

CHAPTER 4.

FILING OF TRANSPORTATION TARIFFS.

These tariff rules supersede rules and regulations adopted July 1, 1961.

- Rule R4-1. Definition.
- Rule R4-2. Requirements as to size, form, identification and filing of tariffs.
- Rule R4-3. Filing and posting.
- Rule R4-4. Notice of changes; special permission; symbols.
- Rule R4-5. Filing supplements on suspension matters.
- Rule R4-6. Adoption notices.
- Rule R4-7. [Repealed.]
- Rule R4-8. Rates to intermediate intrastate destinations.
- Rule R4-9. Alternate application of combination rates.
- Rule R4-10. Computation of time.
- Rule R4-11. Embargoes.
- Rule R4-12. [Repealed.]
- Rule R4-13. Procedure for Determining Fuel Surcharges by Ferry Operators.
- Chapter 4. Appendix. (Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.)

CHAPTER 4.

FILING OF TRANSPORTATION TARIFFS.

Rule R4-1. DEFINITION.

(a) The term "tariff" as used herein means a publication containing the fares, charges, rules and regulations of a common carrier of persons and baggage, or the fares, charges, rules and regulations of intracity bus passenger carriers.

(b) Repealed.

(NCUC Docket No. M-100, Sub 75, 10/27/77; Docket No. T-100, Sub 32, 8/25/95; NCUC Docket No. T-100, Sub 49, 01/09/04; 02/02/04.)

Rule R4-2. REQUIREMENTS AS TO SIZE, FORM, IDENTIFICATION AND FILING OF TARIFFS.

(a) All tariffs and supplements thereto shall be in book, pamphlet, or loose-leaf form of size 8 x 11 inches, and shall be plainly printed, planographed, stereotyped, or reproduced by other similar durable process on paper of good quality. No alteration in writing or erasure shall be made in any tariff or supplement thereto. The size requirement of this rule is not applicable to railway express carriers.

(b) A margin of not less than five eighths of an inch, without any printing thereon, shall be allowed at the binding edge of each tariff or supplement thereto.

(c) An N.C.U.C. number or a tariff serial number of the issuing carrier shall be shown on the title page of the tariff. The N.C.U.C. numbers shall run consecutively beginning with the number immediately following the last number utilized; or, if no tariffs have been issued previously, the numbering shall begin with N.C.U.C. No. 1 and continue in consecutive order. If issuing carrier uses a tariff number in lieu of an N.C.U.C. number, each tariff must bear a serial number of the issuing carrier, and as each such tariff is reissued the number must be retained and letter suffixes in sequence beginning with "A" be added to the numeral; and when the alphabet is thus exhausted the reissue of the tariff carrying the suffix "Z" will be given the suffixes "A", "B", etc., thus starting over again with the alphabet. Immediately under the N.C.U.C. number or the tariff serial number, as the case may be, the N.C.U.C. number or the tariff serial number of the tariff canceled thereby shall be shown. Revised pages to loose-leaf tariffs shall also be properly identified.

(d) When it is desired to make changes in the rates, ratings, rules, or other provisions of a tariff, other than a loose-leaf tariff, without reissuing the tariff, a supplement constructed generally in the same manner as is the tariff which it supplements may be issued to the tariff.

- (1) The supplement numbers of supplements issued to a tariff may be designated on the upper right-hand corner of the title page as

Supplement No. 1
to
N.C.U.C. No.

or may be designated in the upper central portion of the title page; or if tariff bears no N.C.U.C. number the first supplement number shall be designated immediately above the freight tariff number, as

Supplement No. 1
to
Tariff No.

