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(2) As Exhibit 3, an organization chart; and

(3) As Exhibit 4, a schedule of its charges to members or a statement showing how the expenses are divided among the members.

(c) As Exhibit 5, opinion of counsel that the application meets the requirements of 49 U.S.C. 10706, with specific reference to any specially pertinent provisions of articles of incorporation or association.

§ 1331.3 Procedure.

(a) Applicant shall serve a copy of the application by first class mail upon the regulatory body having jurisdiction over rates, fares, or charges of each State or territory covered by the agreement, and the original application filed with the Board shall include a certificate naming the bodies upon whom the application has been served.

(b) The Board will publish in the FEDERAL REGISTER a notice that an application has been filed under these rules and indicating how a hearing on the application may be obtained.

(c) A protest to an application should conform to 49 CFR part 1104.

(d) The Board's general rules of practice govern procedural matters not specifically covered by these rules.

§ 1331.4 New parties to an agreement.

Where a carrier becomes a party to an agreement which has been approved by the Board, such approval will extend to such carrier upon the filing with the Board by the carrier or its authorized agent of a verified statement that it has become a party to the agreement, which statement shall show the information prescribed at §1331.1(b). Such carrier may provide transportation under joint rates or over through routes, but may not otherwise act with carriers of a different class (as defined at 49 U.S.C. 10706(d)).

§ 1331.5 Additional standards for retaining antitrust immunity by passenger bus industry rate bureaus.

(a) Rate bureaus must comply with the terms of their agreements, as approved by the Board. Failure to do so will result in lack of immunity for that activity.

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(b) The bureaus are required to maintain detailed minutes of all meetings where immunized matters are discussed. The bureaus will be subject to withdrawal of their immunity for serious continuing violations of Board standards, and individual tariff publications will be subject to rejection, suspension, or investigation for improprieties in the rate bureau process.

(c) Absent Board approval, no other changes may be made in any approved agreement.

(d) For the purposes of the statute, the following definitions shall apply:

(1) A *general increase* is a proposed general adjustment of substantially all the rates published in a rate bureau's tariff(s).

(2) A *broad change in tariff structure* modifies in a relatively non-uniform fashion the relationship between most rates published in a rate bureau's tariff, and applies to a large area, either nationally or regionally.

(3) An *innovative fare* will be determined on a case-by-case basis; the Board will, on request, issue opinions on whether particular rate proposals may be regarded as innovative. Two examples of an innovative fare are:

(i) A fare for unlimited passenger travel; and

(ii) An experimental fare providing for transportation at the passenger's option over the line of one or more carriers.

(4) A *promotional fare* generally has three characteristics:

(i) Limited duration;

(ii) Attractive price or level of service quality; and

(iii) Some added feature in addition to those normally offered.

PART 1332—FILING CONTRACTS FOR SURFACE MAIL TRANSPORTATION

Sec.

1332.1 Applicability.

1332.2 Availability of contracts.

1332.3 Manner of submitting contracts.

AUTHORITY: Sec. 5005(b)(3), 84 Stat. 767, 39 U.S.C. 5005.

§ 1332.1 Applicability.

The provisions of this part shall apply to copies of all contracts or

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agreements entered into by the U.S. Postal Service with any common carrier by rail or motor vehicle (including passenger-carrying vehicle), or freight forwarder, express company, or other person, for the surface transportation of mail as authorized by Chapters 50 and 52 of Title 39, United States Code, as revised and reenacted by the Postal Reorganization Act, 84 Stat. 719, 39 U.S.C. 5001 and 5201.

[36 FR 6426, Apr. 3, 1971]

§ 1332.2 Availability of contracts.

Upon request from any member of the public to inspect a contract(s) or agreement(s) described in §1332.1, at any time between the effective date of such contract(s) or agreement(s) and 15 days prior thereto, the Board will obtain the requested contract(s) or agreement(s) from the U.S. Postal Service and make it (them) available for inspection.

[57 FR 23539, June 4, 1992]

§ 1332.3 Manner of submitting contracts.

The U.S. Postal Service will submit to the Board, upon request, a copy of the requested contract(s) or agreement(s). Such contract(s) or agreement(s) will be submitted by facsimile transmission or messenger service where feasible, and, where such services are not feasible, by the fastest available mail service.

[57 FR 23539, June 4, 1992]

PART 1333—DEMURRAGE LIABILITY

Sec.

1333.1 Demurrage defined.

1333.2 Who may charge demurrage and who may enter into contracts pertaining to demurrage.

1333.3 Who is subject to demurrage.

1333.4 Information Requirements for Demurrage Invoices.

1333.5 Machine-Readable Access to Information Required for Demurrage Invoices.

AUTHORITY: 49 U.S.C. 1321, 10702, and 10746.

SOURCE: 79 FR 21412, Apr. 16, 2014, unless otherwise noted.

§ 1333.1 Demurrage defined.

Demurrage is a charge that both compensates rail carriers for the expenses

incurred when rail cars are detained beyond a specified period of time (i.e., free time) for loading or unloading, and serves as a penalty for undue car detention to encourage the efficient use of rail cars in the rail network.

§ 1333.2 Who may charge demurrage and who may enter into contracts pertaining to demurrage.

A serving carrier and its customers (including those to which it delivers rail cars at origin or destination) may enter into contracts pertaining to demurrage. Additionally, a third-party intermediary may enter into contracts with a shipper (or consignee) that the shipper (or consignee) shall be billed for demurrage pursuant to section 1333.3(b). However, in the absence of such contracts, demurrage will be governed by the demurrage tariff of the serving carrier.

[85 FR 26865, May 6, 2020]

§ 1333.3 Who is subject to demurrage.

(a) Any person receiving rail cars from a rail carrier for loading or unloading who detains the cars beyond the period of free time set forth in the governing demurrage tariff may be held liable for demurrage if the carrier has provided that person with actual notice of the demurrage tariff providing for such liability prior to the placement of the rail cars. The notice required by this section shall be in written or electronic form.

(b) If the rail cars are delivered to a third-party intermediary that has reached an agreement with a shipper (or consignee) that the shipper (or consignee) shall be billed for demurrage, then the serving Class I carrier shall, after being jointly notified of the agreement by the shipper (or consignee) and third-party intermediary, bill the shipper (or consignee) for demurrage charges without requiring the third-party intermediary to act as a guarantor, unless and until a party to the agreement notifies both the serving Class I carrier and the other party to the agreement that the agreement is no longer in force. Pursuant to this paragraph, the shipper (or consignee) shall be liable to the Class I carrier for demurrage but shall not be prohibited from seeking payment from the third-