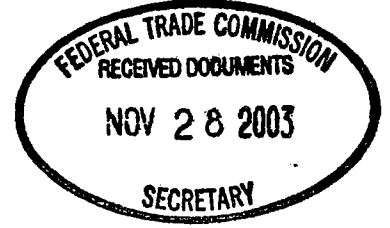


UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION



In the Matter of)
)
)
 KENTUCKY HOUSEHOLD)
 GOODS CARRIERS)
 ASSOCIATION, INC.,)
)
 a corporation.)

Docket No. 9309

**RESPONDENT'S ANSWERS AND OBJECTIONS TO
COMPLAINT COUNSEL'S INTERROGATORIES**

Pursuant to the Federal Trade Commission ("FTC") Rules of Practice for Adjudicative Proceedings § 3.35, and the Scheduling Order issued in this matter, Complaint Respondent submits these Answers and Objections to Complaint Counsel's interrogatories dated as of October 31, 2003.

**GENERAL OBJECTIONS TO
INTERROGATORIES, INSTRUCTIONS, AND DEFINITIONS**

The following general objections apply to each instruction, and document or information request shall have the same force and effect as if fully set forth in the objection to each interrogatory. Hereinafter, the terms "document" and "documents" shall be equivalent and either terms shall mean both the singular and plural.

1. Respondent objects to providing any information or documents in response to these interrogatories that would cause Respondent to waive or otherwise lose any privilege against self-incrimination, joint defense privilege, or any other applicable privilege, immunity, protection or restriction.
2. Respondent objects to providing any information or documents in response to these interrogatories that is protected by the attorney-client privilege or the work-product doctrine, the privilege against self-incrimination, joint defense privilege, or any other applicable privilege, immunity, protection or restriction.

3. Respondent objects to providing any information or documents in response to these interrogatories that are not discoverable or the scope of which exceeds the obligations of discovery under the Federal Trade Commission's Rule of Practice or other applicable law.
4. Respondent objects to providing any information or documents in response to these interrogatories to the extent that disclosure or production would cause Respondent annoyance, embarrassment, oppression, unique burden, or expense.
5. Respondent objects to providing any information or documents in response to these interrogatories to the extent that the information or document sought is of public record or is equally accessible and available to Complaint Counsel or is already in the possession of Complaint Counsel, the Commission, the General Counsel, the office of Administrative Law Judges, or the Secretary in his capacity as custodian or recorder of any such information, or their respective staffs.
6. Respondent objects to responding to interrogatories or producing documents to the extent that the instructions and definitions contained in these interrogatories are not reasonably calculated to lead to the discovery of admissible evidence, or are unduly burdensome, overly broad, irrelevant, unduly vague or ambiguous, or attempt to alter the plain meaning or understanding of any term, or attempt to impose obligations on Respondent that are inconsistent with or beyond those required under the Federal Trade Commission's Rules of Practice or other applicable laws.
7. Respondent objects to the instructions and interrogatories to the extent that they are unreasonably cumulative or duplicative, the information or document is attainable from some other source that is more convenient, less burdensome, or less expensive, Complaint Counsel has already had ample opportunity by discovery in this action to obtain the information or documents sought, and the burden and expense of the proposed discovery outweigh its likely benefit.
8. Respondent objects to the instructions contained in the interrogatories to the extent that they seek to impose burdens or obligations that exceed those imposed by the Federal Trade Commission's Rules of Practice, and any other applicable statutory and decisional laws.
9. By answering any interrogatories, Respondent does not waive any of the above objections, any defenses in any underlying action, or admit any liability in any underlying action.

**ANSWERS AND OBJECTIONS TO
INTERROGATORIES**

1. Do you contend that in the absence of a valid State Action Defense, Respondent's activities in preparing and filing tariffs, including but not limited to KYDVR TARIFF NO.5 (KHGCA 6931-7054), do not constitute an agreement on price in violation of Section 5 of the Federal Trade Commission Act, as amended?

Specific Objections to Interrogatory 1: Respondent objects to this Interrogatory on the grounds that it seeks information which is highly speculative, calls for a legal opinion or conclusion, and seeks information which will be at issue in the ultimate outcome of this proceeding.

Response: Subject to and without waiving any objections, all actions taken by Respondent were performed in accordance with applicable laws and regulations of the Commonwealth of Kentucky and the Kentucky Transportation Cabinet ("KTC").

2. Do you contend that the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet engaged in Active Supervision of the rates contained in Respondent's tariffs, including but not limited to KYDVR TARIFF NO.5?

Response: Yes.

3. If Respondent's response to Interrogatory Number 2 is in the affirmative, identify each step taken by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet that constitutes Active Supervision of the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 3: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and

(ii) William Debord. KTC engaged in numerous steps constituting Active Supervision including, without limitation, attendance at KHGCA Directors' and Membership Meetings, discussions with KHGCA Members and Directors regarding cost data and rate information, monitoring economic conditions, conducting audits of individual household goods carriers, conducting tariff seminars, studying methods and information of motor carrier regulation from other states through participation in regulatory conferences, demanding information in connection with tariff and supplement filings, reviewing rate filings for accuracy, maintaining familiarity with I.C.C., S.T.B., and other interstate motor carrier rate filings, and periodically reviewing all KHGCA Tariff provisions having an impact on rates.

4. Identify each instance where notice was given to the general public that the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet was considering the rates contained in Respondent's KYDVR TARIFF NO.5.

Response: Notice was given to the general public by reason of the availability of rate and proposed rate information at (a) KTC; (b) the premises of each carrier participating in the subject Tariff; and (c) the offices of KHGCA.

5. Identify each hearing held by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet to consider the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 5: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

6. Identify each written decision issued by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet approving the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 6: Respondent objects to this interrogatory on the

grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

7. Identify each written decision issued by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet disapproving the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 7: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

8. Identify all information provided to the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet that purports to justify the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 8: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and

(ii) William Debord.

9. Identify all instances where the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet verified (e.g. by on-site inspection or by auditing business books or records) financial data of household goods movers in conjunction with a decision whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 9: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

10. Identify each Economic Study provided to the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet in conjunction with a decision whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 10: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

11. Identify each Economic Study prepared by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet in conjunction with a decision whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 11: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

12. Identify each Economic Study relied on by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet in conjunction with a decision whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 12: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

13. Identify all economic data provided to the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet in conjunction with a decision whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 13: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence,

and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

14. Identify all economic data prepared by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet in conjunction with a decision whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 14: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

15. Identify all economic data relied on by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet in conjunction with a decision whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 15: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

16. Identify all quantitative analyses (e.g., calculation of the operating ratio household goods movers would achieve charging the rates proposed by Respondent) performed by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet in conjunction with a decision whether to approve the rates

contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 16: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

17. Identify all quantitative analyses (e.g., calculation of the operating ratio household goods movers would achieve charging the rates proposed by Respondent) provided to the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet in conjunction with a decision whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 17: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

18. Identify the staff employed by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet to evaluate whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 18: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in

this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord. The initial responsibility for determining the appropriateness of the subject rates rested with Mr. William Debord; the ultimate authority for making this determination rested with the Secretary of KTC.