- (2) Subsequent supplements shall be numbered consecutively in like manner. Each supplement shall specify on its title page immediately under the supplement number and N.C.U.C. number or tariff number of the tariff supplemented, the publications which the supplement cancels and shall also specify the supplements that are in effect.
- (3) When purely intrastate supplements are issued to tariffs containing both interstate and intrastate rates, ratings, rules or other provisions, such supplements may be assigned the number of the last I.C.C. supplement with capital letters of the alphabet (used consecutively) added, such as "5A", except that if any intrastate supplements be issued prior to Supplement No. 1, such intrastate supplements are to be identified with capital letters of the alphabet used consecutively, such as "A", "B", etc.
- (4) The matter contained in each supplement shall be arranged in the same general manner and order as in the tariff which it amends and when points in a tariff are given index or item numbers the same index or item number, as the case may be, must be assigned to the same point in all supplements to the tariff.
- (5) Except as may be otherwise provided in these rules, a tariff of six (6) pages or less may not have in effect at any time more than two (2) supplements; not more than three (3) supplements may be in effect at any time to a tariff containing seven (7) and not more than sixteen (16) pages; not more than four (4) supplements may be in effect at any time to a tariff containing seventeen (17) and not more than eighty (80) pages; not more than five (5) supplements may be in effect at any time to a tariff containing eighty-one (81) and not more than two hundred (200) pages, and not more than six (6) supplements may be in effect at any time to a tariff containing more than two hundred (200) pages. The supplemental matter hereinabove mentioned may in the aggregate be not more than fifty (50) percent of the number of pages in the involved tariff including the title page thereof, except it may exceed the volume authorized only to the extent necessary to complete the page of supplemental matter when the tariff is not evenly divisible to equal fifty (50) percent. For example, a tariff with nineteen (19) pages, title page inclusive, may not have in effect at any time more than four (4) supplements thereto or an aggregate of ten (10) pages of supplemental matter. Except further, that suspension supplements and supplements containing only suspended matter and issued as a result of an order of the North Carolina Utilities Commission shall not be included in the number of supplements or aggregate of pages of supplemental matter as hereinabove enumerated. Except further, that the title page of no supplement shall be included in the aggregate of the supplemental matter.

(e) Except as otherwise provided in this rule, each carrier shall file tariffs and supplements under consecutive N.C.U.C. numbers, tariff numbers, or supplement numbers. If, for any reason this is not done, the tariff or supplement which is not numbered consecutively with the publication last filed must be accompanied by a memorandum explaining why consecutive numbers were not used.

(f) On the upper central portion of the title page shall be shown the name of the issuing carrier. When an individual or partnership operates under a trade name, the individual name or names shall precede the trade name (See G.S. 66-68 et seq.).

(g) When one or more carriers participate in an individual carrier tariff, the individual names and firm names or (in the case of corporations) corporate names of the participating carriers, and the cities and states in which their principal offices are located, shall be alphabetically arranged in such tariff.

(h) Issuing carriers shall transmit to the Commission six (6) copies of each tariff, supplement, or revised page. All copies shall be included in one package, accompanied by a letter of transmittal in triplicate, listing all tariffs enclosed and addressed to the Public Staff — North Carolina Utilities Commission, Transportation Rates Division, 4326 Mail Service Center, Raleigh, NC 27699-4326. All postage, etc., must be prepaid.

(NCUC Docket No. M-100, Sub 26, 4/20/70; NCUC Docket No. M-100, Sub 75, 10/27/77; NCUC Docket No. M-100, Sub 128, 04/10/00; NCUC Docket No. T-100, Sub 49, 02/02/04.)

Rule R4-3. FILING AND POSTING.

(a) Except as provided by Rule R4-4(b), all tariffs and supplements shall be filed with the Commission at least 30 days before the date upon which they are to become effective.

(b) A carrier shall post and file in a place accessible to the public, at each of its stations or offices which is in charge of a person employed exclusively by such carrier or by it jointly with one or more other carriers and at which persons or property is received for transportation, all of the tariffs containing fares, rates, charges, classifications, and rules or other provisions applying from, or at, such station or office. Each carrier shall also maintain at its principal office in North Carolina a complete file of all tariffs issued by it or by its agents in a place accessible to the public, and 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.

(c) Repealed.

(d) Repealed.

(e) Repealed.

(f) Repealed.

(NCUC Docket No. T-100, Sub 15, 1/24/92 and 3/6/92, effective 2/23/92; NCUC Docket No. T-100, Sub 32, 8/23/95.)

