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May 22, 2014

Mark D. Marini, Secretary  
Department of Public Utilities  
One South Station  
Boston, Massachusetts 02110

Re: Petition of Statewide Towing Association, Inc.  
for Amendment of 220 CMR 272.00

Docket No.: D.P.U. 13-124

Our File: JC06-1907

Dear Mr. Marini:

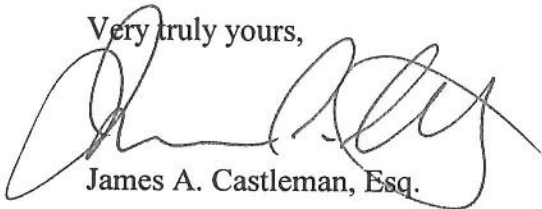
On behalf of our client, Statewide Towing Association, Inc., enclosed please find:

**Statewide Towing Association, Inc.'s Responses to Second Set of Information  
Requests of the Department of Public Utilities**

Kindly file and docket same. A copy of the enclosed is also being filed electronically, as required. We are also emailing to the DPU a copy the original Excel file referenced in Response 2-6, with all formulae intact, as noted therein

Thank you for your anticipated cooperation in this regard.

Very truly yours,



James A. Castleman, Esq.

JAC/blw  
encl.

cc: DPU efilng (by email)  
David J. Gold, Esq. (by hand delivery and email)  
Marc Tassone (by hand delivery and email)  
Lynch Associates (by email)  
William Johnson (by email)

COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF PUBLIC UTILITIES

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Petition of:

Statewide Towing Association, Inc.  
for Amendment of 22O CMR 272.00, *et seq.*  
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STATEWIDE TOWING ASSOCIATION, INC.'S RESPONSES TO SECOND SET OF  
INFORMATION REQUESTS OF THE DEPARTMENT OF PUBLIC UTILITIES

Now comes the Petitioner in this matter, Statewide Towing Association, Inc., and says the following in response to the Department's Second Set of Information Requests.

DPU 2-1 Refer to STA's Petition, Exhibit A, Table 2, Item 4. Please describe the following:  
(a) How the embedded cost of fuel (\$4.91) is calculated in the basic tow rate;  
and  
(b) Why this amount is not proposed to change.

Response 2-1 (a) The embedded cost of fuel is the same as was calculated by the Department in their prior tow rate fuel surcharge rate decision, Order Adopting Final Regulations, DTE/DPU No. 06-43-A(2008) at p. 12.  
(b) The source upon which the Petitioner bases its Petition and calculations, being the information supplied by carriers performing involuntary tows in their 2011 Financial Statements filed with the Department, does not provide sufficient data to be able to calculate what Petitioner considers to be an accurate current embedded fuel cost. To the extent that total current total tow costs are determined, it is assumed that these reflect a change in the embedded fuel cost as well. The Petitioner also suggests that the continuation of the fuel surcharge, as requested, will continue to reflect changes in embedded fuel costs. It is also noted that the per tow mileage, as calculated by the Petitioner, is 9.4 miles, which is similar to the per tow mileage in prior involuntary tow rate decisions.

DPU 2-2 Refer to the STA's Petition, Exhibit C, Statement of Peter J. D'Agostino, at C-8. Please discuss, in detail, how the STA determined that a 50 percent "across the board" increase in towing-related charges is appropriate. Provide any and all calculations and analyses that the STA performed to substantiate this proposed increase. If no such analyses were performed, explain why.

Response 2-2 To the extent that STA has determined a 50 percent "across the board" increase in towing-related charges is appropriate, the analysis thereof is as set out in the



referenced Statement of Peter J. D'Agostino. Again, the data upon which STA relies in its Petition is that supplied in the 2011 Financial Statements of carriers performing involuntary tows, with a limited ability to identify specific elements of each tow, as explained in Mr. D'Agostino's Statement. As noted therein, total tow related revenues would have to increase by 25.684% to allow for an adequate allowable profit for tow carriers. But, approximately 50% of tow related revenue comes from storage rates, which can be increased only through legislative action, and not through the DPU's regulation of tow rates. Therefore, an increase in tow rates of approximately 50% would be needed to increase total revenues by approximately 25%. Additionally, it is difficult to attribute tow rate changes to individual elements of each tow, because of the diverse nature of the carriers performing the tows, of the length of tows, of the character of tows, and of other factors affecting tow costs, all as noted in Mr. D'Agostino's Statement.

DPU 2-3 Refer to the STA's Petition, Exhibit C, Statement of Peter J. D'Agostino, at C-7 and to the May 2, 2014, technical conference at the Department. Please provide a corrected purported revenue shortfall amount. Further, provide revised versions of any other pages of the filing affected by this calculation error.

Response 2-3 A full Revised Statement of Peter J. D'Agostino is attached hereto, marked Exhibit 2-3, containing the corrected purported revenue shortfall (\$64.88), the corrected required revenue increase (to 25.684%), and the corrected prior allowed daily storage rate (\$20.00 per day).

DPU 2-4 Refer to the May 2, 2014, technical conference at the Department. Please provide an inflation-based analysis of the STA's request for an increase in towing rates. Specifically:

- (a) As a baseline, use the current rates and the date that they were set (i.e., effective September 24, 2004);
- (b) Use the Bureau of Labor Statistics, "Consumer Price Index – Urban Wage Earners and Clerical Workers" for the area "Boston-Brockton-Nashua, MA-NH-ME-CT" Annual Index. Available at <http://data.bls.gov/cgi-bin/surveymost>;
- (c) Apply the values from (b) above and calculate an annual increase of the current rates for each year from the effective date for the following:
  - (1) the maximum charge per tow; (2) rate per mile over five miles; and
  - (3) rate per man hour. Show all calculations for each year; and
- (d) Propose rates based on your analysis.

Response 2-4 In response, STA has prepared the analysis shown on the spreadsheet attached hereto, marked Exhibit 2-4. STA has used slightly different criteria than requested, being that a baseline of 2002 is used instead of 2004, since the rates set in 2004 were actually based on data for 2002. STA hesitates to propose rates based on this analysis, since it believes that the proper BLS region to be used should be the Northeast Region, which is more reflective of Massachusetts

economics than the region specified by the Department. Rates calculated on the region specified in the DPU's Request are shown on the Exhibit, however.

