

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of :
Eddie R. Greer Notice :
of Apparent Violation : Case No.
and Intent to Assess : 15-479-TR-CVF
Forfeiture. :

- - -

PROCEEDINGS

Before Sarah Parrot, Attorney Examiner, held at
the offices of the Public Utilities Commission
of Ohio, 180 East Broad Street, Hearing Room
11-C, Columbus, Ohio, on Thursday, September 24,
2015, at 10:00 A.M.

- - -

Armstrong & Okey, Inc.
222 East Town Street, 2nd Floor
Columbus, Ohio 43215
(614) 224-9481 - (800) 223-9481
Fax - (614) 224-5724

- - -

1 APPEARANCES:

2 Mr. Michael J. Yemc, Jr.
3 600 South Pearl Street
4 Columbus, Ohio 43206

5 On behalf of the Respondent.

6 Ms. Natalia Messenger
7 Assistant Attorney General
8 180 East Broad Street
9 6th Floor
10 Columbus, Ohio 43215

11 On behalf of the Staff of the
12 Public Utilities Commission
13 of Ohio.

14 - - -
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO EXHIBITS			
- - -			
		MARKED	ADMT
STATE'S EXHIBITS			
1	Driver/Vehicle Examination Report	9	37
2	Picture of Driver's Daily Log	14	37
- - -			

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO WITNESSES		
	DIRECT	CROSS
STATE'S WITNESSES		
Bob Walker	6	23
RESPONDENT'S WITNESSES		
Eddie R. Greer	38	43
- - -		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Thursday Morning,
September, 24 2015.
- - -

ATTORNEY EXAMINER: The Public
Utilities Commission of Ohio has called for
hearing at this time and place Case No.
15-479-TR-CVF being in the Matter of Eddie R.
Greer Notice of Apparent Violation and Intent to
Assess Forfeiture.

Good morning, everyone. My name is
Sarah Parrot, I am the Attorney Examiner
assigned by the Commission to hear this case.

Let's start with appearances of the
parties. We will start with the Staff.

MS. MESSENGER: Good morning. On
behalf of the Staff of the Public Utilities
Commission of Ohio, Ohio Attorney General, Mike
DeWine, Natalia Messenger, Assistant Attorney
General.

ATTORNEY EXAMINER: Thank you.
Business address.

MS. MESSENGER: 180 East Broad
Street, Columbus, Ohio 43215.

ATTORNEY EXAMINER: Thank you. And
on behalf of the Respondent.

1 MR. YEMC: Yes. Thank you. Michael
2 Yemc on behalf of Eddie Greer. I am located at
3 600 South Pearl Street, Columbus, Ohio 43206.

4 ATTORNEY EXAMINER: Thank you. Do
5 the parties have any preliminary matters they
6 wish to address?

7 MS. MESSENGER: Yes, your Honor. We
8 have agreed to stipulate to the forfeiture
9 amount so that if Mr. Greer is found liable for
10 the violation he would pay the \$100 forfeiture.

11 MR. YEMC: That's correct.

12 ATTORNEY EXAMINER: Thank you,
13 everyone. Ms. Messenger, you may call your
14 first witness.

15 MS. MESSENGER: I would like to call
16 Inspector Bob Walker.

17 (WITNESS SWORN)

18 - - -

19 BOB WALKER

20 called as a witness, being first duly sworn,
21 testified as follows:

22 DIRECT EXAMINATION

23 By Ms. Messenger:

24 Q. Good morning. Can you please state
25 your name and business address?

1 A. Bob Walker, Motor Carrier
2 Enforcement Inspector for the Highway Patrol.
3 And I work out of the Columbus District. Actual
4 address I don't know.

5 Q. What position do you have with the
6 Ohio State Highway Patrol?

7 A. Motor Carrier Enforcement Inspector.

8 Q. And what are your duties?

9 A. Stop commercial vehicles for
10 inspection. Inspect the drivers, the vehicles
11 for public safety.

12 Q. Can you describe your work
13 experience with the Highway Patrol?

14 A. For the Highway Patrol, I have been
15 with them going on four years as a Motor Carrier
16 Enforcement Inspector. Got, of course, all my
17 training done through North American Standard
18 and Highway Patrol.

19 Q. Have you had other positions with
20 the Highway Patrol?

21 A. With the Highway Patrol, no. With
22 the State of Ohio, yes.

23 Q. Okay. Can you describe you other
24 positions you have held?

25 A. Yes. Before the Highway Patrol I

1 worked for the State of Ohio for Public Safety
2 as well working in the CDL disqualification
3 area. Dealt with any and all disqualifications.

4 Also handled all the medical
5 certificates that drivers are now filing with
6 the BMV. That is pretty much it.

7 Q. And can you describe any
8 certifications or training that you have?

9 A. North American Standard Class 1 and
10 2, which is a little different. Just deals with
11 mechanical log books and stuff like that.
12 Hazmat, all your hazmat, hazmat bulk, nonbulk,
13 stuff like that too.

