

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :  
Commission's Review of :  
Ohio Adm. Code Chapter :  
4901:2-24, Related to : Case No. 17-0713-TR-ORD  
Rates for Towing, Storage, :  
and Retrieval of Motor :  
Vehicles. :

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PROCEEDINGS

before Mr. James Lynn, Attorney Examiner, at the  
Public Utilities Commission of Ohio, 180 East Broad  
Street, Room 11-D, Columbus, Ohio, called at 10:00  
a.m. on Friday, April 20, 2018.

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1 Friday Morning Session,  
2 April 20, 2018.

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4 EXAMINER LYNN: Let's go on the record.  
5 Good morning, everyone. I'm Jim Lynn, the Attorney  
6 Examiner at the PUCO, assigned to hear this case.

7 As you know, the Commission issued a  
8 finding and order on February 8, 2018, concerning  
9 Case No. 17-0713-TR-ORD and that case and this  
10 hearing concerns Ohio Administrative Code Chapter  
11 4012.24 which addresses maximum fees for towing and  
12 storage of motor vehicles.

13 The hearing was required by the 131st  
14 General Assembly and an amended Substitute House Bill  
15 341 which was effective April 6, 2018.

16 We also have with us a gentleman from the  
17 Commission's Transportation Department, Alan Martin.  
18 And, you know, we'll take testimony from you folks as  
19 you care to present it.

20 After the hearing and after anyone files  
21 comments to it, staff may revise and propose rules  
22 that are already out there.

23 And with that being said, I believe you  
24 are already familiar with the process. The rules  
25 will eventually be sent to the Joint Committee on

1 Agency Rule Review and so on.

2 But who would like to testify first? I  
3 don't know if you all came here waiting to see if  
4 anybody else would say anything or if you actually  
5 have something to add yourself? But whoever would  
6 like to go first, I'm open to suggestion.

7 MR. SHRINER: I can say something here.

8 EXAMINER LYNN: How about come up to the  
9 witness stand, please.

10 MR. SHRINER: All right.

11 EXAMINER LYNN: And just provide your  
12 name, who you represent, that kind of thing.

13 MR. SHRINER: I'm sorry.

14 EXAMINER LYNN: No problem. No problem  
15 at all. If you need to bring up anything.

16 MR. SHRINER: Where would you like me?

17 HEARING EXAMINER DECKER: At the witness  
18 stand right there, the witness stand.

19 MR. SHRINER: Stand or sit?

20 EXAMINER LYNN: You can sit and raise  
21 your right hand.

22 (Witness sworn.)

23 EXAMINER LYNN: Great. Okay.

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JIM SHRINER

presented himself as a public witness, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

EXAMINER LYNN: And what's your name and what comments do you have?

THE WITNESS: My name is Jim Shriner, Broad & James Towing here in Columbus, and I am here representing Towing Recovery Association of Ohio. I wasn't really expecting to speak, but I can.

Basically, we're here to talk about the private property rate, private property towing rate, which has not increased since the year 2000 and that's back when at fuel was \$1.50 a gallon. Back then we thought health insurance was expensive, and now it's astronomical compared to what it was then.

Tow trucks we purchased back in 2000 cost less than a pickup I purchased about six months ago, my personal pickup truck. The tow truck costs less than that when it was raised last time. Wages, in 2000, the last time it was raised was for tow truck driver was about \$10 per hour. Now, the rate is about \$15 per hour. There is a lot of training, responsibility that goes into being a wrecker operator. A lot of people don't realize how much is

1 involved in that with the how complicated vehicles  
2 are today. It's a lot more difficult than it used to  
3 be.

4 Let's see, what else do I have here?  
5 Large percentage of the vehicles now are hybrids,  
6 electric, all wheel drive vehicles. If you can  
7 find -- you know, and that's just cars. And you talk  
8 about heavy-duty wreckers, you know, if you can find  
9 a good heavy-duty driver to drive a heavy-duty  
10 wrecker, he is worth his weight in gold.

11 If you have a CDL now, the driver can  
12 make a lot of money just driving over the road, and  
13 the only time he has to get out of the car, he  
14 doesn't have to get out of the car and crawl  
15 underneath, lay in the snow, the slush on the side of  
16 the freeway. You know, he gets -- he makes whatever.  
17 I don't even know what they are making, somewhere  
18 around 60, 70 thousand dollars an hour to sit behind  
19 the wheel without having to do all the manual labor.  
20 60 or 70 thousand dollars a year, yeah.