DPU 2-5

Refer to the May 2, 2014, technical conference at the Department. Please provide an inflation-based analysis of the STA's request for an increase in towing rates. Specifically:

- (a) As a baseline, use the current rates and the date that they were set (i.e., effective September 24, 2004);
- (b) Select another recognized economic inflation index, indices, or a blend of indices (i.e., labor, fuel, insurance or other cost related items specific the towing industry) and explain your selection process;
- (c) Apply the selected index and calculate an annual increase of the current rates for each year from the effective date for the following: (1) the maximum charge per tow; (2) rate per mile over five miles; and (3) rate per man hour. Show all calculations and sources of data for each year; and
- (d) Propose rates based on your analysis.

Response 2-5

In response, STA has prepared the analysis shown on the spreadsheet attached hereto, marked Exhibit 2-5, using BLS data for "Consumer Price Index - Urban Wage Earners and Clerical Workers". Again, however, STA has used 2002 as a base year rather than 2004, since data used in the DTE/DPU 2004 rate decision was actually from 2002. STA has also used BLS statistics from the Northeast Region, since STA believes that statistics for this region are more reflective of Massachusetts than "Boston-Brockton-Nashua, MA-NH-ME-CT", which region is more heavily weighted with data from the neighboring states of New Hampshire and Maine, which are less reflective of Massachusetts economics. STA would propose rates as shown on the attached Exhibit, highlighted in yellow.

STA also suggests that the Department may want to consider setting an indexed annual adjustment to the rates set in the governing regulation, based on changes to the CPI index used by STA, similar to what the Department did with the fuel surcharge adjustment allowed in Order Adopting Final Regulations, DTE/DPU 06-43-A. That may obviate the future need to continually have to go through the regulatory amendment process as economic factors change.

DPU 2-6

Refer to the STA's response to information request DPU 1-5, and to the May 2, 2014, technical conference at the Department. Please provide the "less distilled and more detailed" breakdown of Attachment C-2, as referenced in that response and at the technical conference. Provide the information in Microsoft Excel format with all formulae intact.



Response 2-6 In response, STA has prepared the spreadsheet attached hereto, marked Exhibit 2-6. Additionally, STA is contemporaneously forwarding to the DPU by email the actual Excel file, with all formulae intact.

DPU 2-7 Please state whether it is the position of the STA that regulated tows are being subsidized by unregulated tows. Explain the response in full and complete detail.

Response 2-7 STA hesitates to adopt the term “subsidized”, but notes that, like most small businesses, tow carriers usually need a variety of revenue streams to be able to sustain themselves. The volatility and unpredictability that is characteristic of the involuntary towing revenue stream is but one problem of the involuntary towing industry in general.

That being said, it is noted that, unlike amounts that can be charged for involuntary tows and involuntary storage, there are no restrictions on amounts that can be charged for voluntary tows and voluntary storage; and rates for voluntary towing and storage are generally significantly higher than those allowed for involuntary towing and storage. Further, voluntary tows are much more likely to be profitable, since they more often occur during normal business hours, less often require specialized equipment, services and training, less often require emergency responses, less often result in having to resort to costly collection and lien enforcement procedures, and much more often result in full payment for services.

DPU 2-8 Please provide a list of cost and expense items associated with involuntary tows that are not typically associated with voluntary tows.

Response 2-8 A partial list of cost and expense items associated with involuntary tows that are not typically associated with voluntary tows is as follows. It is noted that many of the listed items are necessitated by the nature of involuntary tows, which most often occur as emergencies, frequently during nights and weekends, and which are more likely to involve more difficult recoveries from accident scenes, more man hours for recovery and clean up at the scene, additional and more specialized equipment, additional security measures, additional administrative work, and less appreciative customers. As an example, responding to a multi-car accident at 3:00 AM Saturday morning during inclement weather, where there has been personal injury, where vehicle fluids are leaking onto roadways and surrounding areas, where other emergency vehicles and personnel are at the scene, where law enforcement personnel may be reconstructing events, where one or more vehicles may have rolled over or gone down an embankment or into the woods, and where damaged vehicles may have to be worked on at the scene involves much more time, equipment, expertise and expense than towing a vehicle with a defective starter from someone’s driveway to their repair shop.

Costs and Expenses Associated with Involuntary Tows:

Additional Drivers to Meet Excess Capacity (since immediate response is required; and since multiple tows may be required at the same time, either at the same or at different locations)

Labor Costs for Shift Differential (nights and weekends)

Additional Equipment to Meet Excess Capacity (again for ability to immediately respond and to handle multiple tows)

Additional Specifications for Equipment (as required by most public authorities to cover the unique challenges of involuntary tows, including specialized equipment needed for recovery services, for minimizing impact on traffic flow at an accident scene, etc.)

Additional Tools for Recovery and Dealing with Damaged Vehicles

Additional Insurance Coverage (increased liability limits are required by most public authorities)

Storage Facilities (acquisition costs, and maintenance and carrying costs)

Training of Personnel Above and Beyond that Required for Basic Tows:

Recovery (rollovers, vehicles off the roadway, etc.)

Accident Tows (dealing with damaged vehicles)

Bio Hazard Awareness and Safety Protocols

HazMat Awareness and Safety Protocols

Traffic Incident Management

Additional Training Certification, as required by Public Authorities

Employee CORI Checks, as required by Public Authorities

Hepatitis B Vaccinations, as required by OSHA regulations when employees may come in contact with bodily fluids from injured persons

Use of and Payment to a Dispatcher

Dispatcher Training

Facility Security

Inside security measures, including video surveillance, phone call recordings, etc.

Outside security, including video surveillance, lighting, fencing, etc.

Administrative Labor

Reporting Requirements (Local and State Police)

Invoice Creation and Collection

Collection Follow-up and Lien Enforcement

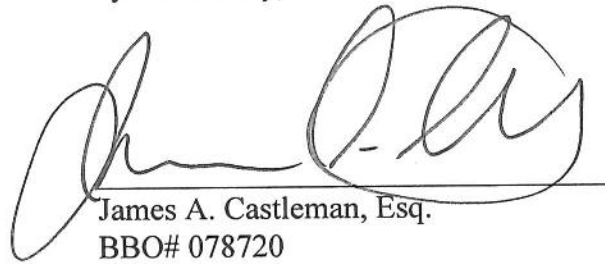
Collection and Accounting of Municipal Fees

Storage Yard Management and Vehicle Inventory Control

Abandoned Motor Vehicle Management and Disposal

Dry Tows (public authority tow calls that do not result in an actual tow)

Respectfully submitted.  
Statewide Towing Association, Inc.  
by its attorney,

A handwritten signature in black ink, appearing to read 'James A. Castleman', is written over a horizontal line.