14 Q. Were you on duty on January 7th,
15 2015?

16 A. Yes.

17 Q. What was your job assignment that
18 day? Where were you working?

19 A. At the rest area on -- just west of
20 Columbus. It's considered London area off
21 Interstate 70.

22 Q. Were you in uniform that day?

23 A. Yes, ma'am.

24 Q. And were you driving a marked
25 vehicle?

1 A. Yes, ma'am.

2 Q. And were you issued any equipment
3 that you had with you?

4 A. Yes, ma'am.

5 Q. Could you describe that?

6 A. Of course, all my tools for
7 inspections, whether it be to measure brakes or
8 computers, printers. Of course, all the
9 flashlights. Just there is a lot of equipment
10 that we have for inspecting vehicles, inspecting
11 log books, driver's license, stuff like that.

12 Q. Did you inspect a vehicle on January
13 7th that resulted in you preparing a report?

14 A. Yes.

15 Q. And today do you have an independent
16 recollection of that inspection?

17 A. Yes.

18 MS. MESSENGER: Your Honor, I would
19 like to mark the Drive/vehicle Examination
20 Report Staff Exhibit 1.

21 ATTORNEY EXAMINER: So marked as
22 Staff Exhibit No. 1.

23 (EXHIBIT HEREBY MARKED FOR
24 IDENTIFICATION PURPOSES)

25 Q. Mr. Walker, do you recognize this

1 document?

2 A. Yes, I do.

3 Q. What is it?

4 A. This is a inspection report. Once I
5 am done with the inspection I will print a
6 copy off for the driver.

7 Q. Was this report prepared by you?

8 A. Yes, ma'am.

9 Q. How did you prepare it?

10 A. On the computer. As far as did an
11 inspection, and it's that through an Aspen
12 program.

13 Q. Was this report prepared in
14 the ordinary course of your duties?

15 A. Yes, ma'am.

16 Q. And was it prepared at the time of
17 the inspection?

18 A. Yes, ma'am.

19 Q. Is this a true and accurate
20 representation of the report you created at the
21 time of the inspection?

22 A. Yes, ma'am.

23 Q. Can you explain what the numbers in
24 the report represent?

25 A. The two letters OH, of course, stand

1 for Ohio. The next 43293 is my badge number.

2 And then the rest of the numbers are my report
3 number.

4 Q. Okay. What time did this inspection
5 take place?

6 A. It appears that the inspection
7 started at 1:19 P.M. That is Eastern time.

8 Q. What was the inspection level for
9 this inspection?

10 A. Level 2.

11 Q. And what does that entail?

12 A. That is driver's license, log book,
13 and what we consider a walk-around inspection of
14 the vehicle, which means we don't get under and
15 check the brakes, stuff like that.

16 Q. Is this what your report looks like
17 when you print it into -- you put it into the
18 computer?

19 A. Somewhat. Slightly different
20 format, but everything else is pretty much the
21 same, yes.

22 Q. So this, what you have with you
23 marked as Staff Exhibit 1 is accurate, is
24 accurate as far as the information you put into
25 the computer?

1 A. Yes.

2 Q. What do you do with the report once
3 you finish putting the information in?

4 A. Once I complete my inspection I will
5 go over the inspection with the driver, make
6 sure that he understands everything, answer any
7 questions that the driver may have.

8 If there is any directions as far as
9 anything that the driver is responsible to do
10 before he leaves, or before he can continue, I
11 explain that to him very well.

12 And then give the copy to the
13 driver. My copy automatically goes to the PUCO
14 through uploading the inspection.

15 Q. Who is the driver identified on the
16 report?

17 A. Eddie Greer.

18 Q. And how did you identify the driver?

19 A. Through driver's license, log book.

20 Q. Is Eddie Greer here today?

21 A. Yes, ma'am.

22 Q. Can you just point him out?

23 A. (indicating).

24 MS. MESSENGER: May the record
25 reflect that he pointed to the Respondent.

1 ATTORNEY EXAMINER: Yes.

2 MS. MESSENGER: Thank you.

3 Q. Why did you pull this vehicle over?

4 A. For his brake lights on the trailer
5 were stuck on at all times.

6 Q. And where did you pull him over?

7 A. I was actually sitting on Interstate
8 70 in the median at the 72 mile marker. By
9 the time I caught up to him and actually stopped
10 him was at the rest area at the 70 mile marker.

11 Q. What was the origin of Mr. Greer's
12 trip, origin and destination?

13 A. Origin was Blawnox, Pennsylvania,
14 and destination Seabrook, Texas.

15 Q. So if you move down towards
16 the middle part of the first page there under
17 violation section, can you explain what
18 information goes into the violation description?

19 A. I am sorry.

20 Q. The information that goes into the
21 violation description.

22 A. Okay. For each violation?

23 Q. Just generally what kind of
24 information goes in there?

25 A. It's a brief description of what

1 the section is for the law. And then it -- I
2 also put any notes for me or the driver as well
3 so we can see what it's pertaining to. Little
4 more detailed notes that I had.

5 Q. So if you go down to the fourth line
6 under violations, you listed Section 395.8(e).
7 What does that section provide?

8 A. That is a false report of driver's
9 record of duty status.

10 Q. What is a driver's record of duty
11 status?

12 A. It's a log book. Pretty much -- the
13 way that I like to describe that is that if say
14 if there is an accident that happens and we go
15 up and the driver's in the hospital, not
16 available to talk, we should be able to get that
17 log book and tell you everything that driver has
18 done; where he is coming from, his breaks, when
19 he took breaks, how long his breaks were, where
20 is he going to.

