

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Default of Motor Carriers )  
and Drivers Pursuant to Rule 4901:2-7-14, Ohio ) Case No. 08-1003-TR-UNC  
Administrative Code. )  
)

ENTRY

The Commission finds:

- (1) Sections 4919.79, 4921.04, 4923.03, 4923.20, Revised Code, authorize the Commission to adopt safety rules consistent with, and equivalent in scope, coverage, and content to, the federal regulations governing the highway transportation and offering for transportation of hazardous materials. Pursuant to this authority, in Rule 4901:2-5-02, Ohio Administrative Code (O.A.C.), the Commission adopted the provisions of the Federal Motor Carrier Safety Regulations (FMCSR) of the U.S. Department of Transportation contained in Title 49, Parts 382, 383 and 390 through 397, Code of Federal Regulations (C.F.R.), and those portions of the hazardous materials regulations contained in Title 49, Parts 171 through 180, C.F.R., as are applicable to transportation by motor vehicle, unless specifically excluded or modified by a rule of the Commission.
- (2) Sections 4905.83, 4919.99, 4921.99 and 4923.99, Revised Code, authorize the Commission to determine whether any person has committed a violation of the federal regulations adopted in Rule 4901:2-5-02, O.A.C., when transporting property, passengers, hazardous materials or offering hazardous materials for transportation, and assess a civil forfeiture of not more than ten thousand dollars per day of each violation against such person. Accordingly, the Commission adopted the civil forfeiture and compliance proceeding rules contained in Chapter 4901:2-7, O.A.C. These rules require that a respondent be afforded reasonable notice and opportunity for a hearing where the Commission finds a violation of the regulations adopted in Rule 4901:2-5-02, O.A.C. Specifically, Rule 4901:2-7-07, O.A.C., requires that the Commission serve a Notice of Intent to Assess Forfeiture (NIF) to a respondent within ninety days after the discovery of a violation but no more than one year following the violation. In addition, Rule 4901:2-7-12, O.A.C., states that a Notice of Preliminary Determination (NPD) may be issued to a respondent following the issuance of an NIF.

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- (3) Pursuant to Rule 4901:2-7-14(A), O.A.C., a respondent upon whom an NIF or NPD has been served who fails within thirty days to pay the amount of the forfeiture stated in the notice or serve upon the Commission a request for conference or administrative hearing shall be in default. A respondent in default shall be deemed to have waived all further right to contest liability for the forfeiture described in the NIF or NPD. Pursuant to Rule 4901:2-7-14(D), O.A.C., if a respondent is in default, the Commission may, on its own motion and without prior notice, order payment of the amount indicated in the NIF or NPD.
- (4) The Commission staff has served upon each of the respondents listed on the attachment to this Entry an NIF or an NPD, pursuant to Rules 4901:2-7-05, 4901:2-7-07, 4901:2-7-09 and 4901:2-7-12, O.A.C. for the inspection report and in the amount indicated on the attachment. This Entry involves 6586 cases totaling \$1,031,662 in forfeitures.
- (5) However, before the Commission issues an order finding the respondents liable for the amount indicated in the attachment and ordering payment of such amount, each respondent should be granted an opportunity to show cause why it should not be held in default and ordered to make payment of the forfeiture. Each respondent may serve upon the staff a response to this Entry demonstrating that the respondent was not properly served with the Notice of Intent to Assess Forfeiture, paid the civil forfeiture, or served upon the staff a request for conference or administrative hearing within thirty days of receipt of the NIF or NPD. This response shall be made in writing and addressed to the Public Utilities Commission of Ohio, Compliance Division, Show Cause, 180 East Broad Street, Columbus, Ohio 43215. Any such response must be filed with the Commission no later than October 10, 2008.
- (6) The staff shall determine whether a respondent has demonstrated good cause why it should not be held in default and shall report to the Commission those respondents who should be found liable for and ordered to make payments of the forfeiture.

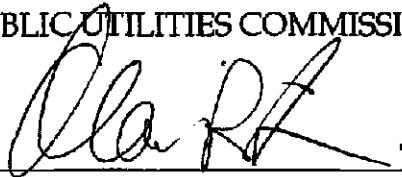
It is, therefore,

ORDERED, That, no later than October 10, 2008, each respondent listed in the attachment to this Entry pay the forfeiture amount indicated or show cause why it should not be held in default and ordered to make payment of the forfeiture indicated on the attachment. It is, further,

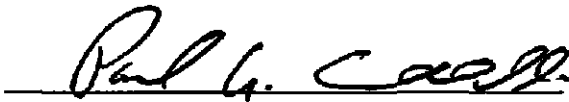
ORDERED, That the staff determine whether a respondent has demonstrated good cause and report to the Commission those respondents who should be found liable for and ordered to make payment of the forfeiture. It is, further

ORDERED, That a copy of this Entry be served upon each respondent identified in the attachment.

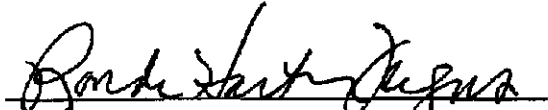
THE PUBLIC UTILITIES COMMISSION OF OHIO



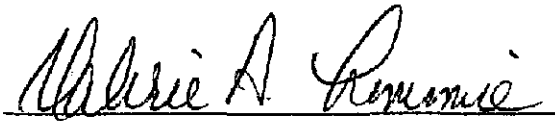
Alan R. Schriber, Chairman



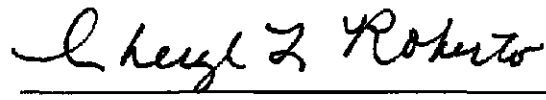
Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie

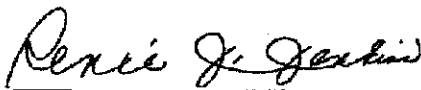


Cheryl L. Roberto

REM:js

Entered in the Journal

SEP 10 2008



Renee J. Jenkins  
Secretary