

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

LOUISIANA PUBLIC SERVICE COMMISSION EX PARTE

In Re: Amendment to General Order dated May 3, 2012 as it pertains to the definition of "Non-consensual towing".

(Decided at the Open Session dated October 24, 2012)

(Amends General Order dated May 3, 2012)

Background

At the Business and Executive Session dated March 21, 2012, the Commission voted to amend General Orders dated March 26, 2010 and November 22, 2011 to address and update the "Amended Schedule of Prescribed Rates and Requirements for Towing and Recovery." At that time, a proposed definition for "Non-consensual towing" was being addressed during the 2012 Legislative Session. Commission Staff monitored the progress of that legislation and communicated with State Police on its status while it was pending in the Legislature.

Attachment "A" to the General Order dated May 3, 2012, the Amended Schedule of Prescribed Rates and Requirements for Towing & Recovery, currently contains the following definition:

- I. 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. A non-consensual tow/recovery shall not be converted at the accident scene or point of the hookup into a consensual tow/recovery by agreement of the owner or operator of the vehicle and the Towing & Recovery Professional. However, the owner or operator of the vehicle and the Towing & Recovery Professional may contract for the removal of the vehicle to a location other than the Towing & Recovery Professional's tow yard.

At the time General Order dated May 3, 2012 was enacted, Commission Staff did not make a recommendation on altering this definition, pending the resolution of House Bill 895 (HB 895). HB 895 contained a modified definition for non-consensual towing and was being considered simultaneously to the consideration of the rulemaking that resulted in General Order dated May 3, 2012. Subsequently, HB 895 was enacted as Act 806 of the Legislature's 2012 Legislative Session. Commission Staff did not oppose the modified definition as it was contained in Act 806. Accordingly, at the Business and Executive Session held on October 24, 2012, Commission Staff recommended to the Commission that the following definition be accepted

and that Attachment "A" to the General Order dated May 3, 2012, the Amended Schedule of Prescribed Rates and Requirements for Towing & Recovery, be amended as follows:

- I. "Non-consensual towing" means the movement or transportation of a vehicle by a tow truck without the prior consent or authorization of the owner or operator of the vehicle. This includes private property tows conducted in accordance with the provisions of R.S. 32:1736 and tows by law enforcement or other public agencies. Whenever an owner or operator of a vehicle requests a law enforcement officer or other public agency to initiate a tow, such tow shall be considered non-consensual and subject to Louisiana Public Service Commission tow rates.

This definition is now codified at La. R.S. 32:1713. Staff concluded that the definition would not have a negative impact on the Commission's jurisdiction. Further, adopting the definition that is now codified in the Revised Statutes will assist Commission Staff in the continued implementation of its jurisdiction and enforcement of General Order dated May 3, 2012.

Commission Action

Staff's recommendation was considered at the Business and Executive Session held on October 24, 2012. On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and amend General Order dated May 3, 2012 (approved at the March 21, 2012 Business and Executive Session), to adopt the definition of "Non-consensual towing" as it is contained in La. R.S. 32:1713.

IT IS THEREFORE ORDERED THAT:

- 1) The current definition for "Non-Consensual Tow/Recovery" as contained in Attachment "A" to the General Order dated May 3, 2012, the Amended Schedule of Prescribed Rates and Requirements for Towing & Recovery, shall be replaced with the definition of "Non-consensual towing" as it is contained in La. R.S. 32:1713.
- 2) This Order shall be effective immediately.

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

November 19, 2012

/S/ FOSTER L. CAMPBELL

**DISTRICT V
CHAIRMAN FOSTER L. CAMPBELL**

/S/ JAMES M. FIELD

**DISTRICT II
VICE CHAIRMAN JAMES M. FIELD**

/S/ ERIC F. SKRMETTA

**DISTRICT I
COMMISSIONER ERIC F. SKRMETTA**

/S/ LAMBERT C. BOISSIERE

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



**EVE KAHAO GONZALEZ
SECRETARY**

/S/ CLYDE C. HOLLOWAY

**DISTRICT IV
COMMISSIONER CLYDE C. HOLLOWAY**