James A. Castleman, Esq.

BBO# 078720

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[jcastleman@prclawoffice.com](mailto:jcastleman@prclawoffice.com)

Dated: May 22, 2014

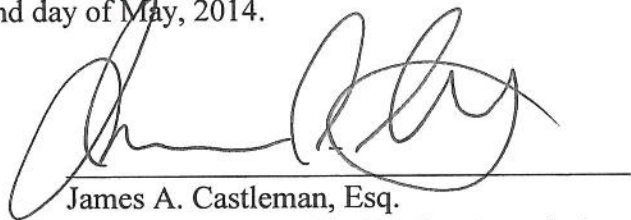
COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC UTILITIES

D.P.U. No. 13-124

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 220 CMR 2.05(1) (Department's Rules of Practice and Procedure).

Dated at Quincy, Massachusetts this 22nd day of May, 2014.

A handwritten signature in black ink, appearing to read 'James A. Castleman', is written over a horizontal line.

James A. Castleman, Esq.  
Counsel for Statewide Towing Association, Inc.



## EXHIBIT C

### REVISED STATEMENT OF PETER J. D'AGOSTINO

#### Background

I, Peter J. D'Agostino, am the Chief Operating Officer for Lynch Associates, 10 Liberty Square, Boston, Massachusetts. Lynch Associates provides management services for various trade associations, including Statewide Towing Association, Inc. ("STA"). Having worked with STA for the past several years, I have become aware of the issues that face its members, including financial issues relating to performing police, public authority, and trespass towing (collectively "involuntary" towing), and, in particular, as affected by the amounts that may be charged for such services utilizing maximum rates set under M.G.L., c. 159B §6B and 272 CMR 272.00, *et seq.*

My professional background is in management and financial services, and I have participated in the management of several privately owned companies, as well as national corporations ranging in size from medium to large entities. In such positions, I have had extensive experience in all facets of management and oversight. A significant part of my experience, working both for other private companies and for Lynch Associates, has been in finance and budgeting. Additionally, just prior to joining Lynch Associates, I provided strategic consulting to U.S. government agencies and the United States Army, and, in particular, provided both governmental and corporate representation in procurement services, performing financial analysis in representing both government buyers and private sector providers. In my professional career, I have had extensive experience in formulation and analysis of financial data for project specific initiatives.

### Overview of Analysis Made

Lynch Associates was contracted by STA to analyze data collected by the Department of Public Utilities, to determine whether current maximum rates set by statute and regulation are sufficient to provide a reasonable profit margin for tow carriers performing involuntary tows. On behalf of Lynch Associates, I did analyze the relevant data as requested, and I determined that, based on data collected by the DPU, the average non-commercial involuntary tow performed by carriers in Massachusetts generated a per tow loss of \$32.98 under current allowable maximum charges, and that an increase in the allowable rates is needed to permit a reasonable profit.

### Nature of Data Utilized

In making my analysis, I looked at the data collected by the DPU Transportation Oversight Division for 2011 (the most recent year for which complete information was available) as reported in Financial Statements filed with the DPU by carriers performing involuntary tows. The DPU requires that all licensed carriers prepare and file the Financial Statements if they perform involuntary tows. The form of the Financial Statement required by the DPU is attached hereto, as Attachment C-1.

A request was made under the Massachusetts Freedom of Information Act, M.G.L., c. 66 §10, for copies of all Financial Statements received by the DPU from tow carriers for 2011. In response, the DPU provided copies of responses from 510 carriers. Of these, only 198 were utilized for analysis, however, since 163 carriers returned only the DPU's cover letter with no Financial Statement, 81 responses were so substantially incomplete as to be of no value, and 68 responses were from carriers that performed only commercial tows.<sup>1</sup>

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<sup>1</sup> Responses from carriers performing only commercial tows were not utilized, and, further, those portions of responses from other carriers that related to commercial involuntary tows were not used in analyzing data. This is because revenues for commercial involuntary tows are subject to much greater leeway for related unregulated charges, as are respondent reports of expenses for

While only 198 responses were determined to be of use, this is still a considerably larger survey pool than has been utilized by the DPU in the past for setting involuntary tow rates, and it is the first time that the DPU has had the opportunity to have input from this many carriers, rather than from a small third party / self-selected survey pool. Notably, when last setting rates in 2004, the DPU relied on a pool of only fifteen carriers, which pool was comprised of those carriers that had voluntarily responded to a member survey conducted by STA. See, Statewide Towing Association, D.T.E. 03-70(2004).

Results of the data collected by the DPU for 2011, as applicable to STA's Petition, are shown in a spreadsheet attached hereto as Attachment C-2. At first blush, one may question the reliability of some of the data, since it is self-reported by primarily small businesses who may not maintain records at the level of detail required by the DPU when setting rates for other industries. Yet, the data is similar to that utilized by the DPU when making rate determinations for involuntary tows in the past, and is most likely significantly more reliable than that developed in the past, since the sample of responses is so much greater and the respondents are not self-selected. Further, it is suggested that unreliability factors are greatly diminished when looking at the average numbers from the survey, since questionable responses represented by opposing variations from the norm tended to cancel themselves out. With regard to the type of data collected, it is the DPU that set the determinative factors, by the way that it structured the information required on the relevant Financial Statement.

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necessary additional unregulated services; since both gross and net commercial tow revenues may vary greatly depending on the equipment owned by the individual carrier and its ability to perform certain types of commercial tow operations; and since the DPU Financial Statements did not ask for reporting of storage revenues for commercial involuntary tows separate from other non-tow related revenue (commercial storage being unregulated).



As to differences in revenues and expenses as reported by respondents, it should be further recognized that the towing industry in Massachusetts is comprised of businesses of varying sizes, from very different geographic locations, with a wide variety of types of equipment, who may be responding to a broad range of types of tow calls. Per respondent reported revenues from involuntary tows plus related storage ranged from \$355.00 to over \$1 million; some respondents were from urban settings, while others were from rural settings; the number of trucks per respondent varied from 1 to 33, and employees from zero to 48; average miles per tow varied from 2.3 to 20. Additionally, some respondents are engaged in towing as their only business, while others may perform towing only as an incidental part of their business (e.g., in relation to operation of a collision repair shop). And, while all respondents render towing services, there was a great disparity in the percentage of involuntary tow revenues related to all tow revenues, varying from 0.63% to 100 %.

