

# LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER T-36470

LOUISIANA PUBLIC SERVICE COMMISSION

VERSUS

ANY BODY TOWING & RECOVERY, LLC

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*Docket No. T-36470, In re: Cancellation of Common Carrier Certificate No. 7547 for failure to maintain the required insurance coverage on file with the Commission pursuant to Commission's General Order dated January 12, 1976.*

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(Decided September 9, 2022.)

## ORDER

The Louisiana Public Service Commission ("Commission") issued a citation to Any Body Towing & Recovery, LLC ("Carrier") on July 7, 2022, directing the Carrier to show cause at a hearing on September 1, 2022, why its Common Carrier Certificate Number 7547 should not be canceled due to the Carrier's failure to maintain proof of required insurance coverage on file with the Commission as mandated by the Commission's General Order dated January 12, 1976. When the hearing was convened on September 1, 2022, the Commission Staff appeared and presented its case. The Carrier failed to appear and present a defense.

### *Applicable Law*

The Commission's jurisdiction over common carriers and public utilities is established by the Article 4, Section 21 of the Louisiana Constitution of 1974, which provides in pertinent part:

The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

Louisiana statutes more specifically describe the interest of the state and the powers of the Commission over motor carriers operating intrastate, including wreckers and towing services. Tow trucks are classified as "motor carriers" subject to the Commission's regulation, and motor carriers includes common carriers by motor vehicle and contract carriers by motor vehicle.<sup>1</sup>

The Commission's jurisdiction over wreckers and towing services is explicitly addressed in La. R.S. 45:180.1 which declares that "the operation or use of wreckers or towing services for

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<sup>1</sup> La. R.S. 45:162(12).

hire, charge or compensation or for any benefit amounting to a consideration is a business affected with the public interest.”<sup>2</sup> Also, that “the [C]ommission has power and authority necessary to supervise, govern, regulate, and control the business of the operation and use of wreckers and towing services”<sup>3</sup> and the “power, authority, and duties of the [C]ommission shall include all matters connected with the service to be given or rendered, [and] the records to be kept by persons engaged in said business.”<sup>4</sup> A common carrier certificate or contract carrier permit issued by the Commission is required in order to engage in the business of the operation and use of wreckers and towing services.<sup>5</sup> Pursuant to its authority, the Commission adopted rules applicable to wrecker and towing services providing non-consensual towing and recovery services, most recently the Commission’s General Order dated February 17, 2022.<sup>6</sup>

With regard to insurance, La. R.S. 45:163(D)(1)(b) provides as follows:

The commission shall require the following policies of insurance and indemnity bonds:

...

(b) Public liability and property damage insurance on trucks and passenger carrying vehicles operated by both common and contract carriers providing coverage of two hundred fifty thousand dollars for injury or death to any one person not to exceed five hundred thousand dollars per occurrence, and ten thousand dollars property damage. Public liability and property damage insurance for tow trucks or wreckers providing coverage of not less than five hundred thousand dollars combined single limits coverage.

The Commission’s General Order dated January 12, 1976 requires intrastate motor carriers to maintain proof of required insurance coverage on file at the Commission through the filing of a Form E, Uniform Certificate of Insurance. The Commission’s General Order dated January 12, 1976, provides in pertinent part:

All initial insurance filings, and filings to replace expiring, or expired, insurance coverage shall be made on a continuous basis to remain in effect until canceled on not less than thirty (30) days’ notice...

...

Filings will be made on the Uniform Certificate of Insurance Form E, but Louisiana Public Service Commission Form 100 will be permitted as a substitute if it is filed on a continuous basis.

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<sup>2</sup> La. R.S. 45:180.1 (A).

<sup>3</sup> La. R.S. 45:180.1 (C)(1).

<sup>4</sup> La. R.S. 45:180.1(C)(2).

<sup>5</sup> La. R.S. 45:180.1(E).

<sup>6</sup> Louisiana Public Service Commission General Order dated February 17, 2022; Docket No. R-35595, *In re: Review of the Schedule of Prescribed Rates and Requirements for Towing and Recovery services in General Order dated August 05, 2016*, Amended Attachment A, Schedule of Prescribed Rates and Requirements for Non-Consensual Towing, Recovery and Related Services.