21 Should have pretty much everything
22 in there. I call it their Bible for the
23 drivers.

24 Q. Did you look at Mr. Greer's daily
25 log for January 6th?

1 A. Yes.

2 Q. Did you take a picture of it?

3 A. Yes.

4 Q. Okay.

5 MS. MESSENGER: Your Honor, I would
6 like to mark this picture as Staff Exhibit 2.

7 ATTORNEY EXAMINER: So marked.

8 (EXHIBIT HEREBY MARKED FOR
9 IDENTIFICATION PURPOSES)

10 MS. MESSENGER: May I approach?

11 ATTORNEY EXAMINER: You may.

12 Q. Mr. Walker, do you recognize this
13 picture?

14 A. Yes, ma'am.

15 Q. Can you describe what it is?

16 A. This is a copy of the driver's log
17 book for January 6th that I had taken during
18 the inspection.

19 Q. Who is the driver named on the log?

20 A. Eddie Ray Greer.

21 Q. Is this an accurate representation
22 of Mr. Greer's log for January 6th, 2015?

23 A. Yes, ma'am.

24 Q. How many miles does the log indicate
25 that Mr. Greer drove on January 6th?

1 A. 731.

2 Q. How many hours he indicate it took
3 him to drive from Matthews, Missouri to Blawnox,
4 Pennsylvania?

5 A. Eleven.

6 Q. Can you explain the log book entry
7 and how it indicates that?

8 A. Yes. It looks like 7:30 A.M. He
9 left in the driving status of Matthews,
10 Missouri. Drove to Richmond, Indiana, and
11 arrived there at 1:30 P.M.

12 Left again at 2:00 P.M. and drove to
13 Blawnox, Pennsylvania and arrived at 7:00 P.M.
14 totalling 11 hours.

15 Q. How did you determine that Mr. Greer
16 was in violation of 395.8(e)?

17 A. What I do is I run a -- I guess I
18 look at certain days. There is certain things
19 that kind of catch our eye. And we will check
20 in to them as far as Pcmiler is one of the
21 things that we use to tell the mileage, the
22 times that it should take a driver to drive.

23 We look at receipts, shipping
24 papers, stuff like that, to kind of match things
25 up, make sure everything makes sense.

1 Q. Can you, looking back at Staff
2 Exhibit 1, the examination report, can you read
3 your violation description there for 395.8(e)?

4 A. "False report of driver's record of
5 duty status."

6 Then my notes are "January 6th log
7 shows driving from Matthews, Missouri, to
8 Richmond, Indiana to Blawnox, Pennsylvania in 11
9 hours and 731 miles." And it says "See notes."

10 Q. Can you also read your inspection
11 notes?

12 A. "Pcmiler shows 711.9 miles in 12
13 hours and 36 minutes. Log shows 731 miles in 11
14 hours. Called fuel stop and stated he got fuel
15 at 4:30 A.M. Central time. Asked driver if he
16 left right after getting fuel, he said yes,
17 which makes sense to why and where he did the
18 false log book."

19 Q. What is a Pcmiler?

20 A. Pcmiler is a system that the State
21 uses for commercial vehicle directions,
22 transportation. It's very detailed when it
23 comes to commercial vehicles.

24 Q. Did you calculate the amount of time
25 it would take Mr. Greer to drive from Matthews,

1 Missouri, to Blawnox, Pennsylvania with
2 the Pcmiler?

3 A. Yes, ma'am.

4 Q. Can you explain the difference
5 between the results that Pcmiler would give
6 versus the results that Google Maps or Mapquest
7 might give?

8 A. Pcmiler, it's, like I said, it's
9 very detailed. If you pull up directions from
10 this far, I guess, Google Maps isn't going to
11 tell you you can't take a semi, a
12 tractor-trailer on this road or this road.
13 Pcmiler is going to give you directions that a
14 commercial vehicle can actually travel.

15 That way they don't get into a tough
16 situation where what do I do now? I can't
17 reverse this thing.

18 So Pcmiler is just more detailed
19 report for commercial vehicles.

20 Q. Is it possible for a driver to take
21 less time to complete a trip than Pcmiler would
22 calculate?

23 A. I haven't seen it in my years doing
24 this.

25 Q. And why would that be the case?

1 A. Pcmiler doesn't take into
2 consideration if traffic jams, rush hours,
3 construction. I mean, it just goes by the
4 actual speed limits really. Yes, usually when
5 you are dealing with commercial vehicles also
6 you are dealing with a large span, which you are
7 always going to run into, you see how much
8 traffic we got, and during rush hour and
9 construction everywhere. You are going to run
10 into that.

11 Q. How does Mr. Greer's log here
12 compare to the Pcmiler calculation?

13 A. He is a little shy. Let's see.
14 Pcmiler stated 12 hours and 36 minutes and he
15 has 11. So we are talking an hour and 36
16 minutes at least that we are missing there.

17 Q. Why would a driver falsify a report?
18 If it took him 12 and a half hours to make the
19 trip why wouldn't he log that on his log book?