Considering the above, it is my opinion that, as a whole, the data obtained is representative and reliable, and may be reasonably relied upon for rate analysis purposes.

#### Methodology Used and Results of Data Analysis

The spreadsheet in Attachment C-2 is a compilation of the data reported by 198 respondents to the DPU request for filing of Financial Statements for tow carriers.

As reflected on the final "Averages" line of the spreadsheet, in order to calculate the average per tow profit or loss, I initially calculated the average per respondent reported revenues for involuntary tows, which came to \$52,033.69. I then calculated the average per respondent storage revenues related to involuntary tows, which came to \$31,649.11, and then added the two figures to come to an average of total revenues related to involuntary tows storage of vehicles

involuntarily towed. **The average per respondent total revenues for involuntary tows and related storage came to \$83,682.79.**

I then calculated average per respondent operational expenses *related solely to involuntary tows*, which came to **\$86,259.70**. In order to calculate this figure, I looked at each respondent's total of revenues from involuntary tows and related storage as a percentage of the respondents' reported revenues from **all** sources, and then applied that percentage to the respondent's total operational expenses.<sup>2</sup>

Based on these numbers, I was able to calculate the average per tow profit or loss. I did this by first determining the average tow related revenue per tow for each respondent (**\$251.44**) and the average tow related expenses for each respondent (**\$284.42**), and then calculating the average loss per involuntary tow. **According to my analysis, the average per respondent loss per involuntary tow came to \$32.98.**

#### Analysis for Reasons for Loss

It is not surprising that tow carriers may now be averaging a \$32.98 average loss per involuntary non-commercial tow.<sup>3</sup> After all, it has been almost ten years since the DPU last adjusted allowable maximum rates (other than allowing for a fuel surcharge when the cost of diesel fuel exceeds the cost that it was in 2003, Statewide Towing Association, D.T.E./D.P.U 06-43(2008)). Meanwhile, carriers have experienced ten years of rising operational costs,

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<sup>2</sup> While each respondent's total operational expenses are not reported on the spreadsheet, they were reported in their Financial Statements, and these were the figures that I used in making the calculation.

<sup>3</sup> Carriers do have other sources of income, or else most of them would be out of business if they are experiencing an overall operating loss. And some of those other sources of income *may* be from unregulated services related to tow operations, such as from collision repair work generated by tows, voluntary towing and storage, etc. But, even if they are able to generate other revenues related to their involuntary towing, carriers should not be expected to suffer losses on the regulated services that they provide.

including increased costs of equipment, increased payroll costs, increased regulatory compliance costs, increased utilities costs, increased insurance premiums, etc. As reported in its 2003 filing, STA members that were surveyed reported a per tow expense of \$115.70. (See, Schedule 1 to Comments of Kimberly Lowell, filed in Statewide Towing Association, D.T.E. 03-70(2004)). Current calculated per tow expenses reported to the DPU - based on a much larger sampling of respondents - are \$284.42.

Admittedly, per tow revenues increased from \$107.15, as reported in STA's 2003 filing, to \$251.44 for 2011. See, Schedule 1 to Comments of Kimberly Lowell, filed in Statewide Towing Association, D.T.E. 03-70(2004), and 2011 per tow revenue calculation, above. This increase most likely resulted from the 2004 amendments to 220 CMR 272.00 *et seq.* as adopted by the D.P.U., *op.cit.*, plus the fuel surcharge allowed in 2008, Statewide Towing Association, D.T.E./D.P.U 06-43(2008) (which allows for a straight reimbursement for an increased component of carrier expenses that was not figured into the 2004 DPU amendments), plus increased allowable storage charges as allowed by a 2010 amendment to M.G.L. c. 159B §6B (from \$20.00 per day to \$35.00 per day). ***BUT, as reported, increased revenues have clearly not kept up with increased expenses.***

#### Recommendations for Changes to Regulation

"In setting maximum rates, the Department seeks to enable all tow operators, operating under efficient management, to earn a reasonable amount for towing services." *Order Adopting Statewide Towing Association*, D.T.E./D.P.U 06-43(2008) at 7, citing Statewide Towing Association, D.T.E. 03-70(2004) at 8.

Utilization of the "operating ratio" method appears to be the proper manner of determining maximum allowable charges for involuntary tows. The DPU has used this method in



the past to determine rates and charges for towing companies, and for other common carriers. See, e.g., Statewide Towing Association, D.T.E. 03-70(2004) at 5-6. Statewide Towing Association, D.P.U.97-37(1997) at 4-13; Peter Pan Bus Lines, D.P.U. 867()1982) at 21-22; Worcester Gray Line, D.P.U. 785/786(1982) at 4-5; Kinson Bus Lines, D.P.U. 632 (1982) at 6-7; Police-Ordered Tows, D.P.U. 20148(1980 at 11-14. Operating ratio is determined by dividing total operating expense by total operating revenues, and the DPU has, over the years, consistently applied an operating ratio of 90% when determining allowable rates for carriers, including tow carriers. See, cases cited.

As noted above herein, the average actual total operating expenses per involuntary tow in Massachusetts for 2011 were \$284.42. Assuming an applicable operating ratio of 90%, it would be necessary to generate revenues of \$316.02 per tow (i.e., \$284.42 divided by 0.90) to meet appropriate allowable target revenues. Yet, actual per tow revenues in 2011 were only \$251.44, a shortfall of \$64.58 per tow below the target. **In order to generate an adequate allowable profit for carriers, it thus appears that involuntary per tow revenues would have to be increased by 25.684%.**

In looking at how to properly increase revenues to meet this target, it should be recognized that certain aspects of allowable charges cannot be changed by amendments to 220 CMR 272.00. In particular, applicable storage rates cannot be changed by regulation, since they are set by statute. Yet, storage revenues make up 49.37% of average per tow revenues, since a per tow storage element of \$124.14 is attributable to per tow average revenues of \$251.44. See, Attachment C-2. Notably, the allowable storage rate was just recently changed by statutory amendment in 2010, and it is not likely to be changed again in the foreseeable future.

