

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of XTO Energy Inc., Notice)	Case No. 15-1522-TR-CVF
of Apparent Violation and Intent to)	(OH3221301453S2)
Assess Forfeiture.)	

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 27, 2015, a commercial motor vehicle operated by Ohio Oil Gathering Corporation II and driven by Tony K. Martin was inspected by Staff. The vehicle contained hazardous materials. The inspection resulted in the discovery of the following violation against the shipper, XTO Energy, Inc. (Respondent): 49 C.F.R. 173.24(B)(1) (release of hazardous materials from package). The forfeiture for the violation is \$2,100.00.
- (3) Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, which contained an assessment of \$2,100.00 for the violations.
- (4) On April 28, 2015, Respondent requested an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13. Thereafter, a prehearing conference was held.
- (5) On October 2, 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 conditions agreed to by the parties and is not intended to replace or supersede the settlement agreement.

- (a) Respondent agrees to pay the assessed forfeiture but does not admit liability for the alleged violation.
 - (b) Respondent shall pay \$2,100.00 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 OH3221301453S2 should be written on the face of the check.
 - (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 a result of future compliance reviews or roadside inspections.
 - (d) 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.
 - (e) 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.

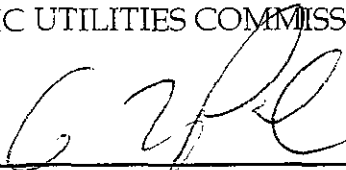
It is, therefore,


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

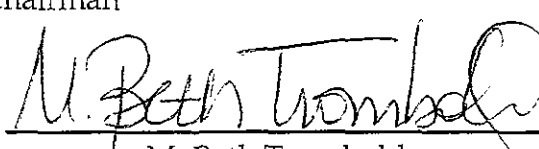
ORDERED, That Respondent pay a civil forfeiture of \$2,100.00 in accordance with the settlement agreement. Payment shall be made by check or money order payable to "Treasurer, State of Ohio," and mailed to PUCO, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write the inspection number (OH3221301453S2) on the face of the check or money order. It is, further,

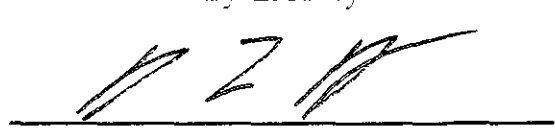
ORDERED, That a copy of this Finding and Order be served upon Respondent and all other interested parties of record.

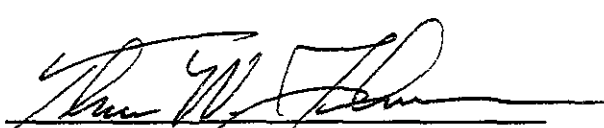
THE PUBLIC UTILITIES COMMISSION OF OHIO


Andre T. Porter, Chairman


Lynn Slaby


M. Beth Trombold


Asim Z. Haque


Thomas W. Johnson

JML/sc

Entered in the Journal

DEC 09 2015



Barcy F. McNeal
Secretary