

FILE

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

RECEIVED-BOOKETING DIV  
2007 OCT 24 AM 9:50  
PUCO

In the Matter of **Special Fuel Services, Inc.** : Case No. **07-780-TR-CVF**  
Notice of Apparent Violation and : (0989000079C)  
Intent to Assess Forfeiture. :

---

**SETTLEMENT AGREEMENT**

---

**I. INTRODUCTION**

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), Special Fuel Services, Inc., (Respondent), and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this Settlement Agreement and urge the Commission to adopt the same.

It is understood by the Respondent and the Staff that this Settlement Agreement is not binding upon the Public Utilities Commission of Ohio (Commission). This agreement, however, is based on the Respondent's and the Staff's desire to arrive at a reasonable result considering the law, facts and circumstances. Accordingly, the Respondent and the Staff request that the Commission adopt this Settlement Agreement in its entirety.

In the event the Commission rejects or materially modifies the terms of this Settlement Agreement, each party shall have the right, within thirty days of the Commission's order, to file an application for rehearing that includes a request to terminate and withdraw from the Settlement Agreement. Upon the application for rehearing and request

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician TM Date Processed 10/24/2007

to terminate/withdraw from the Settlement Agreement being granted by the Commission, the Settlement Agreement shall immediately become null and void. In such event, the parties shall proceed to a hearing as if this Settlement Agreement had never been executed.

## **II. PROCEDURAL HISTORY**

- A. On September 26, 2006, Respondent's vehicle was stopped and inspected by Staff of the Department of Public Safety. During the course of the inspection the Inspector cited the Respondent for a violation of 49 C.F.R. 177.834(j) (top vent cap not secured allowing hazardous material product leakage) and Ohio Administrative Code Section 4901:2-6-14(A) (failure to file uniform hazardous materials application). Respondent was assessed \$1,050.00 and \$500.00, respectively, for these violations by the Compliance Division.
- B. Commission Staff timely served Respondent with a notice of preliminary determination in accordance with Rule 4901:2-07-12 of the Ohio Administrative Code for Case No. 0989000079C. The total forfeiture Staff assessed Respondent was \$1,550.00 for the alleged violations.
- C. Respondent made a timely formal request for an administrative hearing pursuant to Rule 4901:2-7-13 of the O.A.C.
- D. The parties agree and represent that this agreement resolves all the issues raised in the notice of preliminary determination.

### **III. SETTLEMENT AGREEMENT**

The parties hereto agree and recommend that the Commission find as follows:

- A. Respondent agrees not to contest the above violations and shall pay a civil forfeiture of \$1,300.00 broken down as follows:

49 C.F.R. 177.834(j) (\$1,050.00)

O.A.C. § 4901:2-6-14(A) (\$250.00).

The Staff notes that Respondent has filed for its uniform hazardous materials application on August 2, 2007. Each of the above violations may be included in Respondent's Safety Net record and history of violations insofar as they may be relevant for purposes of determining civil forfeiture amounts in future cases.

- B. This Settlement Agreement shall not become effective until adopted by order of the Commission. The date of the entry of the Commission order adopting the Settlement Agreement shall be considered the effective date of the Settlement Agreement.
- C. Respondent shall have thirty-days from the entry of the Commission order adopting the Settlement Agreement to pay the civil forfeiture amount shown in Section A by certified check or money order made payable to: "Treasurer State of Ohio," and mailed to: PUCO Fiscal, 180 E. Broad St., 13<sup>th</sup> Floor, Columbus, Ohio 43215-3793. Case No. 0989000079C should be noted on the payment.

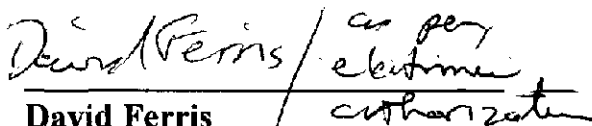
D. This Settlement Agreement resolves all factual and legal issues in this case only and is not intended to have any affect whatsoever in any other case or proceeding.

## V. CONCLUSION

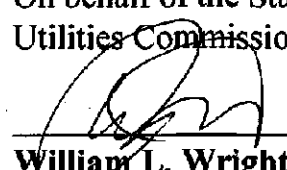
This agreement constitutes the entire agreement of the parties. The Signatory parties agree that this Settlement Agreement is in the best interest of all parties, and urge the Commission to adopt the same.

The parties have manifested their consent to the Settlement Agreement by affixing their signatures below on this 24<sup>th</sup> day of October, 2007.

On behalf of the Respondent

  
**David Ferris**  
Ferris & Ferris, L.L.P.  
2733 West Dublin-Granville Road  
Columbus, OH 43235  
(614) 241-4777

On behalf of the Staff of the Public  
Utilities Commission of Ohio

  
**William L. Wright**  
Assistant Attorney General  
Public Utilities Section  
180 East Broad Street, 9<sup>th</sup> Floor  
Columbus, OH 43215-3793  
(614) 466-4397