Rule R4-4. NOTICE OF CHANGES; SPECIAL PERMISSION; SYMBOLS.

(a) Written notice, in triplicate, containing a brief explanation of the character of and reason for any intended changes in tariff schedules shall be filed with the Commission not later than the date said schedule is filed.

(b) Applications for permission to change or establish rates, rules, or other provisions on less than statutory notice, or for waiver of the provisions of these rules must be made by the carrier holding authority to file the proposed publication.

(c) Six (6) copies of applications (including amendments thereto and exhibits made a part thereof) shall be sent to the Public Staff North Carolina Utilities Commission, Transportation Rates Division, 4326 Mail Service Center, Raleigh, NC 27699-4326. The application should set forth full grounds for the relief sought. If the authority granted by special permission is used, it must be used in its entirety.

(d) All tariffs, supplements and revised pages shall indicate changes from preceding issues by a printer's tear drop symbol or (R) to denote reductions, a symbol in the shape of a diamond or (A) to denote increases or a symbol in shape of a triangle or (C) to denote changes resulting in neither increases nor reductions. The proper symbol must be shown directly in connection with each change.

(NCUC Docket No. M-100, Sub 75, 10/27/77; NCUC Docket No. M-100, Sub 128, 04/10/00; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R4-5. FILING SUPPLEMENTS ON SUSPENSION MATTERS.

(a) Upon receipt of an order of suspension of any publication in part or in its entirety, the carrier who filed such publication shall immediately file with the Commission a consecutively numbered supplement which must not bear an effective date, quoting in full the Commission's order of suspension. Such supplement shall give specific reference by N.C.U.C. number or tariff serial number or numbers to the tariff or tariffs, schedule or schedules or supplements thereto or revised pages where rates, fares, charges, classifications, rules, regulations or practices so continued in effect will be found.

(b) If prior to the filing of the supplement announcing suspension a carrier files a later supplement which contains as reissues, the matter suspended in the previous supplement, the suspension supplement shall also specifically suspend such reissued matter.

(c) When a schedule, tariff (or supplement) which is suspended in part is reissued, such reissue shall cancel the schedule, tariff (or supplement) containing the suspended matter "except portions under suspension in docket No. . . ." When a schedule or tariff which is suspended in part is reissued, such reissue shall also cancel the schedule or tariff containing the matter which is continued in effect by reason of the suspension. When a schedule or tariff, as to which a supplement is suspended in whole or in part, is reissued, the reissue shall cancel the schedule or tariff "except portions under suspension in supplement No. . . . (or in item No. . . . of supplement No. . . .) in Docket No. . . ." and shall reissue the matter which is continued in effect by the suspension.

(d) A suspended rate, fare, charge, classification, rule, regulation, or practice may not be changed or withdrawn or the effective date thereof further deferred except by order or special permission of the Commission, nor may any change be made in a rate, fare, charge, classification, rule, regulation, or practice which is continued in effect as a result of such suspension except under order or special permission of the Commission.

(e) When the Commission vacates an order of suspension as of a date earlier than the date to which suspended, the carrier who filed such suspended schedule, tariff, supplement or revised page may file with the Commission, on not less than one day's notice, unless otherwise provided by the order, a supplement stating the date upon which, under authority of the vacating order, the schedule, tariff, supplement, revised page, item, rate, fare, charge, classification, rule, regulation, or practice will become effective. Unless such supplement is filed naming an earlier date than the date to which suspended, the suspended matter will become effective on the date to which suspended.

(f) When an order which suspended a schedule or tariff in its entirety is vacated, the vacating supplement, if made effective on or before the date to which the schedule or tariff is suspended, may also include as reissues, changes or additions which have been lawfully established in supplements to the former schedule or tariff. If a new schedule or tariff has been filed during the period of suspension, canceling the schedule or tariff proposed to be canceled by the suspended schedule or tariff any changes or additions published in the new schedule or tariff which are not included in the suspended schedule or tariff may be included in the vacating supplement as reissued

items, provided the vacating supplement also cancels such new schedule or tariff. No other matter may be included in vacating supplements.