Also, revenues from tow related services provided by third party contractors for “extraordinary or additional services outside of [the carrier’s] capabilities” can only be billed out at their actual cost to the carrier. See, 220 CMR 272.03, Table 1, Additional Charges. Therefore, additional revenues cannot be generated by this element of total revenues. It should also be noted that, since no profit is allowed at all for these third party charges, they do not come into play when calculating allowable target revenues based on operating ratios, so other revenue factors would have to be increased by a greater percentage to reach an ultimate proper operating ratio.<sup>4</sup>

Further, it is noted that the analysis being made herein is based on data for 2011, and that it is likely that 220 CMR 272.00 may not be amended again for several years. Therefore, it is not unreasonable to consider anticipated inflation of expense costs for current and future years when looking at appropriate changes to allowable charges for involuntary tows.

**Based on the above, it is recommended that there be an across the board increase in charges specified in 220 CMR 272.03, Tables 1 and 2, and in Note 1, of 50%.** This would result in the changes shown on Exhibit B attached to the Petition of Statewide Towing Association, Inc. in this matter, summarized as follows:

TABLE 1:

Maximum charge per tow up to five miles increased from \$90.00 to \$135.00  
Rate per mile over five miles increased from \$3.00 per mile to \$4.50 per mile  
Rate per Man Hour for additional labor increased from \$32.00 to \$48.00 per hour

TABLE 2:

Maximum charge per tow up to five miles increased from \$90.00 to \$135.00  
Rate per mile over five miles increased from \$4.25 per mile to \$6.40

NOTE 1:

Rates per half-hour per vehicle increased from \$35.00 to \$52.50  
Additional service vehicle charge increased from \$90.00 to \$135.00 per vehicle

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<sup>4</sup> Since the DPU Financial Statement does not ask for a breakout of charges for or payments to third party service providers, it is not possible to quantify what percentage of each average tow is attributable to these charges. Yet, clearly some amount for such payments should be factored into determination of appropriate allowable increases for carriers - unless the DPU were to allow a percentage profit to be charged by carriers for third party service payments.

**In addition to increasing the rates allowed for involuntary tows, it is also recommended that the reference in the FUEL PRICE SURCHARGE section of the regulation to a base cost of diesel fuel of \$1.7606 be changed to reflect the average cost of diesel fuel in New England during 2011 of \$3.978.** See data from the Energy Information Administration of the U.S. Department of Energy, contained in Attachment C-3. This recommendation is made because the actual average cost of diesel fuel in 2011 is already an element of the expenses reported by carriers in the Financial Statements for data analysis purposes, and used in calculating the increases being requested by STA. As a result of the requested change, a fuel surcharge would be allowed only if the cost of diesel fuel exceeds \$3.978 per gallon, instead of the current base price of \$1.7606<sup>5</sup>. The effect of this change would be to lower (or eliminate) fuel surcharges for all involuntary tows.

In summary, based on the data from the Financial Statements filed with the DPU by 198 tow carriers for 2011, carriers are currently actually suffering a loss of revenue on involuntary tows. In order to allow proper compensation, it is suggested that changes be made to 220 CMR 272.00, *et seq.* in line with the recommendations made herein.

  
Peter J. D'Agostino

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<sup>5</sup> Notably, as of July 15, 2013, the average on-highway per gallon cost of diesel fuel in New England was reported by the Energy Information Administration of the U.S. Department of Energy as being \$4.005.



Consumer Price Index - Urban  
Original Data Value

Series Id: CNURA103S  
Not Seasonally Adjusted  
Area: All Items  
Base Period: 1982=100  
Years: 2002 to 2014

Year	Table 1				Table 2				Note 1			
	Annual	Max Change Per Tow	Rate Per Mile Over Five Miles	Rate Per Man Hour	Rate Per Mile Over Five Miles (Commercial)	Max Change Per Tow (Commercial)	Per 12 Hour Change	Per Additional Vehicle	Per 12 Hour Change	Embedded Fuel Cost	Annual Adj	Baseline Year
2002	195.2	\$90.00	\$3.00	\$32.00	\$4.25	\$90.00	\$35.00	\$90.00	\$35.00	\$4.91	1.0410	Baseline Year
2003	203.2	\$93.69	\$3.12	\$33.31	\$4.42	\$93.69	\$36.43	\$93.69	\$36.43	\$5.11	1.0256	Baseline Year
2004	208.4	\$96.09	\$3.20	\$34.16	\$4.54	\$96.09	\$37.37	\$96.09	\$37.37	\$5.24	1.0345	Baseline Year
2005	215.6	\$98.41	\$3.31	\$35.34	\$4.69	\$98.41	\$38.66	\$98.41	\$38.66	\$5.42	1.0325	Baseline Year
2006	222.6	\$102.63	\$3.42	\$36.49	\$4.85	\$102.63	\$39.91	\$102.63	\$39.91	\$5.60	1.0195	Baseline Year
2007	226.943	\$104.64	\$3.49	\$37.20	\$4.94	\$104.64	\$40.69	\$104.64	\$40.69	\$5.71	1.0352	Baseline Year
2008	234.924	\$108.32	\$3.61	\$38.51	\$5.11	\$108.32	\$42.12	\$108.32	\$42.12	\$5.91	1.0195	Baseline Year
2009	233.418	\$107.62	\$3.69	\$38.27	\$5.08	\$107.62	\$41.85	\$107.62	\$41.85	\$5.87	0.9936	Baseline Year
2010	238.045	\$109.75	\$3.66	\$39.02	\$5.18	\$109.75	\$42.68	\$109.75	\$42.68	\$5.99	1.0198	Baseline Year
2011	245.337	\$113.12	\$3.77	\$40.22	\$5.34	\$113.12	\$43.99	\$113.12	\$43.99	\$6.17	1.0306	Baseline Year
2012	249.086	\$114.84	\$3.83	\$40.83	\$5.42	\$114.84	\$44.66	\$114.84	\$44.66	\$6.27	1.0153	Baseline Year
2013	252.483	\$116.41	\$3.88	\$41.39	\$5.50	\$116.41	\$45.27	\$116.41	\$45.27	\$6.35	1.0136	Baseline Year

Exhibit 2-4

**Consumer Price Index - Urban  
Wage Earners and Clerical  
Original Data Value**

Series Id: CUMR0100S  
Not Seasonally Adjusted  
Area: Northeast  
Item: All Items  
Base Period: 1982-84=100  
Years: 2002 to 2014

