

PSC 16,22

Filed Aug 3, 1964  
4:15 PM

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

STATE OF WISCONSIN )  
PUBLIC SERVICE COMMISSION ) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, John F. Goetz, Acting Secretary of the Public Service Commission of Wisconsin, and custodian of the official records of said commission, do hereby certify that the annexed document in Docket MC-1719

relating to rules which affect common motor carriers of property serving in the Milwaukee metropolitan area

was duly approved and adopted by this Commission on June 12, 1964.

I further certify that said copy has been compared by me with the original on file in this Commission and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the Capitol, in the city of Madison, this 3rd day of August A.D. 1964.

*John F. Goetz*  
Acting Secretary

ORDER OF THE  
PUBLIC SERVICE COMMISSION  
AMENDING RULES

Pursuant to authority vested in the Public Service Commission by chapter 194, Wis. Stats., the Public Service Commission hereby amends rules as follows:

Sections PSC 16.05 (2) and PSC 22.01 (introductory paragraph) and (1) of the Wisconsin Administrative Code are amended to read:

PSC 16.05 (2) DISTANCE FORMULA. The single- and joint-line class rates prescribed by the Commission shall be based on airline distances computed as provided under Wis. Adm. Code section PSC 16.36, except that for common motor carrier rates, all municipalities located wholly or partially within Milwaukee County shall be considered as having Index No. 4541.

PSC 22.01 Permissive authority. Every common motor carrier of property, unless otherwise restricted, shall be permitted under its certificate to engage in pickup-and-delivery service:

(1) At points within 1 mile of the corporate limits of any incorporated city or

village located wholly outside Milwaukee County which its certificate authorizes it to serve and which points are located within municipalities contiguous to the incorporated city or village which its certificate authorizes it to serve.

The amendments contained herein shall take effect on January 1, 1965 pursuant to authority granted by section 227.026 (1) (b), Wis. Stats., and according to Paragraph 2. of the June 12, 1964 Order in Docket MC-1719 filed herewith.

Dated: August 3, 1964

PUBLIC SERVICE COMMISSION OF WISCONSIN

A handwritten signature in cursive script that reads "John J. Guetz".

Acting Secretary

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Proposed Amendment to Rules Which }  
Affect Common Motor Carriers of }  
Property Serving in the Milwaukee }  
Metropolitan Area }

MC-1719

FINDINGS OF FACT AND ORDER

Pursuant to chapter 194, Statutes, and under the rule-making procedure in chapter 227, Statutes, the Commission held a public hearing before Examiner Helmar A. Lewis at Madison on January 13, 1964 and on April 28, 1964 to consider amendment to sections PSC 16.05 (2) and PSC 22.01 (1), Wisconsin Administrative Code. Common motor carriers having a possible interest were notified, and notice of hearing was published in the Notice Section of the December 1963 Wisconsin Administrative Register No. 96.

Appearances:

As Interest May Appear:

Motor Transport Company by

Adolph J. Bieberstein  
and by  
Glen W. Stephens, attorneys (Jan. 13)  
Madison  
(Changed to partial opposition, April 28)  
(page 91, tr.)

Wisconsin Motor Carriers Association  
Rate and Tariff Division by

Franklin H. Seefeldt, manager  
Madison

Gateway Transportation Company by

Joseph E. Ludden, attorney (Jan. 13)  
La Crosse

James E. Doyle, attorney  
Madison, and

Appearances: (Cont.)

As Interest May Appear: (Cont.)

James R. Smaby (April 28)  
La Crosse

Cedarburg Truck Line  
Gross Common Carrier, Inc.  
Glendenning Motorways, Inc.  
Slinger Transfer, Inc.  
West Bend Transit & Service Co., by

Claude J. Jasper, attorney  
Madison

Lake Shore Transfer Company by

William C. Dineen, attorney  
Milwaukee  
(Changed to partial opposition, April 28)  
(page 91, transcript)

Spring City Trucking Company by

John T. Porter, attorney  
Madison  
(Changed to partial opposition, April 28)  
(page 92, transcript)

Fore Way Express, Inc.  
Wausau, by

Stanley Steffke, vice president  
Brookfield

Clairmont Transfer Company and  
Nicolet Cartage, Inc., by

Elmer Wery (Jan.13)  
Green Bay, and by

John T. Porter, attorney (April 28)  
Madison  
(Changed to partial opposition, April 28)  
(page 92, transcript)

Central Wisconsin Motor Transport Company by

Sidney A. Eken, assistant general traffic  
manager (Jan.13)  
Wisconsin Rapids

Yule Truck Lines, Inc., by

Walter Kowalski  
Milwaukee

Appearances: (Cont.)

As Interest May Appear: (Cont.)

Checker Express Company by

Leonard J. Lewensohn, attorney (April 28)  
Milwaukee

Neuendorf Transportation Company by

Robert Bryant (Jan.13)  
Madison

Milwaukee Association of Commerce by

Harold Gawlik (Jan.13)  
Milwaukee

Milwaukee Association of Commerce  
Small Shipments Subcommittee and  
Square "D" Company by

Dyke Page (Jan.13)  
Milwaukee

Robertson Transportation Company, Inc., by

Deane P. Rude (Jan.13)  
Madison

In Opposition:

Checker Express Company  
Milwaukee, by

Leonard J. Lewensohn, attorney  
Milwaukee

Of the Commission Staff:

A. Wilford Larson, chief, transportation  
department

Harold C. Heublein, transportation department

Findings of Fact

THE COMMISSION FINDS:

This proceeding involves proposed amendments to two rules in the Wisconsin Administrative Code. The first would amend section FSC 16.05 (2) which deals specifically with the distance factor for rate-making purposes. The second would amend section FSC 22.01 which grants

permissive authority to common motor carriers of property to engage in pickup-and-delivery service to a certain extent beyond that included in the respective common motor carrier certificates held by them.