19. Identify the amount of state funds expended annually by the Kentucky Transportation Cabinet.

Specific Objections to Interrogatory 19: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: 2004 "Transportation Vehicle Regulation" Expenditures as reflected in State Budget amount to \$40,859,300; breakdown of "Expenditures by Unit" shows \$2,509,900 for "Motor Carriers." Three (3) pages from KY Budget found at "www.osbd.state.ky.us/publications/C0204V1D" attached.

20. Identify the amount of state funds expended annually by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet.

Specific Objections to Interrogatory 20: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: See Response to Interrogatory 19.

21. Identify the amount of state funds expended annually by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet in conjunction with the regulation of household goods carriers.

Specific Objections to Interrogatory 21: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: See Response to Interrogatory 19.

22. Identify the amount of state funds expended annually by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet in

conjunction with decisions whether to approve the rates contained in tariffs file by household goods carriers.

Specific Objections to Interrogatory 22: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: See Response to Interrogatory 19.

23. Identify the amount of state funds expended annually by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet in conjunction with decisions whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 23: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: See Response to Interrogatory 19.

24. Identify the standard the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet applies when considering whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5.

Response: Standards are identified in the following statutes and regulations which are attached hereto and made a part hereof:

KRS 281.590
KRS 281.675(1)
KRS 281.680
KRS 281.685
KRS 281.690
KRS 281.695
601 KAR 1:050
601 KAR 1:060
601 KAR 1:080

25. Identify the steps taken by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet to apply the standard identified in response to Interrogatory Number 24 when considering whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5.

Specific Objections to Interrogatory 25: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

26. Identify all information Respondent provided to the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet when the state was applying the standard identified in response to Interrogatory Number 24 in conjunction with a decision whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and (ii) William Debord.

27. Identify all instances where a decision by the Division of Motor Carriers of the Department of Vehicle Regulation of the Kentucky Transportation Cabinet regarding whether to approve the rates contained in Respondent's KYDVR TARIFF NO.5 has been the subject of judicial review.

Specific Objections to Interrogatory 27: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: Subject to and without waiving any objections, the information requested in this interrogatory has already been provided in (a) Respondent's document production, in the form of, without limitation, minutes of KHGCA meetings, tariffs, correspondence, and notes of conversations; and (b) KTC's document production, in the form of, without limitation, tariffs, correspondence, file notes, memoranda, and audit documents. This information was also provided as part of the deposition testimony of (i) A.F. Mirus; and

(ii) William Debord.

28. Do you contend that the rates contained in Respondent's KYDVR TARIFF NO.5 have been approved by the United States Government?

Specific Objections to Interrogatory 28: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

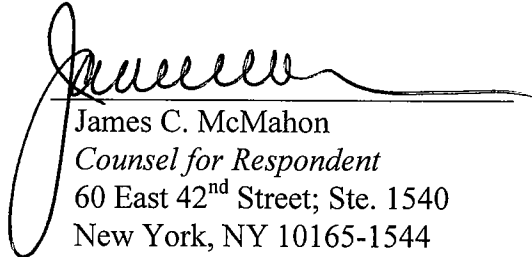
Response: Without waiving any objections, and recognizing that this interrogatory calls for a legal conclusion, it is Respondent's position that the rates contained in the subject Tariff and the process by which those rates have been formulated and approved are in no way offensive to or in violation of the laws of the United States.

29. If Respondent's response to Interrogatory Number 28 is in the affirmative, identify each United States Government decision that constitutes such approval.

Specific Objections to Interrogatory 29: Respondent objects to this interrogatory on the grounds (1) that it is vague, overly broad, and overly burdensome; (2) that the information sought is equally available to Respondent and Complaint Counsel.

Response: See Response to Interrogatory 28, supra.

Respectfully submitted,



James C. McMahon
Counsel for Respondent
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New York, NY 10165-1544
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Fax. 212.986.6905

Dated: New York, NY
November 25, 2003

281.590 Declaration of policy.

It is hereby declared to be the public policy of this Commonwealth to provide for fair and impartial regulation of all transportation subject to the provisions of this chapter, so administered as to recognize and preserve the inherent advantages of each type of motor transportation; to promote safe, adequate, economical and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for such transportation service, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several states and the duly authorized officials thereof, all to the end of developing, coordinating and preserving a state transportation system by motor vehicles as defined in this chapter adequate to meet the needs of this Commonwealth. All of the provisions of this chapter shall be administered and enforced with the view to carry out the above declaration of policy.

Effective: June 15, 1950

History: Created 1950 Ky. Acts ch. 63, sec. 1, effective June 15, 1950.

281.675 Standards of certificate holder's rates and services.

- (1) Every rate, fare and charge demanded or received by any certificate holder shall be just and reasonable, and every holder of a certificate shall furnish adequate, efficient, safe and reasonable service.
- (2) Every contract made by a contract carrier for transportation service shall be just and reasonable, and shall be comparable to the rate charged by any common carrier for the same or similar service, and such contract carrier shall furnish adequate, efficient, safe and reasonable service.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 232, sec. 10, effective June 17, 1978. -- Amended 1972 Ky. Acts ch. 269, sec. 2. -- Amended 1958 Ky. Acts ch. 130, sec. 13, effective July 1, 1958. -- Created 1950 Ky. Acts ch. 63, sec. 22, effective June 15, 1950.