Year	Annual	Table 1			Table 2			Note 1			Table 1			Table 2			Note 1		
		Max Charge Per Tow	Rate Per Mile Over Five Miles	Rate Per Man Hour	Rate Per Mile Over Five Miles (Commercial)	Max Charge Per Tow	Per 1/2 Hour Charge	Per Additional Vehicle	Per 1/2 Hour Charge	Embedded Fuel Cost	Baseline Year Annual Adj	Max Charge Per Tow ADJUSTED	Rate Per Mile Over Five Miles ADJUSTED	Rate Per Man Hour ADJUSTED	Rate Per Mile Over Five Miles (Commercial) ADJUSTED	Max Charge Per Tow ADJUSTED	Per 1/2 Hour Charge ADJUSTED	Per Additional Vehicle ADJUSTED	Embedded Fuel Cost ADJUSTED
2002	184.7	\$90.00	\$3.00	\$32.00	\$4.25	\$90.00	\$35.00	\$90.00	\$35.00	\$4.91	1.0292	\$92.63	\$3,087.7	\$32,935.6	\$4.37	\$92.63	\$35.02	\$92.63	\$5.05
2003	190.1	\$92.63	\$3.19	\$32.64	\$4.37	\$92.63	\$36.02	\$92.63	\$36.02	\$5.05	1.0347	\$95.85	\$3,194.9	\$34,079.0	\$4.53	\$95.85	\$37.27	\$95.85	\$5.23
2004	196.7	\$95.85	\$3.19	\$34.08	\$4.63	\$95.85	\$37.27	\$95.85	\$37.27	\$5.23	1.0361	\$99.31	\$3,310.2	\$35,599.1	\$4.69	\$99.31	\$38.62	\$99.31	\$5.42
2005	203.8	\$99.31	\$3.43	\$36.31	\$4.89	\$99.31	\$38.62	\$99.31	\$38.62	\$5.42	1.0363	\$102.91	\$3,430.4	\$36,591.2	\$4.86	\$102.91	\$40.02	\$102.91	\$5.61
2006	211.2	\$102.91	\$3.52	\$37.55	\$4.99	\$102.91	\$40.02	\$102.91	\$40.02	\$5.61	1.0431	\$110.16	\$3,520.2	\$37,548.0	\$4.99	\$110.16	\$41.07	\$110.16	\$5.76
2007	216.728	\$105.61	\$3.67	\$39.17	\$5.20	\$105.61	\$42.84	\$105.61	\$42.84	\$5.76	1.0451	\$112.78	\$3,671.5	\$39,168.2	\$5.20	\$112.78	\$42.84	\$112.78	\$5.91
2008	226.074	\$110.16	\$3.67	\$39.16	\$5.33	\$110.16	\$43.36	\$110.16	\$43.36	\$5.91	1.0439	\$116.65	\$3,769.5	\$40,099.6	\$5.33	\$116.65	\$43.36	\$116.65	\$6.01
2009	226.040	\$112.78	\$3.76	\$40.10	\$5.51	\$112.78	\$43.36	\$112.78	\$43.36	\$6.01	1.0292	\$119.01	\$3,869.9	\$41,474.7	\$5.51	\$119.01	\$43.36	\$119.01	\$6.15
2010	231.450	\$116.65	\$3.89	\$41.47	\$5.62	\$116.65	\$46.28	\$116.65	\$46.28	\$6.15	1.0292	\$120.50	\$4,016.6	\$42,313.5	\$5.62	\$120.50	\$46.28	\$120.50	\$6.36
2011	239.387	\$119.01	\$3.97	\$42.31	\$5.69	\$119.01	\$46.86	\$120.50	\$46.86	\$6.36	1.0125	\$120.50	\$4,016.6	\$42,313.5	\$5.69	\$120.50	\$46.86	\$120.50	\$6.49
2012	244.228	\$120.50	\$4.02	\$42.84	\$5.69	\$120.50	\$46.86	\$120.50	\$46.86	\$6.49									
2013	247.287	\$120.50	\$4.02	\$42.84	\$5.69	\$120.50	\$46.86	\$120.50	\$46.86	\$6.57									

