

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER R-35595

LOUISIANA PUBLIC SERVICE COMMISSION, EX PARTE

Docket No. R-35595, In re: Review of the Schedule of Prescribed Rates and Requirements for Towing and Recovery services in General Order dated August 05, 2016.

(Decided at the September 22, 2021 Business and Executive Session.)

This General Order amends Attachment A to General Order dated August 05, 2016 (R-33916).

ORDER

I. Background

The Commission's General Order dated August 05, 2016 was issued in Docket R-33916 ("8-5-2016 G.O.") and established the current schedule of prescribed rates and requirements for non-consensual towing and recovery services. The present rulemaking docket was opened pursuant to an unopposed directive at the Louisiana Public Service Commission's ("Commission") June 24, 2020 Business and Executive Session "to review and consider recommendations to the Commission regarding potential modifications and possible tariff increases regarding non-consensual towing and recovery services" as set forth in the Commission's 8-5-2016 G.O.

Act No. 206 of the 2021 Regular Session of the Louisiana Legislature ("Act No. 206") amended La. R.S. 32:1734 relative to certain fees charged by towing and storage companies. Specifically, Act No. 206 granted the Commission the authority to fix the amount that a towing or storage company may charge for gate fees, fees for the removal of contents from towed or stored vehicles, as well as additional administrative and mailing fees. These fees were previously set either by statute or in Title 55 of the Louisiana Administrative Code. When the Legislature granted the Commission this authority, the current rates for the above mentioned items were repealed, providing the Commission with the sole authority to set said rates as it sees fit.

Staff's full review of potential changes to the rates and regulations set forth in the 8-5-2016 G.O. is currently ongoing. However, to provide continuity to regulated towing companies, Staff recommends that the Commission adopt an interim order adopting the previously established charges for gate fees, fees for the removal of contents from towed or stored vehicles outside of normal business hours, as well as additional administrative and mailing fees. Such rates were previously set at forty-five dollars for gate fees and fees for the removal of contents outside of normal business hours; administrative fees in the amount of twenty-five dollars for in-state

notifications, and thirty dollars for out of state notifications; and mailing fees at the rate for US Postal Service, plus four dollars per required letter.

II. Jurisdiction

Article IV, Section 21 (B) of the Louisiana Constitution of 1974 grants the LPSC constitutional jurisdiction over common carriers, and specifically provides as follows:

“The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.”

In addition, the Louisiana Legislature declared that the “use and operation of wreckers and towing services should be the subject of regulation by the Louisiana Public Service Commission,” and that the Commission has “the power and authority necessary to supervise, govern, regulate, and control the business of the operation and use of wreckers and towing services...[and] to fix reasonable and just rates, fares, tolls, charges for storage services[.]” The Commission’s power, authority, and duties in this regard includes “all matters connected with the service to be given or rendered[.]”

III. Staff Review

Attachment A to the Commission’s 8-5-2016 G.O. provides the current rates allowed for non-consensual towing and recovery services, storage of towed vehicles, the use of specialized labor or equipment, as well as other permissible charges. The 8-5-2016 G.O. did not establish authorized rates for gate fees, fees for the removal of contents from towed or stored vehicles outside of normal business hours, as well as additional administrative and mailing fees, as these charges were previously set forth in either statute or the administrative code.

Prior to the adoption of Act No. 206, La. R.S. 32:1734 provided the following:

A. A towing or storage company that assesses gate fees shall not assess such fee in an amount in excess of forty-five dollars.

B. If the towing or storage company charges a gate fee in excess of forty-five dollars, the owner of the vehicle shall have a right and cause of action to recover the amount of the excess fee, plus reasonable attorney fees, and all costs of court.

* * *

D. No towing or storage company shall charge a fee for the retrieval of contents from a stored or towed vehicle during normal business hours. However, a towing or storage company may charge a fee, not to exceed forty-five dollars, for the retrieval of contents from a stored or towed vehicle at a time other than during normal business hours. If the towing or storage company charges a fee in violation

of this Subsection, the owner of the vehicle shall have a right and cause of action to recover the amount of the excess fee, plus reasonable attorney fees and all costs of court.

