

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Don Nussel, Notice of	)	Case No. 12-2511-TR-CVF
Apparent Violation and Intent to Assess	)	(OH3259006652D)
Forfeiture.	)	

FINDING AND ORDER

The Commission finds:

- (1) On March 14, 2012, a vehicle driven by Don Nussel (respondent) was inspected within the state of Ohio. The inspection resulted in the discovery of an apparent violation of the Code of Federal Regulations (C.F.R.): operating an out-of-service vehicle, in violation of 49 C.F.R. 396.9(c)(2).
- (2) Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). A civil forfeiture of \$1,000.00 was assessed against respondent.
- (3) On September 12, 2012, respondent filed a request for an administrative hearing, pursuant to Rule 4901:2-7-13, O.A.C. Thereafter, a prehearing conference was held on the matter.
- (4) On December 4, 2012, Commission Staff (Staff) and respondent filed a settlement agreement, which, in the parties' opinion, resolves all of the issues raised in the notice of preliminary determination.
- (5) In the settlement agreement, the parties agree and recommend that the Commission find:
  - (a) For purposes of settlement only, respondent agrees that the violation of 49 C.F.R. 396.9(c)(2) may be included in his history of violations, insofar as it may be relevant for purposes of determining future penalty actions.

- (b) For purposes of settlement only, Staff agrees to reduce the amount of the initial assessment to \$500.00. The reduction of the forfeiture is based upon Staff's consideration of respondent's ability to pay, pursuant to Rule 4901:2-7-11(D)(2), O.A.C. Respondent agrees to pay an amount of \$500.00 in order to resolve this case.
  - (c) Respondent will pay the \$500.00 in ten consecutive monthly payments of \$50.00 commencing within 30 days of the Commission's order approving the settlement agreement. The payments shall be made payable to "Treasurer, State of Ohio," and mailed to PUCO Fiscal, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. The case number (OH3259006652D) should appear on the face of each check.
  - (d) The settlement agreement shall not become effective until adopted by the Commission. The date of the entry or order of the Commission adopting the settlement agreement shall be considered the effective date of the settlement agreement.
  - (e) The settlement agreement is intended to resolve only factual or legal issues raised in this case. The settlement agreement is not intended to have any effect whatsoever in any other case or proceeding.
- (6) The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, the settlement agreement should be approved and adopted in its entirety.

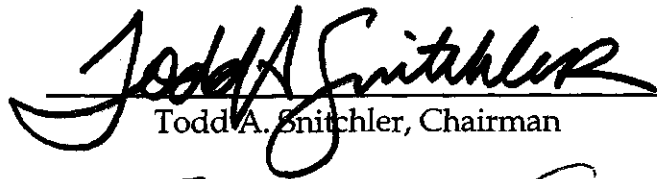
It is, therefore,

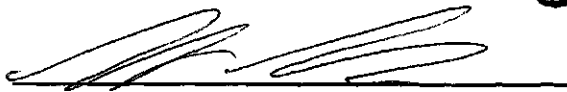
ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

ORDERED, That respondent pay a total civil forfeiture of \$500.00 in accordance with the settlement agreement. Payments shall be made by check or money order made payable to "Treasurer, State of Ohio," and mailed to PUCO Fiscal, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, respondent is directed to write the inspection number (OH3259006652D) on the face of each check or money order. It is, further,


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

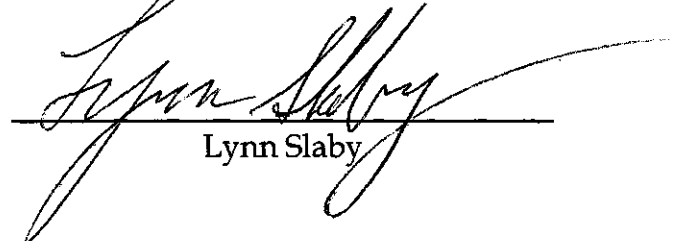
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman

  
Steven D. Lesser

  
Andre T. Porter

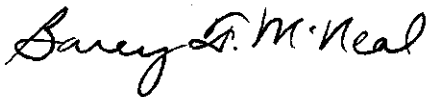
  
Cheryl L. Roberto

  
Lynn Slaby

SJP/sc

Entered in the Journal

DEC 19 2012

  
Barcy F. McNeal

Barcy F. McNeal  
Secretary