A carrier's certificate or permit may be revoked, after notice and hearing, for failure to comply with applicable law or any lawful Commission Order, rule or regulation.<sup>7</sup> Furthermore, the Commission's General Order dated June 7, 2006 authorizes the imposition of a \$25 citation fee when a citation is issued to a Commission-jurisdictional motor carrier and that carrier is determined to have violated a Commission Order.

### ***The Commission Staff's Case***

The Commission Staff alleges that the Carrier failed to maintain proof of continuous bodily injury and property damage ("BI & PD") insurance coverage on file with the Commission in violation of the Commission's General Order dated January 12, 1976; and, as a result, that the Carrier's Common Carrier Certificate Number 7547 should be canceled and the Carrier should be required to pay a \$25 citation fee in accordance with the Commission's General Order dated June 7, 2006. In support of its allegation, the Commission Staff presented the testimony of Tanza Clark.

### **Testimony of Tanza Clark**

Ms. Clark is an Enforcement Agent with the Commission's Transportation Division whose job duties include overseeing insurance filings for regulated motor carriers. Ms. Clark provided testimony regarding the Commission's rules and regulations pertaining to a motor carrier's requirement to maintain proof of current insurance on file with the Commission, the events that resulted in Commission Staff issuing a citation to the Carrier, the events that have transpired since the issuance of the citation, and the penalties that the Commission Staff is seeking in this proceeding.

Ms. Clark testified as to the requirement set forth in the Commission's General Order dated January 12, 1976 that regulated carriers submit a Form E as proof of insurance, and that the Commission is notified of cancellation or expiration of a carrier's insurance through the receipt of a Form K Uniform Notice of Cancellation of Motor Carrier Insurance Policies ("Form K") from a carrier's insurance provider. Ms. Clark stated that the Carrier is a towing company regulated by the Commission.

Ms. Clark attested that, on February 2, 2022, the Commission's Transportation Division received a Form K from the Carrier's insurer, Blue Hill Specialty Insurance Company, indicating that the Carrier's BI & PD insurance policy (Policy Number CA 02997838) would be canceled

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<sup>7</sup> La. R.S. 45:166(A).

effective March 8, 2022. Ms. Clark further attested that the address listed for the Carrier on the Form K is the address that is on file with the Commission. Ms. Clark stated, that after receiving the Form K, the Commission's Transportation Division issued a notice of cancellation to the Carrier on March 11, 2022. This letter notified the Carrier that its insurance policy was canceled, and the Commission required proof of replacement insurance coverage effective the same day as the cancellation date of the previous coverage. This letter also notified the Carrier to immediately cease operations until replacement coverage was filed with the Commission, and proceedings to cancel its authority may be instituted if the insurance filings were not submitted. Ms. Clark testified that the notice of cancellation letter was mailed to the Carrier at its address on file with the Commission via United States Postal Service ("USPS") regular mail and it was not returned.

According to Ms. Clark, on March 22, 2022, the Commission received a Form E from Blue Hill Specialty Insurance Company certifying that it issued to the Carrier an insurance policy (Policy Number CA 956728389) which was effective on March 17, 2022. Ms. Clark noted that the Carrier had a lapse of coverage from March 8, 2022 to March 17, 2022. Consequently, Ms. Clark prepared a letter, dated March 23, 2022, informing the Carrier that its insurance filing was received by the Commission, but was being held due to the lapse in coverage. The letter states that the Commission must receive a notarized affidavit from the Carrier within 15 days of the date of the letter explaining the lapse in insurance coverage and stating that the Carrier was not operating during the lapse; otherwise, the Commission will continue the process to cancel the Carrier's authority. Ms. Clark mailed this letter to the Carrier at its address on file with the Commission via USPS regular mail and it was not returned. According to Ms. Clark, the Carrier neither submitted the requested affidavit nor updated insurance filings. On April 7, 2022, the Commission received another Form K from Blue Hill Specialty Insurance Company indicating that the Carrier's BI & PD insurance policy that was effective on March 17, 2022 (Policy Number CA 956728389) would be canceled effective May 11, 2022.

Ms. Clark testified that, on June 8, 2022, she prepared a tentative hearing letter notifying the Carrier that it was tentatively scheduled to appear at a hearing September 1, 2022 to show cause why its authority should not be canceled for failure to maintain required insurance on file with the Commission. The letter gives a deadline of June 23, 2022 to submit proof of the required insurance to the Commission or the Commission will proceed to issue a citation and assess a \$25 citation fee. Copies of both the March 23, 2022 and March 11, 2022 letters were attached to the tentative hearing letter. Ms. Clark stated that she mailed a tentative hearing letter to the Carrier at

the address on file with the Commission via USPS regular mail and the letter was not returned to the Commission as undeliverable.

