

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Peter Koenig, Notice of)
Apparent Violation and Intent to Assess) Case No. 12-1210-TR-CVF
Forfeiture.) (OH1454006429D)

FINDING AND ORDER

The Commission finds:

- (1) Commission Staff (Staff) served a Notice of Preliminary Determination (NPD) upon Peter Koenig in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). The NPD assessed a civil forfeiture of \$100.00 for violation of 49 Code of Federal Regulations (C.F.R.) 395.8A--no driver's record of duty status.
- (2) On April 11, 2012, CJ Drilling, Inc. (CJD) the operator of the commercial motor vehicle driven by Mr. Koenig, filed a request for an administrative hearing in accordance with Rule 4901:2-7-13, O.A.C.
- (3) A prehearing conference was held in the case; however, the matter was not resolved, and the case was initially scheduled for hearing on June 21, 2012. The June 21, 2012 hearing was subsequently continued most recently to September 12, 2012.
- (4) Rule 4901:2-7-14(E), O.A.C., provides that a respondent who has requested an administrative hearing and fails to participate in the hearing proceeding shall be in default. The rule additionally states that a respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability to the state for the forfeiture described in the notice.

- (5) The hearing was convened on September 12, 2012. At the hearing, neither Mr. Koenig nor CJD appeared. Staff moved for a default judgment against Mr. Koenig.
- (6) Since Mr. Koenig failed to appear or participate in the hearing, the Commission finds that, pursuant to Rule 4901:2-7-14(E), O.A.C., Mr. Koenig is in default and, therefore, has admitted to the violation cited in the case and waived all further right to contest liability to the state for the forfeiture described in the notice. The recommended civil forfeiture of \$100.00, set forth in the NPD, should be assessed against Mr. Koenig and should be paid within 30 days.
- (7) Rule 4901:2-7-22, O.A.C., requires that payment of any forfeiture be made by check or money order payable to "Treasurer, State of Ohio," and shall be mailed or delivered to "Fiscal Division, Public Utilities Commission of Ohio, 180 East Broad Street, Fourth Floor, Columbus, Ohio 43215-3793." To ensure proper credit, Mr. Koenig is directed to write the citation number (OH1454006429D) on the check or money order.

It is, therefore,

ORDERED, That, pursuant to Rule 4901:2-7-14(E), O.A.C., Mr. Koenig is in default and the assessed civil forfeiture of \$100.00 is adopted. It is, further,

ORDERED, That Mr. Koenig is ordered to pay the state of Ohio the assessed civil forfeiture set forth above. It is, further,

ORDERED, That, if payment is not received within 30 days of the date of this Finding and Order, the Attorney General of Ohio is authorized to take any appropriate action allowed by law to recover the assessed civil forfeiture. It is, further,


ORDERED, That a copy of this finding and order be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

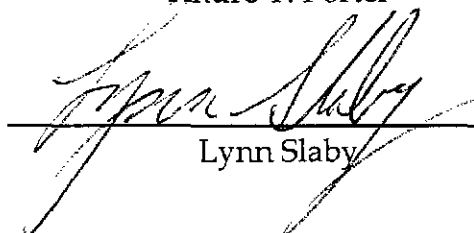


Todd A. Snitchler, Chairman

Steven D. Lesser



Andre T. Porter

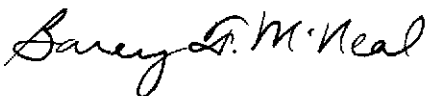
Cheryl L. Roberto

Lynn Slaby

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Entered in the Journal

SEP 26 2012



Barcy F. McNeal
Secretary