281.680 Filing and public inspection of rate and service schedules and contracts -- Collective ratemaking procedures.

- (1) Under administrative regulations promulgated by the department under KRS Chapter 13A, every common carrier or irregular route common carrier of passengers or household goods, except carriers operating pursuant to a taxicab certificate, a disabled person's vehicle certificate, a limousine certificate, an airport shuttle certificate, or an industrial bus certificate, shall maintain on file with the department a schedule of rates, fares, charges, and classifications, and a time schedule, if any, of all motor vehicles operated under a certificate, and shall keep open for public inspection at designated offices so much of such schedules as the department deems necessary for public information. The carriers may become a participating party to a tariff published or issued by a tariff-issuing agency, and the issuing agent of the tariff shall file the tariff with the department, but such tariff-issuing agent may not represent any carrier in any matters before the department. Notwithstanding the exclusion of carriers operating pursuant to a taxicab certificate, a disabled person's vehicle certificate, a limousine certificate, an airport shuttle certificate, or an industrial bus certificate, the department may by administrative regulation require carriers to file a schedule of their rates, fares, charges, and classifications.
- (2) Under administrative regulations promulgated by the department under KRS Chapter 13A, every contract carrier shall maintain on file with the department all contracts made for transportation, and shall keep open for public inspection at designated offices such contracts as the department deems necessary for public information.
- (3) The department shall have full power concerning the control of rates and contracts under its administrative regulations.
- (4) To ensure nondiscriminatory rates, charges, and classifications for all shippers and users of regulated transportation services for which the department prescribes rates, charges, and classifications, the department shall establish collective ratemaking procedures for all commodities and services for which it prescribes rates, charges, and classifications. The procedures shall assure that respective revenues and costs of carriers engaged in the transportation of the particular commodity or service, for which rates are prescribed, are ascertained.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 331, sec. 3, effective July 15, 1998. -- Amended 1984 Ky. Acts ch. 160, sec. 1, effective July 13, 1984. -- Amended 1974 Ky. Acts ch. 74, Art. IV, sec. 20(2). -- Amended 1972 Ky. Acts ch. 269, sec. 3. -- Amended 1966 Ky. Acts ch. 139, sec. 28. -- Amended 1962 Ky. Acts ch. 63, sec. 6. -- Amended 1958 Ky. Acts ch. 130, sec. 14. -- Created 1950 Ky. Acts ch. 63, sec. 23, effective June 15, 1950.

281.685 Adherence to rates, fares, charges, and schedules -- Prohibition against discrimination.

- (1) A common carrier or irregular route common carrier of passengers or household goods shall not charge, demand, collect, or receive a greater, less, or different compensation for the transportation of persons or property or for any service in connection therewith, than the rates, fares, and charges specified in its tariffs and classifications filed with the department and in effect at the time; and a common carrier or irregular route common carrier shall not refund or remit any part of the rates, fares, or charges so specified, or make or give any unreasonable preference or advantage to any person, or subject any person to any unreasonable discrimination.
- (2) A contract carrier shall not charge, demand, collect, or receive a greater, less, or different compensation for the transportation of persons or for any service in connection therewith than that contained in the contract required to be filed with the department and in effect at the time; and a contract carrier shall not refund or remit any part of the charges specified in the contract, or make or give any unreasonable preference or advantage to any person, or subject any person to any unreasonable discrimination.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 331, sec. 4, effective July 15, 1998. -- Amended 1958 Ky. Acts ch. 130, sec. 15. -- Created 1950 Ky. Acts ch. 63, sec. 24, effective June 15, 1950.

281.690 Changes in rates.

- (1) A common carrier or irregular route common carrier of passengers or household goods shall not make any change in any rate that has been duly established under this chapter except after thirty (30) days' notice to the department, which notice shall state plainly the changes proposed to be made and the proposed effective date of the change. The carrier shall also give notice of the proposed change to other interested persons in the manner as the department directs in its administrative regulations. All proposed changes shall be shown by filing new tariffs in the form and manner prescribed by the department. The department may, in accordance with administrative regulations and upon the showing of good cause, provide for the allowance of a change in rates by holders of certificates authorizing only transportation of property upon notice less than that specified in this subsection.
- (2) Whenever any tariff setting forth a change in rates is filed, the department may, upon its own initiative, and shall, upon protest filed in accordance with the administrative regulations of the department, enter upon a hearing, to be conducted in accordance with KRS Chapter 13B, concerning the lawfulness of the proposed rate. The department shall mail written notice of the hearing to the applicant, the protestant, and to any other person who, in the opinion of the department, may be interested in or affected by the proposed change in rate. The department may suspend the operation of the new rates for a period of not more than six (6) months from the proposed effective date by order, giving reasons therefor. If after the hearing the department finds the proposed rate, or any part thereof, to be unjust, unreasonable, or unjustly discriminatory, or in violation of law, the department shall determine the just and reasonable rate to be charged and shall fix the same by final order.
- (3) A contract carrier shall not make any change in its contract filed with the department except upon the approval of the department.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 331, sec. 5, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 202, effective July 15, 1996. -- Amended 1958 Ky. Acts ch. 130, sec. 16. -- Amended 1954 Ky. Acts ch. 188, sec. 8. -- Created 1950 Ky. Acts ch. 63, sec. 25, effective June 15, 1950.

281.695 Powers of Department of Vehicle Regulation to regulate rates and service.

- (1) The department has authority to fix or approve the rates, fares, charges, classifications, rules, and regulations of each common carrier, and to regulate operating schedules so as to insure adequate and convenient transportation service. If the department, after a hearing held upon its own motion or upon complaint, and in accordance with KRS Chapter 13B, finds any existing rate to be excessive, inadequate, unreasonable, or unjustly discriminatory, or finds the services rendered or facilities employed by any common carrier to be unsafe, inadequate, inconvenient, or in violation of law or of the administrative regulations of the department, it may determine the just and reasonable rate to be charged therefor, or the reasonable, safe, adequate, and convenient service to be thereafter furnished, and shall fix the same by final order. The department need not fix the same rates as are or may be fixed by other authorities for carriers engaged in other methods of transportation.
- (2) The department has authority to fix or approve the contracts and regulations of each contract carrier so as to insure adequate and convenient transportation service. If the department, after a hearing held as provided in subsection (1) of this section, finds any existing contract to be excessive, unreasonable, or unjustly discriminatory, or finds the services rendered or facilities employed by any contract carrier to be unsafe, inadequate, inconvenient, or in violation of law or of the administrative regulations of the department, it may determine the just and reasonable amounts to be charged therefor, or the reasonable, safe, adequate, and convenient service to be thereafter furnished, and shall fix the same by final order.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 203, effective July 15, 1996. -- Created 1950 Ky. Acts ch. 63, sec. 26, effective June 15, 1950.

601 KAR 1:050. Rates and fares.

RELATES TO: KRS Chapter 281

STATUTORY AUTHORITY: KRS 281.600

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.695 authorizes the Transportation Cabinet to fix or approve the rates, fares, charges, classifications, rules and administrative regulations of each carrier. This administrative regulation requires the filing and maintaining of just and reasonable rates and establishes the procedure therefor.