Ms. Clark explained that she did not receive a response from the Carrier after mailing the June 8, 2022 tentative hearing letter. Consequently, the Commission's Transportation Division issued a citation to the Carrier on July 7, 2022, advising the Carrier that it was required to appear at a hearing on September 1, 2022 to show cause why its Common Carrier Certificate Number 7547 should not be canceled, and that a citation fee in the amount of \$25 had been assessed to the Carrier's account. Attached to the citation were the June 8, 2022, March 23, 2022 and March 11, 2022 letters that were previously sent to the Carrier. The citation was sent to the Carrier's address on file with the Commission via USPS regular mail and certified mail return receipt requested. In addition, notice of the citation was published in the Commission's Official Bulletin #1275 on July 8, 2022. Ms. Clark testified that the mailing sent via regular mail was not returned. Further, that USPS Tracking information shows that the certified mailing was delivered to the Carrier on July 9, 2022.

According to Ms. Clark, as of the time of the hearing: the Carrier had not submitted the affidavit requested by the Commission in its March 23, 2022 letter; the Carrier did not have a Form E verifying proof of required insurance coverage on file with the Commission; and, although the Carrier had been provided the appropriate documentation to cancel its LPSC authority, such documentation had not been filed.

In connection with her testimony, Ms. Clark identified the following exhibits which were admitted:

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|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Staff Exhibit 1 | A copy of the Form K, received by the Commission on February 2, 2022, issued by Blue Hill Specialty Insurance Company reflecting an effective cancellation date of March 8, 2022 for BI & PD Policy Number CA 02997838 issued to "ANY BODY TOWING & RECOVERY, LLC";                                                                                 |
| Staff Exhibit 2 | A copy of correspondence on Commission Transportation Division letterhead, dated March 11, 2022, bearing the signature of Tammy Burl, Transportation Administrator, Louisiana Public Service Commission, addressed to Any Body Towing & Recovery, LLC with the subject line "RE: CANCELLATION OF INSURANCE FILING WITH THE COMMISSION";             |
| Staff Exhibit 3 | A copy of a Form E Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance received by the Commission of March 22, 2022, issued by Blue Hill Specialty Insurance Company, certifying that "ANY BODY AND RECOVERY, LLC" has been issued liability insurance (Policy Number CA 95672839) effective March 17, 2022, |

modified with handwritten notation “Lapse from 3/08/2022 to 3/17/2022”;

- Staff Exhibit 4                      A copy of correspondence on Commission letterhead, dated March 23, 2022, bearing the signature of Tanza Clark, Enforcement Agent, addressed to Any Body Towing & Recovery, LLC with the subject line “RE: Unacceptable Insurance Filings”;
- Staff Exhibit 5                      A copy of the Form K, received by the Commission on April 7, 2022, issued by Blue Hill Specialty Insurance Company reflecting an effective cancellation date of May 11, 2022 for BI & PD Policy Number CA 956728389 issued to “ANY BODY TOWING AND RECOVERY, LLC”;
- Staff Exhibit 6, *in globo*        A copy of correspondence on Commission letterhead, dated June 8, 2022, bearing the signature of Tanza Clark, Enforcement Agent, addressed to Any Body Towing & Recovery, LLC with the subject line “RE: Insurance” with attached copies of the March 23, 2022 letter (Staff Exhibit 4) and the March 11, 2022 letter (Staff Exhibit 2);
- Staff Exhibit 7, *in globo*        A copy of the citation marked with certified mail return receipt number 7019 2970 0001 9621 7290 issued on July 7, 2022 to Any Body Towing & Recovery, LLC with attached copies of the June 8, 2022 letter (included in Staff Exhibit 6, *in globo*), the March 23, 2022 letter (Staff Exhibit 4), and the March 11, 2022 (Staff Exhibit 2) letter; and
- Staff Exhibit 8                      A copy of a printout of USPS Tracking results accessed via USPS.com for certified mail item with tracking number 7019 2970 0001 9621 7290 stating “[y]our item was delivered to an individual at the address at 1:38 pm on July 9, 2022 in LAFAYETTE, LA 70506”.

