



ADDENDUM

TO: Angela Hawkins, Public Utilities Commission of Ohio

FROM: Emily Kaylor, Regulatory Policy Advocate

DATE: July 7, 2016

RE: CSI Review – Transportation of Household Goods (OAC 4901:2-19)

Analysis

On January 21, 2016 the Public Utilities Commission of Ohio (Commission) submitted to the CSI Office 16 rules pertaining to the transportation of household goods. The Commission issued its Finding and Order on April 27, 2016 and CSI issued a recommendation memo on May 26, 2016, which included a recommendation that “the Commission either address the concerns of OAM (the Ohio Association of Movers) related to the 60-day claim period in OAC 4901:2-19-15 through further edits of this rule or provide more specific justifications for not adopting the stakeholders’ suggestions.”

OAM submitted an application for rehearing to the Commission on May 27, 2016. The Commission issued its Entry on Rehearing on June 15, 2016 and sent a response memo to the CSI Office on July 1, 2016.

From OAM’s application for rehearing, the Commission found four assignments of error to which it granted two and denied the other two. The Commission reinstated language from the current rules that it had proposed to delete, to make explicit that consumers who opt for full replacement value will be provided either the stated value coverage or \$6.00 per pound coverage, whichever is greater. Additionally, the Commission addressed the CSI recommendation to consider OAM’s suggested changes to the 60-day claim period language in OAC 4901:2-19-15. The Commission combined the proposed language to clarify that no carrier can limit a consumer’s right or ability to file a claim as long as the time limit to file a claim is not less than 60 days. This ensures that the rights of consumers to file a claim will not be restricted while also protecting carriers’ ability to

require that claims submitted against them must be presented within 60 days of the move. The Commission denied OAM's suggestions that the current language subjects carriers to unlimited liability and that it is not in line with federal statute 49 CFR 375.201.

The CSI Office is satisfied with the outcome and has no further comment on this rule package.

Conclusion

After addressing the CSI recommendation and other concerns of the Ohio Association of Movers, the CSI Office concludes that the Public Utilities Commission of Ohio should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office
Scott Farkas, Public Utilities Commission of Ohio



MEMORANDUM

TO: Angela Hawkins, Public Utilities Commission of Ohio

FROM: Emily Kaylor, Regulatory Policy Advocate

DATE: May 26, 2016

RE: **CSI Review – Transportation of Household Goods (OAC 4901:2-19)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of 16 rules (7 amended and 9 no-change) submitted by the Public Utilities Commission of Ohio (Commission) for their statutorily-required five-year review. It was submitted to the CSI Office on January 21, 2016 and the comment period closed on February 10, 2016. One comment was received during this time.

The rules pertain to the transportation of household goods for carriers regulated by the Commission. These regulations include registration with the Commission, having appropriate tariffs on file, providing necessary information to consumers, proper documentation and retention, and liability insurance to cover all goods being transported.

The BIA states that the impacted business community is the for-hire carriers that provide household goods moving services operating in intrastate and interstate commerce. These carriers incur costs associated with registration fees, liability insurance, tariffs, and the time it takes them to fill out the necessary forms for the Commission and customers. For early stakeholder outreach, the Commission conducted a workshop on November 18, 2015 to receive feedback on the rules. The Ohio Association of Movers (OAM), Ohio Brokers of Household Goods, and transportation

notification list were all informed of the workshop by the Commission. OAM attended the workshop and provided feedback on the draft rules. During the CSI public comment period, one comment was received from OAM with two specific concerns. On April 27, the Commission issued a Finding and Order that describes OAM's two concerns and the Commission's responses.

The first issue presented by OAM suggested different language for OAC 4901:2-19-06. This rule deals with liability coverage and authorizes carriers to give consumers the option of full or limited coverage, although by law the default option is full coverage. According to OAM's comment, they would like the Commission to require movers to provide their first estimate with full coverage and give the consumers a check box only to opt-out of full coverage. The Commission ordered OAC 4901:2-19-06 to be clarified in response to OAM's comment and the amended version was attached to the Finding and Order, but this amended version does not satisfy OAM's concerns. According to the Commission, federal law does not allow states to set motor carrier rates in this way, so requiring adequate disclosure to consumers and an ability to opt-in to the desired coverage level represent the only solutions to this issue.

OAM's second concern requested revision for clarification of OAC 4901:2-19-15, but the Commission disagreed and made no changes to the rule. Based on the Finding and Order, the Commission and OAM both want the rule to maintain the industry standard of a 60-day limit for a consumer to file a claim for loss or damage with the carrier. Neither party wants to limit or expand a consumer's ability to file a claim further, but they disagree on the interpretation of the language in the draft rule. The Commission believes that the new language makes it clear that a consumer's right to file a claim may not be limited but that there is a 60-day period in which the consumer must file the claim with the carrier. OAM is concerned that the current draft language creates a conflict which in one section allows for the 60-day limit, but in another section prohibits any limitations at all, which could allow consumers unlimited time to file a claim. OAM suggested wording for the draft rule to avoid any potential litigation, but their language was rejected because the Commission interprets the current draft as satisfying OAM's concern. As the Commission interpretation could change in the future or could be subject to litigation based on the apparent conflict, the CSI Office believes that OAM's concern needs to be addressed to avoid confusion and prevent movers from experiencing an unnecessary legal burden.

The Commission staff and OAM have been meeting to discuss changes that might be made to address all parties' concerns, and OAM will request a rehearing from the Commission. After reviewing the proposed rule and the BIA, the CSI Office has determined that OAM has legitimate concerns that have not yet been adequately addressed in the current version of the draft rules.

Recommendation

1. For the reasons explained above, the CSI Office recommends that the Commission either address the concerns of OAM related to the 60-day claim period in OAC 4901:2-19-15

through further edits of this rule or provide more specific justifications for not adopting the stakeholders' suggestions.

Conclusion

Based on the above comments, the CSI Office concludes that the Public Utilities Commission of Ohio should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review only after addressing the recommendation above.

cc: Mark Hamlin, Lt. Governor's Office
Scott Farkas, Public Utilities Commission of Ohio