STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

S & S Towing, Inc. Petitioner	
	Docket No. M2023-12616
Petition for Relocation Towing and Storage Rate Increase	

ORDER

By the Commission:

PROCEDURAL HISTORY

On August 31, 2023, S&S Towing, Inc., (Petitioner), filed its Petition for an Increase in Relocation Towing and Storage Rates pursuant to the provisions of Section 18a-200(6) of the Illinois Commercial Relocation of Trespassing Vehicles Law, 625 ILCS 5/18a-200(6) ("Law").

In its Petition, Petitioner requested: (1) the recalculation of the statutory ceiling for relocator towing and storage rates; (2) a general increase in Petitioner's relocation towing and in the daily relocation storage rate (after the first 24 hours) to $55.00 per day; and (3) pass-thru of municipal fees in relocation tow rates.

Pursuant to notice given in accordance with the law and the rules and regulations of the Commission, the Petition came on for an evidentiary hearing before the duly authorized Chief Administrative Law Judge ("CALJ") via videoconference on February 22, 2024. Petitioner appeared by counsel and presented testimony of George Urbieta. No petitions to intervene in opposition to the Petitions for a Relocation Towing and Storage Rate Increase were filed. At the conclusion of the hearing, the record was marked as "Heard and Taken."

At the hearing, Petitioner moved to amend its Petition to withdraw the request to recalculate the statutory ceiling for relocation tow rates, withdraw the request to increase the storage rate, and withdraw the request to pass-thru municipal fees. The ALJ granted Petitioner's motion to amend its Petition. Petitioner, thus, is requesting approval to raise its light duty relocation towing rate to the existing statutory ceiling of $238.20.

APPLICABLE LAW

Section 18a-200(6) of the Illinois Commercial Relocation of Trespassing Vehicles Law provides, in pertinent part, that "[t]he Commission shall":

> (6) Set reasonable rates for the commercial towing or removal of trespassing vehicles from private property. The rates shall not exceed the mean average of the 5 highest rates for police tows within the territory to which this Chapter applies that are performed under Sections 4-201 and 4-214 of this Code and that are of record at hearing; provided that the Commission shall not re-calculate the maximum specified herein if the order containing the previous calculation was entered within one calendar year of the date on which the new order is entered. Set reasonable rates for the storage, for periods in excess of 24 hours, of the vehicles in connection with the towing or removal; however, no relocator shall impose charges for storage for the first 24 hours after towing or removal…

625 ILCS 5/18a-200(6).

The current the statutory ceiling is $238.20 as set by the Commission on June 11, 2014, in docket RTV-A-54.

PETITIONER'S EVIDENCE

Mr. Urbieta is the vice president of Petitioner and testified in support of the exhibits offered and admitted at the hearing. Petitioner's Exhibit A contained the 2022 Relocator Annual Report filed by Petitioner and extracted from that is Exhibit B, the operating revenues and expenses for 2022.

Operating ratios have been used by the Commission to determine whether proposed relocation towing and storage rates are reasonable and compensatory. Operating ratios are calculated by dividing operating expenses by operating revenues. An operating ratio of 100 means the relocator barely broke even. An operating ratio over 100 means the relocator lost money during the year and its relocation operations would necessarily have been subsidized by other business operations. As the Commission noted in Docket No. RTV-A-36, expert testimony in that Docket was that the recommended target operating ratio for a relocator is 85.00.

Petitioner's operating ratio for light duty relocation in 2022 was 83.8. Mr. Urbieta testified, however, that many of Petitioner's expenses have gone up since 2022. In particular, the storage lot lease expense has risen by $82,406 in 2023. The insurance has increased by $18,144. The truck lease expense his increased by $30,902. In order to compete with other relocation towing companies that have been granted rate increases, Petitioner has increased the pay of its drivers to a total amount of $40,759. In sum, Petitioner's operating expenses for 2023 totaled $1,675,784 as opposed to $1,586,409 in 2022.

Petitioner's 2022 operating revenues as reported in its Annual Report were $1,586,409. At the current rate of $216 per tow, 7,344 tows were conducted in 2022. If Petitioner were granted the requested rate increase of $238.20 and the number of yearly

tows for 2022 were used to estimate revenues, the new revenue amount would be $1,749,341. The operating ratio using the re-rated revenues and the re-rated expenses would be 95.8.

If the Commission were to deny the requested rate increase and Petitioner continued to charge $216 per tow with increased operating expenses, the operating ratio would be 105.6.

Staff questioned Mr. Urbieta extensively based on his testimony and exhibits, and on documents produced in Answer to Staff's written discovery. Staff pointed out Petitioner's ten-year lease indicates a monthly rental amount of $10,200 although Mr. Urbieta testified that the rent has increased to $21,500 per month. Mr. Urbieta explained on cross-examination that $10,200 is the base rent and that he must also pay a share of the property taxes which have increased significantly.