(g) When a schedule or tariff containing suspended matter has been canceled by a new schedule or tariff, except as to portions under suspension, and the Commission vacates its suspension order in its entirety effective on a date subsequent to the effective date of the new schedule or tariff, a supplement must be filed to the new schedule or tariff effective on not less than one day's notice, republishing and establishing the suspended matter and canceling the matter which was effective during the period of suspension, also canceling the matter under suspension in the former issue. Unless this is done, the matter which was suspended will not become applicable as the effective matter in the new schedule or tariff remains in effect until canceled. When the Commission vacates its suspension order effective on a date prior to the effective date of the new schedule or tariff, a vacating supplement, as prescribed in this order, should be filed to the old schedule or tariff and a supplement should also be filed to the new schedule or tariff on not less than one day's notice, establishing therein on the effective date thereof, matter which was under suspension in the old schedule or tariff.

(h) When the Commission orders the cancellation of a schedule or tariff, supplement, revised page, item, rate, fare, charge, classification, rule, regulation, or practice theretofore suspended by it the cancellation shall be effected by filing with the Commission upon not less than one day's notice, unless otherwise provided by the order, a supplement stating the date upon which in accordance with the Commission's order said rate, fare, charge, classification, rule, regulation, or practice is canceled; except that, when desired, such cancellation may be accomplished in a new schedule or tariff canceling the schedule or tariff containing the suspended matter. When an order of the Commission requires the cancellation of suspended matter on or before a date which is subsequent to the date to which suspended, carriers should endeavor to make the cancellation effective prior to the date to which the matter was suspended, in order to prevent the rates which have been found not justified from becoming effective. If the suspended matter is not canceled on or before the date to which suspended, it will be necessary, when canceling the suspended matter, to republish and reestablish the matter continued in force during the period of suspension.

(i) These provisions relating to suspension, vacating, and cancellation supplements will also govern in connection with schedules or tariffs issued in loose-leaf form, except that such supplements must not contain rates, fares, charges, classifications, rules, regulations, or practices. All changes made in loose-leaf schedules or tariffs must be published on revised pages.

(NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R4-6. ADOPTION NOTICES.

(a) When the name of a carrier is changed, or when its operating control is transferred to another carrier, the carrier which will thereafter operate the properties shall file with the North Carolina Utilities Commission, Transportation Rates Division, and post as required in Rule R4-3 (b) an adoption notice in the form of a tariff numbered in its N.C.U.C. series and containing substantially the following:

(Name, also trade name, if any, of adopting carrier) hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, all tariffs, classifications, rules, notices, traffic agreements, statements of divisions, powers of attorney, concurrences, or other instruments whatsoever, including supplements or amendments thereto, filed with the North Carolina Utilities Commission by, or heretofore adopted by (name and trade name, if any, of former carrier.)

(b) In addition to the above adoption notice the adopting carrier shall immediately file, with the North Carolina Utilities Commission, Transportation Rates Division, and post as required in Rule R4-3 (b), a consecutively numbered supplement to each of the effective tariffs issued or adopted by its predecessor, reading as follows:

Effective (Here insert date shown in the adoption notice) this tariff, or as amended, became the tariff of (name and trade name, if any, of the adopting carrier) as stated in its adoption notice N.C.U.C. No. . . .

(c) Notices of adoption shall be filed and posted immediately and if possible on or before the date shown therein. Copies shall be sent to each carrier to which power of attorney or concurrence has been given the adopted carrier. The effective date shall be the date (as shown in the body of the notice) on which the change in name or operation occurs, except that if prior approval of such change by the North Carolina Utilities Commission is required, the effective date shown shall not antedate that approval.

(d) Adoption notices issued under the authority of this rule shall contain no other matter.

(NCUC Docket No. M-100, Sub 75, 10/27/77; NCUC Docket No. T-100, Sub 49, 01/09/04.)

Rule R4-7. APPROVAL OF RATE SCHEDULES, RULES AND REGULATIONS.

Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.