Section 1. Establishment of Initial Rates or Fares. (1) An authorized carrier of either persons or property desiring to establish its intrastate rates or fares for the first time need not conform to the requirements of 601 KAR 1:045, but shall file its proposed tariff in duplicate with the cabinet not less than thirty (30) days before it is to become effective, provided that for good cause shown the cabinet may allow an initial rate or fare to become effective, on less than thirty (30) days' notice. Such tariff shall be accompanied by a statement showing how the rates, fares and charges were determined. The cabinet may subject the proposed tariff to an investigation, and it shall be subject to protests by interested parties. The cabinet, after its due consideration or upon the basis of a protest, may suspend the proposed tariff pending receipt of additional information, or the cabinet may assign the matter for public hearing. If the proposed tariff is not suspended, it will become effective on its proposed effective date.

(2) Tariffs filed pursuant to this rule must be typewritten or legibly printed in ink or good paper of good quality, and need not conform with the requirements of 601 KAR 1:060; however, within thirty (30) days after the effective day of the proposed tariff, it must be brought in conformity with 601 KAR 1:060.

Section 2. Change in Existing Rates or Fares of Common Carriers and Irregular Route Common Carriers of Specific Commodities. (1) All changes in any rate or fare shall be shown by the filing of a new tariff or supplement thereto, which tariff shall be in accordance with the requirements of 601 KAR 1:060. Notice of any change in any rate or fare shall be given in accordance with 601 KAR 1:070.

(2) An authorized carrier desiring to make a change in its existing intrastate fares, rates or charges need not conform with the requirements of 601 KAR 1:045 but shall file its application and exhibits in triplicate with the cabinet, such application to be in the form of a petition filed in accordance with the requirements of 601 KAR 1:030. The application shall contain the following information:

(a) The applicant's name and address;

(b) The type of service rendered;

(c) A detailed statement including the reasons why the change is necessary; and

(d) A detailed statement of the change which is sought.

(3) The following exhibits shall accompany any application filed by a common carrier of persons, which exhibits must be set forth separately and attached thereto:

(a) A copy of the applicant's tariff containing the proposed change;

(b) A comparative statement containing the applicant's present and proposed fares, showing the effect of the proposed fares;

(c) Income statements in comparative form covering the past two (2) years' operations each year ending as of the end of the carrier's fiscal year;

(d) An income statement and balance sheet for the year ending as of the end of the last month preceding the date of filing of the application.

(4) Any common carrier authorized to exclusively transport property desiring to effect a change in rates upon less than thirty (30) days' notice to the cabinet shall not be required to comply with 601 KAR 1:050 unless requested, but shall furnish in addition to the other requirements a statement or statements containing such information that clearly sets forth the reasons for the proposed change upon less than thirty (30) days' notice to the cabinet.

(5) Any applicant may furnish other information in addition to that required by this administrative regulation as may appear useful to the cabinet in determining justification for the proposed change at the time the application is filed.

(6) The cabinet may request any additional information as may be reasonable and useful for its study of any case.

Section 3. Change in Existing Rates or Fares of Contract Carriers. All changes in any rate or fare charged by a contract carrier shall be shown by the filing in duplicate of a new contract or supplement thereto. A statement fully setting forth the reasons for the proposed change shall accompany the contract.

Section 4. Rates and Charges. When the cabinet removes a commodity from the list of exempted commodities as set forth in its administrative regulations, it may at any time upon its own motion, or upon the application of an affected carrier, call a hearing for the purpose of fixing or changing the rates and charges for the transportation of such commodity or commodities removed from the exempted commodity list.

Section 5. Burden of Proof. The burden of proof as to any change of rates, fares or schedules shall be upon the applicant. (DMT-5; 1 Ky.R. 785; eff. 5-14-75.)

601 KAR 1:060. Tariffs.

RELATES TO: KRS Chapter 281

STATUTORY AUTHORITY: KRS 281.600

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600 authorizes the Transportation Cabinet to establish reasonable requirements with respect to continuous and adequate service by carriers; systems of accounts, records and reports; and preservation of records. This administrative regulation establishes rules concerning tariff and tariff change.

Section 1. General Rules. All tariffs or supplements thereto, or statements of rates or fares, required to be filed with the cabinet shall be filed in duplicate and must be received by the cabinet at least thirty (30) days prior to the effective date thereof, except that the thirty (30) days' notice requirement shall not apply to a tariff filed pursuant to a final order or interlocutory order fixing rates or fares as a result of a hearing. This administrative regulation shall not be construed so as to be in conflict with 601 KAR 1:050.

Section 2. Tariffs for Common Carriers and Irregular Route Common Carriers of Specific Commodities. (1) Filing of tariffs. Every common carrier and irregular route common carriers of specific commodities, authorized to operate in intrastate commerce in Kentucky, shall have on file with the cabinet at all times an intrastate tariff naming its rates, fares, charges, classifications and pertinent rules and administrative regulations. Instead of publishing its own rates, fares, charges, classifications, and rules and administrative regulations, the carrier may become a participating party to a tariff published or issued by another carrier or a tariff issuing agency.

(2) Form and size. All tariffs and supplements thereto shall be filed in book, pamphlet or loose-leaf form not to exceed eight and one-half by eleven (8 1/2 by 11) inches in size, and shall be printed, typewritten, mimeographed or similarly reproduced on paper of good quality. No alteration by writing or erasure shall be made in any tariff or supplement thereto. A margin of not less than five-eighths (5/8) inches without any printing thereon must be allowed at the binding edge of each tariff and supplement. All tariffs and supplements thereto shall indicate changes from preceding issues by use of the following symbols:

(a) ____ or (R) to denote reductions;

(b) ____ or (A) to denote increase;

(c) ____ or (C) to denote changes with result in neither increases nor reductions.

(3) Posting. Every common carrier and irregular route common carrier of specific commodities authorized to operate in intrastate commerce in Kentucky shall have on file at all times at each of its terminals or stations at which an agent is employed and at its principal place of business a copy of all its intrastate tariffs. Each file of tariffs shall be kept in complete and accessible form. Employees of the carrier shall be required to give any desired information contained in such tariffs, to lend assistance to seekers of information therefrom, and to afford inquirers opportunity to examine any of such tariffs without requiring the inquirer to assign any reason for such desire.