20 A. You have 11 hours at the max that
21 you are allowed to drive in a commercial vehicle
22 in a 14-hour period without a 10-hour break in
23 between. So, I guess if he drove 12 and a half
24 hours he would be in violation as well.

25 Q. How much of a discrepancy between

1 Pcmiler, between the Pcmiler calculation and the
2 actual time logged do you look at before you
3 consider it to be a false report?

4 A. Every inspector is different. I
5 myself always give at least an hour. So if
6 Pcmiler said, you know, 11 hours and 15 minutes
7 and he has 11 hours, I don't really get to
8 excited over it, unless there is different
9 reasons for it as well.

10 Q. After the inspection, after you
11 completed the report, did you sign it?

12 A. Yes, ma'am.

13 Q. Did Mr. Greer sign it?

14 A. I believe so. There are cases where
15 drivers will not sign the paper. I don't force
16 them to sign it.

17 Q. Did you give him a copy of it?

18 A. Yes, ma'am.

19 Q. And did you submit it to the
20 Commission?

21 A. Yes, ma'am.

22 Q. Inspector Walker, can you look back
23 at Staff Exhibit 1, the examination report? In
24 your inspection notes you indicated that the
25 driver got fuel at 4:30 A.M. and that he

1 indicated to you that he left right after he got
2 fuel.

3 And then you said that made sense
4 why he -- that explains the false log book.

5 MR. YEMC: Objection. She is
6 testifying.

7 MS. MESSENGER: I am sorry.

8 Q. Can you explain, looking at Staff
9 Exhibit 2, Mr. Greer's log book, why there is a
10 false log based on the fuel stop?

11 A. There is a couple different things
12 for a false log book. I personally don't like
13 to write multiple false log book violations on
14 someone's report.

15 For one, it just builds up fines.
16 But there are two different things that stick
17 out that are false on this log book.

18 One of them was the time that he is
19 claiming 11 hours and Pcmiler calls for 12 and a
20 half.

21 Also the other falsification is at
22 4:30 A.M. he is showing that he is in the
23 sleeper berth, but he is actually pumping fuel.
24 Sleeper berth, that is pretty much kind of like
25 an off duty status.

1 So that is falsification trying to
2 get, you know, whether you are getting fuel or
3 paperwork or any of that stuff, loading,
4 unloading, that is all off duty. It's not part
5 of your rest.

6 Q. Does his log indicate that he left
7 at 4:30 A.M?

8 A. No, ma'am.

9 Q. What time does his log indicate that
10 he left?

11 A. It shows him leaving at 7:30 A.M.

12 Q. And the driver admitted to you that
13 he left after he pumped fuel?

14 A. Yes.

15 Q. Were there any other occasions that
16 this log was false?

17 A. Not that I can see or think of at
18 this time.

19 MS. MESSENGER: Those are all
20 the questions, Your Honor, that I have for Mr.
21 Walker. I would like to reserve him for
22 rebuttal.

23
24 ATTORNEY EXAMINER: All right. Thank
25 you, Ms. Messenger. Mr. Yemc.

1 MR. YEMC: Yes. Thank you, your
2 Honor.

3 CROSS-EXAMINATION

4 By Mr. Yemc:

5 Q. Now, Mr. Walker, why did you issue
6 this violation? Was it because of the fuel
7 stop, or was it because Pcmiler indicates 12
8 hours and 30 minutes versus 11 hours for
9 the trip time?

10 A. Again, when I do my inspection I
11 don't like to ding a driver for multiple
12 violations. One false report of a log is good
13 enough. So, the main reason was just false log
14 book. It wasn't one thing that really stood out
15 over the other saying that one is more important
16 than the other.

17 The main thing is that it was a
18 false book.

19 Q. But it seems like from your notes
20 here that one does stand out more than the
21 other, because you indicated in your notes that
22 it all dealt with the Pcmiler, had nothing to do
23 with the full stop; is that correct?

24 A. No, it's not.

25 Q. Okay. Show me where in this report

1 that you flagged the fuel stop as your reason
2 for citing Mr. Greer. Because what I read here
3 under the violation code is that it all relates
4 to 11 hours and 731 miles.

5 A. You are correct as far as that, but
6 if you look at 395.8(e) where it goes over and
7 it says false report of the driver's record of
8 duty status, we have only got a certain amount
9 of typing that we can put in there. So if we
10 run out of room we put "see notes" to let
11 everyone know to go to the notes section to see
12 the remainder of the violation.

13 Q. Okay. But you don't know when he
14 fueled up at the Love's truck stop; correct?

15 A. 4:30 A.M.

16 Q. And do you know that of your own
17 personal knowledge?

18 A. I made a phone call.

19 Q. So --

20 A. Asked, give them the receipt number,
21 and they told me it was 4:30 A.M.

22 Q. But that person is not here to
23 testify with regard to that time, so that would
24 be hearsay with regards to what you are
25 testifying to.

1 You are trying to establish the
2 truth of the matter that 4:30 is the time he
3 fueled, but you have no personal knowledge of
4 that?

