

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Lee Lollar,	:	Case No. 17-1782-TR-CVF
Notice of Apparent Violation and Intent	:	(OH320730248D)
to Assess Forfeiture.	:	

SETTLEMENT AGREEMENT

I. Introduction

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), Lee Lollar (Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this settlement agreement and urge the Commission to adopt the same.

It is understood by the Respondent and the Staff that this Settlement Agreement is not binding upon the Public Utilities Commission of Ohio (Commission). This agreement, however, is based on the Respondent's and the Staff's desire to arrive at a reasonable result considering the law, facts and circumstances. Accordingly, the Respondent and the Staff believe that the Commission should adopt this Settlement Agreement.

This settlement agreement is submitted on the condition that the Commission adopts the agreed-upon terms. In the event the Commission rejects any part of the settlement agreement, or adds to, or otherwise materially modifies its terms, either party shall have the right, within thirty days of the date of the Commission's entry or

order, to file an application for rehearing that includes a request to terminate and withdraw from the Settlement Agreement. Upon the application for rehearing and request to terminate and withdraw from the Settlement Agreement being granted by the Commission, the Settlement Agreement shall immediately become null and void. In such event, the parties shall proceed to a hearing as if this Settlement Agreement had never been executed.

II. Procedural History

- A. On May 26, 2017 a vehicle operated by Associated Pipe Line Contractors, Inc. and driven by Lee H. Lollar was inspected within the State of Ohio. The inspector discovered the following violation:

<u>Code</u>	<u>Violation</u>
49 C.F.R. § 392.10(a)(4)	Failure to stop at a railroad crossing while transporting hazardous materials

- B. Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12 O.A.C. for Case No. OH3207302484D. The preliminary determination assessed Respondent \$500.00 for the violation.
- C. Respondent made a timely formal request for an administrative hearing pursuant to 4901:2-7-13, O.A.C.

- D. The parties have negotiated this settlement agreement which the parties believe resolves all the issues raised in the notice of preliminary determination.

III. Settlement Agreement

The parties hereto agree and recommend that the Commission find as follows:

- A. Respondent agrees to the violation listed above and recognizes that the violation may be included in the Respondent's Safety-Net Record and Respondent's history of violations insofar as it may be relevant for purposes of determining future penalty actions.
- B. Respondent and the Staff agree that the forfeiture should be reduced to \$250 based upon the Respondent's ability to pay, pursuant to Rule 4901:2-7-11(D)(2), O.A.C.
- C. Respondent shall pay the \$250.00 civil forfeiture within 30 days of the Commission's order approving this settlement agreement. Payment should be made by check or money order to "Treasurer State of Ohio," and mailed to: PUCO FINANCE, 180 East Broad St., 4th Floor, Columbus, OH 43215-3793. The case number (OH3207302484D) shall appear on the face of the check.

- D. Respondent and Staff agree that nothing in this settlement agreement shall prevent Staff from assessing civil forfeitures pursuant to Chapter 4901:2-7, O.A.C., as the result of future compliance reviews or roadside inspections.
- E. This settlement agreement shall not become effective until adopted by an Opinion and Order of the Commission. The date of the entry or of the Commission adopting the settlement agreement shall be considered the effective date of the settlement agreement.
- F. This settlement agreement is made in settlement of all factual or legal issues of only this case. It is not intended to have any effect whatsoever in any other case or proceeding.

III. Conclusion

The Signatory parties agree that this Settlement Agreement is in the best interest of all parties, and urge the Commission to adopt the same. The undersigned respectfully request that the Commission issue an entry in accordance with the terms set forth in this Settlement Agreement.

The parties have manifested their consent to this Settlement Agreement by affixing their signatures below on this 8th day of October, 2017.

On behalf of Respondent



Lee H. Lollar

311 Beverly Ann Drive
Troy, MO 63379

On behalf of the Staff of the Public Utilities
Commission of Ohio



Thomas G. Lindgren

Assistant Attorney General
Public Utilities Section
30 East Broad Street, 16th Floor
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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/16/2017 1:03:16 PM

in

Case No(s). 17-1782-TR-CVF

Summary: Agreement Settlement Agreement submitted by Assistant Attorney General Thomas Lindgren on behalf of the Staff of the Public Utilities Commission of Ohio. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio