

Skeeters Autobody and Towing LLC

May 17, 2016

1332 Valley Ave

Berkeley Springs WV 25411

304-258-9006

To: Public Service Commission of WV

From: Skeeters Autobody and Towing LLC (Lorraine)

MC 6049.10

RECEIVED
15 MAY 27 AM 9:39
WVA PUBLIC SERVICE
COMMISSION
TRANSPORTATION SERVICE

I was reading the proposed changes in the psc towing rules.

I would like to have you reconsider the rule 5.2C (notifying customer within 24 hours you have their vehicle) for the reasons of: *page 2*

1. If the vehicle is abandoned there is usually no information on vehicle, no tag registration etc. The only way to find owner is to send a letter to DMV for a Vin ck. This usually takes around 7 to 10 days if vehicle is registered in WV. If registered in another state takes longer.
2. Sometimes person driving the vehicle is not the owner, maybe they purchased it, but never got vehicle in their name.
3. If it's an accident the owner may have already left the scene in ambulance or police has detained them. Someone usually will contact us if they want their vehicle, but this takes time, they may be in jail or hospital, no way to contact them.
4. People move so addresses may not be correct if you do find a registration. Sometimes reason car is impounded is because it is not legal, no registration or insurance.
5. We do not have access to phone numbers
6. Law enforcement usually, never gives us any information, they just want road reopened.
7. Law enforcement dispatches tow companies, so customer could find out by calling law enforcement, who has their car. If customer is there we give a business card to them.
8. Most cases if they haven't contacted tow facility, they have no intentions of picking vehicle up. If they check with police, they would tell them who towed there car.

All other changes seem to look ok, I already have all requested information on my tow receipt books.

I think laws that are on the books now are good, they just need to be enforced.

Then on page 21 looks like we give invoice when we deliver car? we already do this to get paid. If we tow vehicle to our shop, per 911 call etc. No way of notifying customer in 24 hrs, reasons above. Not sure what destination in this column means.

Johnny's Garage
477 Old Campbelltown Rd
Marlinton, WV 24954
June 7, 2016

RECEIVED

16 JUN 10 AM 8:45

WVA PUBLIC SERVICE
COMMISSION
RECEPTION OFFICE

Ingrid Ferrell, Director
Executive Secretary Division
201 Brooks Street
PO Box 812
Charleston, WV 25323

To Whom It May Concern:

Reference Case # MCGO49.10

In response to 2.5A, I do not agree with the annual fee of \$25.00 to register proof of insurance. Proof of insurance is required when we obtain our license and the Insurance Company sends proof to the Public Service Commission.

In response to 5.2C & 5.2E, it is almost impossible to contact an individual within 24 hours of a third party tow. In our area, it is hard to obtain owner information due to the fact 911 will not run a VIN number or plate number, It is an extreme burden to have wrecker services locate this information and notify within the 24 hour limit you are proposing. If an individual's vehicle is towed by third party notification, it should be their responsibility to contact law enforcement or 911 to find out where the vehicle was towed.

In order to obtain all the information in 5.2E, it would require extra time to the call before leaving the scene. In most cases, law enforcement requires the vehicle be removed as soon as possible to free up roads and manpower. Some information can be obtained when we return to base, but this still adds man hours needing compensation.

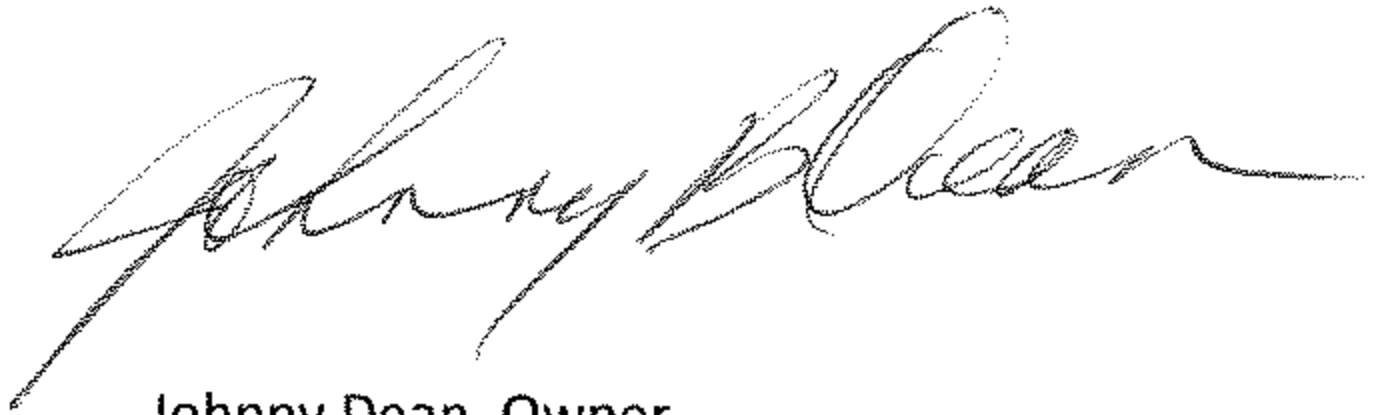
In response to third party tow receipts, most instances these rates change before all receipts are used. If rates change, we should be able to manually change rates until we need to purchase more books or if asked, provide proof of current rates. At this time, I still have not used all books purchased from inception.

In response to 5.9D.3, no more than three vehicles are stored at same time at same location. Please advise how facilities are to receive payment or dispose of vehicles. If an individual only has liability insurance, most times they do not pay bill or retrieve their vehicle. Therefore, facilities are left with a vehicle with no title, not compensated for their services and having to travel two to three hours to a salvage yard only to be told they need a title. How are we as business owners supposed to be compensated for our services? Would it be beneficial for the state for our services, then deliver to the WVDOH Garage?

In response to 5.9F, we have no disputes with owners retrieving personal items from their vehicles during regular business hours. If required to return after hours, we feel compensation is required. If personal belongings are obtained before payment, we have no leverage to require payment. It is our stand, personal belongings should not be released until payment is received.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Johnny Dean". The signature is fluid and cursive, with a long horizontal stroke at the end.

Johnny Dean, Owner
Johnny's Garage

**Owner-Operator Independent Drivers Association, Inc.**

National Headquarters: OOIDA Building, I-70 at Grain Valley Exit
1 NW OOIDA Drive, P.O. Box 1000, Grain Valley, MO 64029
Tel: (816) 229-5791 Fax: (816) 427-4468
Email: ooida@ooida.com web site: www.ooida.com

June 14, 2016

03:21 PM JUN 14 2016 PSC EXEC SEC DIV

Via Fax: (304) 340-0325

RE: Initial Comments, General Order No. 49.10

Ms. Ingrid Ferrell
Director
Executive Secretary Division
201 Brooks Street, PO Box 812
Charleston, WV 25323

Dear Ms. Ferrell:

On behalf of the Owner-Operator Independent Drivers Association (OOIDA), we submit the following comments to General Order No. 49.10.

OOIDA is the largest trade association representing the views of small-business trucking professionals and professional truck drivers. We have more than 157,000 members nationwide, including nearly 1,000 who reside in West Virginia and thousands more that operate on West Virginia highways every day.

We applaud the West Virginia Public Service Commission's (PSC) effort to amend its Motor Carrier Rules governing third-party tows. Based on our significant personal experience and the experience of our members, this is a necessary and worthwhile process to ensure that motorists are better protected from unscrupulous towing operators.

Regarding the PSC's proposed amendments, we offer the following comments:

- OOIDA supports each proposed change in Rule 5.2. These proposed changes will create a more uniform and descriptive invoice (5.2.b.), better identify the entity that requests a wrecker service (5.2.e.3.), describe the vehicles used to perform a tow (5.2.e.4.), and require towing operators to include a statement that the equipment used for a tow was necessary and that the application of their rates is correct (5.12.e.12.).

Many towing invoices in West Virginia are generally incomplete and lack even the most basic information, much to the detriment of consumers and the PSC itself. Although a more comprehensive invoice would not signify that towing charges are fair and

03:21 PM JUN 14 2016 PSC EXEC SEC DIV

reasonable, consumers subjected to a third-party tow deserve an accurate and detailed invoice.

- OOIDA supports proposed Rule 5.9.f. Consumers should have the right to access their personal property at no additional cost.
- OOIDA supports each proposed change in Rule 5.12. These proposed changes will expedite the complaint process (5.12.b.), require a towing operator to prove his/her charges are fair and reasonable (5.12.c.), improve the PSC's enforcement authority regarding its invoicing requirements in Rule 5.2. (5.12.d.), outline factors the PSC will consider in determining whether or not towing charges are fair and reasonable (5.12.e.), and strengthen certain actions pertaining to decisions or orders that require a towing operator to refund a consumer (5.12.f.).

While OOIDA supports 5.12.f.2. as drafted, we would suggest amending it as follows:

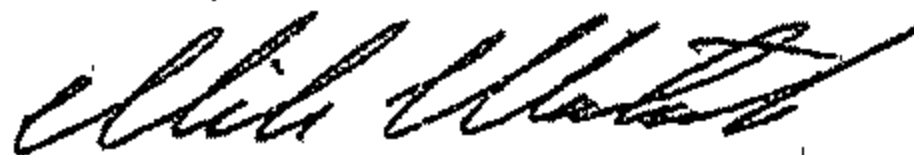
"If the wrecker company does not make payment within the twenty (20) day period described in Rule 5.12.f.1., the ~~complainant or~~ Staff ~~may~~ **shall** file a request for issuance of an order suspending the registration held by the wrecker company and directing the Commission's Motor Carrier Division to take the appropriate steps to notify E-911 dispatch centers to remove the wrecker company from its list of responders for third-party tows. Such ~~If payment is not made within twenty (20) days of filing such request, a Final order granting that relief order shall issue and shall remain in effect until the wrecker company makes payment or successfully petitions for other relief."~~

These proposed changes appear to reflect the requirements of HB 4186, now public law. OOIDA was an avid supporter of HB 4186 and the proposed changes will better protect consumers from bad operators without harming those operators that do things the right way.

- OOIDA supports the PSC's plan to review its maximum statewide wrecker rates through a general investigation in Rule 5.13a. as required by HB 4186. The intent of the applicable provision in HB 4186 is to move away from individual rate tariffs. We feel the PSC's plan meets that intent.

Thank you again for your work on this important issue and for the opportunity to comment. Please contact me directly at (816) 229-5791 ext. 1603 or mike_matousek@ooida.com should you have any questions or require additional information.

Sincerely,



Mike Matousek
Director of State Legislative Affairs
OOIDA



PIFER'S SERVICE CENTER, LLC

115 Elizabeth Pike
Mineral Wells, WV 26150
Phone: (304) 489-2010
Fax: (304) 489-3194

June 16, 2016

04:34 PM JUN 16 2016 PSC EXEC SEC

Ms. Ingrid Ferrell, Director
Executive Secretary Division
201 Brooks Street
P. O. Box 812
Charleston, WV 25323

RE: GENERAL ORDER NO. 49.10

Dear Ms. Ferrell:

Pifer's Service Center LLC has several concerns pertaining to the proposed General Order No. 49.10.

5.2.b The proposed form No. 65 does not allow room for all the information necessary for billing of commercial accidents. Our invoice for commercial accidents has multiple pages and added information to explain the invoice thoroughly.

Also, we do not agree with recording time of arrival at storage location. Once we arrive back at our storage facility, there could be several hours involved in securing the disabled vehicles, debris and cargo.

Form No. 65 also requires entering the towing vehicle license plate number. It would be faster and make more sense to enter the unit number assigned to the vehicles. This is the number the PSC uses at their annual inspection of our facility.

5.2.c It is impossible to send a copy of wrecker invoice to the registered owner in 24 hours on numerous vehicles. Not all vehicles have the insurance and registration in them. On abandoned or tow-off vehicles, we have to fill out a request for information form and send to Charleston, along with a copy of check and photo ID. This process can take up to 7 to 10 business days. (All abandoned vehicle information has to go through Charleston DMV. The local DMV does not handle this.) If the vehicle is not registered in West Virginia, the DMV will give us the state it is registered in. We then have to fill out another form for that state and send in. This process could take 3 to 4 weeks or longer. Also, on burned and stolen vehicles, we may not be able to get vehicle identification number. (Copies of Request for Vehicle Information and Abandoned Vehicle Notice attached for your review.)

5.2.e4 These wrecker vehicle descriptions are obsolete.

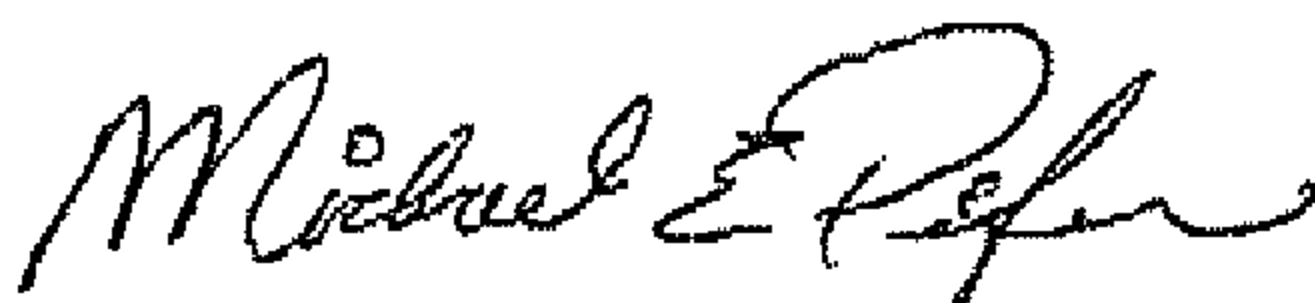
5.2.e9 As stated in our comments on 5.2.c. this information may not be available.

5.2.e11 We do not feel we should be required to attach a copy of our company's tariff to each invoice. Our tariff is six pages long. We have copies of our tariff in our waiting room and available upon request. The tariff is also on the WV Public Service Commission website, which could be made more user friendly for 3rd party customers. (Copy of our tariff is attached.)

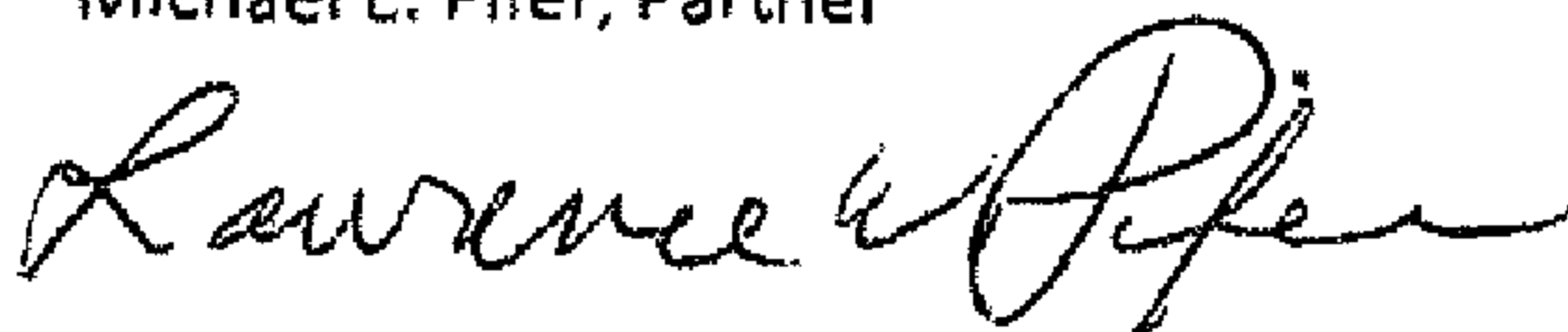
5.9.f and 5.2.e15 We object to this rule because it is beyond the Commission's limited jurisdiction over third-party tows allowed by 49 U.S.C.

We would appreciate you reviewing our concerns on Order No. 49.10.

Sincerely,



Michael E. Pifer, Partner

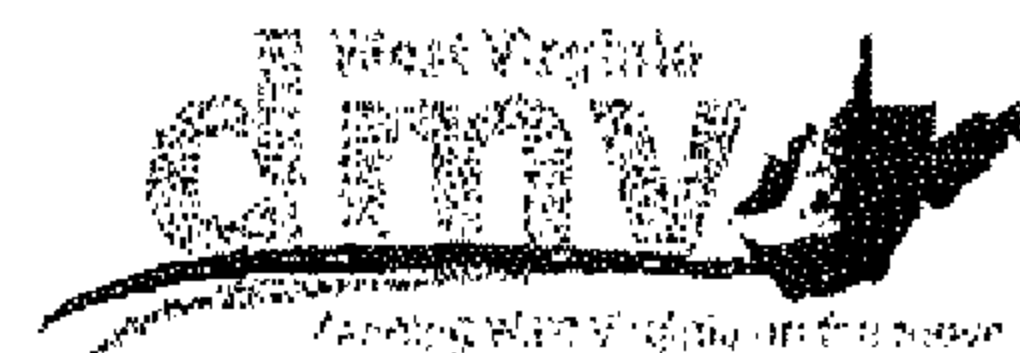


Lawrence W. Pifer, Partner

Crw

Enclosures

West Virginia Department of Transportation
Division of Motor Vehicles
Request for Vehicle Information



Call • 304-926-3909 | Fax • 304-926-3881
www.dmv.wv.gov

PO Box 17150 • Charleston, WV 25317

A.) Requester Information • Complete all requested information on form (front and back).

Name Pifer's Towing and Recovery Daytime Telephone (304) 489 - 2010
Address 115 Elizabeth Pike Mineral Wells WV 26150
STREET ADDRESS CITY STATE ZIP

B.) Affidavit of Intended Use • Please check all sections that apply.

- 1. For use by any government agency, including court or law enforcement agency in carrying out its functions, or any private person or entity acting on behalf of a Federal, State or local agency, in carrying out its functions. **The agency making the request must submit a signed letter, on letterhead, explaining why this information is needed.**
- 2. For use in connection with matters of motor vehicle or driver safety; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research, and removal and non-owner records from the original owner records of motor vehicle manufacturers.
- 3. For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:
 - A.) For the purpose of verifying the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and
 - B.) If the information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by pursuing legal remedies against, or recovering on a debt or security interest against the individual; and
 - C.) **This request must be accompanied by a signed letter, on business letterhead, explaining why this information is needed.**
- 4. For use in connection with a civil, criminal, administrative, or arbitral proceeding in any Court or Governmental agency or before a self-regulatory body, including the service of process, the execution or enforcement of judgments and orders, or pursuant to any order of a Federal, State, or Local Court. **All requests must include the court docket number.**
- 5. For use by an insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors in connection with claim investigation activities, anti-fraud activities, rating or underwriting. **All requests must be accompanied by a signed letter, on business letterhead, explaining why this information is needed.**
- 6. For use in providing notice to the owners of towed or impounded vehicles (ex. abandoned vehicles): State _____
Lienholder _____ Initials _____
- 7. For use by any licensed private investigator agency or licensed security service for any purpose permitted by the Uniform Motor Vehicle Records Disclosure Act §17A-2A-7. **All requests must be accompanied by a signed letter, on business letterhead, from the employer listing a court docket number, insurance claim number, or explanation for the request from the government agency employing the service.**
- 8. For use in connection with the operation of private toll transportation facilities.
- 9. Individual request. **Personal information will be redacted on requests about others unless accompanied by written consent.**

YOU MUST COMPLETE THIS FORM ON THE REVERSE SIDE

C.) Vehicle Information Requested • Please check type of information needed.

West Virginia Motor Vehicle Code §17A-2A-2 states that all residential information is confidential; therefore, name and address of record holder will be withheld on individual requests that do not comply with the Uniform Motor Vehicle Records Disclosure Act. You may not obtain information about others without their signed written consent unless the request is made by a company/business on letterhead and provides a legitimate and detailed reason for the request as defined in the Uniform Motor Vehicles Records Disclosure Act (17A-2A-1 et seq.).

- Basic Vehicle Registration Information - \$1.00
- Lien/Basic Vehicle Registration Information - \$5.00
- Certified Title File - \$10.00
- Title History - \$25.00
- Form 62 - Fees and Privilege Tax Paid At Titling - \$5.00
- Lien Perfection Information (Must include Dealer's tax date) - \$20.00
- Title Copy - \$5.00

FEES COVER THE COST OF RESEARCH AND ARE NON-REFUNDABLE.

D.) Request Details

Year _____ Make _____ Plate _____ VIN _____

Name _____ Address _____

Year _____ Make _____ Plate _____ VIN _____

Name _____ Address _____

Year _____ Make _____ Plate _____ VIN _____

Name _____ Address _____

Year _____ Make _____ Plate _____ VIN _____

Name _____ Address _____

**** For Additional Requests, attach addendum.****

E.) Requester Signature

I hereby certify that _____ will use the vehicle information requested pursuant to Section §17A-2A-1 et seq. of the West Virginia Code, for the purpose checked on side one, section C only and for no other reason. I/we state that I/we have read and signed this form after its completion, and I/we swear or affirm that the statements made herein are true and correct, and that any statement made on or pursuant to this form is subject to penalties which shall include punishment or a fine not exceeding \$500 or a term of imprisonment not more than six months, or both.

A copy of a driver's license or state issued photo ID MUST be attached. No information will be given without a state issued photo ID. A copy of your request may be forwarded to the record holder.

(X) _____
SIGNATURE OF REQUESTER

_____/_____/_____
DATE

PIFER'S SERVICE CENTER,LLC
115 ELIZABETH PIKE
MINERAL WELLS, WV 26150
(304)489-2010

PIFER'S TOWING AND RECOVERY
519 33RD STREET
PARKERSBURG, WV 26101
(304)916-1860

ABANDONED VEHICLE NOTICE (17-24A-4)

DATE OF NOTICE _____

NAME AND ADDRESS OF REGISTERED OWNER _____

NAME AND ADDRESS OF LIENHOLDER _____

VEHICLE DESCRIPTION

YEAR	MAKE	SERIAL NUMBER	REGISTRATION PLATE
------	------	---------------	--------------------

LOCATION OF WHERE THE VEHICLE IS BEING HELD
PIFERS SERVICE CENTER 115 ELIZABETH PIKE MINERAL WELLS, WV 26150
CONTACT PERSON: Mike Pifer (304)-489-2010

LOCATION WHERE THE VEHICLE WAS TAKEN INTO CUSTODY AND POSSESSION

CITY	STATE	ZIP CODE
------	-------	----------

Please be advised that you have ten (10) days from receipt of this notice to reclaim your vehicle and pay all towing, preservation and storage charges that have resulted from taking this vehicle into custody or possession.

IMPORTANT:

Failure of the owner or lien holder of record to exercise their right to reclaim the above motor vehicle within ten (10) days shall be deemed a waiver by the owner and all lien holder of record of all right, title and interest to the above motor vehicle and of their consent to the sale or disposal of the abandoned motor vehicle or junked motor vehicle at a public auction or to a licensed salvage yard or demolisher.

MF-P.S.C. W. Va. No. 11
Canceling MF-P.S.C. W. Va. No. 10

PIFER'S SERVICE CENTER, LLC,
dba PIFER'S TOWING AND RECOVERY

OF

MINERAL WELLS, WEST VIRGINIA

RATES, RULES AND REGULATIONS GOVERNING

THE TRANSPORTATION OF
WRECKED AND DISABLED MOTOR VEHICLES
IN THE STATE OF WEST VIRGINIA

Filed with THE PUBLIC SERVICE COMMISSION
of
WEST VIRGINIA

Issued January 27, 2014

Effective for all service rendered on and after January 7, 2014
or as otherwise provided herein

Issued by authority of an Order of the
Public Service Commission of West Virginia
in Case No. 13-1550-MC-TOW final
January 7, 2014.

Issued by Pifer's Service Center, LLC
dba Pifer's Towing and Recovery

By 



TITLE

PIFER'S SERVICE CENTER, LLC.,
dba PIFER'S TOWING AND RECOVERY

MF-P.S.C. W. Va. No. 11
Original Sheet No. 1

1. HOURLY RATES

	<u>Rates</u>	<u>Minimum</u>
Automobiles (Passengers Cars) and Trucks with GVW of 7,500 lbs. or less	\$ 70.00	\$ 70.00
Trucks with GVW of 7,501 pounds to 10,000 lbs.	\$ 95.00	\$ 95.00
Trucks and buses with GVW of 10,001 to 35,000 lbs.	\$145.00	\$145.00
Tractor & trailer combinations (empty) requiring heavy duty wrecker	\$168.00	\$168.00
Trucks (Grossing 35,001-50,000 lbs.)	\$180.00	\$180.00
Trucks (Grossing 50,001-60,000 lbs)	\$220.00	\$220.00
Trucks (Grossing 60,001-75,000 lbs)	\$240.00	\$240.00
Trucks (Grossing over 75,001 lbs)	\$275.00	\$275.00

2. MILEAGE RATE

Instead of the hourly rates shown above, the carrier may charge a mileage rate of \$4.00 per mile, calculated from the carrier's base of operations to the final towing destination. In no case shall both an hourly charge and a mileage charge be applied.

(C) **3. ADDITIONAL LABOR**

The rates shown herein include the services of one man (the driver). If additional labor is required, such additional labor shall be provided by the carrier at the rate of \$30.00 per hour per helper. The minimum charge for such labor shall be \$30.00 per helper.

4. ADDITIONAL CHARGE FOR WEEKENDS, EVENINGS AND HOLIDAYS

Due to overtime wages paid on weekends, evenings (5:00 p.m. to 8:00 a.m.) and all federal holidays, an additional charge of \$15.00 per hour shall be added to all charges provided in Paragraphs (1) and (3) above when said services are performed on weekends, evenings and federal holidays if such overtime wages are paid.

(C) Indicates change in text

PIFER'S SERVICE CENTER, LLC
dba PIFER'S TOWING AND RECOVERY

MF-P.S.C. W.Va. No. 11
Original Sheet No. 3

7. SPECIAL RATES FOR USE OF SPECIAL EQUIPMENT IN TOWING & RECOVERY WORK

The following rates apply to the use of specialized equipment in towing and recovery work. Said rates shall not apply unless an appropriate member of a law enforcement agency has specifically requested the service and/or the equipment is necessary to perform an authorized third party tow.

<u>Hourly Rates</u>	<u>Per Hour</u>	<u>Minimum</u>
Specialized Hydraulic Tow Truck	\$296.65	\$ 296.65

An alternative rate for recovery work involving the Specialized Hydraulic Tow Truck when used for off-road recovery of an automobile or truck up to three tons may instead, being 150% of the hourly rate stated in Paragraph (1) above.

25 to 40 Ton Wrecker	\$ 300.00	\$ 300.00
40 Ton and Over Wrecker	\$ 450.00	\$ 450.00
Back Hoe	\$ 150.00	\$ 150.00
Air Cushions	\$ 400.60	\$ 400.60
Binding Machine	\$ 41.80	\$ 41.80
Box Trailer	\$ 125.00	\$ 125.00
Bull Dozer	\$ 150.00	\$ 150.00
Chain Saw	\$ 20.00	\$ 20.00
Chop Saw	\$ 30.00	\$ 30.00
Clean Up	\$ 49.00	\$ 49.00
Coordinator Fee	\$ 65.55	\$ 65.55
Dump Truck	\$ 59.35	\$ 59.35
End Loader	\$ 59.35	\$ 59.35
Floor Jack	\$ 25.00	\$ 25.00
Fork Lift	\$ 59.35	\$ 59.35
Heavy Duty Roll-Off Trailer	\$ 250.00	\$ 250.00
Lock Out	\$ 59.50	\$ 59.50
Mat Jacks	\$ 118.65	\$ 118.65
Motorcycle Dolly	\$ 35.60	\$ 35.60
Pallet Jacks	\$ 35.60	\$ 35.60
Pickup Truck	\$ 47.45	\$ 47.45
Portable Light and Generator	\$ 62.15	\$ 62.15

PIFER'S SERVICE CENTER, LLC
 dba PIFER'S TOWING AND RECOVERY

MF-P.S.C. W. Va. No. 11
 Original Sheet No. 4

7. SPECIAL RATES FOR USE OF SPECIAL EQUIPMENT IN TOWING & RECOVERY WORK (Continued)

<u>Hourly Rates</u>	<u>Per Hour</u>	<u>Minimum</u>
Recovery/Rescue Unit	\$ 76.85	\$ 76.85
Road Tractor & Hydraulic Tandem Traveling Axle Trailer	\$ 157.10	\$ 157.10
Rotator Wrecker	\$ 650.00	\$ 650.00
Rubber Tire Crane	\$ 375.00	\$ 375.00
Rubber Tire Fork Lift	\$ 59.35	\$ 59.35
Skates	\$ 25.00	\$ 25.00
Torches	\$ 100.00	\$ 100.00
Tow Dollies/Go Jacks	\$ 23.75	\$ 23.75
Traffic Signaling Device		
Arrow Board	\$ 73.50	\$ 73.50
Utility Truck	\$ 75.00	\$ 75.00

Additional labor and overtime wage charges as contained in Paragraphs (3) and (4) shall apply in addition to the above rates herein.

<u>Flat Rates (not subject to overtime)</u>	<u>Rate</u>	<u>Minimum</u>
Brake Pins	\$ 2.50 (Each)	\$ 2.50
<u>Cargo Storage</u>		
- Standard	\$ 0.25 (per SF)	\$ 0.25
- Hazardous	\$ 0.50 (per SF)	\$ 0.50
Crash Wrap	\$ 30.00 (per use)	\$ 30.00
Gate Fee (after hours reopen fee)	\$ 45.00	\$ 45.00
Heavy Straps + Slings	\$ 75.00	\$ 75.00
(N) Law Enforcement Impounds **	\$ 75.00	\$ 75.00
Lifting Beams	\$ 150.00	\$ 150.00
Loading Ramps	\$ 25.00	\$ 25.00
Recovery Straps (Small)	\$ 15.00	\$ 15.00
Recovery Straps (Medium)	\$ 50.00	\$ 50.00
Recovery Straps (Heavy)	\$ 75.00	\$ 75.00

(N) Indicates new

PIFER'S SERVICE CENTER, LLC
dba PIFER'S TOWING AND RECOVERY

MF-P.S.C. W.Va. No. 11
Original Sheet No. 5

7. **SPECIAL RATES FOR USE OF SPECIAL EQUIPMENT IN TOWING & RECOVERY WORK** (Continued)

<u>Flat Rates</u> (not subject to overtime)	<u>Rate</u>	<u>Minimum</u>
Shieve Snatch Blocks (Small)	\$ 10.00	\$ 10.00
Shieve Snatch Blocks (Medium)	\$ 15.00	\$ 15.00
Shieve Snatch Blocks (Large)	\$ 20.00	\$ 20.00
Tarps	\$ 30.00 (per use)	\$ 30.00
Trailer Dolly	\$ 500.00	\$ 500.00
Tractor and Trailer	\$ 50.00 (hookup)	\$ 2.85 (per mile)
Winching	\$ 2.50 (per foot)	\$ 2.50 (per foot)

(N) **When Law Enforcement Impound Fee is charged a daily storage fee cannot be charged

Other

Rental Equipment	- Cost Plus 20%
Special Supplies	- Cost Plus 10%
Subcontracted Services	- Cost Plus 10%

8. **SPECIAL HOURLY RATE FOR HYDRAULIC WHEEL-LIFT**

Whenever an appropriate member of a government agency or the manufacturer of the vehicle to be towed requires the use of a manufacturer of the vehicle to be towed requires the use of a hydraulic wheel-lift, an additional rate of \$5.00 per hour shall apply to rates in Paragraph (1). The design of the wheel-lift is such that the vehicle being towed can be suspended (front to rear wheels) by a fully hydraulic unit that operates without being attached to the boom.

(N) Indicates new

PIFER'S SERVICE CENTER, LLC
dba PIFER'S TOWING AND RECOVERY

MF-P.S.C. W. Va. No. 11
Original Sheet No. 6

RULES AND REGULATIONS

1. The rates provided herein shall apply to the transportation by wrecker (tow) truck of wrecked and/or disabled motor vehicles over the public highways.
2. All hourly rates provided herein shall be calculated from the time the carrier leaves his base of operation to the final towing destination and return, and, except as otherwise provided, shall be rounded to the nearest quarter hour. Except in the case where a wrecker operator is patrolling a privately owned parking lot by contract, the starting time of the applicable tow rate shall be calculated from the time the actual tow operation begins.
3. Except as otherwise provided herein, all mileage rates shall be the highway miles, according to the official State Highway Map issued by the West Virginia Department of Highways, via the shortest regularly-traveled available highway routes, unless a longer route is specifically requested by the customer.
4. No charge shall be made, either by hour or by mileage, for any delays attributable to the carrier.
5. The storage fee provided herein shall accrue at the beginning of each day (excluding the day the vehicle is delivered to the storage facility). In calculating the total applicable storage charge, a day shall be each 24 hour period commencing at the start of the next business day and shall apply only if the vehicle has not been retrieved before the carrier's normal close of business on the day the vehicle is delivered to the carrier's storage facility. Provided, however, that for the vehicles arriving at that storage facility after 1:00 p.m., the storage fee may not be applied if the vehicle is retrieved on or before 1:00 p.m. on the next business day.
6. Carriers shall maintain adequate records to allow expeditious periodic review of their compliance with this tariff. Such records must include, but are not limited to, sequentially numbered invoices, a copy of which must be provided each customer and a copy of which must be retained for a period of at least two (2) years by the carrier.
7. If a vehicle has been hooked with hoisting apparatus or loaded by the wrecker service and the vehicle has not left the premises and the owner or operator produces the ignition key and removes the vehicle immediately, the applicable tow charge shall not exceed one-half (1/2) the otherwise minimum charge as set forth in the applicable tariff.

LAW OFFICES
KAUFFELT & KAUFFELT

JAMES D. KAUFFELT

CHARLESTON, WEST VIRGINIA 25301
(304) 345-1272

MAILING ADDRESS
P. O. BOX 3082
CHARLESTON, WV 25331-3082
FAX (304) 345-1280

June 16, 2016

Ingrid Ferrell, Director
Executive Secretary Division
Public Service Commission of WV
201 Brooks Street
Post Office Box 812
Charleston, West Virginia 25323

03:44 PM JUN 16 2016 PSC EXEC SEC DIV

Re: Case No. MC GO 49.10

Dear Ms. Ferrell:

Enclosed for filing in the above-styled case are the original and twelve copies of the "Comments of the West Virginia Towing and Recovery Association."

Thank you for your attention to this matter.

Yours truly,


James D. Kauffelt

JDK/mmw
Enclosures

xc: Linda Bouvette, Esquire
John D. Little, Esquire
WV Towing and Recovery Association

BEFORE THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
CHARLESTON

GENERAL ORDER NO. 49.10

IN THE MATTER OF PROPOSED AMENDMENTS TO
THE RULES GOVERNING MOTOR CARRIERS, PRIVATE
COMMERCIAL CARRIERS, AND THE FILING OF EVIDENCE
OF INSURANCE AND FINANCIAL RESPONSIBILITY BY
MOTOR CARRIERS, 150 C.S.R. 9.

**COMMENTS OF THE WEST VIRGINIA TOWING
AND RECOVERY ASSOCIATION**

Now comes the West Virginia Towing and Recovery Association (“WVTRA”), and for its comments on the Motor Carrier Rule changes proposed by Commission Order dated May 13, 2016, says as follows:

1. WVTRA is a voluntary trade association consisting of 80 members, who are in the towing business across the state of West Virginia. Most, if not all, members of WVTRA provide non-consensual towing services which are subject to the Commission’s regulation.

2. WVTRA has comments on the following rule changes. Any proposed rule change to which no comment is made herein is not objected to by WVTRA.

PROPOSED RULE: 5.2.b. ~~No~~ A wrecker company ~~may~~ must describe all charges for wrecker service, or for services incidental to wrecker service, with respect to a third-party tow, ~~unless the proposed charge is upon a printed invoice executed in duplicate~~ substantially similar to P.S.C. W.Va. FORM No. 65 and containing each of the categories of information required by Rule 5.2.e.

WVTRA COMMENT:

(i) The proposed Form No. 65 does not allow for entry of the amount of information required for billing purposes for most commercial vehicle accidents. This Rule should explicitly allow attachments.

(ii) Form No. 65 contains a space for entry of “arrival at a storage location” This appears to assume that the wrecker company’s work is done when the towing vehicle and the towed

vehicle arrive at the storage location, which is usually, but not always, the home base of the wrecker company. Often, there is additional work that must be done after arrival at the storage location, especially in the case of commercial vehicle accidents. A commercial vehicle accident can include the use by the wrecker company of multiple vehicles to haul all of the vehicles, debris and cargo that must be removed from an accident scene. Commercial cargo must be properly stored, which can take a considerable amount of time depending on the volume and nature of the cargo. This can require several additional hours of work. Therefore, WVTRA suggests that a space be added to Form No. 65 for entry of "time work completed."

(iii) Form No. 65 requires entry of the towing vehicle license plate number. WVTRA suggests that the "Unit Number," which is used routinely by the US Department of Transportation and the Public Service Commission's Motor Carrier Enforcement Officer, be an option to be entered in this space instead of a license plate number.

(iv) Form No. 65 requires attachment of the wrecker company's rates to the invoice. Many towing tariffs are four or five pages, some are longer. It is impossible to print any set of wrecker rates on the invoice.

WVTRA suggests that a link to the tariff as filed with the Public Service Commission would provide customers with the information they need to evaluate the charges on their invoice. Alternatively, the basic rates, that is, those for other than "special services" should be sufficient.

PROPOSED RULE: 5.2.c. ~~One~~ Within twenty-four (24) hours of delivering a towed vehicle to its destination, the wrecker company shall send a copy of the invoice for wrecker service containing the information required by this Rule 5.2.e. to the registered owner of the towed vehicle, by United States First Class Mail. The wrecker company shall provide the original invoice to the individual who makes payment for such wrecker service, and shall provide a copy of the invoice on request and at no charge to the owner, operator, or insurer of the towed vehicle for wrecker service shall, prior to payment, be presented to the individual who makes payment for such wrecker service.

WVTRA COMMENT:

(i) The requirement that the "registered owner of the towed vehicle" be sent a copy of the invoice is often impossible to accomplish. For example, if the vehicle is towed on a weekend, even if the wrecker company has the VIN, it cannot contact the DMV to find out the owner until the following Monday at 9:00 a.m. If the vehicle is registered in another state, it can take several weeks for the towing wrecker company to be provided with the owner's name.

There are often situations where a vehicle is towed, and no registration card can be found. There are also situations, such as when a vehicle has burned, that no VIN can be found. If a vehicle does not contain a readable registration card, a wrecker company employee must mail a form requesting the registered owner information to the DMV office in Charleston (See attached Form DMV-100-TR, Item 6). The DMV typically takes seven to fourteen days to respond, if the vehicle is registered in West Virginia.

If the vehicle is registered in another state, the DMV response may provide the wrecker company with the state of registration, but no other information. Then the wrecker company employee must obtain the appropriate form from that state, fill it, and wait another two weeks or more for a response. There are, of course, fees for every step of this process, in addition to the wrecker company having to pay an employee to do the work.

Therefore, WVTRA suggests that this rule be modified to say "...to the registered owner of the towed vehicle, if known, by United States First Class Mail. The wrecker company shall use reasonable efforts to determine the registered owner of the towed vehicle, if that information is not immediately available, and, in such case, shall send the invoice within 24 hours of obtaining name and address of the registered owner the wrecker company shall provide..."

PROPOSED RULE: 5.2.e. The wrecker company shall include the following information on every invoice with respect to a third-party tow:

WVTRA COMMENT: WVTRA refers the Commission to its comments to proposed Rule 5.2.b above. In addition, WVTRA has the following comments on the individual provisions of the proposed invoice.

PROPOSED RULE: 5.2.e.1 . the name, trade name, if any, address, and telephone number of the wrecker company, including the address and telephone number of the storage facility if it is in a separate location from the wrecker company main office;

WVTRA COMMENT: No objection.

PROPOSED RULE: 5.2.e.2. the date and time that the request for wrecker service was received ~~and the full name, address, and telephone number of the individual who requested the wrecker service;~~

WVTRA COMMENT: No objection.

PROPOSED RULE: 5.2.e.3. ~~the name, address, and telephone number of the owner of the towed vehicle~~ the name and address and/or telephone number, of the individual who requested the wrecker service; or, if the request for service came from emergency personnel or an E911 dispatcher, a means of identifying the requesting entity;

WVTRA COMMENT: No objection.

PROPOSED RULE: 5.2.e.4. the license plate number and vehicle description (one ton, two ton, rollback, etc.) of the wrecker vehicle(s) used to perform the tow, and the date, time, and place of departure of, the each such wrecker vehicle;

WVTRA COMMENT: The use of wrecker vehicle descriptions as in “one ton” or “two ton” are obsolete. Towing rates are not based on the size or type of the wrecker vehicle used, but on the size of the vehicle being towed. Further, WVTRA suggests that wrecker companies have the option to list the DOT unit number of the wrecker vehicle used, rather than the license plate number.

PROPOSED RULE: 5.2.e.5. the place from which the vehicle to be towed was transported;

WVTRA COMMENT: No objection.

PROPOSED RULE: 5.2.e.6. the date and time that the wrecker vehicle(s) arrived at the place where the vehicle to be towed was located;

WVTRA COMMENT: The time of arrival at the work scene is unnecessary on the invoice as it has no bearing on the calculation of any charge.

PROPOSED RULE: 5.2.e.7. the place to which the towed vehicle was transported and the date and time of arrival that it arrived there;

WVTRA COMMENT: No objection.

PROPOSED RULE: 5.2.e.8. the date and time that the wrecker vehicle returned to the base of operations or was dispatched pursuant to the next call, whichever came first;

WVTRA COMMENT: As noted above in the comments to Proposed Rule 5.2.b, the time the wrecker vehicle returns to the base of operations is not necessarily the end of the work that must be done.

PROPOSED RULE: 5.2.e.9. the make, model and license plate state and number of the towed vehicle, and if available, the Vehicle Identification Number;

WVTRA COMMENT: As previously noted, it is not unusual that no information is available identifying a towed vehicle. This can happen in the case of a burned vehicle or a

stolen vehicle, to give two examples. In those cases, and in others, no license plate information or VIN is available. Therefore, the phrase "if available" should apply to the entirety of this rule, not just the VIN.

PROPOSED RULE: 5.2.e.10. an itemization of the charges for towing, storage time (including the daily fee for storage), or any other service rendered pursuant to the wrecker company's tariff;

WVTRA COMMENT: No objection.

PROPOSED RULE: 5.2.e.11. a schedule including the Commission-approved rates and charges in the wrecker company's tariff on file with respect to third-party tows (which schedule may appear on a subsequent page or pages, or back of a page, if referenced on the front page in bold letters);

WVTRA COMMENT:

As noted above, wrecker company tariffs can be five pages or longer. In the case of third-party tows to which charges for special services, etc., do not apply, the wrecker company should not have to provide those pages of its tariff with the invoice.

PROPOSED RULE: 5.2.e.11.A. the following words which must appear on the front of the invoice in bold capital letters:

THE RATES AND CHARGES FOR THIRD-PARTY-TOW WRECKER SERVICE, AND FOR SERVICES INCIDENTAL THERETO, ARE REGULATED BY THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA. IF YOU FEEL THAT YOU HAVE BEEN CHARGED UNFAIRLY, YOU MAY COMPLAIN TO THAT AGENCY AT THE FOLLOWING ADDRESS: EXECUTIVE SECRETARY, PUBLIC SERVICE COMMISSION OF WEST VIRGINIA, P. O. BOX 812, CHARLESTON, WV 25323.

WVTRA COMMENT: No objection.

PROPOSED RULE: ~~5.2.e.12. a line for the signature of the individual who requested the service if he or she was available before, while, or after the vehicle was towed;~~

PROPOSED RULE: 5.2.e.12. a statement that the equipment used for the tow was necessary and asserting that the application of the rates is correct, signed by the owner of the wrecker company or by an authorized employee;

WVTRA COMMENT: No objection.

PROPOSED RULE: 5.2.e.13 a line for the name and signature of the individual paying for the service; and

PROPOSED RULE: 5.2.e.14 ~~any additional information used by the wrecker company to identify the vehicle, driver or customer more specifically~~ the address, telephone number and days and hours of operation of the storage facility from which the towed vehicle may be retrieved; and

WVTRA COMMENT: No objection.

PROPOSED RULE: 5.2.e.15. a statement that the registered owner of the towed vehicle or the designee of the registered owner may have access to the vehicle during normal business hours at no charge, for the purpose of retrieving personal property that is not attached to the vehicle, unless law enforcement has placed a hold on the vehicle.

WVTRA COMMENT: No objection.

PROPOSED RULE: 5.5. Revolving light and designation of employment.

PROPOSED RULE: 5.5.a. Every wrecker vehicle used by a wrecker company must be equipped with a revolving or strobe flashing lighted lamp visible under normal atmospheric conditions from a distance of five-hundred (500) feet. The lamp must be situated on top of the cab or other position, where it can be seen by those approaching the wrecker vehicle from any direction. (NOTE: Before installing the lamp required by this rule, the carrier must obtain an Emergency Vehicle Permit as required by Chapter 17C, Code of West Virginia, and Administrative Regulations promulgated thereunder by the West Virginia Division of Motor Vehicles. West Virginia law also designates the color of the lens for an emergency vehicle light.)

PROPOSED RULE: 5.5.b. Identification for employees. Every employee whose duties regularly require interaction with third-party tow customers shall wear a distinguishing uniform or insignia identifying the person as an employee of the wrecker company, or shall carry a photo identification card identifying the person as an employee of the wrecker company. The identification card shall contain the telephone number of the wrecker company as well as other pertinent information necessary to identify the employee.

WVTRA COMMENT: WVTRA objects to this rule in its entirety as beyond the Commission's limited jurisdiction over third-party tows allowed by 49 U.S.C. §14501(c)(2)(C).

PROPOSED RULE: 5.8. Type of wrecker equipment.

Every wrecker vehicle operated by a wrecker company shall meet the following specifications.

WVTRA COMMENT: This proposed rule, and its subsections (a) through (e) below are obsolete. Wrecker vehicles are no longer described as "one ton," etc.

PROPOSED RULE: 5.8.a. One ton wrecker vehicle.

PROPOSED RULE: 5.8.a. 1 . A truck chassis with a manufacturer's rated capacity of at least ten thousand (10,000) pounds, gross vehicle weight. Mounted on the chassis must be a complete commercially manufactured crane and winch having a manufacturer's capacity rating of at least four (4) tons.

PROPOSED RULE: 5.8.a.2. At least 100 feet (with a tolerance of twenty-five percent [25%]) of 3/8" diameter cable attached to the wrecker winch.

PROPOSED RULE: 5.8.a.3. A tow sling which must be commercially manufactured and designed to prevent damage to vehicle. Electric or hand crank winches do not satisfy the requirements of Rule 5.8.

PROPOSED RULE: 5.8.b. Two (2) ton wrecker vehicle.

PROPOSED RULE: 5.8.b.1. A truck chassis with a manufacturer's rated capacity of at least fifteen thousand (15,000) pounds, gross vehicle weight. Mounted on the chassis must be a complete commercially manufactured crane and twin winch having a manufacturer's capacity rating of at least ten (10) tons.

PROPOSED RULE: 5.8.b.2. At least 100 feet (with a tolerance of twenty-five percent [25%]) of 7/16" diameter cable attached to each wrecker winch.

PROPOSED RULE: 5.8.b.3. A tow sling which must be commercially manufactured and designed to prevent damage to vehicle.

PROPOSED RULE: 5.8.c. Three (3) ton wrecker vehicle.

PROPOSED RULE: 5.8.c.1. A truck chassis with a manufacturer's rated capacity of at least twenty-four thousand (24,000) pounds, gross vehicle weight. Mounted on the chassis must be a complete commercially manufactured crane and twin winch having a manufacturer's capacity rating of at least twenty (20) tons.

PROPOSED RULE: 5.8.c.2. At least 200 feet (with a tolerance of twenty-five percent [25%]) of cable, on each winch, at least 9/16" in diameter.

PROPOSED RULE: 5.8.c.3. Airbases designed to lock the rear wheels automatically upon failure, and to supply air to disabled vehicles.

PROPOSED RULE: 5.8.c.4. A tow sling which must be commercially manufactured and designed to prevent damage to vehicle.

PROPOSED RULE: 5.8.d. Rollback wrecker vehicle (light).

PROPOSED RULE: 5.8,d.1. A truck chassis with a manufacturer's rated capacity of at least ten thousand (10,000) pounds, gross vehicle weight with 102" CA dimension, Mounted on the chassis must be a complete commercially manufactured hydraulic operated slide back carrier with a manufacturer's capacity rating of at least four (4) tons and a minimum length of 17 feet.

PROPOSED RULE: 5.8.d.2. One (1) hydraulic winch of not less than four (4) tons capacity.

PROPOSED RULE: 5.8.d.3. A minimum of 30 feet of 3/8" diameter cable.

PROPOSED RULE: 5.8.e. Rollback wrecker vehicle (heavy).

PROPOSED RULE: 5.8.e. 1 A truck chassis with a manufacturer's rated capacity of at least fifteen thousand (15,000) pounds, gross vehicle weight with 102" CA dimension. Mounted on the chassis must be a complete commercially manufactured hydraulic operated slide back carrier with a manufacturer's rating of at least six (6) tons and a minimum length of 18 feet.

PROPOSED RULE: 5.8.e.2. Fifty (50) feet of 3/8" diameter cable.

PROPOSED RULE: 5.9.f. The wrecker company shall allow the registered owner of the towed vehicle or the designee of the registered owner, access to the vehicle during normal business hours (and other reasonable times at the discretion of the wrecker company management), at no charge, for the purpose of retrieving personal property that is not attached to the vehicle; provided, that access to the vehicle will not be permitted if law enforcement has placed a hold on the vehicle.

WVTRA COMMENT: WVTRA objects to this rule in its entirety as beyond the Commission's limited jurisdiction over third-party towing under 49 U.S.C. §14501(c)(2)(C)

PROPOSED RULE: 5.12. Process for resolution of third-party tow complaints.

PROPOSED RULE: 5.12.a. A vehicle owner, operator, or insurer, who believes that the charges for a third-party tow or recovery are improper or excessive may file a complaint with

the Commission consistent with the Commission Rules of Practice and Procedure, 150 C.S.R. 1.

PROPOSED RULE: 5.12.b. All third-party tow complaint cases will be immediately referred to the Division of Administrative Law Judges upon filing and in all other respects the case will be processed in the same manner as residential billing dispute cases, as that process may be modified by further Commission Order. The Division of Administrative Law Judges shall have the same powers to resolve a third-party tow complaint as those granted by the Commission for resolution of residential billing complaint cases, and as those powers may be modified by further Commission Order.

PROPOSED RULE: 5.12.c. The wrecker company shall bear the burden of proof that the application of its approved rates are fair, effective and reasonable and based on the service(s) required. The wrecker company shall file with its response to a complaint a copy of the invoice it provided to the registered owner of the towed vehicle pursuant to Rule 5.2.c.

WVTRA COMMENT: The shifting of the burden of proof to the Defendant in a Complaint case is a denial of due process, and, as such, a violation of the Constitution of the United States and the Constitution of West Virginia. This rule also ignores the fact that Commission approved rates are, by statutory definition under *W.Va. Code* §24A-5-1, just and reasonable.

PROPOSED RULE: 5.12.d. Failure to include the information required by Rule 5.2.e. on a printed invoice may result in the reduction or disallowance of some or all charges for wrecker service.

PROPOSED RULE: 5.12.e. In considering whether the application of approved rates by a wrecker company for a third-party tow are fair, effective and reasonable, the Commission shall consider, but shall not be limited to, the following factors:

PROPOSED RULE: 5.12.e.1. the type and size of wrecker and special equipment needed to recover or tow;

PROPOSED RULE: 5.12.e.2 total time to complete the recovery or tow;

PROPOSED RULE: 5.12.e.3 the number of regular and extra employees required to complete the recovery or tow;

PROPOSED RULE: 5.12.e.4. the location of the vehicle to be recovered or towed; 5.12.e.5. the materials or cargo involved in the recovery or tow;

PROPOSED RULE: 5.12.e.6. weather conditions; and

PROPOSED RULE: 5.12.e.7. any other relevant information having a direct effect on the application of approved rates to the recovery, tow and storage of a recovered or towed vehicle.

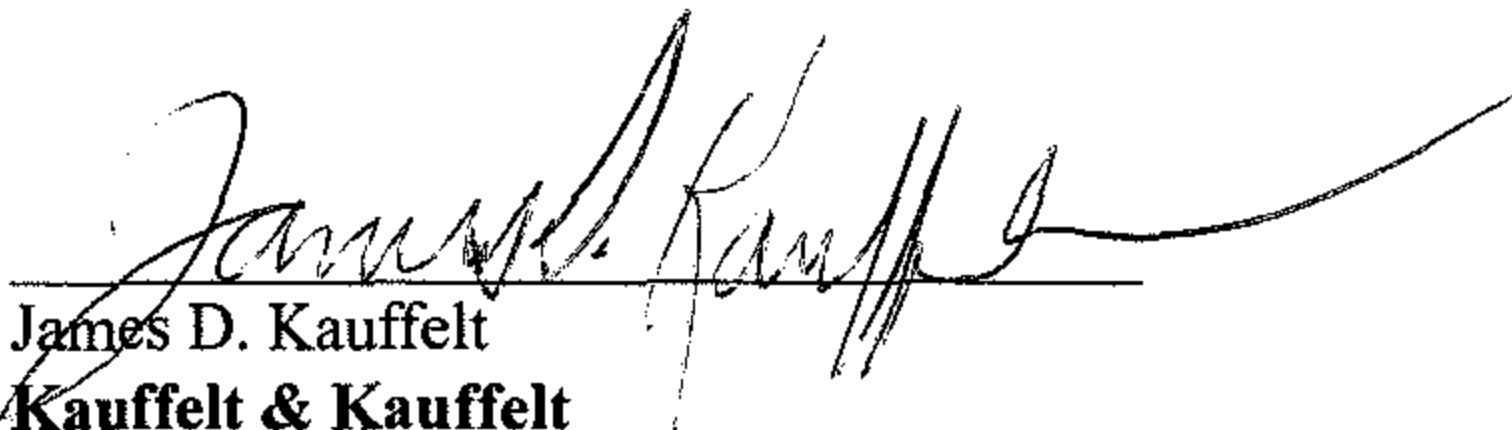
PROPOSED RULE: 5.12.f. Refund of charges.

PROPOSED RULE: 5.1211. A Recommended Decision or Final Order that requires a wrecker company to refund part or all of the charges for wrecker service for a third-party tow must contain appropriate findings of fact and conclusions of law supporting the refund, and must require the wrecker company to make payment within twenty (20) days of the date the decision is final and submit a copy of the check to the Commission within five (5) days thereafter.

PROPOSED RULE: 5.121.2. If the wrecker company does not make payment within the twenty (20) day period described in Rule 5.121.1., the complainant or Staff may file a request for issuance of an order suspending the registration held by the wrecker company and directing the Commission's Motor Carrier Division to take the appropriate steps to notify E-911 dispatch centers to remove the wrecker company from its list of responders for third-party tows. If payment is not made within twenty (20) days of filing such request, a Final Order „granting that relief shall issue and shall remain in effect until the wrecker company makes payment or successfully petitions for other relief.

PROPOSED RULE: 5.1213. If an order as described in Rule 5.121.2. has issued, upon the filing by the wrecker operator of a copy of the check used to pay the refund a Final Order will issue reinstating the registration held by the wrecker company and directing the Commission's Motor Carrier Division to take the appropriate steps to notify E-911 dispatch centers to include the wrecker company on its list of responders for third-party tows.

WEST VIRGINIA TOWING
AND RECOVERY ASSOCIATION
By Counsel


James D. Kauffelt
Kauffelt & Kauffelt
P. O. Box 3082
Charleston, WV 25331-3082
(304) 345-1272
jkauffelt@wvdsi.net

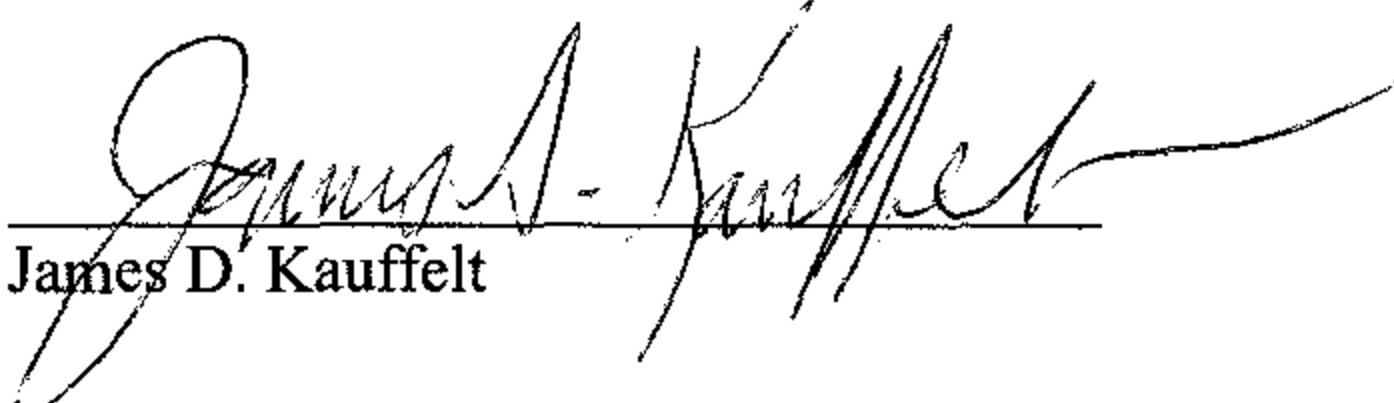
CERTIFICATE OF SERVICE

I, James D. Kauffelt, counsel for the West Virginia Towing and Recovery Association, do hereby certify that I have served the foregoing "Comments of the West Virginia Towing and Recovery Association" by hand delivery to:

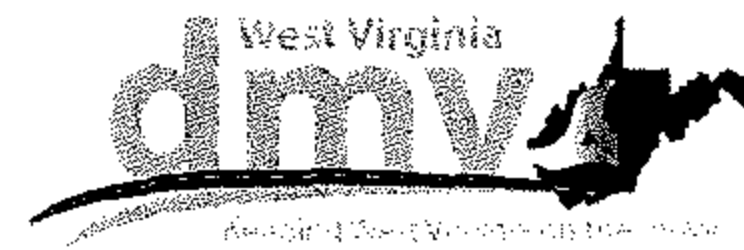
Linda Bouvette, Esquire
Public Service Commission of WV
201 Brooks Street
Post Office Box 812
Charleston, West Virginia 25323

John D. Little, Esquire
Public Service Commission of WV
201 Brooks Street
Post Office Box 812
Charleston, West Virginia 25323

this the 16th day of June, 2016.


James D. Kauffelt

West Virginia Department of Transportation
Division of Motor Vehicles
Request for Vehicle Information



Call • 304-926-3909 | Fax • 304-926-3881
www.dmv.wv.gov

PO Box 17150 • Charleston, WV 25317

A.) Requester Information • Complete all requested information on form (front and back).

Name _____ Daytime Telephone () - _____

Address _____
STREET ADDRESS CITY STATE ZIP

B.) Affidavit of Intended Use • Please check all sections that apply.

- 1.** For use by any government agency, including court or law enforcement agency in carrying out its functions, or any private person or entity acting on behalf of a Federal, State or local agency, in carrying out its functions. **The agency making the request must submit a signed letter, on letterhead, explaining why this information is needed.**
- 2.** For use in connection with matters of motor vehicle or driver safety; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research, and removal and non-owner records from the original owner records of motor vehicle manufacturers.
- 3.** For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:
A.) For the purpose of verifying the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and
B.) If the information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by pursuing legal remedies against, or recovering on a debt or security interest against the individual; and
C.) This request must be accompanied by a signed letter, on business letterhead, explaining why this information is needed.
- 4.** For use in connection with a civil, criminal, administrative, or arbitral proceeding in any Court or Governmental agency or before a self-regulatory body, including the service of process, the execution or enforcement of judgments and orders, or pursuant to any order of a Federal, State, or Local Court. **All requests must include the court docket number.**
- 5.** For use by an insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors in connection with claim investigation activities, anti-fraud activities, rating or underwriting. **All requests must be accompanied by a signed letter, on business letterhead, explaining why this information is needed.**
- 6.** For use in providing notice to the owners of towed or impounded vehicles (ex. abandoned vehicles): State _____
Lienholder _____ Initials _____
- 7.** For use by any licensed private investigator agency or licensed security service for any purpose permitted by the Uniform Motor Vehicle Records Disclosure Act §17A-2A-7. **All requests must be accompanied by a signed letter, on business letterhead, from the employer listing a court docket number, insurance claim number, or explanation for the request from the government agency employing the service.**
- 8.** For use in connection with the operation of private toll transportation facilities.
- 9.** Individual request. **Personal information will be redacted on requests about others unless accompanied by written consent.**

YOU MUST COMPLETE THIS FORM ON THE REVERSE SIDE

C.) Vehicle Information Requested • Please check type of information needed.

West Virginia Motor Vehicle Code §17A-2A-2 states that all residential information is confidential; therefore, name and address of record holder will be **withheld on individual requests** that do not comply with the Uniform Motor Vehicle Records Disclosure Act. You may not obtain information about others without their signed written consent unless the request is made by a company/business on letterhead and provides a legitimate and detailed reason for the request as defined in the Uniform Motor Vehicles Records Disclosure Act (17A-2A-1 et seq.).

- Basic Vehicle Registration Information - \$1.00
- Lien/Basic Vehicle Registration Information - \$5.00
- Certified Title File - \$10.00
- Title History - \$25.00
- Form 62 - Fees and Privilege Tax Paid At Titling - \$5.00
- Lien Perfection Information (Must include Dealer's fax date) - \$20.00
- Title Copy - \$5.00

FEES COVER THE COST OF RESEARCH AND ARE NON-REFUNDABLE.

D.) Request Details

Year _____ Make _____ Plate _____ VIN _____

Name _____ Address _____

Year _____ Make _____ Plate _____ VIN _____

Name _____ Address _____

Year _____ Make _____ Plate _____ VIN _____

Name _____ Address _____

Year _____ Make _____ Plate _____ VIN _____

Name _____ Address _____

**** For Additional Requests, attach addendum.****

E.) Requester Signature

I hereby certify that _____ will use the vehicle information requested pursuant to Section §17A-2A-1 et seq. of the West Virginia Code, for the purpose checked on side one, section C only and for no other reason. I/we state that I/we have read and signed this form after its completion, and I/we swear or affirm that the statements made herein are true and correct, and that any statement made on or pursuant to this form is subject to penalties which shall include punishment or a fine not exceeding \$500 or a term of imprisonment not more than six months, or both.

A copy of a driver's license or state issued photo ID MUST be attached. No information will be given without a state issued photo ID. A copy of your request may be forwarded to the record holder.

(X) _____
SIGNATURE OF REQUESTER

_____/_____/_____
DATE

C.C. Spike Copley Garage, Inc.



1009 Central Avenue, Charleston WV 25302

(304) 346-0338
Charleston

(304) 346-0338
Fax

800-339-8486
Toll Free

June 16, 2016

Ingrid Ferrell
Executive Secretary
PO Box 812
Charleston, WV 25323

02:00 PM JUN 16 2016 PSC EXEC SEC DIV

I am writing in response to General Order No. 49.10. Specifically sections 5.2.c and 5.2.e.15. Section 5.2.c is trying to require notification to the registered owner within 24 hours. This is virtually impossible to do without immediate access to DMV records. There are even situations that arise in which law enforcement may not even be able to verify ownership of the vehicle due to improper registration, inability to verify the vehicle identification number, etc. Also on weekends the DMV is not accessible. It seems that a reasonable time frame for notification would be 10 to 14 days and that may be an underestimation of the time needed to notify. In the case of out of state vehicles the process takes even longer depending on where the vehicle's origin state is. Currently it takes anywhere from 2 to 3 weeks to receive requests from other states and in some cases that is being generous. Once ownership is verified, then there is going to be a period of time needed for the postal service to deliver.

Currently the enforcement agency has 15 days and the agency hired to take possession has thirty days to contact the last registered owner and/or lien holder per West Virginia Code 17-24A-4. This current law is much more reasonable and attainable than the proposed changes.

In regards to 5.2.e.15 a registered owner is to be allowed access to retrieve personal belongings not attached without charge. This is acceptable if the owner has intent on returning to claim the vehicle. In situations where the vehicle is obviously going to be abandoned it then becomes an expense to the agency taking possession. Before the vehicle can be disposed, the tires have to be removed, fuel removed and disposed, DMV fee, certified letter fee, etc. All these events are not without cost to the agency in possession. If not allowing collection of the entire tow and storage bill, a fee to cover the expense of disposal seems reasonable.

Thank you for the opportunity to respond to this proposed General Order No. 49.10. I am sure there will be many responses to this matter and hopefully there can be a common ground in which all involved will see as proper.

Sincerely,

A handwritten signature in cursive script that reads "Emmett C. Petry". The signature is written in black ink and is positioned above the typed name.

Emmett C. Petry, Owner
C.C. "Spike" Copley Garage Inc.



24 Hr. Towing • Road Service • Garage



Public Service Commission of West Virginia

201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323



Phone: (304) 340-0300
Fax: (304) 340-0325

01:34 PM JUN 16 2016 PSC EXEC SEC DIV

June 16, 2016

Ingrid Ferrell, Executive Secretary
Public Service Commission
Post Office Box 812
Charleston, West Virginia 25323

RE: GENERAL ORDER NO. 49.10
In the Matter of Proposed Amendments
To the Rule Governing Motor Carriers,
Private Commercial Carriers, and the
Filing of Evidence of Insurance and
Financial Responsibility by Motor
Carriers, 150 C.S.R. 9

Dear Ms. Ferrell:

Enclosed for filing in the above-referenced proceeding, please find an original and twelve copies of *Staff's Initial Comments*. A copy has been provided to those individuals shown on the attached *Certificate of Service*.

Sincerely,

A handwritten signature in cursive script, appearing to read "L. Bouvette".

Linda S. Bouvette
Staff Attorney
West Virginia State Bar I.D. No. 5926

LSB/bg
Enclosures
H:\Lbouvette\Cases\2016\GO 49.5-Initial Comments

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

GENERAL ORDER NO. 49.10

In the Matter of Proposed Amendments
To the Rule Governing Motor Carriers,
Private Commercial Carriers, and the
Filing of Evidence of Insurance and
Financial Responsibility by Motor
Carriers, 150 C.S.R. 9

STAFF'S INITIAL COMMENTS

On March 12, 2016, the West Virginia Legislature passed House Bill 4186, effective immediately, which required the Public Service Commission of West Virginia to promulgate rules relating to third party tows.

By order entered May 13, 2016, the Commission proposed amendments to its Rules Governing Motor Carriers, Private Commercial Carriers and the Filing of Evidence of Insurance and Financial Responsibility by Motor Carriers (Motor Carrier Rules), 150 C.S.R. 9.

Staff reviewed the proposed amendments to the Motor Carrier Rules drafted to implement the provisions of HB 4186 and is in agreement with them. Staff is concerned about the comments made by Johnny's Garage and Skeeters Autobody and Towing LLC regarding their inability on occasion to determine the owner of the vehicle and provide a copy of the invoice within the twenty-four hour period proposed by the amendments (M.C.

Rule 5.2.c.) Staff will continue to review this issue and may propose language in its Final Comments to address this issue.

Respectfully submitted this the 16th day of June 2016.

STAFF OF THE PUBLIC SERVICE
COMMISSION OF WEST VIRGINIA

By Counsel,



LINDA S. BOUVETTE, Staff Attorney
West Virginia State Bar I.D. 5926

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

GENERAL ORDER NO. 49.10

In the Matter of Proposed Amendments
To the Rule Governing Motor Carriers,
Private Commercial Carriers, and the
Filing of Evidence of Insurance and
Financial Responsibility by Motor
Carriers, 150 C.S.R. 9

CERTIFICATE OF SERVICE

I, Linda S. Bouvette, Counsel for the Public Service Commission of West Virginia, do hereby certify that a copy of the foregoing "*Staff Initial Comments*" has been served upon the following parties of record by First Class, United States Mail, postage prepaid this 16th day of June, 2016.

Leslie D. Canoles
Skeeter's Auto Body & Towing, LLC
747 South Washington Street
Berkeley Springs, WV 25411

Johnny Dean dba Johnny's Garage
477 Old Campbelltown Road
Marlinton, WV 24954-6525



Linda S. Bouvette
WV State Bar I.D. No. 5926

Public Service Commission of West Virginia

201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323



Phone: (304) 340-0300
Fax: (304) 340-0325

June 21, 2016

04:11 PM JUN 21 2016 PSC EXEC SE

Ingrid Ferrell, Executive Secretary
Public Service Commission
Post Office Box 812
Charleston, WV 25323

RE: GENERAL ORDER NO. 49.10
In the Matter of Proposed Amendments
To the Rule Governing Motor Carriers,
Private Commercial Carriers, and the
Filing of Evidence of Insurance and
Financial Responsibility by Motor
Carriers, 150 C.S.R. 9

Dear Ms. Ferrell:

Enclosed for filing in the above-referenced proceeding, please find an original and twelve copies of *Staff's Reply Comments*. A copy has been provided to those individuals shown on the attached *Certificate of Service*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Bouvette".

Linda S. Bouvette
Staff Attorney
West Virginia State Bar I.D. No. 5926

LSB/bg
Enclosures
H:\Lbouvette\Cases\2016\GO 49.5-Initial Comments

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

GENERAL ORDER NO. 49.10

In the Matter of Proposed Amendments
To the Rule Governing Motor Carriers,
Private Commercial Carriers, and the
Filing of Evidence of Insurance and
Financial Responsibility by Motor
Carriers, 150 C.S.R. 9

STAFF'S REPLY COMMENTS

On March 12, 2016, the West Virginia Legislature passed House Bill 4186, effective immediately, which required the Public Service Commission of West Virginia to promulgate rules relating to third party tows.

By order entered May 13, 2016, the Commission proposed amendments to its Rules Governing Motor Carriers, Private Commercial Carriers and the Filing of Evidence of Insurance and Financial Responsibility by Motor Carriers (Motor Carrier Rules), 150 C.S.R. 9.

In response to the Commission's request for comments, seven sets of comments were received:

- Skeeters Autobody and Towing LLC
- Johnny's Garage
- C.C. Spike Copley Garage, Inc.
- Owner-Operator Independent Drivers Association, Inc. (OOIDA)
- Pifer's Service Center, LLC
- West Virginia Towing and Recovery Association (Towing Association)
- Staff of the Commission.

All four (4) tow operators and the Towing Association commented on the proposed changes to M.C. Rule 5.2.c.

Within twenty-four (24) hours of delivering a towed vehicle to its destination, the wrecker company shall send a copy of the invoice for wrecker service containing the information required by this Rule 5.2.e. to the registered owner of the towed vehicle, by United States First Class Mail. The wrecker company shall provide the original invoice to the individual who makes payment for such wrecker service, and shall provide a copy of the invoice on request and at no charge to the owner, operator, or insurer of the towed vehicle.

The commentators stated that they were unable to comply with the twenty-four hour requirement since it takes between seven (7) to ten (10) days to get information from the West Virginia Department of Motor Vehicles using the vehicle identification number (VIN) from the vehicle, and longer if the vehicle is registered in another state or was improperly registered. One commentator suggested a time period of ten (10) to fourteen (14) days to give notice to the owner of the vehicle would be more reasonable. He noted that under some circumstances that time period would be insufficient to provide the notice.

One commentator referred to W.Va. Code §17-24A-4, which provides the enforcement agency which takes into custody and possession of an abandoned vehicle has fifteen (15) days to give notice to the owner of a vehicle:

- (a) The enforcement agency which takes into custody and possession an abandoned motor vehicle or junked motor vehicle shall, within fifteen days after taking custody and possession thereof, notify the last-known registered owner of the motor vehicle and all lienholders of record that the motor vehicle has been taken into custody and possession, the notification to be by registered or certified mail, return receipt requested.

The agency hired to take possession of an abandoned vehicle has thirty (30) days:

- (d) The person or entity hired by an enforcement agency to take into custody or possession an abandoned motor vehicle or junked motor vehicle shall, within thirty days after the possession, notify the registered owner of the vehicle and all lienholders of record, if any, as identified by the enforcement agency pursuant to subsection (c) of this section, by registered mail, return receipt requested, that the motor vehicle has been taken into custody and possession.

Staff agrees with the commentors that a twenty-four (24) hour period to give notice to the owner of a towed vehicle may be unreasonable and recommends a longer period of time to give notice such as the fifteen (15) day time period for vehicles registered within the state as provided to enforcement agencies in W.Va. Code §17-24A-4(a) and a thirty (30) day time period for vehicles registered out of state as provided in W.Va. Code §17-24A-4(d).

Two commentors challenged the requirement that the tow operator must provide the owner access to the towed vehicle to retrieve personal belongings. These are new additions to the Motor Carrier Rules:

5.2.3.15. a statement that the registered owner of the towed vehicle or the designee of the registered owner may have access to the vehicle during normal business hours at no charge, for the purpose of retrieving personal property that is not attached to the vehicle, unless law enforcement has placed a hold on the vehicle.

5.9.f. The wrecker company shall allow the registered owner of the towed vehicle, or the designee of the registered owner access to the vehicle during normal business hours (and other reasonable times at the discretion of the wrecker company management), at no charge, for the purpose of retrieving personal property that is not attached to the vehicle; provided, that access to the vehicle will not be permitted if law enforcement has placed a hold on the vehicle.

One commentor stated that allowing an owner access to his vehicle to retrieve personal property is acceptable so long as the owner intends to pay the towing bill and claim the vehicle. In cases where the vehicle is to be abandoned, then the personal property is the only leverage the tow operator has to get paid for its towing services. The other concern raised was compensation for providing access to the vehicles after hours. The Towing Association claimed that the proposed Rule is beyond the Commission's limited jurisdiction over third party tows.

Staff recommends that the language be retained. There are statutory procedures that allow a tow operator to dispose of abandoned vehicles. The proceeds from the disposal should cover the cost of the tow. With regard to compensation for providing access to the vehicles after hours, Staff believes a reasonable fee may be charged so long as it is included in the tow operator's tariff.

One commentor challenged the provisions of M.C. Rule 2.5a, which requires an annual registration fee of \$25. He noted that most insurance companies provide proof of insurance to the Commission. Staff recommends that no changes be made to this provision.

One commentor and the Towing Association stated that proposed Form 65 does not provide sufficient room for all the information necessary for billing commercial accidents. Both the commentor and the Towing Association pointed out that the arrival time at the storage location did not necessarily indicate that the tow was complete since a number of activities continue to secure the disabled vehicle, debris and cargo. Both opposed the requirement to use license plate numbers and suggested that the Commission's "Unit

Number” (used routinely by the US DOT and the Commission’s Motor Carrier Division) be used instead. Both also opposed the requirement to attach a copy of the tow operator’s tariff to the invoice, stating that the tariff is available in the office and on-line with the Commission. The same commenter noted that the descriptions of tow vehicles in the Rules were obsolete but made no attempt to update the list of vehicles currently used.

With regard to proposed M.C. Rule 5.2.3.4 regarding the license plate number and vehicle description, the Towing Association noted that the use of wrecker vehicle descriptions as “one ton” or “two tons” were obsolete and suggested that the DOT unit number of the wrecker be used rather than the license plate number.

Staff recommends that the Commission consider using the DOT unit number of the wrecker rather than the license plate number.

The Towing Association challenged the requirement set forth in proposed M.C. Rule 5.2.e.6. requiring the date and time of arrival at the place where the vehicle to be towed was located, stating that the arrival time does not influence the calculation of rates. Staff disagrees since a number of tow rates contained in the tariffs of tow operators are hourly rates.

The Towing Association objected to Proposed Rules 5.5.a. (revolving light) and 5.5.b. (identification of employees) as being outside the Commission’s limited jurisdiction of third party tows.

