

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Repeal of Chapter 6-65 and
Adoption of Chapter 16-605
Hawaii Administrative Rules

SUMMARY

1. Chapter 6-65, Hawaii Administrative Rules, entitled "Water Carriers," is repealed.
2. Chapter 16-605, Hawaii Administrative Rules, entitled "Water Carriers," is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 6

DEPARTMENT OF BUDGET AND FINANCE

CHAPTER 65

WATER CARRIERS

REPEALED

§§6-65-1 to 6-65-69 Repealed. [R]

HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 605

WATER CARRIERS

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Historical note: This chapter is based substantially upon "Water Carriers," Chapter 6-65, Hawaii Administrative Rules. [Eff 9/13/1999;

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SUBCHAPTER 1

GENERAL PROVISIONS

§16-605-1 Purpose and scope of chapter 16-605.

This chapter governs the:

- (1) Form and content of tariffs of water carriers of property and passengers, and the information and data to be submitted for the establishment of new or revised rates, fares, or charges; and
- (2) Filing of financial and statistical information by water carriers of property and passengers. [Eff _____] (Auth: HRS §§269-6, 271G-7) (Imp: HRS §§271G-2, 271G-7)

§16-605-2 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Basic tariff" means the current tariff on file with the commission. A basic tariff may be added to from time to time through supplements.

"Certificate of public convenience and necessity" means a certificate to operate as a water carrier, issued by the commission pursuant to sections 269-20 and 271G-10, HRS.

"Commission" means the public utilities commission of the State.

"Commodity rate" means the specific rate applicable to a commodity, as described in a tariff.

"Consumer advocate" means the executive director of the division of consumer advocacy of the department of commerce and consumer affairs.

"General rate increase" means a partial or flat increase in the general level of the rates or charges for revenue purposes or to increase the rate of

return. None of the following constitutes a general rate increase:

- (1) Establishment of a fare, rate, or charge for a new service;
- (2) Adjustment of or a change in a particular fare, rate, or charge for the purpose of eliminating inequities, preferences, or discrimination; or
- (3) Increase in fares, rates, or charges resulting from a commission-approved automatic rate adjustment clause or cost recovery mechanism.

"HRS" means the Hawaii Revised Statutes.

"Issuing carrier or agent" means the water carrier or person authorized by the water carrier to issue and publish tariffs on behalf of the carrier.

"Joint routes and rates" mean routes and rates that result from two or more water carriers, or from a water carrier and motor carrier, providing transportation service over a route at a through rate.

"Major accounts" mean those accounts as defined in the commission's Uniform System of Accounts for Water Common Carriers that represent large or general classes of financial statement items.

"Person" means the same as in section 271G-5, HRS.

"Point of destination" means the precise location where property is delivered into the custody of the consignee or its agent.

"Point of origin" means the precise location where property is delivered into the custody of the water carrier by the consignor or its agent.

"Rate" means the same as in section 271G-5, HRS.

"State" means the State of Hawaii.

"Supplement" means an addition or additions to the basic tariff.

"Symbol" means an identifying mark or letter to denote changes to a tariff.

"Tariff" means a schedule of rates, fares, charges, classifications, and sailings and the rules, regulations, and practices affecting any rate, fare, charge, classification, or sailing. It includes the

schedules in a basic tariff and in supplements. As the context requires, "tariff" also means the specific rates, fares, or charges imposed in a schedule.

"Tariff change" or "tariff revision" means any change, revision, or addition to or deletion of a tariff.

"Through rate" means a single rate or combination of rates that determines the charge from a point of origin to a point of destination.

"Water carrier" or "common carrier by water" means the same as in section 271G-5, HRS.

[Eff _____] (Auth: HRS §§269-6, 269-51,
271G-7) (Imp: HRS §§269-6, 269-51, 271G-5, 271G-7)

§16-605-3 Tariff filing requirements. (a) A water carrier may not commence any service without first having a tariff for the service approved by and on file with the commission.

(b) A tariff must be filed with the commission in the original and three copies.

(c) A water carrier may file the tariff either in person at the commission's office or by United States mail, postage prepaid, and addressed to the commission at its main office.

(d) A tariff may be filed by the water carrier or by its agent appointed as provided in section 16-605-6. [Eff _____] (Auth: HRS §§269-6, 271G-7, 271G-17) (Imp: HRS §§269-6, 271G-7, 271G-17)

\$16-605-4 Tariff open to public inspection. A water carrier shall make all of its tariffs available for public inspection or examination at:

- (1) Its principal place of business; and
(2) Each of its stations or offices.
[Eff: _____] (Auth: HRS §§269-6,
271G-7, 271G-17) (Imp: HRS §§269-6, 271G-7,
271G-16, 271G-17)

§16-605-5 Tariff change - posting. No change may be made in any rate, fare, charge, classification, or sailing or in any rule, regulation, or practice affecting the rate, fare, charge, classification, or sailing, except upon forty-five days' notice of the proposed change filed with the commission and published and posted at the water carrier's principal place of business and at each of the carrier's stations and offices; provided that:

- (1) A change in a fuel surcharge approved by the commission may be made after thirty days' notice of the proposed change filed and posted as provided above; and
 - (2) Any change or addition to a tariff, approved on short notice filing as provided in section 16-605-41, may be made on less than forty-five days' notice.
- [Eff _____] (Auth: HRS §§269-6, 271G-7, 271G-17) (Imp: HRS §§269-6, 271G-7, 271G-16, 271G-17)

§16-605-6 Power of attorney. (a) A water carrier may appoint an agent to file and publish a tariff or supplement in which the water carrier participates by executing a power of attorney in favor of the agent. The power of attorney must be in the form set forth in Appendix A. The agent must be an organization expressly authorized by the commission to publish and file tariffs on behalf of water carriers.

(b) A power granted an agent by a power of attorney may not be delegated by the agent to any other person. A water carrier may not grant powers of attorney to two or more agents which, if exercised, would result in conflicts in rates or other conditions.

(c) A water carrier may revoke a power of attorney upon forty-five days' written notice to the commission and the agent. Upon the revocation of a power of attorney, the water carrier may appoint a new agent, and the water carrier or its new agent shall

file a revision to its tariffs reflecting the change in agency. Such a revision is subject to the notice provision provided in section 16-605-5.

(d) When two or more water carriers join in a through rate filed by an agent, all such carriers joining in the through rate shall execute powers of attorney in favor of the agent for purposes of filing the through rate. [Eff _____] (Auth: HRS §§269-6, 271G-7, 271G-17) (Imp: HRS §§269-6, 271G-7, 271G-16, 271G-17)

§§16-605-7 to 11 (Reserved)

SUBCHAPTER 2

TARIFF FORMAT AND CONTENTS, SUPPLEMENT, RATES,
SAILING SCHEDULE, TRANSFER OF TARIFFS,
CHANGE IN WATER CARRIER'S LEGAL NAME

§16-605-12 Tariff format - generally. (a) Each tariff and supplement must be typewritten on paper 8-1/2 x 11 inches in size.

(b) Each page of a tariff or supplement must:

(1) Be in a form suitable for insertion into a looseleaf binder and contain margins at least 5/8 inches wide on the binding edge; and

(2) Be numbered. The title page may be page 1 or simply labeled "Title Page" with the next succeeding page numbered page 1.

(c) The text of the tariff or supplement must not contain any erasures, handwritten additions, or other alterations.

(d) Each tariff and supplement filed with the commission must comply with subsections (a), (b), and

(c). For access by the general public, including its customers, the water carrier may maintain its tariffs and supplements through an electronic website; provided that hard copies must be made available, upon request. [Eff _____] (Auth: HRS §§269-6, 271G-7, 271G-17) (Imp: HRS §§269-6, 271G-7, 271G-17)

§16-605-13 Tariff content. (a) A tariff must contain the following:

- (1) Title page;
- (2) Check sheet;
- (3) Table of contents;
- (4) Listing of water carriers participating in the tariff;
- (5) Definitions of technical and other important terms used in the tariff;
- (6) Rules;
- (7) Index of stations and points for passenger carriage;
- (8) Index of commodities for property carriage, where rates are established for specific commodities;
- (9) List of zones for property carriage, where zone rates apply;
- (10) Table of fares or rates and charges;
- (11) Explanation of abbreviations, symbols, and reference marks used in the tariff; and
- (12) Sailing schedules.

Subsections (b) to (l) define each of the content matter listed in subsection (a), except item (5), which is self-explanatory.

(b) The title page must bear the name of the water carrier. The name must be the same as that appearing on the carrier's certificate of public convenience and necessity (or application for a certificate, if none has been issued). If a trade name is used, the name of the carrier or partners must precede the trade name.

Example: John Doe and William Doe
Doing Business as
ABC Water Carrier

If two or more water carriers join in a through rate, the names of all participating carriers must be shown. The title page must also contain:

- (1) The name, title, and street address of the officer or agent issuing the tariff;
- (2) A brief description of the tariff contents, including zones and points covered by the tariff; and
- (3) A reference to the classification tariff, if a classification of articles is published in a separate tariff.

Examples:

"Governed, except as otherwise provided, by the (name of classification) of ABC Company, PUC No. xxx, as modified by supplement or successive issues."

or

"For reference to governing classification and other governing publications, see Item xx, Page yy, as amended."

(c) The check sheet must list all tariff pages. Each listed page must indicate its current revision.

Example:	Page	Revision
	Title	4th
	1	3rd
	2	Original.

If the tariff has less than five pages, including the title page, the check sheet may be omitted.

(d) The table of contents must list in alphabetical order the subject covered by the tariff. For each subject, reference must be made to the page on which the subject may be found. If the tariff has less than five pages, including the title page, and the title page or the interior arrangement plainly discloses the contents, the table of contents may be omitted.

(e) A listing of water carriers participating in the tariff is necessary where the tariff is filed by an agent representing a number of water carriers, except that if the number of participating water carriers is less than five, the participating water carriers may be listed on the title page.

