

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of William R. McPherson,)
Notice of Apparent Violation and Intent to) Case No. 14-2312-TR-CVF
Assess Forfeiture.) (OH3202306029D)

FINDING AND ORDER

The Commission finds:

- (1) On September 11, 2014, a vehicle driven by William R. McPherson (Respondent) was inspected within the state of Ohio. The inspection resulted in the discovery of the following apparent violation of the Code of Federal Regulations (C.F.R.): 49 C.F.R. 392.10(a)(4) - Failure to stop at railroad crossing - HM cargo tank vehicle.
- (2) Respondent was timely served with a Notice of Preliminary Determination (NPD) in accordance with Ohio Adm.Code 4901:2-7-12. The NPD assessed respondent \$500.00 for violation of 49 C.F.R. 392.10(a)(4).
- (3) On December 23, 2014, respondent made a timely formal request for an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13. Thereafter, a prehearing conference was held and a hearing was scheduled in the matter.
- (4) On March 10, 2015, the parties filed a settlement agreement which, in the parties' opinion, resolves the issue raised in the NPD. The following is a summary of the provisions agreed to by the parties and is not intended to replace or supersede the settlement agreement. The settlement agreement included, inter alia, the following provisions:
 - (a) Respondent agrees to the violation listed above and recognizes that the violation may be included in Respondent's Safety-Net Record and Respondent's history of violations, insofar as it may be relevant for purposes of determining future penalty actions.
 - (b) Respondent shall pay the \$500.00 civil forfeiture in five monthly installments of \$100.00 each to

begin within 30 days of the Commission's order approving this settlement agreement. The payments shall be made by check or money order payable to "Treasurer State of Ohio," and they shall be mailed to PUCO, Attention Fiscal Division, 4th Floor, 180 East Broad Street, Columbus, Ohio 43215-3793. The case number (OH3202306029D) shall appear on the face of each check or money order.

- (c) Respondent and Staff agree that nothing in this settlement agreement shall prevent Staff from assessing civil forfeitures pursuant to Ohio Adm.Code Chapter 4901:2-7, as the result of future compliance reviews or roadside inspections.
 - (d) This 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) This settlement agreement is intended to resolve the factual or legal issues of only this case. It is not intended to have any effect whatsoever in any other case or proceeding.
- (5) 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,

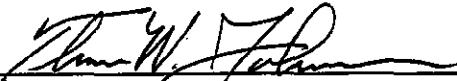
ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

ORDERED, That Respondent pay a civil forfeiture of \$500.00 in accordance with the settlement agreement. Payment shall be made by check or money order 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

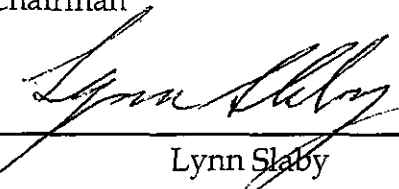
write the inspection number (OH3202306029D) on the face of each check or money order.
It is, further,

ORDERED, That a copy of this Finding and Order be served on each party of record.

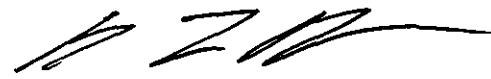
THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman

Steven D. Lesser


Lynn Slaby

M. Beth Trombold


Asim Z. Haque

KKS/vrm

Entered in the Journal
MAR 25 2015



Barcy F. McNeal
Secretary