(4) Title page. The title page of each tariff and supplement thereto shall show in the order named:

(a) Each tariff shall be numbered in the upper right or left hand corner preceded by the letters "KYTD." Numbers shall run consecutively beginning with the next consecutive number in existing series, or if no tariffs have been issued previously, beginning with No. 1;

(b) When tariffs are issued cancelling a tariff or tariffs previously filed, the KYTD Tariff number or numbers that have been cancelled must also be shown in the upper right or left hand corner of the new tariff;

(c) Supplements to a tariff, in addition to showing the KYTD Tariff number of the tariff amended thereby shall be numbered with number 1, and such information shall be shown in the upper right or left hand corner. Supplements shall also show in the upper right or left hand corner the number of any previous supplement cancelled thereby and also the numbers of the supplements containing all changes from the tariff. There shall be no more than five (5) supplements to a tariff, not including suspended matter in effect at the same time;

(d) Name of the carrier or name of agent issuing tariff. Whenever two (2) or more carriers join in a tariff or when a carrier concurs in a tariff of another carrier, the names of all participating or concurring carriers must be shown. The name of each carrier must be the same as that appearing on its certificate;

(e) If the carrier is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name;

(f) A brief description of the territory within which, or points from and to or between which, the tariff applies;

(g) When a tariff names rates by classes, a classification or articles must be published in the tariff or in a separate tariff. When a classification is published in a separate tariff, reference must be made thereto on the title page of the tariff;

(h) Date issued and date effective;

(i) Name, title, street address and town of carrier or agency by whom tariff is issued; and

(j) Rates may be shown on the title page of single sheet tariffs.

(5) Contents of tariff. Tariffs shall contain the following:

- (a) Table of contents arranged alphabetically showing the number of the page on which each subject may be found. If a tariff contains so small a volume of matter that its title page or interior arrangement plainly indicates its contents, the table of contents may be omitted;
- (b) List of participating carriers in joint or agency tariffs;
- (c) A complete index of all commodities on which specific rates are named therein together with references to the page or items in which they are shown. No index need be shown in tariffs of less than five (5) pages;
- (d) Explanation of all abbreviations, symbols and reference marks used in the tariff;
- (e) Rules and administrative regulations covering the general application of rates and other pertinent matters;
- (f) The tariffs of common carriers of property shall contain an explicit statement of the rates and charges in cents or in dollars and cents per 100 pounds per mile, per hour, per ton of 2,000 pounds, per truck load (of stated amount), or other definable measure. Where rates are stated in amounts per package or bundle, definite specifications showing size, capacity or weight of the packages or bundles must be shown. The tariffs of common carriers of persons shall contain an explicit statement of the fares in cents or in dollars and cents together with the names or description of the point from and to which they apply; and
- (g) Tariffs containing tables of rates based on distances from point of origin to destination must show the mileage or indicate a definite method by which such mileages shall be determined.
- (6) Powers of attorney and concurrences. Whenever two (2) or more carriers join in a tariff, authority by means of proper power of attorney and/or concurrences must be given the agent or carrier publishing the tariff. The original of all powers of attorney and concurrences shall be filed with the cabinet and a duplicate of the original filed with the agent or carrier in whose favor such document is issued. Whenever a carrier desires to cancel the authority granted an agent or another carrier by power of attorney of concurrence, this may be done by a letter addressed to the cabinet revoking such authority on fifteen (15) days' notice unless otherwise authorized by the cabinet. Copies of such notice must also be mailed concurrently to all interested parties.

(7) Adoption notice.

- (a) When a certificate or permit is sold, transferred, changed or leased to another company or when the name of a company or carrier is changed, the new company or operator shall have issued an adoption notice as a supplement to the former company's or operator's tariff, reading as follows: "Effective (here insert the effective date of the new company or operator), all rates and charges published herein for account of (here insert name of former company or operator), are hereby adopted by (here insert name of new company or operator) and made its own in every respect as if originally published for its account."
- (b) In addition to the above adoption notice, the adopting carrier shall immediately file or cause to be filed with the cabinet a consecutively numbered supplement giving effect to the tariff adopted.

Section 3. Tariff Rules Affecting Common Carriers of Property and Irregular Route Common Carriers of Specific Commodities. (1) Reasonable joint through rates may be established. Every common carrier of property and irregular route common carrier of specific commodities may establish reasonable joint through rates with other carriers.

(2) Commodity rates and exception ratings. Exception ratings and rates take precedence over classification ratings and rates, and are applicable whether higher or lower. The establishment of a commodity rate removes the application of the class rate and the exception rate on the same article between the same points over the same route, except when and insofar as alternative use of class, exception and commodity rates is specifically provided in the tariff containing such commodity rates. Commodities shipped that are not specifically included in the commodity rates, or exception or classification ratings shall be classified and rated at the classification ratings and rates for the most closely analogous classified commodity, and, in no instance, can a similar commodity rate or exception rating or rate be charged.

(3) Interchange of freight. All common carriers of property and irregular route common carriers of specific commodities who establish through rates with one (1) or more carriers shall interchange freight with such carriers.

(4) Bill of lading. Common carriers of property and irregular route common carriers of specific commodities must give each shipper of property a receipt for same, in duplicate, in the form of a standard uniform straight or order bill of lading retaining a copy for its files, which bill of lading shall describe in particular the commodity shipped, the number of pieces received and the weight of each commodity comprising the shipment. The carrier shall deliver the merchandise and secure a receipt for freight delivered, on a freight bill made out by the carrier, which shall describe the property as stipulated on the bill of lading covering the shipment, show the rate charged, and show all charges to be collected.

(5) Collection of freight charges. Freight charges must be collected within seven (7) days from date of delivery of freight on either a collect or prepaid basis, except that a carrier may extend credit for additional freight charges for a period of thirty (30) days whenever possession of freight has been relinquished and the amount of the tariff charges represented in the original freight bill has been collected.

(6) Handling of COD shipments. Shipments on a COD basis or an order-notify basis shall be handled in compliance with the rules and administrative regulations in regard thereto. Remittance must be made promptly and within ten (10) days after delivery of the shipment to the consignee. Every carrier handling COD shipments as a delivering carrier shall maintain a record of all COD shipments received for delivery in such manner and form as will plainly and readily show the following information with respect to each shipment:

- (a) Number and date of freight bill;
- (b) Name and address of shipper or other person designated as payee;
- (c) Name and address of consignee;

- (d) Date shipment delivered;
- (e) Amount of COD;
- (f) Date collected by delivering carrier;
- (g) Date remitted to payee; and
- (h) Check number or other identification of remittance to payee.
- (i) Failure to account for and remit COD collections as herein directed will be sufficient cause for cancellation or suspension of a certificate or permit.

Section 4. Rates for Contract Carriers of Property. Every contract carrier authorized to engage in intrastate commerce in Kentucky shall have on file with the cabinet at all times two (2) copies of its bilateral contract or contracts naming its rates and charges which rates and charges shall be comparable to the rates charged by common carriers for the same or similar service. No contract carrier shall make any change in its contract filed with the cabinet, except upon approval by the cabinet. The cabinet may, upon its own initiative, and shall, upon complaint, enter upon a hearing concerning the lawfulness of any rate charged by contract carriers.

