

FILE

In Re: Proceedings

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the matter of :
the Request for :
Administrative : Case No. 09-607-TR-CVF
Hearing by Sweeney :
Services, Inc. :

PROCEEDINGS

Before Gregory Price, Hearing Examiner, at the
Public Utilities Commission of Ohio, 180 East
Broad Street, Columbus, Ohio, Hearing Room 11C,
on Tuesday, December 1, 2009, at 10:00 a.m.

RECEIVED-DOCKETING DIV
2009 DEC 15 PM 2:45
PUCO

ARMSTRONG & OKEY, INC.
222 East Town Street, 2nd Floor
Columbus, Ohio 43215-5201
(614) 224-9481/(800) 223-9481
Fax (614) 224-5724

This is to certify that the images appearing are an
accurate representation of a case file
document and are not a representation of business.
Technician DN Date Processed 12/15/09

PUCO EXHIBIT FILING

Date of Hearing: 12-01-09

Case No. 09-607-TR-CVF

PUCO Case Caption: In the Matter of Request for
Administrative Hearing by Sweeney
Services, Inc.

List of exhibits being filed:

Staff exhibits:

1- Driver/Vehicle Examination Report

2A-20- Photographs

3- Forfeiture Assessment

4- Notice of apparent violation and intent
to Assess Forfeiture

5- Notice of Preliminary Determination

6- July 20, 2009 letter from David A. Ferris
to Docketing with attached Notice of Preliminary
Determination

Reporter's Signature: Mrs. Dillion

Date Submitted: 12-11-09

DRIVER/VEHICLE EXAMINATION REPORT



Public Utilities Commission of Ohio
180 East Broad Street
Transportation Department
Columbus, OH 43215-3793
Phone#: (614) 466-0429 Fax#: (614) 752-8274

Report Number: OH9436300270
Inspection Date: 5/20/2009 Certification Date: 05/22/2009
Time Started: 11:17 Time Ended: 12:39
Inspection Level: I - Full Inspection
HM Inspection Type: Bulk Inspection

*SWEENEY SERVICES INC

PO BOX 414
NEW CONCORD, OH 43762

Phone #: Fax #:
USDOT #: MC/MX #:
State #:

Driver: LEMON, ADAM M
License #: RW534397 State: OH
Date of Birth: 07/02/1982

Location: ROADSIDE MilePost: 10
Highway: SR 664 SB Origin: NEW CONCORD, OH Bill of Lading: 204-08
County: HOCKING Destination: SOUTH BLOOMINGVILLE, OH Cargo: HAZ MAT (ALL)
Shipper: CARRIER

VEHICLE IDENTIFICATION:

Unit	Type	Make	Year	State	License#	Company #	Unit VIN	GVWR	Issued Decal#	Existing Decal#	OOS Stkr.#
1	TR	FORD	2004	OH	PFR9508	204	1FDWF37PX4ED31279	14,000	10269150		

BRAKE ADJUSTMENTS:

Axle #	1	2
Right	N/A	N/A
Left	N/A	N/A
Chamber	HYDR	HYDR

VIOLATIONS:

Section Code	St	Unit	OOS	Lvl 6	Citation #	Verify*	Crash	Violation Description
383.93(b)(3)		D	Y	N		N	N	No tank vehicle endorsement on CDL - Driver only has Haz endorsement.

* N - Non-OOS or Driver OOS Violation

HazMat: 3 Flammable, Placard: Yes Cargo Tank: 406

Special Checks:

<input type="checkbox"/> Alcohol/Controlled Substance Check	<input type="checkbox"/> Traffic Enforcement	<input type="checkbox"/> Post Crash Inspection
<input type="checkbox"/> Conducted by Local Jurisdiction	<input type="checkbox"/> PASA Conducted Inspection	<input type="checkbox"/> PBBT Inspection
<input type="checkbox"/> Size and Weight Enforcement	<input type="checkbox"/> Drug Interdiction Search	Arrests:

Inspection Notes: Stopped for a HINT inspection - BP. Initially stopped at SR 664 MP 10. Driver provided carrier info and CDL. There is no Tank Endorsement on CDL. I questioned driver and he stated he did not need one due to weight. It is a placarded DOT 406 tank with 600 gallon capacity. I showed driver PUCO Licensing policy and copy of OSP CDL chart from truck driver guide book. Driver called carrier carrier also states they don't need tank endorsement. I read rule to him. To be sure I called Lt Regal at OSP LCS and verified they do need CDL. We are stopped at a school parking lot. Not reasonable to place take OOS at school. Driver was escorted to well location 10 miles from stop. He off loaded truck filled with water then off loaded water into well. Tank purged vehicle < 26,000 placards not required it is no longer a CMV and he was allowed to return to office.

Special Study Fields:

Special Study1:	Special Study6:
Special Study2:	Special Study7:
Special Study3:	Special Study8:
Special Study4:	Special Study9:
Special Study5:	Special Study10:

Locally Defined Fields:

Placards Displayed (Y/N): Y; Loaded by Carrier (Y/N): Y; Ship Docs Prep by Carrier (Y/N): Y; Haz Class A: 3; ID # A: UN1268; Packing Group A: II; Gross Weight A: 600 GAL; For-Hire Carrier: N; Driver Address: 5827 SKYLINE DR; Driver City: CAMBRIDGE; Driver State: OH; Driver Zip: 43725; Photos Taken (Y/N): Y; Reason Code: HINT; FMCSA Credentials Verified (Y/N): N; CDL Verified (Y/N): Y; FMCSA OOS Order Issued (Y/N): N; Shipper 1 Name: SWEENEY SERVICES INC; Shipper 1 Street Address: PO BOX 414; Shipper 1 City: NEW CONCORD; Shipper 1 State: OH; Shipper 1 Zip Code: 43762

I hereby declare ADAM M. LEMON "Out of Service". This driver MAY NOT DRIVE any commercial motor vehicle nor may any carrier permit or require this driver to drive any commercial motor vehicle until: Vehicle no longer CMV or has tank endors

Report Prepared By:
Tom Forbes

Badge #:
9436

Copy Received By:
LEMON, ADAM M



DRIVER/VEHICLE EXAMINATION REPORT



Public Utilities Commission of Ohio
180 East Broad Street
Transportation Department
Columbus, OH 43215-3793
Phone#: (614) 466-0429 Fax#: (614) 752-9274

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HM Inspection Type: Bulk Inspection

SWEENEY SERVICES INC
PO BOX 414
NEW CONCORD, OH 43762
Phone #:
USDOT #:
State #:

Fax #:
MC/MX #:

Driver: LEMON, ADAM M
License #: RW534397 State: OH
Date of Birth: 07/02/1982

All violations of the FHMR and FMCSR or Title 49 of the Ohio Revised Code will be reviewed by the PUCO's Transportation Department to determine whether civil forfeitures should be assessed against any responsible parties in accordance with the penalty provisions of Title 49 of the Ohio Revised Code. If civil forfeitures are assessed, you will receive a separate notice by mail. These penalties may be assessed to motor carriers, shippers, and/or drivers.

ATTENTION DRIVER: This report must be sent to the motor carrier whose name appears at the top of this inspection report within 24 hours. If the inspection report cannot be delivered within 24 hours the driver must mail or fax the inspection report to the motor carrier.

ATTENTION MOTOR CARRIER: The motor carrier must examine this report and repair all the vehicle defects/violations noted above -AND- The motor carrier must sign the Certification of Repairs below and return the signed form to: Public Utilities Commission of Ohio-TASD; 180 E. Broad St.; Columbus, Oh; 43215-3793 -OR- Fax (614) 752-9274 within 15 days of the inspection. If "No Violations Were Discovered" then you do not need to return this report. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

MOTOR CARRIER CERTIFICATION OF COMPLETED REPAIRS: The undersigned certifies that all violations noted on this report have been corrected and action taken to assure compliance with the Federal Motor Carrier Safety & Hazardous Materials Regulations insofar as they are applicable to motor carriers and drivers. A false certification of repairs is required to be prosecuted with penalties up to \$10,000.