21 Let's see, you know, they don't have to  
22 back off the brakes. They don't -- there is -- they  
23 don't have to remove driveshafts; whereas, a  
24 heavy-duty tow truck driver does. Like I said, the  
25 cost of the driving, these things have gone up

1 astronomically. Drivers have to be able to work day  
2 and night, day or night, or sometimes both.

3 In addition to wages, you know, cost of  
4 Workers' Comp. has gone up. I can tell you our  
5 Workers' Comp. premium was less than half of what it  
6 is today in the year 2000. Today it's more than  
7 double what it was then. We paid \$4,300 back in the  
8 year 2000. We paid \$4,300 per month for health  
9 insurance. Now, we're paying over \$20,000 per month  
10 for health insurance for our employees.

11 And, you know, there's also different  
12 additional things that's required, high vis uniforms.  
13 There is a lot we didn't -- we weren't required to  
14 wear high visibility uniforms on the side of the  
15 road. Now, OSHA requires that. So there's an extra  
16 cost.

17 And, like I said, there is a lot of other  
18 expenses that go into things such as we didn't  
19 have -- in the year 2000 we didn't have -- you didn't  
20 need cameras in your trucks. You didn't have GPS.  
21 You didn't have cell phones. You didn't have --  
22 there's so many different more expenses that were  
23 involved -- that are involved more in towing now than  
24 there was back, you know, the last time it went up  
25 which was, again, whatever 20 -- in the year 2000

1 which was 18 years ago. So that's a long time to go  
2 without a raise and I can tell you none of our  
3 employees are making the same as what they made the  
4 last time the rates went up.

5 Let me see if there is anything else.  
6 Oh, talk about the price of trucks. You know, you  
7 think that would be the most expensive thing, but  
8 it's not. Most expensive thing is your employees and  
9 technology involved. And prices of a truck in the  
10 year 2000, like I said, last time it went up, a new  
11 tow truck was \$45,000. We purchased a new tow truck  
12 for \$45,000. And last -- I put -- the last tow truck  
13 I purchased in 2017 was over \$100,000. And that  
14 wasn't a special truck. It was nothing more than a  
15 truck to go out and pick up a car off the road or  
16 whatever. So it wasn't anything special.

17 Heavy-duty prices, you know, if you get a  
18 heavy-duty truck now, you're talk \$400,000 for a good  
19 heavy-duty truck. And, like I said, the prices just  
20 have gone up astronomically, and the price has -- or  
21 the price of what we are paying -- or receiving is  
22 not going up at all.

23 I'm open to questions. First of all,  
24 thank you for hearing me. I'm sorry if I didn't say  
25 this.

1 EXAMINER LYNN: No, no. Thank you. I've  
2 got a question. Of all the factors that you  
3 mentioned, do you have any -- any information about  
4 how that might play into different rates from what  
5 the Commission has proposed in its rules?

6 THE WITNESS: Well, I do. I think it  
7 should have gone up higher than that. The rates,  
8 like I say, they haven't gone up, you know --  
9 actually if I can grab my other sheet of paper.

10 EXAMINER LYNN: Sure. Go ahead.

11 THE WITNESS: Let's see. Yeah, my -- you  
12 know, we talked about this before -- before the rates  
13 went up. Like I said, I don't think they really  
14 included all of our necessary, you know, things in  
15 it. We proposed that they actually make three  
16 categories. They do a light-duty towing class which  
17 is 10,000 pounds or less which would be basically a  
18 car or pickup truck at \$185 for the tow and raise the  
19 storage rate to \$30, and they didn't go up. They are  
20 still going -- they are still going to be about \$50  
21 shy of that.

22 A medium-duty, which again is like a  
23 medium-duty truck such as an -- you know, like a box  
24 truck or, you know, something like a step van from  
25 10,000 to 20,000 pounds, would be \$250 for the tow

1 and \$45 for the storage.

2 And three didn't make -- they didn't  
3 include -- they didn't add another category which,  
4 again, I think they should, there is a difference  
5 between a light-duty car and, you know, a semi  
6 tractor-trailer. And, again, the tractor-trailer, I  
7 said those things are just an astronomical expense  
8 and running one of those trucks with all the  
9 regulations and all the fees involved we suggested  
10 \$485 for the tow and \$75 a day storage, you know,  
11 trying -- if you try to park -- you know, if somebody  
12 pulls a tractor-trailer down here and they park it  
13 wherever, there is nowhere they can park it. And,  
14 again, that's the same problem we run into with cars.