Section 5. Tariff Publishing Agencies. All tariff publishing agencies doing business in Kentucky and publishing Kentucky intrastate rates, fares or charges shall file a statement giving the name of the manager or secretary of such agency. In addition, a copy of the bylaws, if any, of each such agency shall be filed with the cabinet. (DMT-6; 1 Ky.R. 786; eff. 5-14-75.)

601 KAR 1:080. Household goods carriers.

RELATES TO: KRS Chapter 281

STATUTORY AUTHORITY: KRS 281.600

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600 requires the Transportation Cabinet to establish reasonable requirements with regard to continuous and adequate service of transportation. This administrative regulation provides for the rules and administrative regulations concerning household goods carriers.

Section 1. Determination of Weights. (1) Tare weight. The tare weight of each vehicle in the transportation of household goods shall be determined by having it weighed prior to the transportation of each shipment, without the crew thereon, by a certified weigh master or on a certified scale; and, when so weighed the fuel tank on each vehicle shall be full and the vehicle shall contain all blankets, pads, chains, dollies, hand trucks, and other equipment needed in the transportation of such shipment.

(2) Gross weight. After the vehicle has been loaded, it shall be weighed without the crew thereon prior to delivery of the shipment.

(3) Net weight. The net weight shall be determined by deducting the tare weight from the gross weight.

(4) Constructive weight. If no adequate scale is located at origin or any point within a radius of ten (10) miles thereof, a constructive weight, based upon seven (7) pounds per cubic foot of properly loaded van space, may be used. Such a constructive weight may also be used for a part load where the circumstances are such that its scale weight could not be obtained at origin, en route, or at destination without first unloading it or other part loads being carried in the same vehicle.

(5) Part loads. In the transportation of part loads, this rule shall apply in all respects, except that the gross weight of a vehicle containing one (1) or more part loads may be used as the tare weight of such vehicle as to part load subsequently loaded thereon. A part load, not exceeding 10,000 pounds for any one (1) shipper, may be weighed on a certified scale prior to being loaded on the vehicle. Such part shall be acknowledged by a weigh ticket evidencing such weighing.

(6) Driver's weight certificate. Whenever weights are required to be obtained pursuant to these rules, the carrier shall cause to be executed a weight certificate for each shipment, in the form specified by the cabinet, at the time the last necessary weight is obtained, and the original or a copy of such certificate shall be carried in the vehicle transporting the shipment and shall be displayed upon request of the party paying the carrier's charges. The original or a true copy of such certificate shall be maintained by the carrier as part of its record of shipment.

Section 2. Establishment of Rates for Accessorial Services. Every irregular route common carrier or "household goods" authorized to operate in intrastate commerce in Kentucky shall, in addition to the tariff filing requirements of 601 KAR 1:060, establish the charges to be made for each accessorial or terminal service rendered in connection with the transportation of household goods by motor vehicle. The tariffs establishing such charges shall separately state each service to be rendered and the charge therefor, provided that such tariffs may state an hourly labor charge applicable to miscellaneous labor service performed at the request of a shipper in connection with the transportation, when a rate is not separately stated in the tariff for the service so requested. The charges so established for packing and unpacking shall be in amounts per container, and those for other services shall be separately stated on a unit or hourly basis, whichever is appropriate. No charge so established shall be lower than the cost of performing the service. This section shall apply only where the transportation is performed by a motor carrier. The rate for transportation of such goods shall not include the charge for any accessorial service and no such services other than those for which separate charges have been so established shall be rendered by any such carrier.

Section 3. Discounts Prohibited; Rates Based on Prepayment Charges Prohibited. No discount of any character whatsoever shall be authorized by tariff provisions or otherwise allowed by any such common carrier, and no rates or charges shall be established based upon prepayment of charges.

Section 4. Prohibition Against Carrier Acting as Agent for Another Carrier. No such common carrier shall act as agent for any other such common carrier in the solicitation of shipments of household goods, in intrastate commerce, between points which such agent is authorized to serve and for which it shall have established different rates than those of its principal.

Section 5. Insurance Provisions. (1) Requirements for procurement of all-risk insurance for shippers. No such common carrier or any employee, agent or representative thereof, may offer to procure insurance for any shipper except under the following conditions:

(a) The shipper must be fully advised of the carrier's constitutional liability and of the carrier's unlimited liability for any damage resulting from his negligence.

(b) Any insurance which the carrier may offer to procure for the shipper must be of an "all-risk" nature covering any damage in transit or temporary storage regardless of the cause.

(c) Insurance procured by the carrier shall be in the amount declared by the shipper. Any charges therefor may be added to the regular tariff charges but may not exceed the actual cost of the insurance.

(d) Any insurance procured by the carrier shall name the shipper as the direct beneficiary, and the shipper shall be provided with a copy of the policy of insurance or evidence of application therefor prior to the movement of his household goods.

(2) Liability of carrier unaffected. The shipper's purchase or refusal to purchase an insurance policy in no way affects the legal liability of such common carrier.

(3) Purchase of insurance by carrier. Nothing in this section shall preclude such common carrier from procuring in its own name insurance covering its liability for loss or damage to household goods transported by it.

Section 6. Receipt for Bill of Lading; Information Thereon. (1) Issuance of a receipt or bill of lading. No such common carrier shall issue a receipt or bill of lading for household goods to be transported in intrastate commerce prior to receiving such household goods for such transportation, but common carriers must issue such receipt or bill of lading when such household goods are received.

(2) Information required on receipt or bill of lading. Whenever a receipt or bill of lading is issued in compliance with the preceding subsection, the carrier shall cause to be included therein the following information:

(a) The name of the motor carrier (not the agent's name) which will transport the shipments; if shipment is to be interlined, the names of the connecting carriers provided they are known when the shipment is received.

(b) The name, address, and telephone number of the office of the carrier that should be contacted in relation to the shipment, should there be a need for such contact.

(c) The name, address, and telephone number of a person to whom notification provided for in subsection (3) of this section shall be given, except when this cannot be obtained from the shipper.

(d) The preferred delivery date or the period of time within which delivery of the shipment may be expected to be made at destination.

(3) Notification of delay in delivery. Whenever a carrier is unable to make delivery of a shipment of household goods on the date or during the period specified in the receipt or bill of lading, the carrier shall notify the shipper, or person designated by the shipper, by telegram or telephone, at the carrier's expense, of the date on which delivery of the shipment will be made such notification to be given not less than twenty-four (24) hours prior to the date or during the period shown on the receipt or bill of lading except when the circumstances causing the delay occur at a later time, in which case the notice shall be given as soon as possible but in no event more than twenty-four (24) hours after the occurrence, provided, that the requirements of this paragraph shall not apply where the carrier is unable to obtain from the shipper an address or telephone number for such notification.