Signature of Carrier Official: X Title: _____ Date: _____

Report Prepared By:
Tom Forbes

Badge #:
9436

Copy Received By:
LEMON, ADAM M





204

350
SUPER DUTY

SWEENEY

SERVICES INC.
NEW CONCORD, OHIO
740-872-3202

POWER STEERING





CTMV MFG.
CTMV CERT. D
CT MFG. MIDS
CT DATE OF M
MAX. PAYLOAD
MAX. LOAD. RA
MAX. UNLOAD.
LINING MAT'L.
HEATING SYS. F
HEATING SYS. T

MID-STATE TANK CO., INC., SULLIVAN, ILL.
MFR. SERIAL NO. D601043
DOT SPEC. NO. DOT-406
ORIG. TEST DATE 4-6-06
MAWIP 3.3
TEST PRESSURE 5.0
DESIGN TEMP. RANGE 0
WATER CAP. 0
NOM. WATER CAP. BY COMPARTMENT
(FRONT TO REAR) 6001 1 1 1
MAX. LADING DENSITY 7.2 LB. PER GAL.
SHELL MAT'L. SA240-304
HEAD MAT'L. ER308LSJ SA240-304
WELD MAT'L. THICK .100
MIN. SHELL-THICK .100
MIN. HEAD-THICK .105
WELD. HEAD-THICK .105
WELD. HEAD-THICK .105
EXPOSED SURF. AREA 112 SQ. FT.

PSIG
PSIG
140 FOG
600 GAL.

GAL.
GAL.
IN.
IN.
IN.
IN.
50. FT.

CTMV MFG.
CTMV CERT. DATE
CT MFG. MID STATE TANK CO., INC. SULLIVAN ILL.
CT DATE OF MFG. 4-5-06 4320 LBS.
MAX. PAYLOAD 600 GPM AT 3.0 PSIG
MAX. LOAD. RATE, 200 GPM AT .6 PSIG
MAX. UNLOAD. RATE, 200 GPM AT NONE PSIG
LINING MAT'L. FO
HEATING SYS. PRESSURE
HEATING SYS. TEMP.



NORTHWOOD ENERGY CORP.
WELL L Minton #1
COUNTY Vinton
PERMIT NO.
IN CASE OF EMERGENCY CALL
457-1024 OR 537-5469

DANGER
EXPLOSIVE GAS
NO SMOKING







SWEENEY

**SERVICES INC.
NEW CONCORD, OHIO**

740-872-3202

204

**F350
SUPER DUTY**

**POWER STEERING
TURBO DIESEL**

STRAIGHT BILL OF LADING - SHORT FORM - Original - Not Negotiable

Shipper's No. 204-08

(Carrier) Saleeney Services Inc. SCAC.

Carrier's No. 204

date _____

from

Adobe Reader
PUCC Load

Adobe Reader **PUCO Local**

TO: (Mail or e-mail address of consignee for purposes of notification only)

Consignee

Street

Destination

Zip

FROM: *Sweeney Services Inc.*
Shipper
Street *1380 Sply Rd.*
Origin *Kanesville, OH.*
Zip *43701*

Route:

Zip

Zip 43701

Delivering Carrier

No. of packages	HM	Description of articles, special marks, and exceptions	Hazard Class	I.D. Number	Packing Group	"Weight (including container)"	Class or rate	Labels required (or exemption)	Check column
600 Gross	X	Petroleum Distillates, Naptha	3	UN 1268	II	36% lbs.		Flammable Liquids	

Remit C.O.D. to:
Address:
City:

State: Zip:

COD AMT:

C.O.D. FEE:

**PLACARDS
REQUIRED**PLACARDS
SUPPLIED

☐ YES ☐ NO - FINISHED BY CAREER
DRIVERS WOULD LOVE

SHIPPER: _____
PER: _____

DATE:

CARRIER

DATE:

Permanent post office address of sender

EMERGENCY RESPONSE
TELEPHONE NUMBER: (740) 519-2258
Modeling of all types. The heavy-duty Model 9 is transaction recording device recording in temperature 1/2 in. paper.
9-BLS-A3 (Rev. 7/95)

9615-23 (Rev. 7/95)

DEPARTMENT FOR PROTECTED WILDLIFE AND
NATURE RESERVES

10

1990-1991

3

2M

204

Carrier's No.