(f) The rules must clearly define the applicability of the fares or rates and charges specified in the tariff and the scope, nature, and limitations of services covered by the tariff.

(g) The index of stations and points for passenger carriage must list in alphabetical order all stations and points from and to which the tariff applies, together with a reference to the page of the tariff where the corresponding fares are noted. No index is necessary if the tariff is less than five pages, including the title page, or if the fares are logically presented in a table or grouped in the same section of the tariff.

(h) The index of commodities for property carriage must list in alphabetical order the commodities to which specific rates are specified in the tariff. For each commodity, reference must be made to the page of the tariff or to the item where the rate for the commodity is noted. No index is necessary if the tariff is less than five pages, including the title page, or if the rates to each destination are arranged by commodities, listed in alphabetical order.

(i) The list of zones for property carriage, where zone rates apply, must describe the boundaries of each zone and include a map for each zone.

(j) The table of fares or rates and charges must be expressed in cents or dollars and cents. In addition:

- (1) For passenger carriage, the table must identify the points between which and the routes to which each fare applies;
- (2) For property carriage, the table must express the rates and charges in terms of an explicit, definable measure commonly used and understood in the trade, such as per 100

pounds, per mile, per hour, per cubic foot,
per ton, per container, etc.;

- (3) For property carriage, if a rate or charge is based on distances from a point of origin to a point of destination, the table must show the mileage and indicate how the mileage was determined; and
- (4) For property carriage, where rates are stated in terms of per package or per bundle, the table must state the specifications for the package or bundle.

(k) An explanation of all abbreviations, symbols, and reference marks used in the tariff must appear on each page of the tariff where the abbreviations, symbols, or reference marks are used, except that when abbreviations, symbols, and reference marks are used consistently throughout the tariff, a general explanation of the abbreviations, symbols, and reference marks may be placed in a separate section of the tariff.

(1) Sailing schedules must comply with the requirements of section 16-605-21.

[Eff] (Auth: HRS §§269-6, 271G-7,
271G-17) (Imp: HRS §§269-6, 271G-7, 271G-17)

§16-605-14 Tariff page. (a) Each tariff page must contain the following information:

- (1) Name of the water carrier or agent issuing the tariff;
- (2) Name and number of the tariff;
- (3) Page number of the tariff. If the page is a revised page, the number of the revision must precede the page number (e.g., "4th revised page 25");
- (4) Date of the issuance of the page or revised page and its contents; and
- (5) Effective date of the page and its contents.

(b) The last page of the tariff must contain the notation, "The End." [Eff] (Auth:

HRS §§269-6, 271G-7, 271G-17) (Imp: HRS §§269-6, 271G-7, 271G-16, 271G-17)

§16-605-15 Supplement. Each supplement to a basic tariff must be consecutively numbered, starting with "Supplement No. 1." The supplement must identify on the title page the basic tariff to which it is a supplement and briefly describe the nature of the supplement. In addition to meeting the requirement of section 16-605-13, each page of the supplement must contain the following:

- (1) The supplement number immediately below the name and number of the tariff to which it is a supplement; and
- (2) The supplement number preceding the page number (or revised page number) in the upper right hand corner of the page.
[Eff _____] (Auth: HRS §§269-6, 271G-7, 271G-17) (Imp: HRS §§269-6, 271G-7, 271G-16, 271G-17)

§16-605-16 Joint routes and rates. Water carriers:

- (1) May establish joint routes and through rates with one another and with motor carriers engaged in common carriage; and
- (2) Shall establish reasonable rules governing these rates.

Interline revenues are to be divided by agreement between the participating carriers. All joint routes and through rates must comply with section 271G-25, HRS, and if a motor carrier is involved, with section 271-35, HRS. [Eff _____] (Auth: HRS §§269-6, 271G-7, 271G-17) (Imp: HRS §§269-6, 271G-7, 271G-16, 271G-25)

§16-605-17 Class rates for property carriage.

(a) Water carriers of property may group articles into classes and establish class rates. The classification must clearly describe the commodities included in each class, the ratings assigned to the classes, and relevant rules. The rules must precede the classification of articles and be consecutively numbered and separately indexed.

(b) The classification of articles must be published either in the rate tariff or in a separate classification tariff. When published in a separate classification tariff, the classification tariff must:

- (1) Make reference to the class rates in the rate tariff;
- (2) Contain an alphabetical list of all articles listed, unless the number of articles is so small that the tariff plainly discloses its contents; and
- (3) Identify the water carriers participating in the classification tariff.

(c) A carrier participating in class rates or its agent shall not publish separate duplicative or conflicting class or commodity rates.