Section 7. Freight Bill; Information Thereon. (1) Issuance of a freight bill. Every irregular route common carrier of household goods shall issue a freight bill for household goods transported in intrastate commerce upon delivery of such household goods.

(2) Information required on freight bill. Whenever a freight bill is issued in compliance with subsection (1) of this section, the carrier shall cause to be included therein the following information:

(a) Name and address of the motor carrier who transported the shipment.

(b) Name and address of shipper and address of origin of shipment.

(c) Name and address of consignee and address of destination of shipment.

(d) If the charges for the transportation services performed were based upon weight and mileage, the freight bill shall set forth the gross and tare weights of the vehicle; the net weight of the shipment; the mileage; the applicable rate per 100 pounds; and the charges for transportation.

(e) If the charges for the transportation services performed were based upon hourly rates, the freight bill shall set forth the number of men furnished; the time started; the time finished; the deductions from time for interruptions; the total time for which charged; the rate per hour; and charges for transportation.

(f) If accessorial services were rendered in connection with transportation services, the charges for each such accessorial service shall be itemized on the freight bill.

Section 8. Liability of Carriers. No common carrier shall be permitted to contract for relief from its common law liability.

Section 9. Estimates of Charges. (1) Estimates by the carrier. Whenever an estimate of the charges for a proposed service shall be given by a carrier to a prospective shipper of household goods, the estimate shall be made only after a visual inspection of the goods by the estimator. Such estimate shall be in the form specified by the cabinet. The form shall be fully executed as appropriate in each case in accordance with the instructions therein. The original or a true legible copy of each estimate form prepared in accordance with this paragraph shall be delivered to the shipper; and a copy thereof shall be maintained by the carrier as part of its records of shipment. The shipper shall not be permitted or required to sign the "estimated cost of services" form.

(2) Estimate form for shipper's use. Carriers may furnish to shippers or prospective shippers an estimate form which may contain statements of the weights of average pieces of furniture and other household articles of various types, for use by the shipper in making his own estimate of the total weight of his goods. Any instructions necessary to enable the shipper to use the estimate form shall be printed in the form. If cubic-foot measurements are used in arriving at the weight, the form shall state that a weight factor of seven (7) pounds per cubic foot shall be used.

(3) Specific request of shipper for notification. Whenever the shipper specifically requests notification of the actual weight and charges on a shipment, the carrier shall comply with such request immediately upon determining the actual weight and charges, by telephone or telegraph if so requested. Such notification shall be at the carrier's expense in instances in which notification would be required under subsection (4) of this section and in all other instances unless the carrier provides in its tariff that the actual cost of such notification shall be collected from the shipper. Such notification shall be made no later than twenty-four (24) hours prior to the time the shipment is offered for delivery except where the shipment is in transit less than twenty-four (24) hours.

(4) Notification to shipper where charges exceed estimate. Whenever actual charges on any shipment exceed by more than ten (10) percent or twenty-five (25) dollars, whichever is greater, any estimate of charges given by the carrier to the shipper, immediately upon determining the actual charges, the carrier shall notify the shipper of the amount thereof by telegram or telephone at the carrier's expense. Such notice shall be made no later than twenty-four (24) hours prior to the time the shipment is offered for delivery, except where the shipment is in transit less than twenty-four (24) hours; provided, that this paragraph shall not apply:

(a) Where credit is to be extended by the carrier; and

(b) Where the shipper has not supplied, upon request by the carrier, an address or telephone number at which the communication would be received.

(5) Report of underestimates. Every irregular route common carrier of household goods shall file quarterly with the Transportation Cabinet, a report of all instances during that quarter in which the actual charges for services rendered exceeded the estimates of such charges by ten (10) percent or more, or twenty-five (25) dollars or more, whichever is greater, with an explanation of reasons for the variances. Such reports shall be filed on or before April 30, July 31, October 31 and January 31 for the quarter ended as of the last day of the preceding month.

(6) Reweighing. The carrier shall, upon request, made by the shipper, owner or consignee, before delivery and when practicable to do so, reweigh the shipment. A reasonable charge may be established for reweighing only when the difference between the two (2) net scale weights does not exceed 100 pounds on shipments weighing 5,000 pounds or less, and two (2) percent of the lower net scale weight on shipments weighing more than 5,000 pounds. The lower of the two (2) net scale weights shall be used for determining applicable charges.

(7) Order for services shall not show charges or estimates. There shall not be shown on any form in the nature of a "moving order" or "order for service" which may be used by carriers of households goods any charges or estimates of charges nor any reference to any estimate of charges given to the shipper.

Section 10. Absorption or Advancement of Dock Charges. Irregular route common carriers of household goods shall not absorb any dock or other charge made by any warehouseman, nor shall any such carrier advance any such charge for the account of any shipper, owner, or other person, except upon the authorization of such person. Whenever such charges are advanced on behalf of the shipper, the carrier shall obtain a receipt therefor from the warehouseman and deliver it to the shipper or the person designated by the shipper at the time the advanced charges are made.

Section 11. Information for Prospective Shippers. During the course of the first interview with every prospective shipper, every carrier of household goods shall cause to be given to the prospective shipper a summary of information in the form specified by the cabinet. Such summary shall be printed on one (1) sheet in not less than eight-point bold of full-faced type and shall contain the heading, "Important Notice to Shippers of Household Goods." The carrier's name, address, and telephone number may be shown on the sheet if that is desired. If no personal interview is had with the shipper, the carrier shall cause such summary to be mailed to the shipper on or prior to the day on which the order for service is placed. The carrier shall make an appropriate notation on the receipt or bill of lading that such summary has been furnished.

Section 12. Minimum Weight Shipments. No common carrier shall accept a shipment of household goods for transportation which appears to be subject to the minimum weight provisions of the carrier's tariff without first having advised the shipper of such minimum weight provisions. (DMT-10; 1 Ky.R. 789; eff. 5-14-75.)

