

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of A. R. Paquette &)
Company, Inc., Notice of Apparent) Case No. 15-328-TR-CVF
Violation and Intent to Assess Forfeiture.) (OH3202306068C)

FINDING AND ORDER

The Commission finds:

- (1) R.C. 4923.04 provides that the Commission shall adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce. Pursuant to Ohio Adm.Code 4901:2-5-03(A), the Commission adopted the Federal Motor Carrier Safety Regulations for the purpose of governing transportation by motor vehicle in the state of Ohio. Further, R.C. 4923.99 authorizes the Commission to assess a civil forfeiture of up to \$25,000 per day against any person who violates the safety rules adopted by the Commission.
- (2) On November 13, 2014, a commercial motor vehicle operated by A.R. Paquette & Company, Inc. (Respondent) was inspected by Staff. The inspection resulted in the discovery of the following violations: 49 C.F.R. 393.9 (inoperable required lamp - top cab clearance lamp, \$0.00); 397.2 (failure to comply with 49 C.F.R. 390-397 when transporting hazardous materials, \$0.00); 49 C.F.R. 172.332 (identification number marking not displayed when required for shipment containing UN3077, \$0.00); 49 C.F.R. 172.602A (emergency response information not maintained with hazardous materials shipment, \$2,520.00); 49 C.F.R. 177.823A (transport vehicle not properly marked - identification number markings missing, \$5,040.00); and 49 C.F.R. 397.67 (hazardous materials vehicle routing violation/non-radioactive material, \$500.00). The total forfeiture for all violations is \$8,060.00.
- (3) Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, on January 15, 2015. The NPD assessed Respondent a total civil forfeiture of \$8,060.00.

- (4) On February 13, 2015, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.
- (5) On May 14, 2014, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves all of the issues raised in the NPD. The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the settlement agreement.
 - (a) For purposes of settlement only, and not as an admission that the violations occurred as alleged, Respondent agrees to pay a reduced forfeiture of \$4,030.00, and agrees that the violations may be included in its Safety-Net Record and history of violations, insofar as may be relevant for purposes of determining future penalty actions. Staff's agreement to the reduced forfeiture is premised upon an error regarding the forfeiture calculation. Respondent was assessed as a history-4 carrier, resulting in quadrupling of the base forfeiture; however, Respondent should have been assessed as a history-2 carrier, resulting in doubling of the base forfeiture.
 - (b) Respondent shall pay \$4,030.00 within 30 days of the Commission order approving this Settlement Agreement. The payment shall be made by certified check or money order payable to "Treasurer of State of Ohio" and mailed to PUCO Fiscal, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. Inspection number OH3202306068C should be written on the face of the check.
 - (c) The settlement agreement shall not become effective until adopted by the Commission. The date of the Commission order adopting the settlement agreement shall be considered as the effective date of the settlement agreement. The settlement agreement is made in settlement of all factual and legal issues in this case. It 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 shall be approved and adopted in its entirety.

It is, therefore,

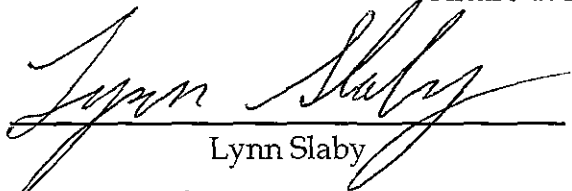
ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

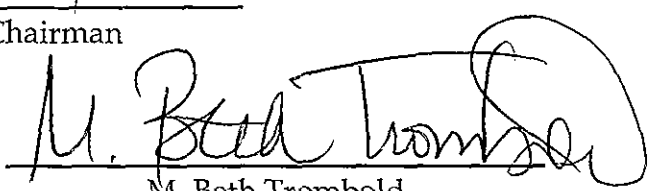
ORDERED, That Respondent pay a civil forfeiture of \$4,030.00 in accordance with the settlement agreement. Payment shall be made by check or money order payable to "Treasurer, State of Ohio," and mailed to PUCO Fiscal, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write the inspection number (OH3202306068C) on the face of the check or money order. It is, further,

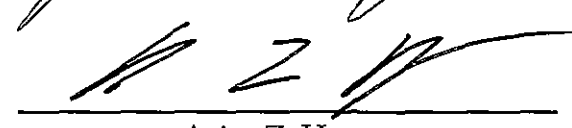
ORDERED, That a copy of this Finding and Order be served upon Respondent and all other interested parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Andre T. Porter, Chairman


Lynn Slaby


M. Beth Trombold


Asim Z. Haque


Thomas W. Johnson

JML/sc

Entered in the Journal

NOV 18 2015



Barcy F. McNeal
Secretary