STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

A-1 Citywide Towing & Relocation, Inc., an Illinois corporation, Petitioner.	:	RTV-A-49 213 RTV-R
Petition for Relocation Towing and Storage Rate Increase	:	

ORDER

By the Commission:

PROCEDURAL HISTORY

On January 22, 2008, Petitioner, A-1 Citywide Towing & Relocation, Inc. ("A-1 Citywide" or "Petitioner") filed a Petition with the Illinois Commerce Commission ("Commission"), seeking a tow rate increase pursuant to the provisions of Chapter 625 ILCS 5/18a-200(6) of the Illinois Commercial Relocation of Trespassing Vehicles Law ("Law"). Petitioner sought an increase in the towing rate from $125 to $190 per relocation tow and an increase in the daily storage rate charged after the first twenty-four hours from $25 to $50.

Pursuant to notice given in accordance with the Law and the rules and regulations of the Commission, the Petition came on for hearings on August 12, 2008 and September 17, 2008 before a duly authorized Administrative Law Judge ("ALJ") of the Commission at the Commission's offices in Springfield and Chicago, Illinois. Petitioner appeared by counsel and presented the testimony of John S. Allan, sole owner and President of Applicant. Staff appeared by Transportation Counsel, Wil Nagel ("Staff"), who cross-examined Petitioner's witness and presented documentary evidence on the issue whether the rate increase was necessary or supported by Petitioner's evidence. At the conclusion of the September 17, 2008 hearing, the record was marked "Heard and Taken."

ILLINOIS COMMERCIAL TRANSPORTATION LAW APPLICABLE

Chapter 625 ILCS 5/18a-200(6) of the Illinois Commercial Transportation Law ("ICTL") grants the Commission the authority to set reasonable rates for commercial towing, including the removal of trespassing vehicles from private property. The Law provides that the Commission shall set rates not to exceed "the mean average of the 5 highest rates for police tows" in the territory served by the Petitioner relocation towing companies. 625 ILCS 5/18a-200(6). This subsection also prohibits an increase in rates less than one year from the previous rate increase.

Chapter 625 ILCS 5/18a-200(6) also confers upon the Commission the authority to set reasonable rates for the storage of relocated vehicles over 24 hours, and rates for other services provided by relocators.

COMMISSION ACTION IN DOCKET NO. RTV-A-45

While the instant case was pending issuance of a Proposed Order, on October 15, 2008, at a regular Bench Session held pursuant to notice to the public, the Commission entered an Order in the matter of Area Towing, Inc. *et al*, Docket Number RTV-A-45, in which it granted a Petition filed by six (6) relocation towing companies seeking an increase in towing and storage rates. In granting the Petition there, the Commission granted the Petitioners authority to charge rates in the amount of $170 per tow and $40 per day storage after the first 24 hours. Most significantly, the Commission ruled in the October 15, 2008 RTV-A-45 Order that the $170/$40 towing/storage rate increases were to apply industry-wide to all relocation towing companies within the regulatory jurisdiction of the Commission. The Commission's Order provided, in relevant part, as follows:

> "The Commission is of the opinion that the rate increase to $170 per tow and $40 per day storage after the first 24 hours sought in this case should be held to apply to the entire towing industry and all relocation towing companies doing business in the counties regulated by the Commission. This result is necessary in order to avoid substantial and piecemeal litigation, and to foster and promote judicial economy and efficiency. Consequently, it should be ordered that the rate increase up to $170 per tow and storage rate of $40 per day after the first 24 hours shall apply to all relocation towing companies in the regulated counties, and not just to the six Petitioners involved in this case. If any relocation towing company wishes to pursue rate increases over and above the $170/$40 rates granted here, they may continue to do so by Petition and presentation of sufficient evidence before the Commission." Area Towing, Inc., *et al*, Docket Number RTV-A-45, at p. 6.

The Commission's Order entered in RTV-A-45 was effective immediately upon approval by the Commission on October 15, 2008.

EFFECT OF COMMISSION ACTION IN RTV-A-45 ON THE INSTANT CASE

The Commission's Order entered in RTV-A-45 effectively allowed Petitioner here to increase its rates from $125 per tow and $25 per day storage and begin charging the $170 towing and $40 per day storage rates on and after October 15, 2008.

SUBSEQUENT PROCEDURAL HISTORY IN THE INSTANT CASE

Given the significant and material change brought about by the Commission's action in raising towing and storage rates industry-wide in RTV-A-45, pursuant to 83 Ill. Admin. Code Section 200.870, the Commission Chief Administrative Law Judge, Transportation Division, re-opened the record in this case and directed that additional hearings be held on the Petition filed by A-1 Citywide, to determine Applicant's intention to seek an additional rate increase over and above that granted to Petitioner A-1 Citywide by the Order entered in RTV-A-45. Pursuant to notice given in accordance with the Law and rules and regulations of the Commission, the additional hearings were held on the Petition at the Commission's offices in Springfield and Chicago, Illinois on May 12, 2009 and July 9, 2009. No evidence was presented by Petitioner or Staff. At the July 9, 2009 hearing, counsel for Petitioner advised that A-1 Citywide would be filing a Motion for Leave to Withdraw its Petition, without prejudice to refilling and seeking a rate increase over and above that granted to all relocation towing companies by the Commission in RTV-A-45, should future circumstances support such a request.

STAFF'S POSITION

Staff has no objections to granting the Motion to Withdraw Petition, without prejudice.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, after reviewing the entire record and being advised in the premises, is of the opinion and finds that:

(1) the Commission has jurisdiction of the subject matter and the Parties;

(2) the recitals of fact set forth in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact;

(3) Petitioner, A-1 Citywide Towing & Relocation, Inc., has filed a Motion to Withdraw Petition, without prejudice, in light of the Order entered in Docket Number RTV-A-45 allowing Petitioner here to increase it's towing and storage rates to the amounts of $170 per tow and $40 per day storage after the first 24 hours;

(4) Staff has no objections to granting Petitioner's Motion to Withdraw, without prejudice to refilling for an additional rate increase should future circumstances so warrant.

IT IS THEREFORE ORDERED that the Motion to Withdraw Petition, without prejudice, filed by A-1 Citywide Towing & Relocation, Inc., is hereby granted, and said Petition is withdrawn.

IT IS FURTHER ORDERED that in accordance with Chapter 625 ILCS 5/18a-103 of the Illinois Commercial Relocation of Trespassing Vehicles Law, this is a final Order subject to the Administrative Review Law.

By Order of the Commission this 2nd day of December 2009.



CHARLES E. BOX
CHAIRMAN