Further, Section 1937 of Title 55 of the Louisiana Administrative Code currently provides:

B. Licensed storage companies may charge the vehicle owner/lien holder those administrative costs incurred by filing an ORSV along with any postal charges related to the mailing of the ORSV notices and certificate of mailing letters sent to the vehicle owner and any lien holder.

C. The maximum administrative fee that may be charged by a storage company for filing of the Official Report of Stored Vehicle notice shall be \$25 for in-state notifications and \$30 for out-of-state notifications. The maximum administrative fee that may be charged for mailing certificate of mailing letters to the vehicle owner and lien holder shall be no more than the rate for US Postal Service plus \$4 per required letter.

D. All costs must be documented with receipts, which shall be made available to the department, vehicle owner and lien holder upon demand. Companies found in violation of this part shall be subject to criminal or administrative penalties prescribed in this Chapter, including forfeiture of storage and administrative fees.

Act No. 206 amended La. R.S. 32:1734 as follows:

A. A towing or storage company that assesses gate fees shall ~~not assess such fee in an amount in excess of forty five dollars~~ **assess a fixed fee in an amount determined by the Public Service Commission.**

B. If the towing or storage company charges a gate fee in excess of ~~forty five dollars~~ **the amount fixed by the Public Service Commission**, the owner of the vehicle shall have a right and cause of action to recover the amount of the excess fee, plus reasonable attorney fees, and all costs of court.

* * *

D. No towing or storage company shall charge a fee for the retrieval of contents from a stored or towed vehicle during normal business hours. However, a towing or storage company may charge a fee, ~~not to exceed forty five dollars,~~ **in an amount determined by the Public Service Commission** for the retrieval of contents from a stored or towed vehicle at a time other than during normal business hours. If the towing or storage company charges a fee in violation of this Subsection, the owner of the vehicle shall have a right and cause of action to recover the amount of the excess fee, plus reasonable attorney fees and all costs of court.

F. The administrative and mailing fees for filing the Official Report of Stored Vehicles for in-state and out-of-state notifications shall be determined by the Public Service Commission.

Act No. 206 became effective on June 11, 2021. Staff's analysis of potential changes to the rates in the 8-5-2016 G.O. is currently under review, and part of this review will include an analysis of those fees which the Commission now has authority pursuant to Act No. 206. However, Staff recognizes that the enactment of Act No. 206 during the pendency of its review in this docket creates a gap in the fees authorized for towing and recovery services.

To provide continuity to regulated towing companies, Staff recommends that the Commission adopt an interim order that would adopt the previously allowed charges until Staff can complete its review of all rates authorized by the Commission. Therefore, Staff further recommends that these rates be adopted on an interim basis, and that they be subject to revision pending Staff's review in this docket.

Commission Action:

This matter was brought before the Commission for consideration at the September 22, 2021 Business and Executive Session. On motion of Vice Chairman Skrmetta, seconded by Commissioner Francis, and unanimously adopted, the Commission voted to accept Staff's Proposed Recommendation for Interim Order filed in to the record on August 16, 2021.

IT IS THEREFORE ORDERED THAT:

1. Staff's Proposed Recommendation for Interim Order is hereby accepted;
2. The modifications to Attachment A to General Order dated August 05, 2016, attached hereto as Exhibit 1, are adopted; and,
3. This Interim Order is effective immediately.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
October 18, 2021**



A handwritten signature in blue ink, appearing to read "Brandon M. Frey".

**BRANDON M. FREY
SECRETARY**

/S/ CRAIG GREENE

**DISTRICT II
CHAIRMAN CRAIG GREENE**

/S/ ERIC F. SKRMETTA

**DISTRICT I
VICE CHAIRMAN ERIC F. SKRMETTA**

/S/ FOSTER L. CAMPBELL

**DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL**

/S/ LAMBERT C. BOISSIERE, III

**DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III**

/S/ MIKE FRANCIS

**DISTRICT IV
COMMISSIONER MIKE FRANCIS**