

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
MTC LOGISTICS, LLC, NOTICE OF
APPARENT VIOLATION AND INTENT TO
ASSESS FORFEITURE.

CASE NO. 16-2116-TR-CVF
(CR201607140336)

FINDING AND ORDER

Entered in the Journal on June 21, 2017

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement regarding a violation of the Commission's transportation rules.

II. DISCUSSION

A. *Applicable Law*

{¶ 2} 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.

B. *Procedural History*

{¶ 3} On July 14, 2016, a compliance review was conducted of the facility operated by MTC Logistics, LLC (Respondent) in Liberty Township, Ohio. The compliance review resulted in the discovery of the following violations of the Code of Federal Regulations (C.F.R.): 49 C.F.R. 392.2 (operating a commercial motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated - unsafe driving), and 49 C.F.R. 395.8(e) (false reports of record of duty status).

{¶ 4} Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, on September 20, 2016. In the NPD, respondent was assessed a civil forfeiture of \$1,600 for violation of 49 C.F.R. 395.8(e). No civil forfeiture was assessed for violation of 49 C.F.R. 392.2.

{¶ 5} On October 24, 2016, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on November 30, 2016.

{¶ 7} On May 30, 2017, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves the issue 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) Upon further review of the facts, law, and totality of the circumstances of this case, Staff agrees to lower the forfeiture amount for the alleged violation of 49 C.F.R. 395.8(e) to \$1,120.
- (b) Respondent admits to the violations of 49 C.F.R. 392.2 and 49 C.F.R. 395.8(e), agrees to come into compliance with the requirements of 49 C.F.R. 392.2 and 49 C.F.R. 395.8(e), and agrees that the violations may be included in Respondent's history of violations, insofar as they may be relevant for purposes of determining future penalty actions.
- (c) This settlement agreement shall not become effective until adopted by the Commission. The date of the entry or order of the Commission adopting this settlement agreement shall be considered the effective date of the settlement agreement.

- (d) This settlement agreement is intended to resolve only factual or legal issues raised in this case. It is not intended to have any effect whatsoever in any other case or proceeding.

C. Commission Conclusion

{¶ 8} 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.

III. ORDER

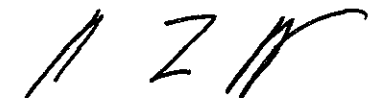
{¶ 9} It is, therefore,

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

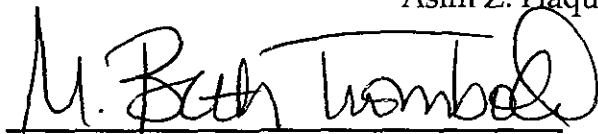
{¶ 11} ORDERED, That Respondent pay a civil forfeiture of \$1,120 in accordance with the settlement agreement. It is, further,

{¶ 12} 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



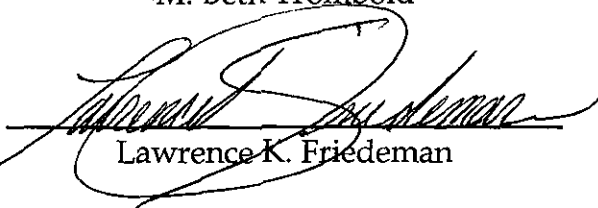
Asim Z. Haque, Chairman



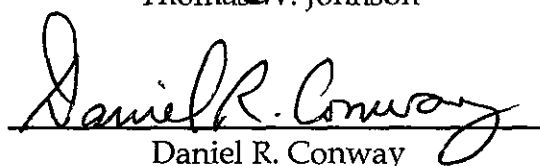
M. Beth Trombold



Thomas W. Johnson



Lawrence K. Friedeman



Daniel R. Conway

KKS/vrm

Entered in the Journal
JUN 21 2017



Barcy F. McNeal
Secretary