There are 18 cities and villages within Milwaukee County, in addition to the city of Milwaukee. Twelve of these cities and villages are contiguous to and in some cases practically surrounded by the city of Milwaukee. The city of Milwaukee extends to the east, west and, north boundaries of Milwaukee County and as far south as any of the other municipalities except the cities of Oak Creek, Franklin, and South Milwaukee. Section PSC 16.05 (2), Wisconsin Administrative Code, now provides that common motor carrier rates prescribed by the Commission shall be based on airline distances computed as provided under section PSC 36.36. Key numbers are provided for each of the cities and villages in Milwaukee County in section PSC 36.36, although in some instances the same key number is assigned to two or more of said cities and villages that are contiguous to the city of Milwaukee. This results in the rates often being higher or lower to or from these contiguous cities than they are to or from the city of Milwaukee. The proposed amendment to section PSC 16.05 (2) would result in the rates to or from any of the municipalities within Milwaukee County being the same as those to or from the city of Milwaukee.

One carrier objected to the proposed amendment. Approximately 25% of that carrier's revenues is derived from division of revenues with other carriers on joint-line

traffic intrastate within Wisconsin. On the basis of the present agreement between the carriers for the division of revenues on joint-line traffic, this carrier estimates that its operating ratio could be increased by approximately 1.5% if this rule were amended as proposed. The estimate was based on a sample of traffic moving between points where the major differential could occur. What percentage of its joint-line traffic moves to or from these particular points is not shown in the record. The method used for the division of revenues between carriers on joint-line traffic has never been prescribed by this Commission although the rates involved are prescribed. The more uniform application of rates to or from municipalities located within Milwaukee County resulting from the proposed amendment to PSC 16.05 (2) will be in the public interest.

All common motor carriers have permissive authority to engage in pickup-and-delivery service at points within municipalities contiguous to cities or villages to which specific authorization is contained in the certificate, which points are within one mile of the boundary lines of the specifically authorized cities or villages. This authorization, which is under the provisions of section PSC 22.01, does not require that a carrier perform such extended pickup-and-delivery service into any particular municipality for which permissive authorization is granted, but if such extended service is exercised within a given contiguous municipality, there must be a holding out to perform such service, without discrimination, to all shippers within the territory authorized. Because of the



Irregular boundary lines of the city of Milwaukee, it is almost impossible to determine just what portion of the municipalities contiguous to the city of Milwaukee can be served by virtue of having specific authorization in the certificate to serve the city of Milwaukee. It is not in the public interest to be unable to determine just what service can be legally performed by a given motor carrier. In this connection it is important to note that there are 25 common motor carriers authorized to serve between the city of Milwaukee on the one hand and other cities or villages on the other hand. One of these carriers can perform service only within Milwaukee County.

The amendment proposed to section PSC 22.01 would remove the permissive authority to extend pickup-and-delivery service one mile into municipalities contiguous to the cities or villages located completely or partially in Milwaukee County which the carriers are specifically authorized to serve under the provisions of their common motor carrier certificates.

The proposed amendments to section PSC 16.05 (2) and PSC 22.01 (1), Wisconsin Administrative Code, are required by the public interest.

#### Conclusions of Law

##### THE COMMISSION CONCLUDES:

1. The provisions of section PSC 22.01, Wisconsin Administrative Code, do not authorize a carrier to perform pickup-and-delivery service into a municipality where the certificate restricts the carrier from performing such service.

2. A carrier choosing to perform service under the provisions of section FSC 22.01, Wisconsin Administrative Code, is then required to perform such service in the same manner as if it were a part of that carrier's common motor carrier certificate.

3. Should a carrier lose any authority to serve a portion or all of a municipality by this amendment to section FSC 22.01, Wisconsin Administrative Code, proof of having been holding out to serve legally under those provisions can warrant a finding that public convenience and necessity require such service to the entire municipality if an application is made for an amendment to the certificate.

4. The Commission has authority to amend sections FSC 16.05 (2) and FSC 22.01 (1), Wisconsin Administrative Code, as proposed herein and that such amendment should be made.

#### Order

#### THE COMMISSION THEREFORE ORDERS:

1. That, pursuant to authority vested in the Commission by chapter 19<sup>4</sup>, Statutes, the Commission amends rules to read as follows:

FSC 16.05(2) Distance formula. The single- and joint-line class rates prescribed by the Commission shall be based on airline distances computed as provided under Wis. Adm. Code section FSC 16.36, except that for common motor carrier rates, all municipalities located wholly or partially within Milwaukee County shall be considered as having Index No. 4541.

FSC 22.01 Permissive authority. Every common motor carrier of authority, unless otherwise

restricted, shall be permitted under its certificate to engage in pickup-and-delivery service:

(1) At points within 1 mile of the corporate limits of any incorporated city or village located wholly outside Milwaukee County which its certificate authorizes it to serve and which points are located within municipalities contiguous to the incorporated city or village which its certificate authorizes it to serve.

2. That sections PSC 16.05 (2) and PSC 22.01 (1), Wisconsin Administrative Code, adopted as herein amended, shall take effect on January 1, 1965, as provided in section 227.026 (1) (b), Statutes.

3. That a certified copy of the rules herein amended be filed in the office of the Secretary of State and Revisor of Statutes, as required by section 227.023, Statutes.

Dated at Madison, Wisconsin, this 12th day  
of June 1964.

By the Commission.

John F. Goetz  
Acting Secretary