15 I know I came down here for a meeting a  
16 while back in my tow truck. There was nowhere for me  
17 to park that tow truck. I had to -- I had parked  
18 illegally, but it was like 10 blocks away, and I had  
19 to walk 10 blocks so.

20 EXAMINER LYNN: The three-tiered  
21 arrangement, is that -- is that what was already  
22 submitted or testified to when we had the workshop on  
23 these?

24 THE WITNESS: It was, yes.

25 EXAMINER LYNN: Okay. But beyond the

1 tiers and the other factors you mentioned, do you  
2 have anything else to add? You know, if you don't,  
3 you don't.

4 THE WITNESS: No. I don't have anything  
5 to add. Like I said, I don't think it's high enough  
6 but can we live with it? Yes. Is it better than  
7 what we have? It's better than what we have. My  
8 opinion is we would take it, and we would live with  
9 it.

10 EXAMINER LYNN: And a different question,  
11 you know, given you indicated the rates haven't gone  
12 up in quite some time, has that created like in  
13 the -- have you -- the companies you work with or  
14 work for, have they been, you know, losing money,  
15 operating in the red because the rates didn't come up  
16 over the years or? How do things stand right now?

17 THE WITNESS: I can tell you -- I can't  
18 tell you about all the companies around, but I can  
19 tell you my personal company there are several years  
20 which we operated at a loss. Is it exclusive because  
21 of that? I don't know. You know, I can just tell  
22 you we don't -- that's not all we do. We do wrecks  
23 on freeways.

24 EXAMINER LYNN: And the name of your  
25 company?

1 THE WITNESS: Broad & James Towing.

2 EXAMINER LYNN: Broad & James Towing.

3 That's fine. Thank you.

4 THE WITNESS: In fact, we actually sold  
5 our corner, you know, where we were at there, and my  
6 accountant said at that point in time if we -- you  
7 know, I don't get into all that. He said, you know,  
8 if we hadn't sold that corner, we would be hurting.

9 EXAMINER LYNN: Okay. Thank you for your  
10 testimony. Appreciate it. And you can take your  
11 seat.

12 Would anyone else like to make any  
13 comments at all? You don't have to but this is your  
14 opportunity if you want to.

15 MR. DUFFY: I would like to.

16 (Witness sworn.)

17 EXAMINER LYNN: Great. Thank you.

18 - - -

19 TIM DUFFY

20 presented himself as a public witness, and being  
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 EXAMINER LYNN: And what's your name and  
24 what comments do you have and who might you be?

25 THE WITNESS: My name is Tim Duffy, and I

1 run Shamrock Towing Company.

2 EXAMINER LYNN: Okay.

3 THE WITNESS: And you were asking  
4 earlier -- you were talking to Jim about losses. Our  
5 company has operated at a loss for the last six  
6 years. And Jim and I have been working on trying to  
7 get these rates changed for eight years. That's how  
8 long we've been -- we've been hammering away at this.

9 We finally got to the -- apparently the  
10 right people, but back in about 2008, we had to  
11 eliminate -- start eliminating any employee vacation,  
12 paid vacations, any type of insurances. Finally, we  
13 were down to nothing. There was nothing -- nothing  
14 for the employees that we could offer them to be  
15 competitive and, you know, that's something that I  
16 was always proud of early on that we, you know --  
17 because it's rare in small companies sometimes to be  
18 able to afford to have retirement programs and  
19 insurance.

20 And that was something that I was really  
21 proud of and when the rates -- when the cost of goods  
22 and services kept going up and there was no increase  
23 in the rates, slowly all the employees' benefits and  
24 stuff like that just -- we just had to do something  
25 in order to keep the business going. So that's --

1 that's the first thing that goes so.

2 I'm excited now because we might be able  
3 to start introducing some insurance programs again.

4 EXAMINER LYNN: And that's -- that's in  
5 light of the rates the Commission has proposed?

6 THE WITNESS: Correct.

7 EXAMINER LYNN: I see.

8 THE WITNESS: Yeah. It's going to take a  
9 while to catch up, you know, and to upgrade some  
10 equipment because I'm running a lot of trucks with  
11 half a million miles on them, and for seven years I  
12 didn't buy any new trucks. I just had to scour the  
13 used truck market to find something that would  
14 suffice.