STAFF'S POSITION

At the ALJ's request, Staff introduced into evidence Staff's Exhibit 1 which shows the number of relocation towing companies that have been approved to charge $238.20 and how many light duty tows they performed in 2022 as well as the number of towing companies that are approved to charge $216.00 and the number of tows they performed during the same period. Based on this information, relocators that are approved to charge $238.20 represent 62% of all tows conducted, whereas those charging the lower rate represent 38 percent of all tows conducted.

If the Commission were to grant the increase requested in the instant Petition, relocators charging $238.20 would conduct 72% of all tows reported and those charging the lesser amount would conduct 28% of all tows.

Staff expressed its opinion that, even if the operating ratio were recalculated excluding the disputed storage lot rent increase, Petitioner's operating ratio would be about 90 which is consistent with previous cases where the Commission has granted a rate increase. Staff does not object to the requested increase of $238.20.

COMMISSION ANALYSIS AND CONCLUSION

Petitioner has presented evidence that its operating expenses have increased significantly since 2022. Petitioner is requesting a rate increase for light duty tows from $216 to $238.20 to offset the increased expenses and to remain competitive among other towing companies that have been granted authority by the Commission to charge the higher rate. If granted a light towing rate increase, Petitioner's operating ratio will be at least 90 which is consistent with other relocators requests that have been granted. The Commission finds that Petitioner should be granted a light duty rate increase to $238.20.

The Commission has authorized industry wide rate increases in previous rate cases where the percentage of annual tows authorized at a higher rate far exceed the percentage of annual tows authorized at a lower rate.

In the 2020 RTV-A-60 Order entered on December 16, 2020, the Commission authorized an industry wide rate increase to $216 in response to a Petition filed by three relocators. In this case grant of the Petition resulted in relocators who performed 80% of all tows charging $216. The Commission noted that if $216 is deemed a reasonable rate for those that perform 80% of the annual tows, it should be deemed reasonable for all.

In the 2008 RTV-A-45 Order, it was noted that 62% of all tows were performed by relocators authorized to charge the $170 rate sought by the six petitioners. Those six petitioners collectively performed 9% of all tows, as the Order noted that, if the six petitioners were granted a $170 rate, the 62% would increase to 71%. For that reason and since several other rate increase petitions were pending, the Commission concluded the $170 rate should apply to all relocators to avoid substantial litigation and promote judicial economy.

In the 2002 RTV-A-36 Order there were six petitioners. It was not clear what rate they were seeking, but the Order concluded that $105 per tow was not sufficient and a $125 rate was reasonable to allow the relocators to operate at a reasonable profit so they may "retain trained operators, replace equipment," and maintain their facilities. It was ordered the $125 rate would apply to all licensed relocators in Cook, Kane, DuPage and Will Counties, which it appeared were the only counties subject to the Law at the time.

The grant of the instant Petition results in 72% of all tows, as reported in the 2022 Relocator Annual Reports, now being performed by relocation towing companies that are authorized to charge $238.20. Consistent with prior Commission practice, the rate of $238.20 should be authorized for all licensed relocators.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, after reviewing the entire record and being fully advised in the premises, is of the opinion 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. the evidence in this proceeding establishes that it is fair and reasonable for all holders of relocator licenses to charge and, for those who trespass on private property, to pay, $238.20 for each light duty tow performed, for the reasons stated in the prefatory portion of this Order.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that, pursuant to Chapter 625 ILCS 5/18a-200(6) of the Illinois Commercial Relocation of Trespassing Vehicles Law the reasonable rate for the removal of trespassing vehicles from private property is $238.20 per tow and all relocators licensed by the Commission are hereby authorized to charge $238.20 tow each light duty tow performed.

IT IS FURTHER ORDERED that the Commission retains jurisdiction over Petitioners and the subject-matter of this proceeding for the purpose of issuing such other Orders as it may deem appropriate.

IT IS FURTHER ORDERED that the Appendix hereto is made a part of this Order to provide information required by Section 10-50 of the Illinois Administrative Procedure Act (5 ILCS 100).

IT IS FURTHER ORDERED that this is a final Order subject to subject to 83 Ill. Adm. Code 200.880(d) which provides that no appeal shall be allowed unless an application for rehearing shall first have been filed and disposed of by the Commission, and subject to the Administrative Review Law, 735 ILCS 5/3-101 *et seq*., as adopted by Section 103 of the Illinois Commercial Relocators of Trespassing Vehicles Law, 625 ILCS 5/18a-103.

By Order of the Commission this 2nd day of May 2024.

(signed) DOUGLAS P. SCOTT
CHAIRMAN

APPENDIX to M2023-12616 Order

Pursuant to Section 10-50 of the Illinois Administrative Procedure Act (5 ILCS 100).

Parties of record and addresses as known to the Commission:

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APPENDIX to M2023-04412 Order
Pursuant to Section 10-50 of the Illinois Administrative Procedure Act (5 ILCS 100).

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