**Transportation
Vehicle Regulation**

	<u>Requested FY 2003</u>	<u>Requested FY 2004</u>	<u>Enacted FY 2003</u>	<u>Enacted FY 2004</u>
SOURCE OF FUNDS				
Restricted Funds				
Balance Forward	4,427,600	4,019,400	5,243,200	4,835,000
Current Receipts	6,618,800	6,750,000	6,593,500	6,723,000
Total Restricted Funds	<u>11,046,400</u>	<u>10,769,400</u>	<u>11,836,700</u>	<u>11,558,000</u>
Federal Funds				
Current Receipts	2,786,600	2,826,200	2,786,600	2,826,200
Total Federal Funds	<u>2,786,600</u>	<u>2,826,200</u>	<u>2,786,600</u>	<u>2,826,200</u>
Road Fund				
Regular Appropriation	30,911,800	32,478,000	30,031,700	31,333,800
Total Road Fund	<u>30,911,800</u>	<u>32,478,000</u>	<u>30,031,700</u>	<u>31,333,800</u>
TOTAL SOURCE OF FUNDS	<u>44,744,800</u>	<u>46,073,600</u>	<u>44,655,000</u>	<u>45,718,000</u>
EXPENDITURES BY CLASS				
Personnel Cost	29,545,900	30,838,600	28,632,600	29,659,500
Operating Expenses	11,179,500	11,191,900	11,187,400	11,199,800
TOTAL EXPENDITURES	<u>40,725,400</u>	<u>42,030,500</u>	<u>39,820,000</u>	<u>40,859,300</u>
EXPENDITURES BY FUND SOURCE				
Restricted Funds	7,027,000	6,726,300	7,001,700	6,699,300
Federal Funds	2,786,600	2,826,200	2,786,600	2,826,200
Road Fund	30,911,800	32,478,000	30,031,700	31,333,800
TOTAL EXPENDITURES	<u>40,725,400</u>	<u>42,030,500</u>	<u>39,820,000</u>	<u>40,859,300</u>
EXPENDITURES BY UNIT				
Commissioner	1,786,900	1,815,100	1,751,600	1,778,700
Drivers Licensing	8,992,500	9,319,200	8,809,600	9,118,600
Motor Carriers	2,451,200	2,596,100	2,374,600	2,509,900
Motor Vehicle Licensing	8,854,500	9,115,100	8,733,000	8,983,700
Vehicle Enforcement	17,625,400	18,149,900	17,161,600	17,460,300
Driver's Safety	127,500	130,000	127,500	130,000
Motor Vehicle Commission	887,400	905,100	862,100	878,100
TOTAL EXPENDITURES	<u>40,725,400</u>	<u>42,030,500</u>	<u>39,820,000</u>	<u>40,859,300</u>

The Department of Vehicle Regulation encompasses the Commissioner's Office and the following divisions: Driver Safety, Motor Carriers, Driver Licensing, Motor Vehicle Licensing, and Vehicle Enforcement. The Motor Vehicle Commission is also administratively attached to the Department.

The Division of Driver Safety conducts the Cabinet's statewide Child Passenger Safety Program. The mission is to educate and train parents, health departments, fire, police and other agencies and individuals in the proper installation of child seats, and provides for the safe transportation of children throughout the state.

The Division of Motor Carriers collects and processes fuel and highway use tax from commercial motor carriers, as authorized under KRS Chapter 138. Under KRS Chapter 186, it assigns apportioned license plates to interstate Kentucky motor carriers. The division qualifies all for-hire transportation within the state. It is also responsible for permitting and routing overweight and over-dimensional loads, maintaining a solid-waste permitting system, and regulates the permitting and licensing of the Commonwealth's U-Drive-It rental and leasing operations.

Under KRS Chapters 186, 187, 189A, 218, and 281A, the Division of Driver Licensing maintains driver history records for approximately 2.7 million drivers. The Division issues licenses to commercial drivers who meet certain statutory standards. The Division also enforces driver license suspensions, revocations, and driver limitation programs. It operates State Traffic School programs and the Kentucky Motorcycle Safety program, both of which promote driver safety and education.

The Division of Motor Vehicle Licensing provides for the titling and registration of motor vehicles and boats in accordance with KRS Chapters 186, 186A, and 235. It maintains the Automated Vehicle Information System (AVIS) and controls title distribution functions. Registration and title applications are initiated through local county clerks' offices. KRS 186.240(3) requires a new plate issuance every five (5) years for plates that do not expire annually. Beginning in January 2003 new plates are issued. A fifty-cent (\$.50) fee for each reflectorized plate issued is retained in a restricted fund to pay for the new plates.

The Division of Vehicle Enforcement is responsible for enforcing state and federal laws and regulations pertaining to the operation of commercial motor vehicles within the Commonwealth of Kentucky. Vehicle Enforcement operates the state's 17 weigh/inspection stations (KRS 189.227) and provides enforcement coverage on related bypass routes.

Pursuant to KRS 190, the Kentucky Motor Vehicle Commission licenses and regulates motor vehicle manufacturers, dealers, and salespersons. It is funded through license fees that are deposited into a restricted fund account.

Policy

The Budget of the Commonwealth provides additional Road Fund support for the International Registration Plan (IRP) clearinghouse fee. Effective October 1, 2001 the federal funding for the pilot states is no longer available. Each participating state must pay its share to stay in the system.

The enacted budget provides additional Road Fund support for the Cabinet to participate in the National Motor Vehicle Title Information System (NMVTIS). Beginning in 2002, a state funding formula was implemented to maintain a state's participation and share of the operating costs.

**Vehicle Regulation – Motor Carriers
Performance Budgeting Pilot Project Information**

Program Mission

The mission of the Motor Carriers program of the Department of Vehicle Regulation is to provide an expedient, efficient, and economical way to administer tax collections and the issuance of credentials, licenses, and permits for our customers in the motor carrier industry.

Objective: Continue to add more of the Division's processes to the Internet and increase the number of web filings made to the Division.

Performance Indicator: Have 15% of all International Fuel Tax Agreement (IFTA) tax filers submitting returns electronically by the end of the fiscal year 2004.

<u>FY 2003</u>	<u>FY 2004</u>
10%	15%

Performance Indicator: Develop an Overweight/Over-dimensional (OW/OD) Internet permitting system by the end of fiscal year 2004.

<u>FY 2003</u>	<u>FY 2004</u>
90%	100%

Performance Indicator: Develop a Kentucky Intrastate Tax (KIT) Internet tax filing system by the end of fiscal year 2004.

<u>FY 2003</u>	<u>FY 2004</u>
90%	100%

Objective: Timely pursue the collection of delinquent taxes and fees.

Performance Indicator: Increase the amount collected from bond demands by 25% by the end of fiscal year 2004.

<u>FY 2003</u>	<u>FY 2004</u>
20%	25%

www.osbd.state.ky.us/publications/CO204V10

CERTIFICATE OF SERVICE


This is to certify that on November 25, 2003, I caused a copy of the attached **Respondent's Answers & Objections to Complaint Counsel's Interrogatories** to be served upon the following persons by fax and U.S. Express Mail:

Hon. D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Hon. Richard Dagen
Associate Director
Federal Trade Commission
601 New Jersey Ave., N.W.
Room 6223
Washington, DC 20580

Dana Abrahamsen, Esq.
Bureau of Competition
Room 5229
Federal Trade Commission
601 New Jersey Avenue, N.W.
Washington, D.C. 20580

Dated: New York, NY
November 25, 2003


James C. McMahon