SCAC.

(Carrier) Sweeney Services Inc

received, subject to the classifications and tariffs in effect on the date of this Bill of Lading.

date from

at _____, date _____, from _____, which said company (the word company being understood throughout the property described below, in apparent good order, except as noted (contents and condition of packages unknown), marked, consigned, and destined as indicated below, if on its own road or its own water line, otherwise to deliver to another carrier on the route to said destination, it is mutually agreed, as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained (as specified in Appendix B to Part 1035) which are hereby agreed to by the shipper and accepted for himself and his assigns.

(Mail or street address of consignee for purposes of notification only.)

FROM: Sweeney Services Inc.Shipper 1380 Spay Rd.Street Zanesville, OH.

Zip

Zip 43701

Route:

Delivering Carrier

Trailer Initial/Number

U.S. DOT Hazmat Reg. Number

No. of packages	HM	Description of articles, special marks, and exceptions	Hazard Class	I.D. Number	Packing Group	*Weight (subject to correction)	Class or rate	Labels required (or exemption)	Check column
600 gallons	X	Petroleum Distillates, Naptha	3	UN 1268	II	3696 lbs.		Flammable Liquids	

Remit C.O.D. to:

Address:

City:

State:

Zip:

COD

\$

AMT:

Charges Advanced

\$

Subject to Section 7 of conditions, if this shipment is to be delivered to the consignee without recourse on the consignor, the consignor shall sign the following statement:
The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

C. O. D. FEE:

Prepaid ☐Collect ☐

FREIGHT CHARGES

Prepaid ☐Collect ☐

PLACARDS SUPPLIED

YES ☐NO - FURNISHED BY CARRIER ☐

SHIPPER:

PER:

CARRIER:

PER:

DATE:

DATE:

EMERGENCY RESPONSE

TELEPHONE NUMBER: (740) 819-2288

Permanent post office address of shipper

Monitored at all times the Hazardous Material is in transportation including storage incidental to transportation (§172.804)

9-BLS-A3 (Rev. 7/95)

OHIO COMMERCIAL DRIVER LICENSE

3005TN0149340000

TED STRICKLAND GOVERNOR
Mike Rankin Registrar

ADAM M LEMON
5827 SKYLINE DR
CAMBRIDGE, OH 43725
LICENSE NO. [REDACTED]

CLASS ENDORSE
C H

Identification card for Adam M. Lemon, Ohio Commercial Driver License holder. The card includes a photo of Adam M. Lemon, a signature, and a barcode. It also displays the license number 3005TN0149340000 and the Ohio State seal.

Sex	HT	WT	Hair	Eyes
M	6-01	260	BRO	BLU

ISSUE DATE 11/13/2008

RESTRICTION L

ORGAN DONOR

F1

F2

«A»

F3

F4

F5

F6

@

#

\$

%

OHIO COMMERCIAL DRIVER LICENSE

JOHN R. RICHMOND GOVERNOR
60 EAST BROAD STREET, 10TH FLOOR COLUMBUS, OH 43260-3000

ADAM M LEMON
6827 SKYLINE DR
CAMBRIDGE, OH 43725

EXPIRATION DATE

07/02/2011

CLASS ENDORSEMENTS

C H

DOB 07/02/1982

SEX M

07/02/2011

30061N0149340000



Adam M. Lemon



RECEIVED
10/15/2009

FORFEITURE ASSESSMENT

REPORT #

9436300270

COMPLETED BY M T HINES

REPORT DATE :

MAY-20-2009

DATE ASSESSED

JUNE-3-2009

RESPONDENT :

