

Ohio

FILE

**Public Utilities
Commission**

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Commissioners

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From: Robert E Marvin, Director
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To: The Commission

Date: November 17, 2010

RE: Case No. 09-223-TR-ORD

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By its Entry previously issued in Case No. 07-1095-TR-ORD, the Commission approved revisions to Rule 4901:2-5-01, Ohio Administrative Code (O.A.C.) that, among other things, expanded its safety jurisdiction to include private commercial motor vehicles with a gross vehicle weight (GVW) between 10,001 and 26,000 pounds operating in intrastate commerce. The revision was approved to increase motor carrier safety in Ohio and to make the rule at issue compatible with federal regulations. By its subsequent Entry issued in this case on June 9, 2010, the Commission directed that until January 1, 2011, safety violations cited against carriers and/or drivers operating commercial motor vehicles between 10,001 and 26,000 GVW in intrastate commerce would not be assessed a civil forfeiture or monetary penalty, except in cases where egregious violations of the safety regulations were discovered. The subsequent Entry was issued and the transitional enforcement phase was ordered because the Commission found that the transportation community now subject to safety regulation was unprepared for such regulation and it believed it would not be in the industry's interest to proceed with active enforcement of these rules without first undertaking an education and outreach program to inform carriers new to safety regulation what would be required and expected of them. During this transitional phase, Commission Staff was directed to develop and execute an education and outreach program to the affected industries. Finally, the Entry solicited additional comments from impacted companies relative to how the Commission could assist in their preparation for compliance with the rule.

Since the issuance of the June 9 Entry, Staff has posted the new rules as well as other pertinent information on the Commission's web site, conducted dozens of in-person presentations with affected industry and trade association representatives, responded to hundreds of telephone and Email inquiries relative to the rules and conducted a webcast technical rules conference. As a result of this experience, Staff has determined that despite its efforts and outreach, much uncertainty and confusion remains about the

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motor carrier safety rules for many companies and most of those companies need additional time within which to bring their operations into compliance with the rules.

Staff, therefore, recommends that the Commission consider extending its previously directed stay of active enforcement to January 1, 2012. It is further recommended that enforcement of the rules at issue continue in the manner as directed in the June 9 Entry issued in this case. Finally, it is recommended that Staff be directed to continue its education and outreach efforts and that Staff continue its dialogue with the industry and consider any proposed revisions to the rules that might be less burdensome on the industry without compromising on safety.