With regard to the complaint process, the Towing Association contended that the shifting of the burden of proof to the tow operator is a violation of due process and thus a violation of the Constitution of the United States and the Constitution of West Virginia.

Further shifting the burden contradicts the presumption that Commission-approved rates are just and reasonable.

Staff disagrees with the Towing Association's conclusion that shifting the burden of proof is a violation of due process. An individual whose vehicle has been towed has no ability to negotiate the rates imposed on him for a third party tow. Therefore, the burden of proof should be on the tow operator that its charges are just and reasonable.

The Owner-Operator Independent Drivers Association, Inc. (OOIDA) suggested that the burden be placed solely on Staff to request an order suspending the registration held by the tow operator in the event it fails to comply with a Commission order in M.C. Rule 5.12.f.2. and that no additional time be provided to allow the tow operator to pay or appeal the decision.

If the wrecker company does not make payment within the twenty (20) day period described in Rule 5.12.f.1., the complainant or Staff may file a request for issuance of an order suspending the registration held by the wrecker company and directing the Commission's Motor Carrier Division to take the appropriate steps to notify E-911 dispatch centers to remove the wrecker company from its list of responders for third-party tows... If payment is not made within twenty (20) days of filing such request, a Final Order granting that relief shall issue and shall remain in effect until the wrecker company makes payment or successfully petitions for other relief.

The proposed language places the burden on both the complainant and Staff and allows some flexibility. OOIDA's suggested changes provide little flexibility and fail to consider the rights of the tow operator to appeal the decision of the Commission. Staff recommends that no modification to the language of proposed M.C. Rule 5.12.f.2. be made.

Respectfully submitted this the 21st day of June 2016.

STAFF OF THE PUBLIC SERVICE
COMMISSION OF WEST VIRGINIA

By Counsel,

A handwritten signature in black ink, appearing to read 'L. Bouvette', written in a cursive style.

LINDA S. BOUVETTE, Staff Attorney
West Virginia State Bar I.D. 5926

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

GENERAL ORDER NO. 49.10

In the Matter of Proposed Amendments
To the Rule Governing Motor Carriers,
Private Commercial Carriers, and the
Filing of Evidence of Insurance and
Financial Responsibility by Motor
Carriers, 150 C.S.R. 9

CERTIFICATE OF SERVICE

I, Linda S. Bouvette, Counsel for the Public Service Commission of West Virginia, do hereby certify that a copy of the foregoing "*Staff Initial Comments*" has been served upon the following parties of record by First Class, United States Mail, postage prepaid this 21st day of June, 2016.

Leslie D. Canoles
Skeeter's Auto Body & Towing, LLC
747 South Washington Street
Berkeley Springs, WV 25411

Johnny Dean dba Johnny's Garage
477 Old Campbelltown Road
Marlinton, WV 24954-6525

Michael Pifer,
Partner
dba: Pifer's Towing and Recovery
115 Elizabeth Pike
Mineralwells, WV 26150

Mike Matousek, Director
State Legislative Affairs
Owner-Operator Independent Drivers Assoc, Inc.
1 NW OOIDA Drive
Grain Valley, MO 64029

Linda M. Copley,
President
C. C. "Spike" Copley Garage, Inc.
1009 Central Ave
Charleston, WV 25302



Linda S. Bouvette
WV State Bar I.D. No. 5926

LAW OFFICES
KAUFFELT & KAUFFELT

JAMES D. KAUFFELT

CHARLESTON, WEST VIRGINIA 25301
(304) 345-1272

MAILING ADDRESS
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CHARLESTON, WV 25331-3082
FAX (304) 345-1280

June 21, 2016

Ingrid Ferrell, Director
Executive Secretary Division
Public Service Commission of WV
201 Brooks Street
Post Office Box 812
Charleston, West Virginia 25323

03:32 PM JUN 21 2016 PSC EXEC SEC DIV


Re: Case No. MC GO 49.10

Dear Ms. Ferrell:

Enclosed for filing in the above-styled case are the original and twelve copies of the "Reply Comments of the West Virginia Towing and Recovery Association."

Thank you for your attention to this matter.

Yours truly,


James D. Kauffelt

JDK/mmw

Enclosures

xc: Linda Bouvette, Esquire
John D. Little, Esquire
WV Towing and Recovery Association

BEFORE THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
CHARLESTON

GENERAL ORDER NO. 49.10

IN THE MATTER OF PROPOSED AMENDMENTS TO
THE RULES GOVERNING MOTOR CARRIERS, PRIVATE
COMMERCIAL CARRIERS, AND THE FILING OF EVIDENCE
OF INSURANCE AND FINANCIAL RESPONSIBILITY BY
MOTOR CARRIERS, 150 C.S.R. 9.

**REPLY COMMENTS OF THE WEST VIRGINIA TOWING
AND RECOVERY ASSOCIATION**

Now comes the West Virginia Towing and Recovery Association (“WVTRA”), and in reply to previously filed comments, says as follows:

Several parties have commented on proposed Rule 5.9.f, regarding the ability of “the registered owner of the towed vehicle, or the designee of the registered owner” to retrieve “personal property.” Whatever the Commission’s ultimate decision regarding this proposed rule is, the Commission should make sure that the Rule is clear that term “personal property that is not attached to the vehicle” does not include stored cargo in a case where the towed vehicle is a commercial vehicle, either truck or trailer.

WEST VIRGINIA TOWING
AND RECOVERY ASSOCIATION
By Counsel


James D. Kauffelt

Kauffelt & Kauffelt

P. O. Box 3082

Charleston, WV 25331-3082

(304) 345-1272

jkauffelt@wvdsl.net

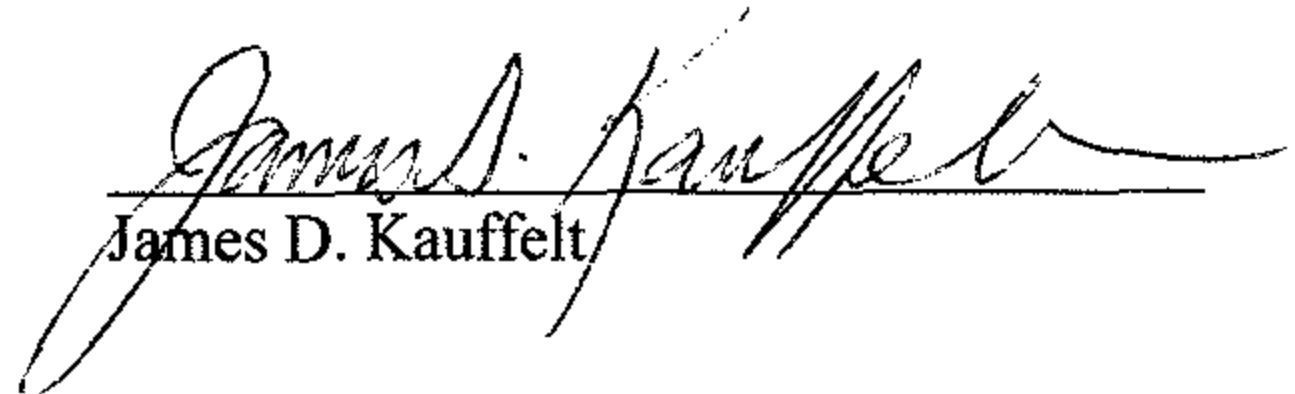
CERTIFICATE OF SERVICE

I, James D. Kauffelt, counsel for the West Virginia Towing and Recovery Association, do hereby certify that I have served the foregoing "Reply Comments of the West Virginia Towing and Recovery Association" by hand delivery to:

Linda Bouvette, Esquire
Public Service Commission of WV
201 Brooks Street
Post Office Box 812
Charleston, West Virginia 25323

John D. Little, Esquire
Public Service Commission of WV
201 Brooks Street
Post Office Box 812
Charleston, West Virginia 25323

this the 21st day of June, 2016.


James D. Kauffelt

**Owner-Operator Independent Drivers Association, Inc.**

National Headquarters: OOIDA Building, I-70 at Grain Valley Exit
1 NW OOIDA Drive, P.O. Box 1000, Grain Valley, MO 64029

Tel: (816) 229-5791 Fax: (816) 427-4468

Email: ooida@ooida.com web site: www.ooida.com

June 21, 2016

Via Fax: (304) 340-0325

09:50 AM JUN 21 2016 PSC EXEC SEC DIV

RE: Reply Comments to General Order 49.10

Ms. Ingrid Ferrell
Director
Executive Secretary Division
201 Brooks Street, PO Box 812
Charleston, WV 25323

Dear Ms. Ferrell:

This letter contains the Owner-Operator Independent Drivers Association's (OOIDA) reply comments to MC GO 49.10.

In response to the comments filed by the West Virginia Towing and Recovery Association (WVTRA):

- OOIDA is not opposed to a "time work completed" section on the proposed Form 65. However, an existing Public Service Commission (PSC) regulation states that hourly rates "...shall be calculated from the time the carrier leaves his base of operation to the final towing destination and return [to his base of operation]..." If this provision was strictly enforced, a "time work completed" section would be unnecessary though we acknowledge that in many cases additional work is performed at the tow lot. Admittedly, the existing provision punishes honest operators but is equally necessary to mitigate dishonest operators.
- OOIDA disagrees with WVTRA that attaching a printed copy of a carrier's approved tariff is "impossible," especially as it relates to commercial trucks. In fact, we believe it would be quite simple and inexpensive to comply with.
- OOIDA disagrees with WVTRA that listing the time of arrival at a work scene is unnecessary. We have been directly involved with complaint cases in West Virginia where this information was not only disputed, but nonexistent. We believe it is perfectly reasonable to require operators to provide such information.

09:50 AM JUN 21 2016 PSC EXEC SEC DIV

- OOIDA did not originally comment on proposed provision 5.5.b. and we have no official position at this time. However, we do believe the PSC has authority to address this issue via Section 5514 of the *FAST Act* (H.R. 22), which amended §14501(c)(2)(C) of Title 49, United States Code. 49 U.S.C. 14501(c)(2)(C) now says that §14501(c)(1) "...does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the regulation of tow truck operations performed without the prior consent or authorization of the owner or operator of the motor vehicle."
- OOIDA disagrees with WVTRA that the PSC does not have authority to address the retrieval of personal property in 5.9.f. Again, Congress granted states such authority via Section 5514 of the *FAST Act*.
- OOIDA generally disagrees with WVTRA's comments regarding 5.12.c. although we acknowledge the State of WV or the PSC itself is probably in a better position to debate the constitutionality of this proposed provision, especially considering the limited amount of time for reply comments. However, the WV Legislature clearly addressed this issue with the enactment of HB 4186 and 5.12.c. addresses the "application" of approved rates to ensure they are applied based on the services required. Further, it is our opinion §24A-5-1 of the WV Code does not imply that approved tariffs are automatically fair and reasonable. To the contrary, we think this statute gives the PSC authority to do exactly what it's doing in MC GO 49.10.

Thank you for your consideration of our comments. Please let me know if you have any questions or require additional information.

Sincerely,



Mike Matousek
Director of State Legislative Affairs
OOIDA