[Eff _____] (Auth: HRS §§269-6, 271G-7, 271G-17) (Imp: HRS §§269-6, 271G-7, 271G-16, 271G-17)

§16-605-18 Exceptions to class rates. (a) A rate for an article lower than the rates for classes of articles must be published as a commodity rate, or if the article is otherwise included in a class of articles for which a class rate has been established, as an exception to the class. Exceptions must be published as part of a tariff of class rates under the heading "Exceptions to Classification" or in a separate tariff. If a separate tariff of exceptions is published, specific reference to the exceptions must be made in all rate tariffs where the exceptions are applicable.

(b) If a tariff establishes a commodity rate, the class rate on the same article between the same

points or zones via the same route does not apply unless the tariff that establishes the commodity rate explicitly allows either the commodity or the class rate to be used. The provisions of this subsection must be included in the classification tariff.

[Eff] (Auth: HRS §§269-6, 271G-7)

(Imp: HRS §§269-6, 271G-7, 271G-16, 271G-17)

§16-605-19 Lowest rate applicable. (a) If a water carrier of property has a tariff containing classification or commodity rates, the water carrier must observe and incorporate the following rule in its tariff:

When a classification rate and a commodity rate are named between specific points, the lower of the rates is the lawful rate, unless some combination of classification rates or commodity rates or classification and commodity rates makes an even lower rate, in which case the lowest rate or combination of rates is the applicable rate.

(b) A water carrier of passengers must observe and incorporate the following rule in its tariff:

When a combination of fares makes a lower fare than the published through fare, the combination is the lawful fare and must be applied.

[Eff] (Auth: HRS §§269-6, 271G-7)

(Imp: HRS §§269-6, 271G-7, 271G-16)

§16-605-20 Sailing schedules. (a) The cargo sailing schedule, with departure and arrival dates and with time of departure and arrival, must be published in an appropriate section of each tariff. The publication does not alter the water carrier's duties with respect to the receipt and delivery of cargo as established by statutory or common law.

(b) The passenger sailing schedule with departure dates and times must be published in an appropriate section of each tariff.

[Eff] (Auth: HRS §§269-6, 271G-7)
(Imp: HRS §§269-6, 271G-7, 271G-16)

§16-605-21 Use of "all points." The term "all points" or similar terms may not be used in any tariff to indicate the points from or to which fares apply.
[Eff] (Auth: HRS §§269-6, 271G-7)
(Imp: HRS §§269-6, 271G-7, 271G-16)

§16-605-22 Transfer of tariffs. (a) When a certificate of public convenience and necessity or other operating right is transferred, the transferee carrier may adopt the tariffs and other instruments issued by or on behalf of the transferor carrier, if permitted by the commission's order authorizing the transfer of the operating rights. The transferee carrier shall file three copies of the adoption notice with the commission.

(b) Upon filing of the adoption notice with the commission, the transferee carrier shall serve a copy of the adoption notice on each agent that publishes a tariff containing rates or other provisions in which the transferor carrier participated.

(c) Upon filing of the adoption notice, the transferee carrier shall supplement or reissue each tariff issued by the transferor carrier indicating that the tariff has been adopted by the transferee carrier. The tariff supplement or reissue must be consistent with the commission order authorizing the transfer.

(d) If the transferee carrier elects not to adopt the tariffs issued by the transferor carrier, the transferee carrier shall file a temporary adoption notice and new tariffs not later than ten days after the effective date of the commission order authorizing the transfer of the operating authority. The new tariffs are effective forty-five days after their filing, unless suspended by the commission for a

longer period. [Eff] (Auth: HRS §§269-6, 271G-7) (Imp: HRS §§269-6, 271G-7, 271G-14, 271G-17)

§16-605-23 Change in water carrier's legal name.

A water carrier that changes its legal name without a change in ownership or control shall immediately notify the commission in writing of the change and shall amend its tariffs to show the new name of the company. The water carrier shall immediately provide written notification of the name change to all agents who have issued tariffs in which the water carrier participates, and the agents shall promptly amend the tariffs to change the name of the water carrier. The tariff change must show the new name of the water carrier and its former name; for example: "ABC Transportation, Inc. (formerly XYZ Water Carrier Co.)." [Eff] (Auth: HRS §§269-6, 271G-7) (Imp: HRS §§269-6, 271G-7, 271G-17)

§§16-605-24 to 29 (Reserved)

SUBCHAPTER 3

TARIFF CHANGE OR REVISION, GENERAL RATE
INCREASE, TEMPORARY RATE INCREASE

§16-605-30 Tariff changes or revisions. (a) A water carrier desiring to publish and apply fares or rates and charges, sailing schedules, or rules or conditions different from those previously filed by the water carrier or its agent shall file an application for a tariff change in accordance with the

applicable provisions of this chapter and chapter 16-601. The carrier shall file the original and three copies of the application with the commission. The carrier shall include the following information in its application:

- (1) Name of applicant (as shown on the certificate of public convenience and necessity) and address of principal office;
- (2) Complete and detailed description of the changes sought;
- (3) All points or zones to and from which the changes are sought to be applied;
- (4) Effective date of the changes; and
- (5) Reasons for the changes.