Exhibit 2-5



ACTUAL TOTAL REVENUES/EXPENSES BY CATEGORY BY COMPANY

COMPANY II	Total										Inventoried										Average Additional										% of Revenue that is					
	Inventoried					Inventoried					Inventoried					Inventoried					Inventoried					Inventoried						Inventoried				
	Revenues	Expenses	Net	Storage	Other	Revenues	Expenses	Net	Storage	Other	Revenues	Expenses	Net	Storage	Other	Revenues	Expenses	Net	Storage	Other	Revenues	Expenses	Net	Storage	Other	Revenues	Expenses	Net	Storage	Other						
COMPANY II																																				
1	\$88,111.00	\$12,035.00	\$100,146.00	\$33,500.00	\$215,400.00	\$94,431.36	\$83.68	\$114.43	\$220.19	\$68.87	\$138.18	\$82.01	\$82.01	2	2.21	6	37.03%	1033	765	1818	43.84%															
2	\$8,600.56	\$9,235.00	\$17,835.56	\$19,197.49	\$771,915.00	\$11,929.27	\$106.14	\$14.01	\$172.93	\$50.00	\$96.70	\$76.23	\$76.23	9	2	10	13.79%	396	256	652	60.82%															
3	\$44,120.00	\$24,330.00	\$68,480.00	\$12,800.00	\$7,132.53	\$268.32	\$0.00	\$268.32	\$0.00	\$268.32	\$0.00	\$268.32	\$0.00	6	7	10	5.47%	279	2920	3199	0.67%															
4	\$74,862.27	\$0.00	\$74,862.27	\$0.00	\$1,064,556.70	\$11,572.56	\$95.08	\$113.80	\$208.88	\$145.79	\$25.59	\$-56.51	\$-56.51	3	3	7	2.32%	518	1974	2492	24.10%															
5	\$49,250.00	\$58,950.00	\$28,446.00	\$64,101.00	\$7,700.00	\$317,043.00	\$41,691.15	\$113.55	\$90.59	\$204.14	\$90.59	\$132.77	\$132.77	3	4	8	9.15%	314	85	399	13.15%															
6	\$35,655.00	\$28,446.00	\$9,860.00	\$35,000.00	\$13,395.00	\$8,861.00	\$7,037.41	\$78.33	\$40.00	\$118.33	\$139.50	\$99.07	\$19.26	1	1	5	0.00%	61	13	75	79.42%															
7	\$4,860.00	\$120.00	\$4,980.00	\$3,900.00	\$297.21	\$2,971.41	\$297.21	\$78.33	\$40.00	\$118.33	\$139.50	\$99.07	\$19.26	1	1	5	0.00%	61	13	75	79.42%															
8	\$3,295.00	\$14,251.00	\$19,446.00	\$48,937.68	\$7,983.26	\$7,132.53	\$268.32	\$0.00	\$268.32	\$0.00	\$268.32	\$0.00	\$268.32	2	2	12	38.50%	187	0	187	12.36%															
9	\$5,291.50	\$28,490.00	\$33,781.50	\$17,955.00	\$19,705.62	\$19,705.62	\$19,705.62	\$19,705.62	\$19,705.62	\$19,705.62	\$19,705.62	\$19,705.62	\$19,705.62	1	1	15	18.13%	54	0	54	86.03%															
10	\$20,447.68	\$28,490.00	\$48,937.68	\$17,955.00	\$19,705.62	\$19,705.62	\$19,705.62	\$19,705.62	\$19,705.62	\$19,705.62	\$19,705.62	\$19,705.62	\$19,705.62	2	2	10	8.48%	96	56	152	70.03%															
11	\$14,023.13	\$11,295.00	\$25,318.13	\$4,680.00	\$16,097.00	\$9,159.19	\$92.73	\$117.90	\$180.00	\$64.05	\$55.85	\$11.15	\$11.15	1	6	6	6.32%	143	26	169	3.69%															
12	\$13,260.00	\$3,600.00	\$16,860.00	\$23,370.00	\$4,091,126.63	\$1,840,071.10	\$111.00	\$80.05	\$191.05	\$266.71	\$145.62	\$45.42	\$45.42	11	10	15	10.64%	1232	1344	2576	9.75%															
13	\$136,746.80	\$98,623.54	\$235,370.34	\$409,126.63	\$1,840,071.10	\$111.00	\$80.05	\$191.05	\$266.71	\$145.62	\$45.42	\$45.42	\$45.42	1	1	10	100.00%	210	0	210	77.50%															
14	\$9,450.00	\$22,935.00	\$32,385.00	\$3,000.00	\$39,487.00	\$38,458.35	\$219.10	\$250.00	\$346.15	\$0.00	\$222.04	\$-22.04	\$-22.04	5	2	12	100.00%	260	0	260	96.57%															
15	\$59,814.00	\$0.00	\$59,814.00	\$3,000.00	\$153,326.00	\$147,990.26	\$96.15	\$158.72	\$248.72	\$0.00	\$329.76	\$83.00	\$83.00	3	3	7	5.00%	298	3532	3830	19.03%															
16	\$25,000.00	\$29,680.00	\$54,680.00	\$46,510.00	\$23,013.00	\$362,747.00	\$44,835.53	\$90.00	\$182.88	\$476.77	\$224.29	\$65.65	\$65.65	14	6	10	42.08%	1155	3530	1705	81.04%															
17	\$16,830.00	\$29,680.00	\$46,510.00	\$23,013.00	\$362,747.00	\$44,835.53	\$90.00	\$182.88	\$476.77	\$224.29	\$65.65	\$65.65	\$65.65	3	3	7	5.00%	298	3532	1705	81.04%															
18	\$30,664.44	\$23,835.00	\$54,499.44	\$231,885.19	\$156,412.87	\$29,765.37	\$260.32	\$216.45	\$214.10	\$114.38	\$198.15	\$15.95	\$15.95	1	1	9	0.00%	607	0	622	18.03%															
19	\$300,670.00	\$250,000.00	\$550,670.00	\$128,859.00	\$805,764.00	\$652,991.15	\$146.816	\$19.48	\$100.09	\$214.10	\$114.38	\$198.15	\$15.95	1	1	9	0.00%	607	0	622	18.03%															
20	\$6,042.09	\$5,305.00	\$11,347.09	\$3,088.32	\$222,024.21	\$10,501.75	\$119.48	\$62.51	\$181.99	\$0.00	\$241.87	\$-59.88	\$-59.88	2	2	4	15.00%	215	14	229	57.73%															
21	\$72,521.35	\$37,945.00	\$110,466.35	\$501,597.65	\$22,091.40	\$123,856.00	\$84.38	\$165.63	\$250.00	\$0.00	\$183.94	\$52.99	\$52.99	3	4	7	5.34%	493	297	790	100.00%															
22	\$22,950.00	\$45,050.00	\$68,000.00	\$116,805.00	\$0.00	\$90,681.00	\$139.56	\$236.93	\$97.36	\$77.12	\$727.97	\$178.12	\$178.12	6	3	4	15.38%	78	1875	1953	32.08%															
23	\$68,805.00	\$48,000.00	\$116,805.00	\$144,600.00	\$177,000.00	\$56,781.60	\$90.00	\$816.09	\$906.09	\$77.12	\$727.97	\$178.12	\$178.12	1	1	8	0.00%	215	14	229	57.73%															
24	\$7,020.00	\$63,655.00	\$70,675.00	\$684.00	\$14,048.00	\$13,467.82	\$34.47	\$19.40	\$73.86	\$48.86	\$62.64	\$11.22	\$11.22	2	2	4	15.00%	215	14	229	57.73%															
25	\$11,710.00	\$41,000.00	\$52,710.00	\$49,000.00	\$30,500.00	\$17,613.75	\$95.00	\$110.00	\$205.00	\$81.67	\$88.07	\$116.41	\$116.41	4	4	12	15.76%	519	857	1376	46.11%															
26	\$19,000.00	\$22,000.00	\$41,000.00	\$170,163.67	\$333,032.67	\$153,561.36	\$168.48	\$139.82	\$308.29	\$198.56	\$295.88	\$12.41	\$12.41	2	2	10	0.00%	151	948	1099	2.53%															
27	\$87,488.69	\$72,565.00	\$160,003.69	\$30,725.02	\$193,235.46	\$15,761,739.94	\$39,877.20	\$160.10	\$43.38	\$218.96	\$0.00	\$157.94	\$-61.02	1	1	5	0.00%	48	0	239	100.00%															
28	\$4,175.02	\$6,500.00	\$10,675.02	\$0.00	\$21,950.57	\$21,950.57	\$10.69	\$55.61	\$156.29	\$0.00	\$91.76	\$64.53	\$64.53	2	2	4	8.5%	267	68	335	2.91%															
29	\$4,140.00	\$6,370.00	\$10,510.00	\$0.00	\$10,347,522.00	\$30,111.28	\$158.39	\$177.72	\$177.72	\$336.17	\$32.83	\$298.05	\$298.05	4	3	7	44.44%	63	2544	2627	13.51%															
30	\$24,060.00	\$22,460.00	\$46,520.00	\$135,456.80	\$615,464.32	\$79.22	\$37.34	\$116.36	\$90.00	\$90.86	\$25.70	\$25.70	\$25.70	1	1	10	61.19%	77	5	82	13.51%															
31	\$22,680.00	\$21,186.68	\$43,866.68	\$4,455.88	\$339,781.07	\$98.56	\$42.10	\$98.56	\$0.00	\$98.56	\$21.66	\$95.01	\$3.25	11	18	11	14.18%	1231	3030	6261	8.53%															
32	\$9,978.68	\$2,875.00	\$12,853.68	\$4,375.00	\$13,679,971.00	\$19,860.00	\$98.18	\$14.55	\$32.73	\$0.00	\$57.64	\$-57.64	\$-57.64	2	2	4	1.67%	60	5	65	9.61%															
33	\$6,100.00	\$6,300.00	\$12,400.00	\$0.00	\$107,434.00	\$192,754.34	\$708.33	\$416.67	\$1,125.00	\$16.67	\$803.14	\$32.86	\$32.86	6	4	5	0.00%	240	300	540	52.94%															
34	\$1,470.00	\$2,905.00	\$4,375.00	\$135,456.80	\$615,464.32	\$79.22	\$37.34	\$116.36	\$90.00	\$90.86	\$25.70	\$25.70	\$25.70	1	1	10	61.19%	77	5	82	13.51%															
35	\$120,959.00	\$0.00	\$120,959.00	\$1,064,640.00	\$13,679,971.00	\$19,860.00	\$98.18	\$14.55	\$32.73	\$0.00	\$57.64	\$-57.64	\$-57.64	2	2	4	1.67%	60	5	65	9.61%															
36	\$5,400.00	\$4,010.00	\$9,410.00	\$0.00	\$107,434.00	\$192,754.34	\$708.33	\$416.67	\$1,125.00	\$16.67	\$803.14	\$32.86	\$32.86	6	4	5	0.00%	240	300	540	52.94%															
37	\$9,773.00	\$100,000.00	\$270,000.00	\$35,000.00	\$831,465.00	\$119,897.25	\$127.00	\$105.36	\$232.36	\$41.15	\$227.94	\$4.42	\$4.42	12	14	3	0.00%	526	11109	11635	14.42%															
38	\$170,000.00	\$55,420.00	\$122,223.00	\$20,446.00	\$343,440.00	\$14,814.65	\$104.00	\$24.56	\$128.56	\$284.48	\$51.98	\$76.38	\$76.38	4	4	10	4.63%	160	102	262	3.93%															
39	\$66,803.00	\$55,420.00	\$122,223.00	\$20,446.00	\$343,440.00	\$14,814.65	\$104.00	\$24.56	\$128.56	\$284.48	\$51.98	\$76.38	\$76.38	2	2	18	20.41%	285	750	1035	14.31%															
40	\$11,610.00	\$5,135.00	\$16,745.00	\$213,360.00	\$103,526.57	\$14,814.65	\$104.00	\$24.56	\$128.56	\$284.48	\$51.98	\$76.38	\$76.38	2	2	18	20.41%	285	750	1035	14.31%															
41	\$29,640.00	\$7,000.00	\$36,640.00	\$14,057.50	\$13,600.00	\$105.93	\$113.72	\$219.65	\$0.00	\$212.50	\$7.15	\$7.15	\$7.15	1	1	7	12.50%	64	0	64	100.00%															
42	\$6,779.50	\$7,278.00	\$14,057.50	\$61,485.00	\$39,275.00	\$4,175.35	\$47,677.64	\$37.97	\$50.31	\$88.28	\$0.00	\$1,079.23	\$-990.95	1	1	12	72.98%	64	0	64	100.00%															
43	\$14,670.00	\$18,605.00	\$33,275.00	\$4,175.35	\$47,677.64																															



