

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF FRONTIER
TECHNOLOGY CORP., NOTICE OF
APPARENT VIOLATION AND INTENT TO
ASSESS FORFEITURE.

CASE NO. 17-770-TR-CVF
(CR201701110080)

FINDING AND ORDER

Entered in the Journal on June 6, 2018

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement regarding violations of the Commission's transportation rules as a result of a compliance review conducted at a facility owned by Frontier Technology Corp.

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 (FMCSR) 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, per violation, against any person who violates the safety rules adopted by the Commission. Ohio Adm.Code 4901:2-7-20 requires that, at the hearing, Staff prove the occurrence of a violation by a preponderance of the evidence.

B. *Procedural History*

{¶ 3} On January 11, 2017, a compliance review was conducted at Frontier Technology Corp.'s (Respondent) facility within the state of Ohio. The compliance review resulted in the discovery of the following violations: \$0.00 for violation of 49 C.F.R. 107.608(b), for offering a hazardous material for transportation without having registered with the Department of Transportation, and \$2,000 for violation of 49 C.F.R. 172.800(b), for

offering for transportation or transporting a hazardous material listed without a security plan.

{¶ 4} Respondent was timely served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, on February 26, 2017. The NPD assessed Respondent a civil forfeiture of \$2,000 for the violations.

{¶ 5} On March 15, 2017, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference settlement conference was held on May 2, 2017; however, the parties were unable to settle this matter.

{¶ 7} By Entry issued January 22, 2018, the attorney examiner scheduled this matter for hearing on February 26, 2018.

{¶ 8} By Entry issued March 6, 2018, the attorney examiner granted the parties' joint request for a continuance and directed the parties to file a letter regarding the status of this matter on or before March 23, 2018, indicating whether a settlement has been reached or a hearing should be scheduled to adjudicate this matter.

{¶ 9} On May 3, 2018, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves 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 not to contest the alleged violations of 49 C.F.R. 107.608(b) and 172.800(b).
- (b) Respondent and Staff agree the alleged violations may not be used for purposes of determining past or future penalty actions.

- (c) Respondent and Staff agree the alleged violations may not be used to retroactively bring enforcement actions against Respondent for events that occurred prior to the effective date of the settlement agreement.
- (d) Respondent and Staff agree that the forfeiture for the violation of 49 C.F.R. 172.800(b) should be reduced to \$1,200.00.
- (e) Respondent and Staff agree that Respondent is registered with the Department of Transportation to offer for transportation a hazardous material and is currently in compliance with 49 C.F.R. 107.608(b).
- (f) Respondent and Staff agree that Respondent is currently in compliance with 49 C.F.R. 172.800(b) after review of Respondent's current security plan and policies.
- (g) Respondent shall pay the \$1,200.00 civil forfeiture within 60 days of the Commission's order approving the settlement agreement. Payment should be made by check or money order to "Treasurer, State of Ohio," and mailed to: PUCO Finance and Services, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. The case number (CR201701110080) shall appear on the face of each check or money order.
- (h) The settlement agreement shall not become effective until adopted by an order of the Commission. The date the Commission adopts the settlement agreement shall be considered the effective date of the settlement agreement.

- (i) The 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.

C. Commission Conclusion

{¶ 10} 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

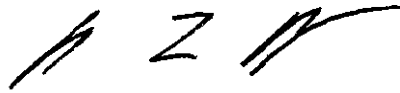
{¶ 11} It is, therefore,

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

{¶ 13} ORDERED, That Respondent pay the civil forfeiture of \$1,200.00 within 60 days of the Commission's order approving the settlement agreement. Payment shall be made by check or money order payable to the "Treasurer, State of Ohio" and mailed or delivered to PUCO Finance and Services, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write Case No. 17-770-TR-CVF and inspection number CR201701110080 on the face of each check or money order. It is, further,

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

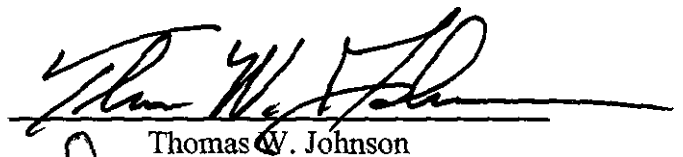
THE PUBLIC UTILITIES COMMISSION OF OHIO



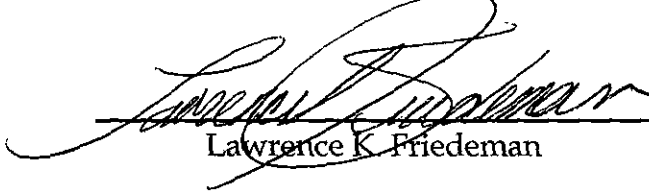
Asim Z. Haque, Chairman



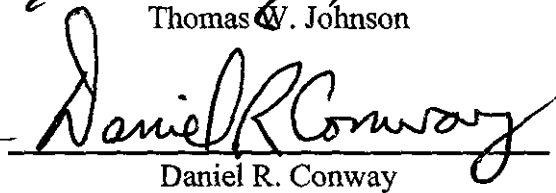
M. Beth Trombold



Thomas W. Johnson



Lawrence K. Friedeman



Daniel R. Conway

MJA/LLA/mef

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JUN 06 2018



Barcy F. McNeal
Secretary