

NEW MEXICO PUBLIC REGULATION COMMISSION

RESOLUTION 4-19-23

A RESOLUTION TO ADOPT THE USE OF MINISTERIAL ACTION TO APPROVE UNCONTESTED APPLICATIONS, APPROVE TEMPORARY AUTHORITY TO CERTIFIED AMBULANCE CARRIERS, AND IMMEDIATELY SUSPEND MOTOR CARRIERS THAT FAIL TO MAINTAIN FINANCIAL RESPONSIBILITY OR VIOLATE A PRESCRIBED SAFETY REQUIREMENT

WHEREAS the Commission is responsible for issuing operating authorities for motor carriers operating in the State of New Mexico, NMSA 1978, Section 65-2A-4(A)(1);

WHEREAS the Commission is required to simplify to the extent possible the process for approving applications, NMSA 1978, Section 65-2A-5(B);

WHEREAS the Commission is authorized to grant an application by ministerial action if the application complies with the provisions of the Motor Carrier Act and the rules of the Commission regarding fitness, ability, financial responsibility, safety, and no objection, protest, or request for hearing is filed during the notice period, NMSA 1978, Section 65-2A-5(D);

WHEREAS “A ministerial act is an act which an officer performs under a given state of facts, in a prescribed manner, in obedience to a mandate of legal authority, without regard to the exercise of his own judgment upon the propriety of the act being done.” *New Energy Econ., Inc. v. Martinez*, 2011-NMSC-006;

WHEREAS the Commission is required to immediately suspend, without notice or a public hearing, the operating authority of a motor carrier for a failure to continuously maintain the prescribed forms and amounts of financial responsibility, NMSA 1978, Section 65-2A-27(A);

WHEREAS the Commission is authorized to immediately suspend, without notice or a public hearing, the operating authority of a motor carrier for a violation of a prescribed safety requirement if the violation endangers the public health or safety, NMSA 1978, Section 65-2A-27(B);

WHEREAS the Commission finds that the issuance of temporary authority to certified ambulance carriers enabling them to continue service uninterrupted pending review of an application for reissuance of authority is necessary to protect the public health and safety and should be dealt with immediately;

THEREFORE, BE IT RESOLVED, that the Commission hereby directs the Office of General Counsel to ensure that the following prescribed ministerial actions are executed in coordination with the Director of the Transportation Division in accordance with these terms:

- ◆ Approve uncontested applications for motor carrier operating authority when the Director of the Transportation Division certifies that such approval is in compliance with the Motor Carrier Act and Commission Rules, consistent with all requirements wherein the Commission would otherwise approve the application, and the docket contains no timely objections filed pursuant to NMSA 1978, Section 65-2A-13;

- ◆ Approve uncontested applications for temporary authority for certified ambulance carriers to continue service pending review of an application for reissuance of authority when the Director of the Transportation Division certifies that the ambulance service has met the requirements of NMSA 1978, Section 65-2A-11;

◆ Immediately suspend the operating authority of a motor carrier when the Director of the Transportation Division certifies that the motor carrier does not maintain the requisite forms and amounts of financial responsibility, as demonstrated by a ‘Form K’ (Notice of Expiration or Cancellation of Insurance). Pursuant to Section 65-2A-27(D), a suspended motor carrier may apply for reinstatement once the conditions of violation are addressed; and,

◆ Immediately suspend the operating authority of a motor carrier when the Director of the Transportation Division certifies that the motor carrier was provided written notice of specific violation(s) of legally prescribed safety requirement(s) and the motor carrier has either failed or refused to immediately remedy the situation, resulting in an imminent threat to the public health and safety. Pursuant to Section 65-2A-27(D), a suspended motor carrier may apply for reinstatement once the conditions of violation are addressed.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 19th day of April 2023.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Gabriel Aguilera, electronically signed

GABRIEL AGUILERA, COMMISSIONER

/s/ James F. Ellison, Jr., electronically signed

JAMES F. ELLISON, JR., COMMISSIONER

/s/ Patrick J. O’Connell, electronically signed

PATRICK J. O’CONNELL, COMMISSIONER

