

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Rineco Transportation)
LLC, Notice of Apparent Violation and) Case No. 15-806-TR-CVF
Intent to Assess Forfeiture.) (OH3202306110C)

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 March 10, 2015, a commercial motor vehicle operated by Rineco Transportation LLC (Respondent) was inspected within the state of Ohio. Respondent is a for-hire motor carrier, as defined in R.C. 4923.01, and subject to the jurisdiction of the Commission. The inspection resulted in the discovery of the following apparent violations of the Code of Federal Regulations (C.F.R.): one violation of 49 C.F.R. 172.504(b) (dangerous placard violation - 2,596 pounds of Class 3 material loaded at one facility, \$4,080), one violation of 49 C.F.R. 177.823(a) (transport vehicle improperly placarded, \$4,080), and one violation of 49 C.F.R. 177.834(a) (packages not secured in vehicle - shifting of Class 3 and Class 8 material, \$2,720).
- (3) Respondent was timely served with a notice of preliminary determination (NPD) pursuant to Ohio Adm.Code 4901:2-7-12. The NPD assessed Respondent a total civil forfeiture of \$10,880.
- (4) On April 24, 2015, 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.

- (5) On May 27, 2015, 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 provisions agreed to by the parties and is not intended to replace or supersede the settlement agreement. In the settlement agreement, the parties agree and recommend that the Commission find:
- (a) For purposes of settlement only, and not as an admission that the violations occurred as alleged, Respondent agrees to pay a reduced forfeiture amount of \$6,800 (\$10,880 - \$4,080) and agrees that the violations may be included in Respondent's Safety-Net Record and history of violations, insofar as they may be relevant for purposes of determining future penalty actions. The reduction of the forfeiture is premised upon Staff's recognition that the placarding violations cited under 49 C.F.R. 172.504(b) and 49 C.F.R. 177.823(a) arise from the same error. Therefore, to avoid an improper assessment, Staff agrees to reduce the total civil forfeiture by \$4,080.
 - (b) Respondent will pay a civil forfeiture of \$6,800 within 30 days of the Commission's order approving the settlement agreement. The 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. The case number (OH3202306110C) should appear on the face of the check.
 - (c) 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.
 - (d) The settlement agreement is intended to resolve only factual or legal issues raised in this case. It is not intended to have any effect 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,

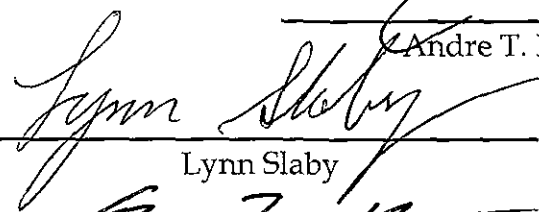
ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

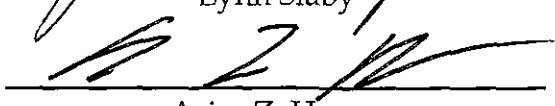
ORDERED, That Respondent pay a civil forfeiture of \$6,800 in accordance with the settlement agreement. Payment shall be made by check or money order payable to "Treasurer, State of Ohio," and mailed to PUCO Fiscal, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write the inspection number (OH3202306110C) on the face of the check or money order. It is, further,

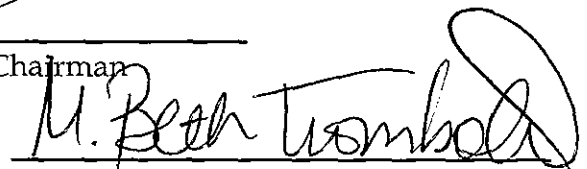
ORDERED, That a copy of this Finding and Order be served on each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Andre T. Porter, Chairman


Lynn Slaby


Asim Z. Haque



M. Beth Trombold


Thomas W. Johnson

SJP/sc

Entered in the Journal

NOV 18 2015


Barcy F. McNeal

Secretary