(b) The carrier shall attach to its application, in its revised form, the basic tariff or supplement pages affected by the requested changes. A page may be replaced by more than one revised page. The revised pages must comply with the requirements of section 16-605-12. If the original tariff or supplement has a check sheet, the carrier shall also attach a revised check sheet that reflects the revised basic tariff page or supplement page.

(c) The carrier shall indicate on each revised basic tariff page or supplement page the effect of the change to the current tariff by the use of the following symbols:

- (R) to denote a reduction.
- (I) to denote an increase.
- (A) to denote an addition.
- (C) to denote a change that is neither a reduction nor an increase.

The symbol must be placed next to each change. If a wording is being changed, the symbol must be placed next to the word or next to the first word in the revised phrase.

(d) When a new basic tariff is issued canceling in its entirety a previously issued tariff or tariffs or when a new supplement is issued canceling in its entirety a previously issued supplement or supplements, the title page of the new tariff or new supplement must indicate the tariff or supplement

number(s) and the issuance number of the tariff(s) or supplement(s) canceled by the new tariff or new supplement.

Example: PUC No. 2 - 2

Cancels

PUC No. 2 - 1.

Example: Supplement No. 2 - 2

Cancels

Supplement No. 2 - 1.

A new basic tariff that cancels a previously existing basic tariff also cancels all supplements to the previously existing basic tariff.

[Eff] (Auth: HRS §§269-6, 271G-7, 271G-17) (Imp: HRS §§269-6, 271G-7, 271G-16, 271G-17)

§16-605-31 General rate increase - supporting documents and information. (a) Any application for a tariff change that constitutes a request for a general rate increase must be preceded by a notice of intent to seek such change in conformance with section 16-601-85, except when the change is due to a fuel surcharge approved by the commission.

(b) The application described in subsection (a) must be accompanied by the following documents and information:

- (1) Balance sheet and income statement for the prior calendar year;
- (2) Latest available balance sheet that is not older than two months before the date of filing of the application;
- (3) Income statement from January 1 through the date of the latest available balance sheet;
- (4) Recorded actual results of operations for the prior calendar year;
- (5) Depreciation schedule supporting the latest financial report and the projected results of operations;
- (6) Projected results of operations for the test year as prescribed in subsection (c);

- (7) Rate base computation, including property and equipment of related companies. The carrier shall include in the computation the beginning and ending balances for each of the following ratemaking components:
 - (A) Plant in service and accumulated depreciation;
 - (B) Materials and supplies inventory, working cash, and other additions to rate base;
 - (C) Deferred income taxes, investment tax credits, and other deductions to rate base; and
 - (D) Breakdown of related companies' property or equipment investment allocated to the carrier, such as tugs. For each investment of related companies, the carrier shall specifically identify the original cost, accumulated depreciation, and the basis of allocation;
- (8) Schedule on computation of working cash;
- (9) Summary of charter hire expenses paid by the water carrier to related companies by island and by month for the periods specified in section 16-605-31(e). The carrier shall identify in the exhibit the equipment or service provided by and the total expense paid to the related company;
- (10) Schedule of operating revenues for all ports. The carrier shall indicate in the schedule, by port, the outbound and inbound tonnage for property carriers, the number of passengers for passenger carriers, and the outbound and inbound revenues. The carrier shall make available to the commission worksheets showing a breakdown for each port of the major descriptive categories with corresponding tonnage or numbers of passengers; and

- (11) Written direct testimony, exhibits, and supporting workpapers justifying the requested general rate increase.

(c) The projected results of operations must include the following information, except that a carrier with annual gross operating revenues below \$2 million need not provide the information specified in paragraphs (4) and (5):

- (1) Projected operating revenues by major accounts;
- (2) Projected operating expenses by major accounts, including depreciation, amortization, taxes other than income taxes, and income taxes;
- (3) Net projected operating income;
- (4) Proposed rate base;
- (5) Proposed rate of return on rate base; and
- (6) Projected operating ratio.

The revenue and expense projections by major accounts must be supported by separate schedules itemizing revenues and expenses by subaccounts. The projected results of operations must reflect any allocation of expenses from the carrier's affiliates and any allocation of revenues and expenses between the carrier's regulated and nonregulated operations. Any such allocation of revenues and expenses must be supported by appropriate worksheets and schedules.

(d) In addition to the information and data submitted pursuant to subsection (b), the commission may require a water carrier to submit additional information and data. Unless ordered otherwise, the carrier shall submit the information and data to the commission within fifteen days following the issuance of the commission's request.

(e) The test year for any general rate increase application is:

- (1) January 1 to December 31 of the year in which the application is filed, if the application is filed within the first six months of the year; and
- (2) January 1 to December 31 of the year following the year in which the application

is filed, if the application is filed within the last six months of the year.

[Eff] (Auth: HRS §§269-6,
271G-7) (Imp: HRS §§269-6, 271G-7, 271G-16,
271G-17)

§§16-605-32 to 37 (Reserved)

SUBCHAPTER 4

TARIFF - PROTEST, REJECTION, SUSPENSION
AND INVESTIGATION

§16-605-38 Protest of water carrier tariff change. (a) Any proposed change to a tariff on file with the commission must be served in accordance with section 16-601-94(c), except for applications to implement on less than statutory notice, which are governed by sections 16-605-41 and 16-601-112. The commission may require service on any other person, as it deems appropriate.