15 EXAMINER LYNN: Okay. So what you're  
16 indicating is that you're Shamrock and Shamrock had  
17 operated at a loss for apparently, you are  
18 indicating, more than one year.

19 THE WITNESS: Oh, yeah, several years.

20 EXAMINER LYNN: And that's probably, say,  
21 starting last year up to the present time or how many  
22 years did that go on? Three or four years?

23 THE WITNESS: Probably had a good five  
24 years where we had losses.

25 EXAMINER LYNN: Okay. And then you are

1 indicating that the rates the Commission is  
2 proposing, from -- from what you can tell, would  
3 allow you to reintroduce some of the benefits you  
4 used to have.

5 THE WITNESS: Yeah. It will take a while  
6 to catch up. It will probably take at least a year  
7 and a half to catch up to, you know, to try to get  
8 equipment updated. It will be a slow process; but,  
9 you know, hopefully we have the opportunity in five  
10 years to step in there and shed some other costs.

11 EXAMINER LYNN: Okay. And did you have  
12 any proposals for any rates -- did you have any  
13 thoughts or information about rates different from  
14 what the Commission proposes? You are indicating  
15 that the Commission's proposal will be helpful to  
16 you.

17 THE WITNESS: Yeah. I don't have  
18 anything to add. Jim had an interesting point there  
19 on the three-tier deal. That does require completely  
20 different types of equipment in order to perform  
21 heavy duty as opposed to medium duty and light duty  
22 so the costs of requirements now with all the picture  
23 taking and all the storage we have to have but that's  
24 not something that affects everybody.

25 And I think that's what was realized when

1 we went through this. Some of the companies that do  
2 more impounding than other companies, they have that  
3 storage issue and letter issue and all that other  
4 type of costs.

5 EXAMINER LYNN: Okay. All right. Thanks  
6 very much for your comments.

7 THE WITNESS: Well, thanks for allowing  
8 me to speak.

9 EXAMINER LYNN: Glad you could make it  
10 in. Again, thank you. You can take a seat.

11 Anyone else have any comments?

12 Mr. Coulter.

13 - - -

14 BRIAN COULTER

15 presented himself as a public witness, and being  
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 EXAMINER LYNN: Wonderful. Have a seat.

19 THE WITNESS: Thank you very much.

20 EXAMINER LYNN: And what would you like  
21 to add?

22 MR. COULTER: My name is Brian Coulter.  
23 I'm an attorney on behalf of the Association of  
24 Professional Towers of Ohio. I appear with one of my  
25 members today.

1 I just want to thank the Commission for  
2 the opportunity to speak today, and I want to first  
3 say a lot of our members have expressed the same  
4 concerns that have been expressed by the witnesses  
5 here today.

6 I just wanted to make two notes. We've  
7 made these comments in our submission in our initial  
8 comments, but I want to state them again today. APTO  
9 and its members understand the Commission's position  
10 is that adjustment based upon consumer price index  
11 will account for a lot of these concerns. And while  
12 our members are appreciative of that adjustment, and  
13 I think it is a much needed adjustment, I think that  
14 inflation-only adjustment does not contemplate new  
15 regulation, new laws which simply did not exist 18  
16 years ago.

17 And so while -- while things like  
18 increased -- increases in insurance costs, increases  
19 in vehicle costs, those items can be mitigated  
20 somewhat by inflation? I just think that the cost of  
21 those items are above the rate of inflation, things  
22 like forcing a tower to take time out of a tow to  
23 take a sufficient number of pictures which is now  
24 required by the Ohio Revised Code and sending X  
25 number of notices not only to the vehicle owner but

1 to the lienholders, those are items that those eat up  
2 labor costs, that those are simply items that didn't  
3 need to happen 18 years ago.

4 So I think it's important to add some  
5 amount above and beyond the rate of inflation, so  
6 APTO's proposal was to increase at a \$10 increase to  
7 the current rates which were at the time 90 and 150  
8 dollars and then adjust for inflation. Admittedly  
9 we -- we submitted a request to our members to  
10 produce financials, and they were just so across the  
11 board because numbers changed depending on whether  
12 you are downtown, whether you are in a rural  
13 community. And so it's really difficult to present  
14 to the Commission concrete findings in that regard.