SWEENEY SERVICES INC

		CARRIER CITED			
	VIOLATION CODE/ DESCRIPTION	383.93B3 NO TANK ENDOR			
	NATURE GRAVITY 0 -10 PTS.	3			0
	EXTENT OF VIOL. -10 TO +10 PTS.	0	0	0	0
	ACTUAL HARM 0 - 20 PTS.	0	0	0	0
	OTHER CIRCUMST. -10 TO +10 PTS.	0	0	0	0
(A)	SUBTOTAL POINTS 0-50 PTS.	3			0
(B)	MATERIAL HAZARD	1.1			0
(C)	AMOUNT OF MATERIAL	0.4			0
(D)	SUBTOTAL POINTS = A*(B+C)	4.50			0.00
(E)	RESPONDENT CULPABILITY	1	1	1	1
(F)	RESPONDENT HISTORY 1,2,OR 4	1	1	1	
(G)	TOTAL POINTS = D*E*F	4.50			
	FORFEITURE ASSESSED AMOUNT = G * \$100.00	\$450.00			

STANEX 3



The Public Utilities Commission of Ohio

*Monitoring marketplaces and enforcing rules to assure safe,
adequate and reliable utility services.*

Ted Strickland, Governor
Alan R. Schriber, Chairman

Commissioners

Ronda Hartman Fergus
Valerie A. Lemmie
Paul A. Centolella
Cheryl Roberto

June 12, 2009

9436300270C
SWEENEY SERVICES INC
PO BOX 414
NEW CONCORD, OH 43762

RE: NOTICE OF APPARENT VIOLATION
AND INTENT TO ASSESS FORFEITURE
Case No. 9436300270C

Dear Sir or Madame:

On May 20, 2009, vehicle numbers 204 (UNIT #1), operated by SWEENEY SERVICES INC, and driven by ADAM M LEMON was inspected within the State of Ohio by staff of the Transportation Department of the Public Utilities Commission of Ohio. As the result of discovery of the following apparent violations, of rule 4901:2-5-02, O.A.C., the Commission intends to make a civil monetary assessment against SWEENEY SERVICES INC in the following amounts:

CODE	UNIT	VIOLATION	FORFEITURE
383.93B3	D	No tank vehicle endorsement on CDL - Driver	\$ 450.00

Within 30 days, you must pay the forfeiture or send a written request for conference. Failure to pay the forfeiture or send a written request for a conference within 30 days will result in this forfeiture amount being referred to the Attorney General's office for collection, and may adversely affect your authority with the Public Utilities Commission of Ohio.

Please review the enclosed information concerning this notice.

Sincerely,
Jonathan Frye, Chief
Compliance Division
Public Utilities Commission of Ohio
614-466-0351

MH

Staff Ex 4



The Public Utilities Commission of Ohio

Monitoring marketplaces and enforcing rules to assure safe,
adequate and reliable utility services.

Ted Strickland, Governor
Alan R. Schriber, Chairman

Commissioners

Ronda Hartman Fergus
Valerie A. Lemmie
Paul A. Centolella
Cheryl Roberts

July 6, 2009

MR DAVID FERRIS
ATTORNEY SWEENEY SERVICES INC
P O BOX 1237
WORTHINGTON, OH 43085

RE: NOTICE OF PRELIMINARY DETERMINATION
Case No. 9436300270C
Officer:

Dear MR FERRIS:

On May 20, 2009, a vehicle operated by SWEENEY SERVICES INC, and driven by ADAM M LEMON, was inspected within the State of Ohio. As the result of discovery of the following apparent violations the Staff timely notified Respondent pursuant to Rule 4901:2-7-07, O.A.C., that it intended to make a civil monetary assessment against Respondent in the following amounts:

Code	Violation	
383.93B3	No tank vehicle endorsement on CDL - Driver o	\$ 450.00
4901:2-6-14[A]	FAILURE TO FILE UNIFORM HAZMAT APPLICATION	\$ 0.00

Total Forfeiture Assessed :

A conference was conducted pursuant to Rule 4901:2-7-10(B), O.A.C., at which the Respondent had a full opportunity to present any reasons why the violations did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

(continued)

Staff Ex 5



The Public Utilities Commission of Ohio

Monitoring marketplaces and enforcing rules to assure safe, adequate and reliable utility services.