ACTUAL TOTAL REVENUES/EXPENSES BY CATEGORY BY COMPANY

[illegible]



ACTUAL TOTAL REVENUES/EXPENSES BY CATEGORY BY COMPANY

[illegible]



**ACTUAL TOTAL REVENUES/EXPENSES BY CATEGORY BY COMPANY**

COMPANY II	Total Revenues			Total Expenses	Involuntary Per Tow			Involuntary Per Tow			Involuntary Per Profit	# of Trucks	# of Employees	Average Additional Charges as a % of the Base Rate			# of Other Tows	# of Total # of Tows	% of Revenue that is Involuntary
	Involuntary Tow	Involuntary Storage	Involuntary Tow & Storage		Per Tow	Storage	Revenues	Per Tow	Other	Expense or Loss				Per	% of	Police			
196	\$15,000.00	\$6,000.00	\$21,000.00	\$95,250.00	\$23,012.40	\$126.05	\$50.42	\$176.47	\$106.16	\$193.38	-\$16.91	7	2	10	4.55%	119	471	590	24.16%
197	\$12,272.00	\$7,035.00	\$19,307.00	\$5,290.00	\$37,568.00	\$29,487.12	\$141.06	\$80.82	\$221.92	\$50.38	-\$117.01	1	0	10.6	22.39%	87	105	192	78.69%
198	\$7,272.00	\$13,545.00	\$20,817.00	\$35,552.00	\$22,525.75	\$38.07	\$70.96	\$108.99	\$109.40	\$117.94	-\$8.95	1	1	20	3.13%	191	107	298	63.36%
Averages	\$52,033.69	\$31,649.11	\$83,682.79	\$109,009.73	\$389,258.82	\$86,259.70	\$127.29	\$124.14	\$251.44	\$121.94	-\$32.98	3.83	3.61	9.42	21.66%	470.36	1,545.91	2,016.79	47.08%