

# THE PUBLIC UTILITIES COMMISSION OF OHIO

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

CASE NO. 18-428-TR-CVF  
(OH3260013268C)

## ENTRY

Entered in the Journal on October 3, 2018

### I. SUMMARY

{¶ 1} The Commission finds that Staff's motion for default judgment should be granted against NJ Transport Services LLC for failing to appear at a hearing concerning a violation of the Commission's transportation rules.

### II. DISCUSSION

{¶ 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.

{¶ 3} NJ Transport Services LLC (NJ Transport) was served with a notice of preliminary determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12. The NPD informed NJ Transport that Staff intended to assess a \$0.00 civil forfeiture for violating 49 C.F.R. 395.22(a), operating a commercial motor vehicle with an electronic logbook device not registered with the Federal Motor Carrier Safety Administration.

{¶ 4} On March 28, 2018, NJ Transport filed a request for an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 5} A prehearing settlement conference was held on May 8, 2018, but the parties were unable to settle the matter, and a hearing was scheduled for July 12, 2018. The Entry scheduling the hearing was not returned via U.S. Mail as undeliverable.

{¶ 6} 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 additionally 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.

{¶ 7} The hearing was convened, as scheduled, on July 12, 2018. NJ Transport failed to appear at the hearing and, accordingly, Staff moved for a default judgment against NJ Transport (Tr. at 5). Staff presented as exhibits the NPD (Staff Ex. 2) and the Driver/Vehicle Examination Report (Staff Ex. 1) issued to NJ Transport.

{¶ 8} Given NJ Transport's failure to participate in the hearing, NJ Transport is in default, in accordance with Ohio Adm.Code 4901:2-7-14. Accordingly, Staff's motion for default judgment should be granted.

### III. ORDER

{¶ 9} It is, therefore,

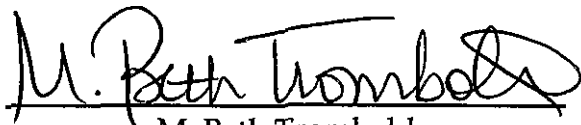
{¶ 10} ORDERED, That Staff's motion for default judgment be granted. It is, further,

[¶ 11] ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



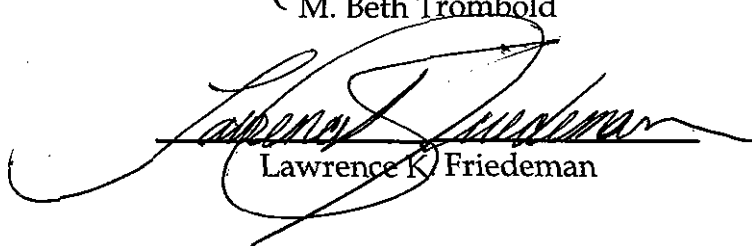
Asim Z. Haque, Chairman



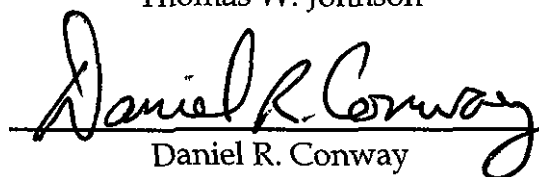
M. Beth Trombold



Thomas W. Johnson



Lawrence K. Friedeman

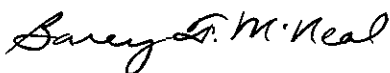


Daniel R. Conway

JML/hac

Entered in the Journal

**OCT 03 2018**



Barcy F. McNeal  
Secretary