

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF TRANSPORT SERVICES OF
SULLIVAN, IL LLC, NOTICE OF APPARENT
VIOLATION AND INTENT TO ASSESS
FORFEITURE.

CASE NO. 16-596-TR-CVF

ENTRY

Entered in the Journal on February 13, 2017

{¶ 1} Staff and Transport Services of Sullivan, IL LLC (Transport Services or Respondent) participated in a prehearing conference on April 14, 2016, and determined that guidance from the U.S. Department of Transportation (USDOT) was necessary to help resolve the matter. In addition, a hearing date of June 7, 2016, was agreed upon.

{¶ 2} On June 3, 2016, the parties filed a joint motion for continuance of the hearing, as neither party had received a reply from USDOT. Instead of rescheduling the hearing, the parties proposed a July 7, 2016 teleconference.

{¶ 3} In a June 3, 2016 Entry, the attorney examiner granted the joint motion for continuance and scheduled a July 7, 2016 teleconference.

{¶ 4} At the July 7, 2016 teleconference, each party indicated that no response had been received from USDOT. The parties stated that they would contact the attorney examiner when such guidance was received.

{¶ 5} Staff contacted the attorney examiner in early August 2016, stating that it had received a reply to the request for guidance. Staff added that it had forwarded the reply to Transport Services and was waiting for Respondent to answer.

{¶ 6} On February 8, 2017, Staff filed a status update. Staff explains that USDOT responded to Staff's inquiry on August 3, 2016. Staff adds that it forwarded USDOT's response to Transport Services on August 8, 2016. According to Staff, around October 17,

2016, it was informed by Respondent that it had not yet received federal guidance and preferred not to proceed to hearing until the guidance was provided. On January 24, 2017, Staff sought an update from Transport Services; Respondent replied on February 2, 2017, stating that it was still waiting on the guidance. However, Staff states, Transport Services indicated willingness to reach a settlement agreement, based on the federal guidance provided to Staff, as well as federal guidance issued in a similar matter in early 2017. Staff requests that, while pursuing a settlement, a March hearing be scheduled in case the parties do not reach an agreement.

{¶ 7} Accordingly, a hearing shall be scheduled for March 10, 2017, at 10:00 a.m. at the Commission offices, Hearing Room 11-D, 11th floor, 180 East Broad Street, Columbus, Ohio 43215-3793.

{¶ 8} Ohio Adm.Code 4901:2-7-14(E) provides that a respondent who has requested an administrative hearing and fails to participate in the hearing proceeding shall be in default. The rule further states that a respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability to the state for the forfeiture described in the notice.

{¶ 9} At the hearing, Staff must prove, by a preponderance of the evidence, that respondent committed the alleged violation, pursuant to Ohio Adm.Code 4901:2-7-20(A).

{¶ 10} Following Staff's presentation of evidence at the hearing, it shall be the responsibility of Transport Services to present evidence supporting its position regarding the alleged violations in this matter.

{¶ 11} Pursuant to Ohio Adm.Code 4901-1-08(A), Transport Services must be represented by an attorney-at-law at the hearing.

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That a hearing be scheduled for March 10, 2017, as indicated in Paragraph 7. It is, further,

{¶ 14} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/James Lynn

By: James M. Lynn
Attorney Examiner

SEF/sc

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in

Case No(s). 16-0596-TR-CVF

Summary: Attorney Examiner Entry scheduling a hearing for 03/10/2017 in accordance with Paragraph 7. - electronically filed by Sandra Coffey on behalf of James Lynn, Attorney Examiner, Public Utilities Commission of Ohio