Rule R4-8. RATES TO INTERMEDIATE INTRASTATE DESTINATIONS.

In applying rates from points of origin in North Carolina to destinations within the State, on intrastate traffic, rates shall in no case exceed commodity rates on like traffic from or to more distant interstate points from or to which there are published through commodity rates and from or to which the intrastate origin or destination is directly intermediate via the rate making line or lines from or to the more distant interstate points.

Rule R4-9. ALTERNATE APPLICATION OF COMBINATION RATES.

If the charge based on the aggregate of intermediate local, joint or proportional rates approved or prescribed by the Commission, is lower than the charge accruing under the through rates approved or prescribed from origin to destination, such lower charge will be the legal charge to apply.

Rule R4-10. COMPUTATION OF TIME.

Transportation tariffs received by and filed with the Transportation Rates Division not later than noon of a workday will be stamped as received on the last preceding workday provided such workday does not precede in time the issuance date of the publication. Such publications received by or filed with the Commission on an afternoon of a workday will be stamped as received the day on which filed. The date tariffs are stamped as received shall be counted as a day of notice but the effective date of said tariffs shall not be counted. G.S. 62-134 and such orders issued thereunder will be considered complied with when such publications are on file with the Commission for the authorized period of time.

(NCUC Docket No. M 100, Sub 3, 7/30/64; NCUC Docket No. M 100, Sub 75, 10/27/77; NCUC Docket No. T-100, Sub 32, 8/23/95.)

Rule R4-11. EMBARGOES.

(a) No carrier holding a franchise certificate has the right to issue an embargo on intrastate traffic against any carrier or any goods except upon application to, and approval by, the North Carolina Utilities Commission.

(b) A franchise certificate grants certain rights and the rights so granted therein presuppose a service to be rendered, and any embargo establishes a condition which the carrier does not have the right to impose; therefore, where the carrier desires to embargo any shipments, application must be made to the Commission for approval, and then the Commission will pass upon the necessity therefor.

(c) The procedure to be followed in connection with an embargo will be for the carrier desiring to establish same to notify the Commission in a letter, sending a copy of said letter to any and all carriers affected, after which the carriers receiving such notice shall have three days within which to advise the proponent and the Commission of their attitude thereon, after which the Commission will notify all parties to the proceeding if it desires to hold a public hearing thereon.

(SOURCE: N.C.U.C. Report 1943 44, p. 16.)

Rule R4-12. UNIFORM RATES, PROCEDURE FOR APPROVAL OF JOINT RATE AGREEMENTS AMONG CARRIERS.

Repealed by NCUC Docket No. T-100, Sub 49, 01/09/04.

Rule R4-13. PROCEDURE FOR DETERMINING FUEL SURCHARGES BY FERRY OPERATORS.

(a) Any passenger ferry operating as a common carrier as defined by G.S. 62-3(6) may apply pursuant to NCUC Rule 4-4 for approval of a fuel surcharge.

(b) The application shall specify the fuel cost per gallon expressed to three decimal places that is proposed to be used as the basis of determining the fuel surcharge. In addition, although no single data point or price index will be mandated by this procedure, the application shall include documentation of its fuel prices during, at least, the previous six months and/or government or industry fuel cost forecasts in support of the fuel cost per gallon proposed by the applicant.

(c) The surcharge shall be computed in the manner set forth in Exhibit A of the Commission's Order issued January 28, 2009 in Docket No. A-100, Sub 0, unless otherwise ordered by the Commission. The base period used for computing the surcharge shall be the calendar year 2004 or the test year from the ferry operator's most recent rate case, whichever is later. If calendar year 2004 is used, the base period cost shall be calculated by dividing the total annual expense for the purchase of fuel in calendar year 2004 to operate the ferries by the number of gallons purchased during that period.

(d) Applications for a fuel surcharge increase may be filed no more frequently than every three months. Applications for a fuel surcharge shall be considered at the Commission's Staff Conference within two weeks of the date of filing. Upon approval of the surcharge, the ferry operator may implement the surcharge, effective the first day of the month following the ferry operator's filing the revised tariff rate schedules reflecting the surcharge with the Chief Clerk of the Commission.