15 EXAMINER LYNN: So your proposal again  
16 today is adding \$10 and inflation and so on. Is this  
17 something similar -- is this the same as what you had  
18 proposed in the, say, file comments or testimony in  
19 the workshop or what?

20 THE WITNESS: It is. It is what we  
21 presented in our comments.

22 EXAMINER LYNN: Could you elaborate on  
23 that again, please, to refresh my memory?

24 THE WITNESS: So the examples that we  
25 used in our written comments were this, I believe

1 section -- maybe I should pull up my comments here.  
2 Make sure I am not adding something we didn't already  
3 discuss.

4 So in June of 2000 when these rates were  
5 last set, there was no requirement that a tower take  
6 photographs of a vehicle before it's removed. March  
7 2015 the Ohio General Assembly enacted 4513.01 that  
8 applies that. So the towers are the ones taking  
9 these photos, and they're paid anywhere from, you  
10 know, \$20 per hour upwards or maybe slightly below  
11 that. If a tower is there and wants to make sure he  
12 or she is following the law, they are going to take  
13 as many pictures as they can to make sure they are  
14 doing their job well. That could eat 10 minutes of  
15 their time, 5 minutes of their time. That adds up.  
16 That's 5 minutes of labor you weren't paying 18 years  
17 ago.

18 Those are costs that currently are not  
19 contemplated in the Commission's CPI-only adjustment.  
20 Same with the notices to the vehicle owner,  
21 lienholder. So, now, the law requires at least three  
22 notices before you can get title to the vehicle  
23 owner, the lienholder, maybe several lienholders.  
24 That's the cost of certified mail, cost of paying an  
25 assistant or someone to arrange that document, put it

1 in an envelope, send it. Again, those are -- they  
2 seem like marginal costs. When you think on a per  
3 tow basis, they add up. So our adjustment,  
4 admittedly the \$10 figure is somewhat arbitrary. We  
5 tried to keep it low enough to be acceptable by the  
6 Commission but also high enough to make a difference  
7 for towers.

8 EXAMINER LYNN: So what you're repeating  
9 then is it's similar to a document you had already  
10 filed with the Commission; am I right?

11 THE WITNESS: Correct, right.

12 EXAMINER LYNN: I want to be sure we had  
13 something to go back and reference.

14 THE WITNESS: Absolutely.

15 EXAMINER LYNN: Thank you.

16 THE WITNESS: Just one other note as  
17 well. There was a portion of the proposed -- the  
18 Commission's entry that talked about these new  
19 regulations help towers. And so, therefore, the fact  
20 that it might take more time or more money to take  
21 these pictures or send these notices, that added cost  
22 shouldn't be considered because it may help towers  
23 avoid liabilities.

24 EXAMINER LYNN: You are thinking of, for  
25 example, the photograph requirement?

1           THE WITNESS: Correct. Our position with  
2 that and after talking to our members is that, you  
3 know, essentially every regulation could be  
4 considered that way, so we don't necessarily think  
5 that's a fair way to diminish these costs because  
6 arguably every cost they have to do, whether it's  
7 certain payroll, certain insurance requirements, is  
8 to comply with the law or regulation. So we just  
9 wanted to add that note as well.

10           EXAMINER LYNN: Thank you. Appreciate  
11 your -- appreciate your time.

12           THE WITNESS: Certainly.

13           EXAMINER LYNN: Would anybody else like  
14 to speak? You have the opportunity. If you don't,  
15 that's okay.

16           All right. Thank you all for attending.  
17 And we will take these -- the Commission will take  
18 these comments into account and figure out how to  
19 proceed from there. We appreciate your time today  
20 and have a good trip home. Enjoy the sunshine.  
21 Bye-bye.

22           (Thereupon, at 10:25 a.m., the hearing  
23 was concluded.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Friday, April 20, 2018, and carefully compared with my original stenographic notes.

*Karen Sue Gibson*  
\_\_\_\_\_  
Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-6536)

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**This foregoing document was electronically filed with the Public Utilities**

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Summary: Transcript In the Matter of the Commission's Review of Ohio Adm. Code Chapter 4901:2-24, Related to Rates for Towing, Storage, and retrieval of Motor Vehicles, hearing held on April 20th, 2018. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.