Ted Strickland, Governor
Alan R. Schriber, Chairman

Commissioners

Ronda Hartman Fergus
Valerie A. Lemmie
Paul A. Centolella
Cheryl Roberto

July 6, 2009
MR DAVID FERRIS
ATTORNEY SWEENEY SERVICES INC
9436300270C

PAGE -2

As a result of the conference, Staff has made a Preliminary Determination that the Commission should make a civil monetary assessment against SWEENEY SERVICES INC in the following forfeiture:

Code	Violation
383.93B3	No tank vehicle endorsement on CDL - Driver o \$ 450.00

Total Forfeiture Agreed :

Staff has made the preliminary determination that the following violation(s) will be deleted from all Safety-Net and Compliance Unit records and will not be included in Respondent's history of violations:

Code	Violation
4901:2-6-14[A]	FAILURE TO FILE UNIFORM HAZMAT APPLICATION

Please include a certified check or money order for the N.P.D. forfeiture total, made payable to "Treasurer State of Ohio," and mail to: PUCO FISCAL, 180 E. Broad St, 10th floor, Cols. OH 43215-3793. FOR PROPER CREDIT, BE SURE TO PUT THE CASE NUMBER ON THE FACE OF THE CHECK.

Please consult the enclosed additional information concerning this Notice of Preliminary Determination.

Robert E. Marvin, Director
Transportation Department
Public Utilities Commission of Ohio

NC
FILE

09-607-TR-CVF

FERRIS & FERRIS LLP
P.O. Box 1237
Worthington, Ohio 43085

Telephone: (614) 844-4777
Facsimile: (614) 844-4778

David A. Ferris
Boyd B. Ferris

Writer's E-Mail:
dferris@carrierlaw.com

RECEIVED-DOCKETING
2009 JUL 21 PM 12:29
PUCO

July 20, 2009

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street, 13th Floor
Columbus, OH 43215-3793

Re: Notice of Preliminary Determination and Intent to Assess Forfeiture
Sweeney Services, Inc. -- Case No. 9436300270C
Request for Administrative Hearing

Dear Sir or Madam:

Attached hereto, in accordance with the requirements of Section 4901:2-7-13, O.A.C., is a Notice of Preliminary Determination and Intent to Assess Forfeiture involving Sweeney Services, Inc.

Respondent, Sweeney Services, Inc., respectfully requests an Administrative Hearing in the above-captioned matter. In accordance with Commission rules, the following information is provided:

Authorized Representative: David A. Ferris
FERRIS & FERRIS LLP
P.O. Box 1237
Worthington, OH 43085-1237
Tel: (614) 844-4777
Fax: (614) 844-4778

Please advise if any additional information is required.

Very truly yours,


David A. Ferris

Staff Ex L

DAF/baf
Enclosure

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 Am Date Processed 7/21/09



The Public Utilities Commission of Ohio

Monitoring marketplaces and enforcing rules to assure safe, adequate and reliable utility services.

Ted Strickland, Governor
Alan R. Schriber, Chairman

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July 6, 2009

MR DAVID FERRIS
ATTORNEY SWEENEY SERVICES INC
P O BOX 1237
WORTHINGTON, OH 43085

RE: **NOTICE OF PRELIMINARY DETERMINATION**
Case No. 9436300270C
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(continued)

JUL 13 2009



The Public Utilities Commission of Ohio

Ted Strickland, Governor
Alan R. Schriber, Chairman

*Monitoring marketplaces and enforcing rules to assure safe,
adequate and reliable utility services.*

Commissioners

Ronda Hartman Fergus
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July 6, 2009
MR DAVID FERRIS
ATTORNEY SWEENEY SERVICES INC
9436300270C

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Please consult the enclosed additional information concerning this Notice of Preliminary Determination.

Robert E. Marvin, Director
Transportation Department
Public Utilities Commission of Ohio