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BULLETIN

TO: Carriers Performing Involuntary Towing

FROM: Brian F. Cristy, Director, Transportation Oversight Division

DATE: March 20, 2017

SUBJECT: Department Tow Audit Program

Recently the Transportation Oversight Division (“Division”) of the Department of Public Utilities (“Department”) began an audit program devoted to ensuring that tow companies holding a Certificate of Compliance issued by the Department adhere to the proper rates for involuntary tows pursuant to M.G.L. c. 159B § 6B and 220 C.M.R. § 272.00. In order to conduct the audit in fair manner, each month the Division’s Towing Auditor selects a number of tow companies at random and then sends an audit notification letter to the selected tow companies requesting the submission of 90 days of tow slips/invoices. The Towing Auditor then reviews the tow company’s submitted documents against the Department’s tow regulations, 220 CMR § 272.00,

to identify any violations. As of February 28, 2017, the Department has completed 41 tow audits. Thus far, the Division has identified over \$500,000 in violations, and each of the 41 audited tow companies has paid a fine and signed a Consent Agreement.

The Department has determined that the vast majority of violations identified center around mileage charges, storage charges, and, to a lesser extent, labor charges associated with charging for extra time or an extra person at the scene of the tow without properly recording beginning and end times on the tow slips/invoices.

First, regarding mileage charges, many tow slips indicated that mileage beyond the first five miles of a tow was charged, however, the beginning and ending odometer readings from the towing vehicle were not recorded. Although the Department understands that many tow

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companies currently use the trip odometer readings to record mileage, 220 C.M.R. § 272 requires that the actual service vehicle odometer readings be recorded on the tow slip and be used to calculate mileage. ¹

Second, the Department found that some tow slips indicated that the tow company included the first five miles of the tow in the total miles charged for the tow. This is in violation of 220 C.M.R. § 272, Table 1, which specifically states that the rate per mile over five miles is \$3.00 per mile. Therefore, in many instances, the tow company should have reduced the total miles charged by 5 miles.

Third, there were several instances where the tow slips indicated that the towed vehicle was properly charged at \$35.00 per 24 hour period for storage, as required in M.G.L. c. 159B §6B, but did not indicate when the vehicle was released. It is important to include the release date on the tow slip in order to prove that the tow company charged the correct amount for storage. Something as simple as a "P/U (date)" on the bottom of a tow slip will prove the amount of vehicle storage being charged. Also, please keep in mind, a violation occurs when the tow operator uses a calendar clock rather than a 24 hour clock which is required by M.G.L. c. 159B, § 6B.

Finally, with regard to the labor charges for extra time and/or an extra person during an involuntary tow, the Department found many instances where either the beginning or end times were recorded on tow slips, but not both. There were also instances where the times were not included on the slip at all. The failure to record this information on a tow slip is in violation of 220 C.M.R. § 272.00, Table 1 & NOTE 1. ²

The purpose of the Division's tow audit program is to ensure that regulated tow carriers

performing “involuntary” tows adhere to the requirements established by statute, rules and regulations including, but not limited to, charging the correct amounts and providing consumers with proper documentation. To assist carriers, enclosed please find copies of relevant state statutes and Department regulations specific to involuntary tows.

- ¹ 220 C.M.R. § 272, NOTE 3, states that “mileage is based on round trip mileage from garage to return thereto. The carrier will establish the mileage from the service vehicle odometer and must include the odometer readings on the tow slip.”
- ² 220 C.M.R. § 272.00, Table 1 states “Rate Per Man Hour: \$32.00 or any fraction thereof. Additional Labor is to be computed from time of leaving the carrier’s garage until return thereto. Minimum charge - One Hour.” 220 C.M.R. § 272.00, NOTE 1 states “A \$35.00 per half-hour per vehicle charge may be assessed after one hour at the scene when necessary to remove the disabled vehicle; or if requested by police or other public authority. Starting and ending time must be recorded on the tow slip.”