

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of DiGioia-Suburban)
 Excavating, LLC, Notice of Apparent) Case No. 07-663-TR-CVF
 Violation and Intent to Assess Forfeiture.) (OH1624003989C)

ENTRY

The Commission finds:

- (1) On September 26, 2006, a vehicle operated by DiGioia-Suburban Excavating, LLC (respondent) was inspected within the state of Ohio. As a result of the inspection, respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, Ohio Administrative Code. This notice indicated staff's intention to assess civil forfeitures of \$100.00 for the following violation of the Code of Federal Regulations (C.F.R.): 49 C.F.R. Section 392.9(a)(2)—Failing to secure vehicle equipment.
- (2) On May 31, 2007, respondent requested an administrative hearing, thereby initiating this case.
- (3) The parties filed a settlement agreement under which respondent agreed to make payment of a civil forfeiture. In the settlement agreement, staff and respondent agree, in pertinent part, as follows:
 - (a) Respondent agrees to pay a civil forfeiture of \$50.00 for failing to secure vehicle equipment in violation of 49 C.F.R. Section 392.9(a)(2). Respondent acknowledges that this violation may be included in the respondent's safety-net record and history of violations insofar as it may be relevant for purposes of determining future penalty actions.
 - (b) This settlement agreement shall not become effective until adopted by an order of the Commission. The date of the Commission order adopting the settlement agreement shall be considered the effective date of the settlement agreement.

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- (c) This settlement agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any affect whatsoever in any other case or proceeding.
- (4) The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, the settlement agreement should be approved and adopted in its entirety.

It is, therefore,

ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

ORDERED, That a copy of this entry be served on each party of record.

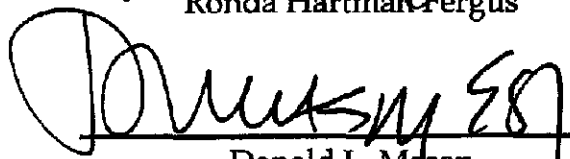
THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman


Paul A. Centolella


Ronda Hartman Fergus


Valerie A. Lemmie


Donald L. Mason

KKS/vrm

Entered in the Journal

OCT 24 2007



Renee J. Jenkins
Secretary