(b) Protests must be filed within the time period specified in section 16-601-60, and shall comply with section 16-601-58. [Eff (Auth: HRS §§269-6, 271G-7, 271G-17) (Imp: HRS §§269-6, 271G-7, 271G-16, 271G-17)]

\$16-605-39 Tariff - rejection. The commission, at its discretion, may reject any proposed tariff change if lawful notice of the proposed change has not been given or if the proposed change fails to meet the requirements of the commission's rules or violates any commission order. [Eff _____] (Auth: HRS _____)

§§269-6, 271G-7, 271G-17) (Imp: HRS §§269-6, 271G-7, 271G-16, 271G-17)

§16-605-40 Tariff - approval; suspension and investigation. (a) Upon the filing of a tariff or tariff change, the commission may:

- (1) Allow the tariff or tariff change, or any portion thereof, to take effect forty-five days after publication, filing, and posting of the proposed tariff or tariff change have all been completed, in accordance with this chapter; or
 - (2) Suspend the operation of the tariff or tariff change, or any portion thereof, for investigation. The commission may schedule and conduct a hearing to aid in its investigation of the justness and reasonableness of the proposed tariff or tariff change.
- (b) Notwithstanding subsection (a):
- (1) Changes to a fuel surcharge approved by the commission may be made thirty days after publication, filing, and posting of the proposed change in accordance with section 16-605-5; and
 - (2) Changes or additions made and approved pursuant to section 16-605-41, short notice tariff filing, may take effect on less than forty-five days' notice.

(c) A tariff suspension ordered by the commission may not exceed six months from the date of the issuance of the commission's order suspending the operation of the tariff. The tariff or tariff change will take effect, if the commission fails to issue a final order within the six-month period.

[Eff] (Auth: HRS §§269-6, 271G-7)

(Imp: HRS §§269-6, 271G-7, 271G-16, 271G-17)

§16-605-41 Short notice tariff filing. (a) The commission may grant a request for a change or addition to tariffs on less than forty-five days' notice if it finds that an emergency exists and the applicant carrier has proven that any delay in implementing the change or addition will result in substantial damage to the carrier or its shipper. The carrier shall include in its application a full statement of the need for implementing the change or addition on less than forty-five days' notice.

(b) The carrier shall serve a copy of the application and request for short notice filing on the consumer advocate. The commission may require service on other parties, as it deems appropriate.

(c) The commission shall not take action on the application for at least three working days after service is made under subsection (b) so that parties can file protests or objections. [Eff]
(Auth: HRS §§269-6, 271G-7, 271G-17) (Imp: HRS §§269-6, 271G-7, 271G-16, 271G-17)

§§6-605-42 to 46 (Reserved)

SUBCHAPTER 5

PAYMENT, SHIPPING DOCUMENTS, TICKETS

§16-605-47 Payment of rates and charges for property carriage. (a) Except as otherwise provided in this chapter, all lawful charges for the transportation of property shall be payable before the property is surrendered to the consignee or owner of the property or, for prepaid shipments, before the shipment is forwarded from the point of origin to the destination.

(b) Where proper and satisfactory credit arrangements are made to assure payment of a tariffed charge within the credit period specified in this subsection, a carrier may surrender possession of property before payment of the tariffed charges and may extend credit in the amount of the charges to the shipper, agent, or other person who undertakes to pay the charges (collectively, shipper) with payment to be received by the end of the following month, excluding Sundays and legal holidays.

- (1) When the freight bill for a shipment is presented to the shipper on or before the date of delivery, the credit period starts from 12 o'clock midnight of the last day of the calendar month in which the freight is delivered.
- (2) When the freight bill is not presented to the shipper on or before the date of delivery, the credit period starts at the first 12 o'clock midnight following the presentation of the bill.

(c) Freight bills for all transportation charges must be presented to shippers within seven calendar days from the first 12 o'clock midnight following the last day of each calendar month in which the freight is delivered.

(d) Where the United States mail is used to present transportation bills, the time of mailing by the carrier is deemed the time of presentation. In a dispute as to the time of mailing, the postmark shall be accepted as showing the time.

(e) If the shipper mails valid checks, drafts, or money orders, satisfactory to the carrier, in payment of the freight charges within the credit period, the charges may be deemed to have been collected within the credit period for the purpose of this subchapter. In case of a dispute as to the time of mailing, the postmark shall be accepted as showing the time. [Eff _____] (Auth: HRS §§269-6, 269-7, 271G-7, 271G-20) (Imp: HRS §§269-6, 271G-7, 271G-20, 271G-22)

§16-605-48 Bills of lading and shipping documents. (a) Unless otherwise provided, a water carrier of property, at the time of accepting a shipment, shall issue a freight receipt or bill of lading covering the shipment. In the freight receipt or bill of lading, the carrier shall itemize and clearly and fully describe the shipment, including its classification. The original freight receipts and bills of lading, when processed for billing, must include the name of the shipper, the name of the consignee, the date the shipment was received for transportation, point of origin and point of destination, a description of the shipment tendered, the weight or measurements of the shipment, or both, the rate charged for transportation and the basis of computation of the charges, and the signature of the shipper or its agent.