5 A. That is why I asked the driver if he
6 left right after fueling, and he had said yes.

7 Q. Did you ask him whether he fueled at
8 4:30 A.M?

9 A. I am sure I did.

10 Q. Are you sure? It's not indicated in
11 your notes. And this is back on January 7th.

12 A. You are right. It's a long time to
13 remember. This is -- I guess when you have this
14 job you run into the same things, so you kind of
15 ask the same exact questions. It's almost like
16 it's a routine on every driver. If you find
17 this there you always ask this.

18 He knew that I called the gas
19 station, yes. He knew that they told me 4:30,
20 yes.

21 I did ask him if he left directly
22 after getting fuel, or if he went back too sleep
23 and then left later, and he stated that he left
24 directly after getting fuel.

25 Q. Now, let's deal with the Pcmiler

1 issue first. So, you testified previously that
2 an hour difference discrepancy doesn't get you
3 excited, but an hour and a half does. Is that
4 accurate?

5 A. I guess I set a maximum for myself.
6 So, yes, it's almost like speeding. A lot of
7 these officers, they will clock you at five
8 over, they are not going to write you a ticket.
9 They might give you a warning.

10 Once you go over that 10 mark they
11 write tickets. I think that is anyone out there
12 doing anything with the law is you kind of --
13 you have to give a little bit of room here.

14 Mine just happens to be an hour. I
15 know people that write it at 15 minutes over.

16 Q. But, I hope we are not here just
17 because Pcmiler is the God sent. And, I mean,
18 we are sitting here trying this gentleman based
19 on what Pcmiler says. Because based on your
20 notes Pcmiler says it's 711.9 miles in 12 and a
21 half hours. That is 56.5 miles per hour.

22 Do you know what the speed limit out
23 on the roadway is?

24 A. In construction zones or --

25 Q. No. I am just saying in general on

1 the highways in Ohio. What is the speed limit?

2 A. 65, some 70.

3 Q. Interstates?

4 A. Some 65, some 70.

5 Q. You were on I-70?

6 A. 65, some 70.

7 Q. Madison County?

8 A. 70.

9 Q. Okay. So 70 miles per hour. You
10 know it's 70 miles per hour in Missouri as well?

11 A. Could be.

12 Q. Could be. It is 70 miles per hour
13 in Missouri. Okay. So he could be traveling 70
14 miles per hour, and even if you get that five
15 mile per hour leeway that you were referencing
16 that Troopers will give, he could be going 75
17 miles per hour. Based on Pcmiler this distance,
18 they are calculating at 56.5.

19 Now, let's look at your next
20 calculation here. You say that the log says 731
21 miles in 11 hours. Did you calculate out
22 the speed that he could be going?

23 A. Speed has -- no. Speed doesn't have
24 anything to do with my calculation.

25 Q. Okay. Well, the speed, he could

1 travel that distance in that amount of time
2 going 67 miles per hour. So three miles per
3 hour under the posted speed limit. He could be
4 going that fast, three miles under the posted
5 limit and travel that same distance --

6 MS. MESSENGER: Objection, your
7 Honor. Counsel is testifying.

8 ATTORNEY EXAMINER: I agree. There
9 has been a lot of testimony over there. Let's
10 pose questions, please.

11 Q. Let's get the calculator out then.
12 Can you tell me the speed at 731 miles that
13 takes 11 hours. Can you calculate that out for
14 me.

15 MS. MESSENGER: Objection, your
16 Honor. We don't know the speed limit in the
17 jurisdictions. Counsel has provided no --

18 ATTORNEY EXAMINER: Well, I think we
19 can work with what the witness knows. I agree
20 with that, Ms. Messenger. So to the extent that
21 the witness can answer based on his knowledge of
22 the speed limits, we can try this exercise.

23 If we do -- I think we will need a
24 calculator though.

25 THE WITNESS: I have brought one,

1 ma'am.

2 MR. YEMC: I have already calculated
3 it out, Your Honor, myself.

4 A. You said 711 miles divided by the
5 11 hours?

6 Q. No. Pcmiler says 711.9 miles in 12
7 hours and 36 minutes. So that is 12.6 hours.
8 And what did you come up with?

9 A. 56.

10 Q. 56.5?

11 A. I got 56.42 but I only -- yes. I
12 did 711, not 711.9.

13 Q. So that would be 56.5 miles per hour
14 is what Pcmiler assumes a driver -- the speed
15 the driver is going to be going at for the
16 entire 12 and a half hours?

17 A. Correct.

18 Q. Now let's calculate 731 miles in 11
19 hours.

20 A. 66.45.

21 Q. 66.45 miles per hour. So you are
22 testifying that it's impossible for Mr. Greer to
23 have traveled that distance in 11 hours?

24 A. Yes, sir.

25 Q. When the calculation says it's 66.45

1 miles per hour.

2 A. I am saying it's impossible to go 66
3 miles an hour from Matthews, Missouri to
4 Blawnox, Pennsylvania straight through.

5 Q. Aren't we just really guessing at
6 this point? There is no factual, you have no
7 factual determination, you are really just
8 guessing that you can't do that.

9 A. I am almost guaranteeing you that
10 you can't go from one side of Columbus to
11 the other on Interstate 70 at 65 miles an hour.

12 Q. But he never went through Columbus.
13 You stopped him in London.

14 A. Okay. So what was your question?

15 Q. That really you are just guessing
16 that he couldn't have done it. You don't know
17 that he couldn't have. You are guessing based
18 on Pcmiler.