(e) If the ferry sells an annual pass or other approved means of paying for transportation that are not individual single- or round-trip tickets, the surcharge shall apply only to the price of such passes sold following the approval of any surcharge and shall be equivalent to the approved surcharge at the time of sale multiplied by the projected average number of trips per passholder in the class of such passholders during the valid period of the pass. For purposes of calculating the number of customers, it will be assumed that each passholder travels the average number of trips (to be reflected in the number of customers) by all passholders in the class of such passholders during the valid period of the pass, calculated using historic ridership data.

(f) Any ferry operator implementing a fuel surcharge shall establish a fuel tracking account to account for the difference between the amount of fuel costs collected from customers as compared to the amount of fuel costs incurred by the carrier. A quarterly report on the activity recorded in a fuel tracking account shall be filed with the Commission within 45 days after the end of each calendar quarter in the manner set forth in Exhibit B of the Commission's Order issued January 28, 2009, in Docket No. A-100, Sub 0, unless otherwise ordered by the Commission. The balance of the fuel tracking account shall be considered in determining the amount of the fuel surcharge after the initially approved fuel surcharge.

(g) Applications or petitions for changes in the fuel surcharge may be filed by the ferry operator, the Public Staff, the Attorney General, or other interested parties.

(h) Copies of any application for a surcharge and for change in the surcharge shall be served upon the Public Staff, the Attorney General, and other party requesting a copy. Persons desiring a copy who notify the Chief Clerk of the Commission in writing shall be placed on a service list.

EXHIBIT A

FORMULA TO DETERMINE FUEL SURCHARGE
AND FUEL COMPONENT OF RATES
FOR FERRY OPERATORS

FUEL SURCHARGE:

- A. Proposed Fuel Cost per Gallon for Surcharge \$ _____
- B. Base Period Cost per Gallon \$ _____
- C. Increase in Fuel Cost per Gallon (A – B) \$ _____
- D. Gallons Purchased in Base Period _____
- E. Annualized Increase in Cost of Gallons Purchased (C x D) \$ _____
- F. Balance in Fuel Tracking Account \$ _____
- G. Amount Used for Computing Surcharge (E + F) \$ _____
- H. Number of Customers in Base Period _____
- I. Computed Surcharge per Customer (G/H) \$ _____

FUEL COMPONENT OF RATES:

- A. Proposed Fuel Cost per Gallon for Surcharge \$ _____
- B. Gallons Purchased in Base Period _____
- C. Annualized Fuel Costs (A x B) \$ _____
- D. Balance in Fuel Tracking Account \$ _____
- E. Tracked Fuel Costs (C + D) \$ _____
- F. Number of Customers in Base Period _____
- G. Fuel Cost Component of Rates (E/F) \$ _____

[Name of Ferry Operator]

Quarterly Fuel Surcharge Tracking Report

For the Reporting Quarter Ended _____

- A. Balance at the beginning of the quarter – Under (Over) Collection \$ _____
- B. Fuel costs paid to vendors:
 - 1. Gallons purchased _____
 - 2. Actual fuel costs paid \$ _____
- C. Fuel costs collected from customers:
 - 1. Number of customers _____
 - 2. Fuel cost component of rates X \$ _____
 - 3. Fuel costs collected \$ _____
- D. Under (Over) Collection of fuel costs for the quarter [B-C] \$ _____
- E. Balance at the end of the quarter – Under (Over) Collection [A+D] \$ _____

CERTIFICATION

I hereby certify that the information contained in this report is true to the best of my knowledge and belief.

Authorized Signature and Title

Date

Contact Person (Print Clearly)

(_____)_____
Telephone Number

NOTE: Providing false information to the Commission is punishable by fine and/or imprisonment pursuant to G.S. 62-310 and 62-326.

(NCUC Docket No. A-100, Sub 0, 01/29/09.)

CHAPTER 4. APPENDIX. (Repealed by NCUC Docket No. T-100, Sub 32, 8/23/95.)