

PROCEDURAL SCHEDULE - DOCKET NO. D-10-26

On May 26, 2010, the Rhode Island Public Towing Association (“RIPTA” or “Petitioner”) filed a “Petition for Declaratory Judgment or Declaratory Ruling” with the Rhode Island Division of Public Utilities and Carriers (“Division”) pursuant to R.I.G.L. §42-35-8 and Rule 13 (c) of the Division’s Rules of Practice and Procedure. In its petition, RIPTA seeks a ruling from the Division on the following issue:

Whether the storage fees imposed by a certificated tower on a police department instigated motor vehicle storage impoundment at a private storage lot may be assessed against the owner of said motor vehicle, or is it the liability and financial responsibility of the police department instigating the tow?

In response to RIPTA’s petition, the Division conducted an initial scheduling conference on June 9, 2010. The Petitioner and the Division’s Motor Carrier Section (an indispensable party/participant) entered appearances through counsel. During the conference, RIPTA requested permission to notify the State’s 39 police departments, and the Rhode Island State Police, of its pending petition before the Division and to invite them to participate in the matter. The Division granted this request, and agreed to delay further action on RIPTA’s petition until the police departments and the State Police had an opportunity to consider RIPTA’s petition and invitation to participate.¹ In furtherance of this decision, the Division scheduled an additional scheduling conference for July 21, 2010 to provide sufficient time for additional participants to join the docket.

Subsequently, on July 9, 2010, the Division received entries of appearance and motions to intervene from the city of Warwick and the towns of Jamestown and Charlestown. Also on July, 9, 2010, the Division received notice from the Rhode Island State Police indicating an interest in having an opportunity to participate. Additionally, during the scheduling conference conducted on July 21, 2010, representatives from several police departments, including an officer from the Rhode Island Police Chiefs Association, appeared and expressed an interest in participating in the instant declaratory judgment matter. These police department officials also requested a further delay in the proceedings in order to make their respective solicitors aware of the matter and to suggest that they enter appearances in the docket. The Executive Director of the Rhode Island League of Cities and Towns also appeared and expressed an interest in this matter.

¹ RIPTA mailed relevant information packages to each of the State’s police chiefs, and to the Colonel of the Rhode Island State Police, on June 15, 2010.

In view of the additional interest referenced above, the Division has adopted a procedural schedule that provides sufficient time for interested cities and towns, the Rhode Island State Police and the Rhode Island League of Cities and Towns to decide if they wish to formally enter an appearance in this docket and submit a legal memorandum on the issue presented to the Division by RIPTA. As this issue relates solely to an interpretation of law, the Division has determined that a hearing will not be necessary.

Accordingly, all formal participants in this docket shall be required to comply with the following conditions and schedule:

1. All participants shall be represented by counsel. Entries of appearance must be submitted on or before **August 30, 2010**.
2. Legal memoranda shall be submitted on or before **September 28, 2010**.
3. Reply memoranda shall be submitted on or before **October 12, 2010**.
4. Contents of legal memoranda must address the issue presented by the Petitioner, supra, in the context of the statutory provisions contained in Rhode Island General Laws, Chapter 39-12.1 and Sections 39-12-11 and 39-12-12.
5. In preparing legal memoranda, participants should remain aware of the following facts related to this matter: (a) that in accordance with State law, and approved tariffs, storage charges for the first 24-hour period are exclusively the responsibility of the vehicle owner, (b) that all storage charges resulting from delays directly attributable to the vehicle owner shall always be the responsibility of the vehicle owner, and (c) that the “storage impoundment” matter in issue **relates exclusively to “holds” placed on vehicles by the police departments instigating the tows** (these “impoundments” or “holds” remain in effect until the police departments “release” the vehicles to their owners; in any case where the police department instigating the tow does not place a “hold” on the towed vehicle, the vehicle owner remains exclusively responsible for all valid storage charges associated with the tow).

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July 22, 2010