(b) All bills of lading must comply with article 7, chapter 490, HRS, and the United States Carriage of Goods by Sea Act, 46 U.S.C. §§1300-1315.

(c) The carrier shall retain copies of all bills of lading, filed in chronological order, separate from all other records at its place of business within the State for at least five years. The carrier may retain the copies on microfilm, optical imaging, or any other method authorized by the commission. The carrier shall make hard copies of the bills of lading available to the commission or its representatives upon request.

[Eff] (Auth: HRS §§269-6, 271G-7)

(Imp: HRS §§269-6, 271G-7, 271G-20, 271G-22)

§16-605-49 Issuance of tickets to passengers for transportation and shipping documents for property accompanying passengers. (a) A water carrier of passengers shall issue, at the time payment is received for passenger transportation accommodation, a receipt or ticket covering the purchased transportation service. The carrier shall clearly and fully itemize on the receipt or ticket the nature of the transportation.

(b) The carrier shall properly check and account for any baggage accepted for shipment aboard the ship in connection with a passenger's transportation. The carrier shall issue a receipt to the passenger for each piece of such baggage and mark the baggage with the point of origin, the destination, and the date of passage to facilitate identification when claimed by the passenger. Property, other than baggage transported in connection with passenger transportation aboard ships, must be accounted for by a freight receipt or bill of lading as specified in section 16-605-48. This subsection does not apply to any passenger carry-on baggage. [Eff]
(Auth: HRS §§269-6, 271G-7) (Imp: HRS §§269-6, 271G-7, 271G-20)

§§16-605-50 to 55 (Reserved)

SUBCHAPTER 6

FINANCIAL AND STATISTICAL REPORTING

§16-605-56 Financial and statistical reports.

- (a) A water carrier shall file with the commission the following financial and statistical reports:
- (1) A monthly financial and statistical report in the format prescribed by the commission on or before the last day of the month following the close of the previous calendar month, unless ordered or directed otherwise by the commission; and
 - (2) An annual financial and statistical report in the format prescribed by the commission by March 31 for the preceding calendar year.

The carrier shall serve a copy of its reports on the consumer advocate.

(b) The owner, officer, general partner, or authorized agent of the water carrier shall verify each monthly and annual financial report and certify that the report was prepared in accordance with the commission's Uniform System of Accounts for Water Common Carriers (USOA).

(c) Within ninety days from the effective date of this chapter, each water carrier shall file with the commission an updated chart of accounts used internally by the carrier. Thereafter, whenever additions or revisions are made, the carrier shall promptly file with the commission an amended chart of accounts. The commission may, at any time, direct that in lieu of filing amendments, a newly updated chart of accounts be filed with the commission to replace and supersede the existing chart of accounts on file with the commission. [Eff] (Auth: HRS §§269-6, 271G-7) (Imp: HRS §§269-6, 269-8.5, 271G-7, 271G-18)

§16-605-57 Books of accounts. (a) A water carrier shall maintain all books of accounts in accordance with the commission's USOA.

(b) Subdivisions of any USOA account may be kept, provided that such subdivisions do not impair the basic structure of the accounts prescribed. [Eff] (Auth: HRS §§269-6, 271G-7) (Imp: HRS §§269-6, 269-8.5, 271G-7, 271G-18)

§16-605-58 Accounting period. (a) A water carrier that keeps its books on a fiscal year basis shall notify the commission of its accounting period. Otherwise, books of account must be kept on a calendar year basis.

(b) Although a water carrier may keep its books on a fiscal year basis, it shall file its financial

reports on a calendar year basis.

[Eff] (Auth: HRS §§269-6, 271G-7)

(Imp: HRS §§269-6, 269-8.5, 271G-7, 271G-18)

§16-605-59 Method of accounting. All books of accounts are to be recorded on the accrual basis, unless otherwise authorized by the commission.

[Eff] (Auth: HRS §§269-6, 271G-7)

(Imp: HRS §§269-6, 269-8.5, 271G-7, 271G-18)

\$16-605-60 Supporting documentation. (a) A water carrier shall make readily accessible to the commission for its review all ledgers, journals, and other books of accounts, including supporting records, documents, and memoranda.

(b) Revenues must be supported by bills of lading, invoices, cash receipts, and other similar documents.

(c) Expenditures must be supported by expense vouchers, payrolls, receipted bills, canceled checks, receipts for petty cash payments, or other evidence. Disbursements from working or petty cash funds, wherever practicable, must be supported by receipts from the persons furnishing the services or materials. If it is not practicable to obtain a receipt, the record must describe in sufficient detail the amount, the nature, and the reason for the disbursement.