19 A. I am going by Pcmiler, yes.

20 Q. You are going based on Pcmiler.
21 There is no factual evidence that he couldn't do
22 it, you are just going based on Pcmiler. Okay.

23 So now let's deal with the second
24 aspect of it, this Love's receipt. Now, you
25 indicated you called and the person there said

1 that he fueled up at 4:30 in the morning; is
2 that correct?

3 A. Yes.

4 Q. Okay. Now, whenever somebody logs
5 that, whenever it's a deminimus amount of time,
6 are they not allowed to bring that down and show
7 it at a different time, or does it have to be
8 right at this specific time?

9 A. They have to log that at the time
10 that they did it.

11 Q. What if it's under 15 minutes of
12 time?

13 A. That is the purpose of a log book.

14 Q. But what if it's under 15 minutes of
15 time?

16 A. How much fuel did he pump?

17 Q. No. I am asking you the question,
18 you are not asking me the question. So if you
19 can answer my question.

20 What if it's under 15 minutes of
21 time?

22 A. He has to log on duty if it has
23 anything to do with on duty time.

24 Q. So if he falls asleep at the truck
25 stop, wakes up, drives up, fuels up, and then

1 goes back to sleep, he has to log that, even if
2 it is say 10 minutes of time?

3 A. In a tractor-trailer I think that's
4 going to take 15 minutes to move the vehicle.

5 Q. What if it's under 15 minutes?

6 A. To move your vehicle over to the
7 pumps, pump who knows how many gallons of fuel,
8 and then drives back to the sleeping area.

9 So, yes, when he is claiming that he
10 is in the sleeper for 10 hours or 10 and a half
11 hours, he needs to be in that sleeper for that
12 10 and a half hours. You can't go on duty on
13 and off. That is not what that's for.

14 Q. You can't get out of the sleeper
15 berth to use the rest room?

16 A. That is part of off duty.

17 Q. No, it's not part of sleeper berth
18 time? So if you get up and go to the bathroom
19 and it takes 10 minutes, do you have to log off
20 duty and then log back on to sleeper berth?

21 A. I guess it depends on the officer
22 that or the inspector that you are dealing with.
23 Really, yes, you should probably go off duty if
24 you are going off duty.

25 Q. So once you leave that sleeper berth

1 even to go to the restroom you need to log to
2 off duty?

3 A. By law, yes.

4 Q. Even if it's under 15 minutes?

5 A. Is someone going to write you up for
6 it? I doubt it. But if you look at the law it
7 states off duty is off duty, sleeper berth is
8 sleeper berth.

9 MR. YEMC: I have nothing further.

10 ATTORNEY EXAMINER: Any redirect?

11 MS. MESSENGER: Yes, Your Honor.

12 REDIRECT EXAMINATION

13 By Ms. Messenger:

14 Q. Based on your practice pulling
15 vehicles over daily do you write up a driver for
16 a violation based only on Pcmiler, or do you
17 look for other additional --

18 A. Look for additional.

19 Q. Okay. Can you describe how the
20 hours that a driver needs to rest, the hours
21 that he can drive in a day, can you explain how
22 that works?

23 A. A driver is allowed to drive 11
24 hours in a 14-hour period before he has to take
25 a 10-hour break.

1 Q. For that 10-hour break does it have
2 to be 10 consecutive hours, or can he take a
3 break, can he break up that 10-hour period?

4 A. You can split them up as far as --
5 as long as you don't go over. It kind of gets
6 tricky when you start splitting stuff up, times
7 up, because then you got to add in the time in
8 between your rests and with your other driving
9 time. So it gets confusing for people. But,
10 yes, you can do that.

11 MS. MESSENGER: We have nothing
12 further, Your Honor.

13 ATTORNEY EXAMINER: Any recross?

14 MR. YEMC: No, Your Honor.

15 EXAMINATION

16 By the Attorney Examiner:

17 Q. Inspector Walker, I don't know that
18 it's going to be clear to someone reading the
19 transcript, the fuel stop and I guess I just
20 don't understand the background information it
21 maybe needs to make sense how you even called
22 the fuel stop to -- you mentioned the receipt,
23 but I don't think we have really connected all
24 the dots on that.

25 So I would like you, I think it

1 would be helpful if you would take us through
2 how you took it upon yourself to call the fuel
3 stop in that first instance.

4 A. When I run Pcmiler it's really
5 the beginning point for the inspector.

6 Q. I get that.

7 A. Once we see an overage like this
8 then we start looking into time, seeing, you
9 know, make sure everything matches up. When did
10 he leave, whether it was his loading, shipping
11 papers. I will call the shippers, I will call
12 gas stations, stuff like that to kind of see
13 where we are at.

14 When I called the gas station and
15 they told me that it was 4:30 A.M. --

16 Q. I guess that is what I am asking.
17 I don't think we have the general information.
18 So the driver handed you, Mr. Greer, handed you
19 a fuel receipt for this fuel stop.

20 A. Yes, ma'am.

21 Q. And then that had the phone number
22 and everything you needed and at that point then
23 you called?

24 A. Yes. And I give them the receipt
25 number and the truck number, stuff like that,

1 and they will come back.