The Commission Staff requests that the Carrier be found guilty of failing to maintain required insurance on file with the Commission, that the Commission cancel the Carrier’s Common Carrier Certificate Number 7547, and that the Commission order the Carrier to pay a \$25 citation fee.

### ***Findings of Fact and Conclusions of Law***

From the testimony and evidence presented at hearing, we make the following findings of fact and conclusions of law:

#### ***Findings of Fact***

1. The Carrier is a Commission-regulated towing and wrecker company operating under Common Carrier Certificate Number 7547.
2. On February 2, 2022, the Commission received a Form K from the Carrier’s insurer advising that the Carrier’s BI and PD insurance (Policy Number CA 02997838) was scheduled for cancellation on March 8, 2022. The Carrier’s address on the Form K matched the address on file with the Commission.

3. On March 11, 2022, the Commission's Transportation Division mailed a letter via USPS regular mail to the Carrier at its address on file with the Commission advising that the Commission had received a Form K notification that the Carrier's insurance was canceled effective March 8, 2022, and that the Commission had not received proof of replacement coverage. The letter suggested that the Carrier contact its insurance company to provide proof of replacement coverage through the filing of a Form E, noting that the replacement coverage should be effective as of the cancellation date of the previous policy. Further, that the Carrier cease operations until proof of replacement coverage was filed, and if a replacement Form E was not filed on the Carrier's behalf, proceedings may be instituted at the Commission for the purpose of canceling the Carrier's intrastate operating authority. The letter was not returned to the Commission as undeliverable.
4. On March 22, 2022, the Commission received a Form E from the Carrier's insurer certifying that it had issued to the Carrier a BI & PD insurance policy (Policy Number CA 956728389) effective March 17, 2022. As the effective date of the new policy was March 17, 2022 and the previous policy was canceled on March 8, 2022, there is a lapse in coverage. Because of the lapse in insurance coverage, the Commission Staff did not accept this Form E.<sup>8</sup>
5. On March 23, 2022, Enforcement Agent Tanza Clark in the Commission's Transportation Division mailed a letter via USPS regular mail to the Carrier at its address on file with the Commission informing the Carrier that its insurance filing was received by the Commission, but was being held due to the lapse in coverage. The letter states that the Commission must receive a notarized affidavit from the Carrier within 15 days of the date of the letter explaining the lapse in insurance coverage and stating that the Carrier was not operating during the lapse or the Commission will continue the process to cancel the Carrier's authority. The letter was not returned as undeliverable.
6. On April 7, 2022, the Commission received a second Form K from the Carrier's insurer advising that the Carrier's BI and PD insurance (Policy Number CA 956728389) was scheduled for cancellation on May 11, 2022.
7. On June 8, 2022, Ms. Clark mailed a letter via USPS regular mail to the Carrier at its address on file with the Commission notifying the Carrier that it was tentatively scheduled to appear at a hearing September 1, 2022 to show cause why its authority should not be canceled for failure to maintain required insurance. The letter gives a deadline of June 23, 2022 to submit proof of the required insurance to the Commission or the Commission will proceed to issue a citation and assess a \$25 citation fee. The letter was not returned to the Commission as undeliverable.
8. The Commission did not receive an affidavit or proof of replacement insurance coverage for the Carrier, and on July 7, 2022, the Transportation Division issued a citation via USPS regular mail and certified mail return receipt requested to the Carrier's address on file with the Commission directing the Carrier to appear at a hearing on September 1, 2022 and advising that a \$25 citation fee had been assessed to the Carrier's account. The regular mail was not returned to the Commission. USPS Tracking information from USPS.com for certified mail with the tracking number matching that listed on the citation shows that it was delivered to an individual at the address on July 9, 2022 at 1:38 p.m.
9. The Carrier did not appear at the September 1, 2022 hearing, and as of the date of the hearing, the Commission had neither received any documentation of replacement insurance coverage for the Carrier nor any documents to relinquish the LPSC authority granted by its common carrier certificate.

