paper alternative does not constitute a waiver of, or limitation on, the Commission's and/or its staff's rights and powers with respect to access to information, documents, papers, records, etc.
- 10.2 Highway Common Carriers must use paper for documents specified in General Order 148, unless they publish in their tariffs whether and under what circumstances they will offer shippers the option to use a non-paper alternative.
- 10.3 No carrier shall require the use of a non-paper alternative as a condition of service.
- 10.4 Highway Common Carriers which offer service involving non-paper alternatives must do so to all shippers on a non-discriminatory basis.
- 10.5 A paper hard copy shall be available to all relevant parties upon request.
- 10.6 Non-paper alternatives must meet the following criteria:
 1. Information is retrievable.
 2. Information is readily available to all relevant parties. Information can be "read" and is as available as a written paper hard copy.
 3. Information content completely complies with the current regulations.
 4. Authenticity of stored data can be assured by appropriate means.

5. Information can be traced to the degree necessary to meet current regulations. This includes a methodology to confirm shipment, pickup, and delivery.

Approved and dated April 6, 1994, to become effective May 6, 1994,
at San Francisco, California.

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA

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Executive Director

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