2 Q. This is what I am looking for, that
3 kind of information.

4 A. That is how we find the time
5 the actual transaction took place.

6 Q. So he provided a receipt to you with
7 the information of the location of the fuel
8 stop, the phone number and all of that
9 information to identify. So you called and then
10 provided the information off of the receipt?

11 A. Correct.

12 Q. So someone on the phone at the fuel
13 stop --

14 A. Correct.

15 Q. Okay.

16 A. We don't get -- I am not saying
17 everyone is dishonest, but we get a lot of
18 people that will tell us, you know, I mean,
19 there is not many people that come out and say I
20 left at 4:30 and to make it and blah, blah. So,
21 therefore, that's why I ask the driver questions
22 to see if I can get anything further out of it.

23 That is the whole purpose of me
24 asking did you leave right after getting this
25 fuel. As soon as he says yes to me that kind of

1 paints the whole picture. If he left at 4:30
2 that gives an extra two and a half hours, which
3 completely makes sense with Pcmler, with the
4 receipt, with his log book. Everything just
5 kind of painted a nice picture of that.

6 ATTORNEY EXAMINER: Thank you.

7 MS. MESSENGER: Your Honor, I would
8 like to move for the admission of Staff Exhibits
9 1 and 2.

10 ATTORNEY EXAMINER: Okay. Any
11 objection to the admission of those exhibits?

12 MR. YEMC: No.

13 ATTORNEY EXAMINER: Staff Exhibits 1
14 and 2 are admitted.

15 (EXHIBITS ADMITTED INTO EVIDENCE)

16 ATTORNEY EXAMINER: Thank you very
17 much. You are excused.

18 Anything further from Staff?

19 MS. MESSENGER: No, your Honor.

20 ATTORNEY EXAMINER: Okay. Mr. Yemc,
21 turn it over to you.

22 MR. YEMC: Thank you very much,
23 your Honor. I would like to call Eddie Greer.

24 (WITNESS SWORN)

25 - - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EDDIE GREER

called as a witness, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

By Mr. Yemc:

Q. Good morning, Mr. Greer. Could you
please state your name and address for
the record?

A. Eddie Ray Greer, 1818 Balsam Gap,
Tyler, Texas.

Q. Mr. Greer, on January 7th of this
year were you traveling in the State of Ohio?

A. Yes, sir.

Q. Okay. Did you get pulled over on
that day?

A. No, sir.

Q. On the 7th?

A. Yes. On the 7th, yes, sir.

Q. So on the 7th you got pulled over?

A. Yes, sir.

Q. Could you state what happened?

A. I was driving on the Interstate. I
was just flowing with the traffic and I was in
the center lane. I saw blue lights approaching
in my rear view mirror from the left lane. He

1 moved to the right lane and then I moved -- I
2 mean to the center lane behind my
3 tractor-trailer.

4 So I moved to the right lane and he
5 still followed me to the right lane. So I moved
6 over to the left lane and then he told me to
7 proceed to the rest area. So I proceeded to the
8 rest area.

9 Q. And at the rest area did the officer
10 perform an inspection at that time?

11 A. Initially he I told me don't touch
12 nothing, you know, don't move. I want to show
13 you why I pulled you over, et cetera. He was
14 very authoritarian. I didn't really know what
15 to expect.

16 Q. Why did he say he pulled you over?

17 A. Eventually he told me that, you
18 know, my brake lights was stuck on, and he
19 wanted me to walk back to the back of the
20 trailer to see that they was on.

21 So I walked back and it's freezing
22 temperature so I didn't know if it was stuck on
23 due to ice or et cetera. So I walked back and
24 sure enough they was on.

25 Q. Now, whenever the officer started to

1 look at your log books, did he start with
2 January 7th, that day?

3 A. Yes.

4 Q. Any problem with that log book?

5 A. No, sir.

6 Q. Then he went back to the 6th of
7 January?

8 A. Yes, sir.

9 Q. Now, obviously there is a problem
10 with that log according to the PUCO. Can you
11 describe what --

12 ATTORNEY EXAMINER: According to the
13 Staff. Sorry, clarifying the Commission has yet
14 to rule on this.

15 MR. YEMC: Sure. Sorry.

16 THE WITNESS: Okay.

17 ATTORNEY EXAMINER: Sorry.

18 A. I actually arrived at the fuel stop
19 on the 5th, and there was an ice storm so the
20 fuel stop was jammed up. So I went into the
21 sleeper berth. I found me a parking spot and
22 went into the sleeper berth.

23 I slept I guess eight, about eight
24 hours and I woke up with an urge to go to
25 bathroom, urinate. The parking lot was icy, so

1 I felt it was safer to drive over rather than
2 try to walk in the ice storm on the icy parking
3 lot. So I drove to the fuel station. And I
4 went inside and used the bathroom.

5 On the way back from the bathroom I
6 stopped and had the attendant activate the fuel
7 pump because my low fuel indicator light was on.
8 And with low temperatures it's possible that
9 your fuel will gel up with low fuel. So I felt
10 it was appropriate at that time and went ahead
11 and fueled and then I went back to the sleeper
12 berth.

13 And I guess I am not sure how many
14 gallons, but, you know, it was less than five
15 minutes of fueling. So I went on back to sleep.
16 And I left at 7:30 in the morning.