### *Conclusions of Law*

1. At the hearing in this matter, the Commission Staff had the burden of proving its allegations against the Carrier. Because the Carrier did not appear at the hearing, the Commission Staff also had the burden of demonstrating that the Carrier was provided

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<sup>8</sup> Tr. Hr'g. at 9:1-5.

fair notice of the hearing and the opportunity to present a defense. La. R.S. 45:1166 provides that a permit may be revoked “after notice and hearing for failure to comply with any provision of R.S. 45:161 through 45:172, or with any lawful order, rule or regulation of the [C]ommission . . . .”<sup>9</sup>

2. Pursuant to its constitutional and statutory authority, the Commission has adopted Rules of Practice and Procedure. Pertinent to this proceeding, Commission Rules 7 and 19 provide for notice of non-criminal proceedings through publication in the Commission’s Official Bulletin, as well as service “through any means whereby proof of receipt or unclaimed status can be shown” to “the last known place of address of the person entitled to receive such notice . . . .”
3. Pursuant to constitutional and legislative mandate, and Commission Orders adopted pursuant thereto, the Commission has the authority to regulate towing and wrecker services (which are defined as motor carriers) providing non-consensual towing and recovery services, and to ensure that such entities maintain levels of insurance required by statute and by Commission General Orders. The Commission’s General Order dated January 12, 1976 provides that intrastate motor carriers must maintain proof of required insurance coverage on file with the Commission through the filing of a Form E; furthermore, all initial insurance filings and filings for replacement insurance coverage shall be made on a continuous basis.
4. The Commission’s Transportation Division issued the citation to the Carrier by USPS regular mail and certified mail return receipt requested to the Carrier’s address on file with the Commission. The citation sent via regular mail was not returned to the Commission. USPS Tracking information from USPS.com for the certified mail tracking number matching that listed on the citation shows it was delivered to an individual at the address on July 9, 2022 at 1:38 p.m. Thus, we find that the Commission Staff demonstrated through testimonial and documentary evidence that the Commission Staff provided fair notice to the Carrier of the hearing date, and that the Carrier was provided a fair opportunity to present a defense at the hearing.
5. In this proceeding, the Commission Staff established through testimonial and documentary evidence that the Carrier failed to maintain the required insurance coverage on file with the Commission as the Carrier had a lapse in insurance coverage from March 8, 2022 to March 17, 2022; additionally, the Carrier failed to provide proof that its insurance coverage was extended beyond the May 11, 2022 cancellation date stated in the Form K received on April 7, 2022. Thus, we find that the Carrier failed to maintain proof of effective insurance coverage on file with the Commission as required by the Commission’s General Order dated January 12, 1976. Accordingly, we find that the Carrier is guilty of violating the Commission’s General Order dated January 12, 1976.
6. We conclude that the Carrier’s failure to maintain proof of effective insurance coverage constitutes a failure to comply with applicable law and Commission Orders; thus, cancellation of the Carrier’s common carrier certificate is appropriate pursuant to La. R.S. 45:166.
7. The Commission’s General Order dated June 7, 2006 allows for the imposition of a \$25 fee for the issuance of a citation by the Commission. Therefore, it is appropriate to require the Carrier to pay the \$25 citation fee.

## ***Conclusion***

In accordance with the findings of fact and conclusions of law stated above:

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<sup>9</sup> Special Order No. 72-2021, Louisiana Public Service Commission, ex parte, In re: Possible implementation of Interim Rule 7 of the Commission’s Rules of Practice and Procedure (Service of Process) and possible revision to the Commission’s Rules. (November 22, 2021).



**IT IS HEREBY ORDERED** that Common Carrier Certificate Number 7547, currently issued to Any Body Towing & Recovery, LLC be, and hereby is, CANCELED due to the failure of Any Body Towing & Recovery, LLC to maintain proof of required insurance coverage on file with the Commission.

**IT IS HEREBY FURTHER ORDERED** that Any Body Towing & Recovery, LLC shall be required to pay to the Commission a \$25 citation fee.

**BY ORDER OF THE COMMISSION**  
**BATON ROUGE, LOUISIANA**  
September 9, 2022



A handwritten signature in blue ink, appearing to read "Brandon M. Frey".

**BRANDON M. FREY**  
**SECRETARY**

/S/ LAMBERT C. BOISSIERE, III  
**DISTRICT III**  
**CHAIRMAN LAMBERT C. BOISSIERE, III**

/S/ MIKE FRANCIS  
**DISTRICT IV**  
**VICE CHAIRMAN MIKE FRANCIS**

/S/ FOSTER L. CAMPBELL  
**DISTRICT V**  
**COMMISSIONER FOSTER L. CAMPBELL**

/S/ ERIC F. SKRMETTA  
**DISTRICT I**  
**COMMISSIONER ERIC F. SKRMETTA**

/S/ CRAIG GREENE  
**DISTRICT II**  
**COMMISSIONER CRAIG GREENE**