[Eff] (Auth: HRS §§269-6, 271G-7)

(Imp: HRS §§269-6, 269-8.5, 271G-7, 271G-18)

§16-605-61 Records to be maintained within the State. A water carrier doing business in the State must keep within the State all books of accounts and supporting data required by the commission. No books of accounts and supporting data may be maintained outside the State without prior commission approval.

If any books of account or supporting data are maintained outside the State with or without the commission's approval, the water carrier shall reimburse the commission for all actual costs incurred by the commission in conducting an audit outside the State. [Eff _____] (Auth: HRS §§269-6, 271G-7) (Imp: HRS §§269-6, 269-8.5, 271G-7, 271G-18)

§16-605-62 Preservation of records. (a) A water carrier shall not destroy any books, memoranda, and any other documents that support entries to its accounts, except as provided for by this section or by the commission.

(b) A water carrier shall preserve the following records permanently:

- (1) General and subsidiary ledgers, journals, and journal entries;
- (2) Certificates or abstracts of title of fixed assets, accounting records that pertain to the acquisition of fixed assets used in the water carrier's regulated operations, and accounting records that show the date of acquisition, purchase price, and accumulated depreciation of fixed assets; and
- (3) Capital stock records and minutes of directors, stockholders, and other corporate meetings.

(c) A water carrier shall preserve all other records, memoranda, documents, papers, and correspondence for a period of not less than five years or for a longer period as may be ordered by other lawful authority. [Eff _____] (Auth: HRS §§269-6, 271G-7) (Imp: HRS §§269-6, 269-8.5, 271G-7, 271G-18)

§16-605-63 Allocation of common expenses. A water carrier that is also engaged in nonregulated business shall allocate its common expenses between

its regulated and nonregulated business. It shall make the allocation following the commission's standards, or if no commission standards are available, on the basis of time studies, usage, per cent of revenues, or any other generally accepted method of allocation. In addition, any expenses that may be allocated to the water carrier by affiliated companies or by the carrier to affiliates, regardless of whether those affiliates are regulated or unregulated, shall be supported by records that clearly demonstrate an allocation method in compliance with the commission's standards, or if no commission standards are available, on the basis of any other generally accepted method of allocation.

[Eff] (Auth: HRS §§269-6, 271G-7)

(Imp: HRS §§269-6, 269-8.5, 271G-7, 271G-18)

§16-605-64 Depreciation. In computing depreciation for book purposes, a water carrier shall employ the straight-line method. The service lives of equipment, salvage value, type, class of service, and all other pertinent factors must follow the commission's guidelines, or, if no commission guidelines are available, the Internal Revenue Service's depreciation guidelines.

[Eff] (Auth: HRS §§269-6, 271G-7)

(Imp: HRS §§269-6, 269-8.5, 271G-7, 271G-18)

§§16-605-65 to 69 (Reserved)

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

The repeal of chapter 6-65 and the adoption of chapter 16-605, Hawaii Administrative Rules, on the Summary Page dated _____ were done on _____ following public hearings held on Kauai on August 3, Oahu on August 4, Hawaii island on August 17, and Maui on September 19, 2017; after public notice was given in The Garden Island on July 4, Hawaii Tribune-Herald and West Hawaii Today on July 17, and Maui News on August 17, and the Honolulu Star-Advertiser on August 4 and 17, 2017.

The repeal and adoption shall take effect on January 1, 2019.

CATHERINE AWAKUNI COLÓN, Director
Department of Commerce and Consumer Affairs

RANDALL Y. IWASE, Chairperson
Public Utilities Commission

LAUREL A. JOHNSTON, Director
Department of Budget and Finance

APPROVED AS TO FORM:

Deputy Attorney General

DAVID Y. IGE, Governor
State of Hawaii
Date: _____

Filed

APPENDIX A - POWER OF ATTORNEY

Name

Street Address

City

No. _____

Cancels No. _____

Date: _____

This is to certify that _____
has made, constituted and appointed and by these
presents, does make, constitute and appoint
_____ its true and lawful
attorney and agent for the said company and in its
name, place and stead, (1) for it alone, and (2) for
it jointly with other carriers, to file tariffs and
supplements thereto as required of water carriers by
rules established by the Public Utilities Commission
of the State of Hawaii thereunder for the period of
time, the traffic and the territory now herein named:

And the said _____ does
hereby give and grant unto its said attorney and agent
full power and authority to do and perform all and
every act and thing above specific as fully to all
intents and purposes as if the same were done and
performed by the said company hereby ratifying and
confirming all that its said attorney and agent may
lawfully do by virtue hereof, and assuming full
responsibility for the acts and neglects of its said
attorney and agent hereunder.

IN WITNESS WHEREOF, the said company has caused these presents to be signed in its name by its legal executive officer at _____ County in the State of Hawaii, on this _____ day of _____, 20____.

Name of company

By _____
Its

Attest: (If a corporation)

Secretary
(Corporate seal)

Duplicate mailed to:
