

FILE **Ohio**

Public Utilities
Commission

180 East Broad Street
Columbus Ohio 43215-3793
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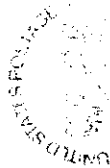
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11-80A-TR-ORD

OHIO ASSOCIATION OF MOVERS
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BLACKLICK, OH 43004-0328



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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's)
Review of the Rules Concerning)
Forfeitures and Compliance Orders) Case No. 11-809-TR-ORD
Contained in Chapter 4901:2-7, Ohio)
Administrative Code.

FINDING AND ORDER

The Commission finds:

- (1) Section 119.032, Revised Code, requires all state agencies, every five years, to conduct a review of each of its rules and to determine whether to continue its rules without change, amend its rules, or rescind its rules. The current review date for the rules contained in Chapter 4901:2-7, Ohio Administrative Code (O.A.C.), is May 31, 2011. The rules govern all proceedings of the Commission to assess forfeitures and make compliance orders as authorized by Sections 4905.83, 4919.99, 4921.99, and 4923.99, Revised Code.
- (2) Section 119.032(C), Revised Code, requires that the Commission determine:
 - (a) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted;
 - (b) Whether the rule needs amendment or rescission to give more flexibility at the local level;
 - (c) Whether the rule needs amendment to eliminate unnecessary paperwork; and
 - (d) Whether the rule duplicates, overlaps with, or conflicts with other rules.

- (3) In addition, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled "Establishing the Common Sense Initiative," which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must review its rules to determine the impact that a rule has on small businesses; attempt to balance properly the critical objectives of regulation and the cost of compliance by the regulated parties; and amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that have had negative unintended consequences, or unnecessarily impede business growth.
- (4) By entries of March 2, 2011, and April 27, 2011, the Commission requested that interested persons file comments on proposed amendments to the Commission's rules governing forfeitures and compliance orders, as found in Chapter 4901:2-7, O.A.C. A number of amendments were proposed that were intended to reduce mailing and associated costs, as well as to clarify and correct other issues. No comments were filed on any of the proposed rule amendments.

Among other proposed changes, amended Rule 4901:2-7-03, O.A.C., which pertains to service, would allow service to be made upon a respondent by electronic mail, if the respondent has consented to receive such service. Further, the amended rule would eliminate the requirement that service upon a domestic respondent of a notice of intent to assess forfeiture or a notice of intent to make compliance order be made by certified United States mail. The amended rule would provide that service upon a respondent, whether domestic or foreign, shall be made by ordinary or certified United States mail, courier, facsimile, electronic mail, or personal service.

As modified, Rule 4901:2-7-11, O.A.C., regarding settlement agreements, would enumerate specific factors that Staff may consider in negotiating a settlement agreement, in addition to any matters as justice may require.

Additionally, the main provisions of Rules 4901:2-7-06 and 4901:2-7-07, O.A.C., pertaining to the amount of forfeiture and the notice of intent to assess forfeiture, respectively, would be combined into new Rule 4901:2-7-07, O.A.C., with the remaining provisions eliminated as unnecessary. Further, a key provision of Rule 4901:2-7-19, O.A.C., which relates to evidentiary hearings, would be added to Rule 4901:2-7-16, O.A.C., regarding the conduct of hearings, and the remaining provisions would be eliminated as unnecessary. These amendments are intended to minimize the total number of rules in Chapter 4901:2-7, O.A.C., while leaving the remaining rules more effective and efficient.

- (5) Following its review, the Commission finds that existing Rules 4901:2-7-01, -02, -03, -04, -05, -08, -10, -12, -13, -14, -15, -16, -20, and -22, O.A.C., should be amended as shown on the attachment, and that existing Rules 4901:2-7-09, -17, -18, and -21, O.A.C., should remain in effect without any changes. In addition, we find that existing Rules 4901:2-7-06, -07, -11, and -19, O.A.C., should be rescinded, and that new Rules 4901:2-7-07 and -11, O.A.C., should be adopted as shown on the attachment.

It is, therefore,

ORDERED, That existing Rules 4901:2-7-06, -07, -11, and -19, O.A.C., be rescinded. It is, further,

ORDERED, That attached amended Rules 4901:2-7-01, -02, -03, -04, -05, -08, -10, -12, -13, -14, -15, -16, -20, and -22, O.A.C., and new Rules 4901:2-7-07 and -11, O.A.C., be adopted and filed with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

ORDERED, That existing Rules 4901:2-7-09, -17, -18, and -21, O.A.C., be filed as no change rules with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

ORDERED, That the final rules be effective on the earliest day permitted by law. Unless otherwise ordered by the Commission, the next review date for Chapter 4901:2-7, O.A.C., is May 31, 2016. It is, further,

ORDERED, That a copy of this finding and order and the attached rules be served upon the Ohio State Highway Patrol, Ohio Trucking Association, Ohio Association of Movers, and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Paul A. Centolella


Steven D. Lesser

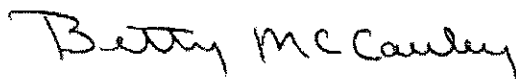

Andre T. Porter


Cheryl L. Roberto

SJP/sc

Entered in the Journal

JUN 08 2011



Betty McCauley
Secretary