17 Q. So you fueled up at 4:30, but then
18 didn't leave until 7:30. Why didn't you mark
19 that you fueled at 4:30?

20 A. On my log book there is no place to
21 log five minutes. So all your on duty time if
22 it's under the 30 minutes that you can go all
23 inclusive. You can put like since I never left
24 the fuel stop I showed 30 minutes on duty, then
25 I showed in the sleeper berth for 10 hours, then

1 I showed another 30 minutes of on duty, not
2 driving.

3 So I could put all my inclusives on
4 duty in either one of those 30 minutes. So I
5 flagged the fuel stop inside of that 30 minutes
6 on duty, which is legal, at least that is the
7 way I was taught in truck driving school in my
8 log book class.

9 Q. Why did you tell the officer
10 whenever he stopped you after he checked your
11 fuel receipt, why did you tell him that you left
12 right after you got fuel?

13 A. I really don't recall telling him
14 that, but with his authoritative actions and et
15 cetera I probably just told him that to get him
16 off my back. He was very authoritative,
17 demanding, et cetera, et cetera. So, you know,
18 with the things that has been going on with
19 police and back people, I just felt like it was
20 just best to take the Fifth Amendment and not
21 saying anything else.

22 Q. Now, as far as you traveling 731
23 miles in 11 hours, how did that occur?

24 A. Basically I had a light load and
25 that's almost like running empty. My capacity

1 on my trailer is 8,820 gallons. And this
2 particular load only required 6,000 gallons.

3 So the truck is actually running as
4 if you are driving an empty truck due to the
5 weight. So, there is no really slowdown due to
6 the load.

7 So, you can accelerate normally
8 like, you know, the truck was running with an
9 empty trailer.

10 Q. And the speed limits on the roadways
11 you were traveling in Missouri?

12 A. 70 miles per hour.

13 Q. And then looks like you were in
14 Indiana for a stint.

15 A. Yes. 70 miles per hour.

16 Q. And then into Ohio?

17 A. 70 miles per hour.

18 MR. YEMC: Okay. I have nothing
19 further.

20 ATTORNEY EXAMINER: Ms. Messenger.

21 CROSS-EXAMINATION

22 By Ms. Messenger:

23 Q. Mr. Greer, you just described
24 driving to the fuel stop in the icy storm.
25 Where was the truck parked that you were --

1 A. I would say that the fuel stop
2 was -- it was almost directly behind the fuel
3 stop, but say this is the fuel stop and this is
4 the parking. I pulled straight out and pulled
5 straight up (indicating).

6 Q. And how long were you in the sleeper
7 berth before you --

8 A. Approximately 8 hours.

9 Q. And you said there was an ice storm?

10 A. Yes, ma'am.

11 Q. So it was cold out?

12 A. It was cool out, freezing and icing
13 and the parking lot wasn't plowed.

14 Q. Does it take time to -- do you have
15 to warm up your cab before you can drive?

16 A. No.

17 Q. The truck?

18 A. I am sleeping, the cab was -- the
19 truck was idling. We have what they call a
20 certified idle truck fuel that we can leave it
21 idle and classified as a legal fuel.

22 MS. MESSENGER: No further
23 questions.

24 ATTORNEY EXAMINER: Any redirect?

25 MR. YEMC: No. No further

1 witnesses, your Honor.

2 ATTORNEY EXAMINER: Just give me a
3 second. I am just making sure I don't have
4 anything.

5 I guess I will ask you this, Mr.
6 Greer. I am just looking at, I don't think this
7 is going to matter much, but in case it is an
8 issue for me down the road, accounting for
9 the time change in the local area you are in, I
10 mean, I think you would have started out in
11 Central time and then moved over into Eastern
12 time at some point.

13 But I just want to know how -- do
14 you account -- you don't account for that I am
15 guessing on you log book?

16 THE WITNESS: We use our home
17 terminal time at all times.

18 ATTORNEY EXAMINER Thank you. That
19 is exactly what I expected, but I just wanted to
20 confirm that. Thank you. You are excused.
21 Thank you very much.

22 Anything else, Mr. Yemc?

23 MR. YEMC: No, your Honor, thank
24 you.

25 ATTORNEY EXAMINER: Thank you.

1 Let's go off the record for a moment.

2 (DISCUSSION OFF THE RECORD)

3 ATTORNEY EXAMINER: The parties
4 have agreed to one brief in this matter. Both
5 parties will file their briefs no later than
6 November 20th in the docket of this case. It's
7 a Friday.

8 Anything else to come before us
9 today? All right. Hearing nothing then we are
10 adjourned. Thank you very much.

11 MR. YEMC: Thank you, Your Honor.

12 (At 10:50 A.M. the hearing was
13 concluded)

14 - - -

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

I do hereby certify that the foregoing
is a true and correct transcript of the
proceedings taken by me in this matter on
September 24, 2015, and carefully compared with
my original stenographic notes.

Michael O. Spencer,
Registered Professional
Reporter.

- - -

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/12/2015 10:36:16 AM

in

Case No(s). 15-0479-TR-CVF

Summary: Transcript in the matter of Eddie R. Greer hearing held on 09/24/15. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.