

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

**LOUISIANA PUBLIC SERVICE COMMISSION
EX PARTE**

Louisiana Public Service Commission, ex parte. In re: Discussion and possible vote at the May 14, 2008, Business and Executive Session, on amending General Order dated March 25, 2003, with regards to nonconsensual towing and recovery rates, including but not limited to the 15% surcharge on equipment rental and labor subcontracted for, as provided for in Attachment "A", Section E 4.

(Decided at the Commission's September 10, 2008 Business and Executive Meeting)

(Amends and Supersedes "Attachment A" of General Order dated March 25, 2003)

Purpose

This General Order was adopted by the Louisiana Public Service Commission (the "Commission" or "LPSC") to provide an interim increase in the rates charged for nonconsensual towing and recovery services, as provided in "Attachment A" of the Commission's General Order dated March 25, 2003. This General Order also extends the scope of Rulemaking docket number R-30579 to review the most recent economic study presented to the Commission by Towing Recovery Professionals of Louisiana, Inc.

Jurisdiction

This Rulemaking was established pursuant to the following Constitutional and legislative authority:

Article IV, Section 21 (B) of the Louisiana State Constitution provides that:

The [public service] 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.

La. R.S. 45:180.1 C(1) provides that:

The [public service] commission has power and authority necessary to supervise, govern, regulate, and control the business of the operation and use of wreckers and towing services, to designate classes and categories of said vehicles, to fix reasonable and just rates, fares, tolls, charges for storage services, or charges for the commodities furnished or services rendered by persons engaging in the operation and use of said vehicles.

Background

At the April 16, 2008, Business and Executive Meeting, the Commission directed Commission Staff to open a rulemaking docket to examine the 15% surcharge on equipment

rental and labor subcontracted by towing and recovery professions, as provided for in Attachment "A", Section E 4 of the Commission's General Order dated July 7, 2000, thereafter amended and superseded by the Commission's General Order dated June 19, 2001.¹ The request was published in the Commission's Official Bulletin dated April 18, 2008, and Rulemaking docket number R-30579 was opened as per the directive. No interventions or oppositions were filed.

Thereafter, on July 10, 2008, the Towing & Recovery Professionals of Louisiana, Inc. (the "Association") filed a request with the Commission for an increase in the hourly rates as provided in the Commission's General Order dated July 7, 2000, amended and superseded by the Commission's General Order dated June 19, 2001. In its request, the Association noted that the hourly rates had not been adjusted since the initial rulemaking and study, which was conducted in 1999. The Association also filed an economic study and suggested a rate increase of approximately 50%.

Staff Recommendation

After considering the Association's request, Commission Staff recommended that the current Rulemaking docket number R-30579 be expanded to review the most recent economic study presented by the Association and that the entirety of the applicable General Order(s) be reviewed and reassessed. Commission Staff also recommended an interim rate increase of 8% on the current hourly rates contained therein, which is in line with recent increases granted to the vacuum truck industry. The current hourly rates, as provided in the Commission's General Order dated March 5, 2003 are as follows:

A. Light Duty

Light Duty Recovery	\$ 80.00 per hour, with a 1 ½ hour minimum charge. After the 1 ½ minimum, charges will be computed on a half hour basis.
Private Property Tow	\$ 80.00 flat rate
Mechanical Breakdown Tow	\$ 80.00 per hour, one hour minimum charge.
Stand-by	\$ 40.00 per hour

¹ Both of these General Orders were superseded by the Commission's General Order dated March 25, 2003, which provides the current "Attachment A."

B. Medium / Heavy Duty Towing and Recovery

	<u>Towing Charges</u>	<u>Recovery Charges</u>
Medium Duty Wrecker	\$ 175.00 per hour	\$ 225.00 per hour
Medium Duty Stand-by	\$ 87.50 per hour	\$ 87.50 per hour
Heavy Duty Wrecker	\$ 225.00 per hour	\$ 275.00 per hour
Heavy Duty Stand-by	\$ 112.50 per hour	\$ 112.50 per hour

C. Additional Medium/Heavy Duty Charges

Extra Truck & Trailer For Removal of Load	\$ 100.00 per hour
Complete Air Bag Unit	\$ 1,600.00 Flat rate (includes all equipment and personnel associated with the air bag recovery)

D. Additional Manpower Charges

Laborer	\$ 30.00 per hour
Supervisor	\$ 50.00 per hour

The recommended 8% (rounded to the nearest dollar) interim increase would result in the following hourly rates:

A. Light Duty

Light Duty Recovery	\$ 86.00 per hour, with a 1 ½ hour minimum charge. After the 1 ½ minimum, charges will be computed on a half hour basis.
Private Property Tow	\$ 86.00 flat rate
Mechanical Breakdown Tow	\$ 86.00 per hour, one hour minimum charge.
Stand-by	\$ 43.00 per hour

B. Medium / Heavy Duty Towing and Recovery

	<u>Towing Charges</u>	<u>Recovery Charges</u>
Medium Duty Wrecker	\$ 189.00 per hour	\$ 243.00 per hour
Medium Duty Stand-by	\$ 95.00 per hour	\$ 95.00 per hour
Heavy Duty Wrecker	\$ 243.00 per hour	\$ 297.00 per hour
Heavy Duty Stand-by	\$ 122.00 per hour	\$ 122.00 per hour

C. Additional Medium/Heavy Duty Charges

Extra Truck & Trailer For Removal of Load	\$ 108.00 per hour
Complete Air Bag Unit	\$ 1,728.00 Flat rate (includes all equipment and personnel associated with the air bag recovery)

D. Additional Manpower Charges

Laborer	\$ 32.00 per hour
Supervisor	\$ 54.00 per hour

Commission Action

The Commission considered the matter at the September 10, 2008, Business and Executive Meeting. On motion of Commissioner Sittig, seconded by Commissioner Boissiere, the Commission voted unanimously to accept the Staff's recommendation to expand Rulemaking docket number R-30579 to examine and reassess the hourly rates first provided for in General Order July 7, 2000 and thereafter amended and superseded by General Orders dated June 19, 2001 and March 25, 2003. The Commission further ordered that, in the interim, the hourly rates contained in "Attachment A" of the aforementioned General Orders be increased by 8% as recommended.

IT IS THEREFORE ORDERED THAT

1. The Rates for Non-Consensual Towing and Recovery Services and related charges as defined Section II. A. - D. "Attachment A" of Commission's General Order dated March 25, 2003 are hereby adopted as recommended.
2. "Attachment A (Amended)" attached to this Order shall supersede prior versions of the Attachment A.
3. This Order shall be effective immediately.

IT IS FURTHER ORDERED THAT

Rulemaking docket number R-30579 be expanded to review the most recent economic study presented by the Association and that the entirety of the applicable General Order(s) be reviewed and reassessed.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA**

October 2, 2008

/S/ JACK "JAY" A. BLOSSMAN
DISTRICT I
CHAIRMAN JACK "JAY" A. BLOSSMAN

/S/ LAMBERT C. BOISSIERE, III
DISTRICT III
VICE CHAIRMAN LAMBERT C. BOISSIERE, III

/S/ C. DALE SITTIG
DISTRICT IV
COMMISSIONER C. DALE SITTIG

/S/ JAMES M. FIELD
DISTRICT II
COMMISSIONER JAMES M. FIELD


LAWRENCE C. ST. BLANC
SECRETARY

/S/ FOSTER L. CAMPBELL
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

ATTACHMENT A (Amended)
(Effective October 02, 2008)

I DEFINITIONS

- A. Light Duty - is defined as the towing, transport, and recovery of motor vehicles with a gross vehicle weight rating of 15,000 pounds or less.
- B. Medium Duty - is defined as the towing, transport, and recovery of motor vehicles with a gross vehicle weight rating of 15,001 pounds to 26,001 pounds.
- C. Heavy Duty - is defined as the towing, transport and recovery of motor vehicles with a gross vehicle weight rating of 26,001 pounds and greater.
- D. Recovery - is defined as the use of one or more of the following techniques under the following scenario: The use of air bags, wenching, hoisting, up-righting, removing, or otherwise relocating a vehicle when the vehicle is found in such a location, state or position in which it could not remove itself from the location, state or position under the use of its own power, even if it were in complete operating condition.
- E. Non-Consensual Tow/Recovery- is defined as the transportation of a vehicle by a wrecker/tow truck without the prior consent or authorization of the owner or operator of the vehicle. Nothing herein shall permit the seizure of a vehicle without first complying with the procedure established by law.
- F. Stand-by- is defined as any hour or half of an hour during which a towing or recovery unit is not actively engaged in the towing or recovery of a vehicle. Travel time from dispatch to arrival on the scene shall not be considered Stand-By.

II EQUIPMENT CHARGES

A. Light Duty

Light Duty Recovery	<i>\$ 86.00 per hour</i> , with a 1 ½ hour minimum charge. After the 1 ½ minimum, charges will be computed on a half hour basis.
Private Property Tow	<i>\$ 86.00 flat rate</i>
Mechanical Breakdown Tow	<i>\$ 86.00 per hour</i> , one hour minimum charge.
Stand-by	<i>\$ 43.00 per hour</i>

B. Medium / Heavy Duty Towing and Recovery

	<u>Towing Charges</u>	<u>Recovery Charges</u>
Medium Duty Wrecker	<i>\$ 189.00 per hour</i>	<i>\$ 243.00 per hour</i>
Medium Duty Stand-by	<i>\$ 95.00 per hour</i>	<i>\$ 95.00 per hour</i>
Heavy Duty Wrecker	<i>\$ 243.00 per hour</i>	<i>\$ 297.00 per hour</i>
Heavy Duty Stand-by	<i>\$ 122.00 per hour</i>	<i>\$ 122.00 per hour</i>

C. Additional Medium/Heavy Duty Charges

Extra Truck & Trailer For
Removal of Load **\$ 108.00 per hour**

Complete Air Bag Unit **\$ 1,728.00 Flat rate** (includes all
equipment and personnel associated with
the air bag recovery)

D. Additional Manpower Charges

Laborer **\$ 32.00 per hour**
Supervisor **\$ 54.00 per hour**

A Supervisor may be dispatched when two or more units and/or laborers are required or needed during complicated or difficult recovery as defined below:

Also, additional manpower may be dispatched on a need basis during complicated or difficult recovery as defined below:

Complicated or Difficult Recovery

1. Rollover recovery - when additional operator required or needed.
2. Removal of unsecured load or debris from accident scene.
3. Unloading and reloading box trailers, box trucks, and flatbed trailers.
4. Water recovery - when additional operator is required or needed.

E. Miscellaneous Requirements

1. One (1) hour minimum charge for all of the above services rendered, except light duty towing and recovery charges, private property tows, stand-by time and air bags. After the one (1) hour minimum, charges will be computed in half-hour increments. Stand-by time will be computed in half-hour increments.
2. Rates are charged from time of dispatch at terminal until unhooked from towed vehicle.
3. All charges for all wrecker services are for truck and driver.
4. If the towing operator must rent or subcontract equipment or labor not used in the normal course of a towing procedure (i.e. professional diver, bulldozers, front end loaders, dump trucks, forklifts, etc.), a maximum 15% surcharge may be added to the amount of the rental or subcontractors invoice.
5. The following surcharges shall apply on a per gallon basis to the total amount of the hourly rate charged and shall be applicable only to towing and recovery professionals performing nonconsensual towing per Order T-30255:

<u>Fuel Price (per gallon)</u>	<u>Fuel Surcharge</u>
\$0.00 to \$0.90	3% reduction
\$0.91 to \$1.24	No reduction/surcharge
\$1.25 to \$1.99	3% surcharge
\$2.00 to \$2.24	9% surcharge
\$2.25 to \$2.49	9% surcharge
\$2.50 to \$2.74	9% surcharge
\$2.75 to \$2.99	9% surcharge
\$3.00 to \$3.24	12% surcharge
\$3.25 to \$3.49	12% surcharge
\$3.50 to \$3.74	12% surcharge
\$3.75 to \$3.99	12% surcharge
\$4.00 to \$4.24	14% surcharge
\$4.25 to \$4.49	14% surcharge
\$4.50 to \$4.74	14% surcharge
\$4.75 to \$4.99	14% surcharge
\$5.00 and greater	16% surcharge

There shall be no change in the top portion of the brackets. If fuel ever returns to the \$1.14 level and below, a surcharge shall not be charged. The surcharge will be based on the average price of self-service diesel fuel as determined based upon the price reported by the U. S. Department of Energy (DOE) for the Petroleum Administration for Defense District 3 (Gulf Coast).

6. Recovery of hazardous materials cargo, as defined by D.E.Q. or State Police Hazmat Unit may be billed at 50% above the tariff rate allowed on recovery charges only.
7. All bills for non-consensual towing and recovery shall be itemized on a line item basis, including all LPSC prescribed and non-prescribed charges (i.e. gate fees, administrative fees.) For all charges other than storage fees, surcharges and the hourly rates for towing, recovery and stand-by, the towing company shall attach an invoice for the service rendered (including, but not limited to extra labor, extra equipment, administrative fees, etc.)
8. All bills for non-consensual towing and/or recovery shall specifically state the time of dispatch and the time services are completed.
9. In addition to any fines authorized by LSA- R.S. Title 45, Section 163 et. seq., the Louisiana Public Service Commission may order a refund of up to 200% of any overcharges found to have occurred.
10. All bills for non-consensual towing and/or recovery shall include the following language printed at the bottom of the bill: Complaints may be addressed to the Louisiana Public Service Commission- Attention Transportation Division, P.O. Box 91154, Baton Rouge, Louisiana 70821.