

PUCO EXHIBIT FILING

Date of Hearing: 12/11/18

Case No. 18-1373-TA-CUF

PUCO Case Caption: TERRY HENRY-BAT

List of exhibits being filed:

STATE Ex-1 and 2

INDEPENDENT Ex-1

Reporter's Signature: [Signature]
Date Submitted: 12/27/18

PUCO

2018 DEC 31 PM 2:02

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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the matter of:)
Terry Henry-Britt,)
Notice of Apparent) Case No.
Violation and Intent) 18-1373-TR-CVF
To Assess Forfeiture.)

- - -

PROCEEDINGS

Before Kerry Sheets, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Hearing Room 11-D, Columbus, Ohio, on
Tuesday, December 11, 2018, at 11:00 a.m.

- - -

Armstrong & Okey, Inc.
222 East Town Street, 2nd Floor
Columbus, Ohio 43215
(614) 224-9481 - (800) 223-9481

- - -

Staff Ex. 1

DRIVER/VEHICLE EXAMINATION REPORT



Public Utilities Commission of Ohio
180 East Broad Street
Transportation Department
Columbus, OH 43215
Phone #: (614)466-0429 Fax #: (614)752-9274

Report Number: OH3291012365
Inspection Date: 5/3/2018 Certification Date:
Time Started: 07:09 Time Ended: 07:54
Inspection Level: III - Driver-Only Inspection
HM Inspection Type: No HM Inspection

CLASSIC CARRIERS INC
P O BOX 295
VERSAILLES, OH 45380-0295
USDOT #: 00300799
MC/MX #: 190369
State #:

Phone #: (937)526-5100
Fax #:

Driver: HENRYBRITT, TERRY L
License #: HENRYTL486QL State: WA
Date of Birth: 11/13/1952

Location: ROADSIDE
Highway: US 30
County: RICHLAND
Shipper:

MilePost: 15
Origin: VERSAILLES, OH
Destination: ALLIANCE, OH

Bill of Lading:
Cargo: EMPTY

VEHICLE IDENTIFICATION:

Unit	Type	Make	Year	State	License#	Equipment ID	Unit VIN	GVWR	CVSA #	CVSA Issued #	OOS Str.#
1	TT	FRHT	2016	OH	AAA142	1774	3AKJGLD56GSGS6801	52,350			

BRAKE ADJUSTMENTS: No brake measurements recorded.

VIOLATIONS :

Vio Code	Section	Unit	OOS	State Citation Number	Verify*	Crash	Violation Description
392.82A1	392.82(a)(1)	D	N		N	N	Using a hand-held mobile telephone while operating a CMV: Driver talking on a hand held smart phone while operating a CMV. (OBVI)

* N - Non-OOS or Driver OOS Violation

HazMat: No HM Transported.

Placard: NA Cargo Tank:

Special Checks:

- ☐ Alcohol/Controlled Substance Check
- ☐ Traffic Enforcement
- ☐ Post Crash Inspection
- ☐ Conducted by Local Jurisdiction
- ☐ PASA Conducted Inspection
- ☐ PBBT Inspection
- ☐ Size and Weight Enforcement
- ☐ Drug Interdiction Search
- Arrests:
- ☐ EScreening

Inspection Notes: While sitting stationary on US-30 facing east bound traffic, I observed driver Terry L. HenryBritt traveling east bound in the right lane (of 2 lanes of travel) talking on a hand held cell/smart phone, driver was holding her cell/smart phone with her right hand to her right ear. Traffic was light with no obstructed view into the cab as she drove passed me. The cell/smart phone had a teal case on it. Driver did have a blue tooth head set in her left ear, but it showed no sign of being powered up (no power light on). She also had her smart phone in a mounted holder just to the right of her, the phone was powered off when I made contact with driver. She stated her phone wasn't even on. I asked her to turn her phone on and show me her call history. She complied and her call history showed she had made a call at 6:53am today. While conducting this traffic stop, driver drove very slow on the right side of the berm and took a while to come to a complete stop. Weather was partly sunny.

Driver address on her CDL is:
9004 Waller rd
Tacoma, WA
98446

Special Study Fields:

- Special Study1:
- Special Study2:
- Special Study3:
- Special Study4:
- Special Study5:
- Special Study6:
- Special Study7:
- Special Study8:
- Special Study9:
- Special Study10:

Locally Defined Fields:

For-Hire Carrier: Y; Driver Address: 921 ALTADENA AVE; Driver City: FIRCREST; Driver State: WA; Driver Zip: 98446; Reason Code: OBVI; FMCSA Credentials Verified-Y/N: Y; CDL Verified (Y/N): Y; FMCSA OOS Order Issued(Y/N): N

Report Prepared By:
J M Holzworth

Badge #:
3291

Copy Received By:
HENRYBRITT, TERRY L

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X

X

OH3291012365

DRIVER/VEHICLE EXAMINATION REPORT



Public Utilities Commission of Ohio
180 East Broad Street
Transportation Department
Columbus, OH 43215
Phone #: (614)466-0429 Fax #: (614)752-9274

Report Number: OH3291012365
Inspection Date: 5/3/2018 Certification Date:
Time Started: 07:09 Time Ended: 07:54
Inspection Level: III - Driver-Only Inspection
HM Inspection Type: No HM Inspection

CLASSIC CARRIERS INC
P O BOX 295
VERSAILLES, OH 45380-0295
USDOT #: 00300799
MC/MX #: 190369
State #:

Phone #: (937)626-5100
Fax #:

Driver: HENRYBRITT, TERRY L
License #: HENRYTL486QL State: WA
Date of Birth: 11/13/1952

All violations of the FHMR and FMCSR or Title 49 of the Ohio Revised Code will be reviewed by the PUCO's Transportation Department to determine whether civil forfeitures should be assessed against any responsible parties in accordance with the penalty provisions of Title 49 of the Ohio Revised Code. If civil forfeitures are assessed, you will receive a separate notice by mail. These penalties may be assessed to motor carriers, shippers, and/or drivers.

ATTENTION DRIVER: This report must be sent to the motor carrier whose name appears at the top of this inspection report within 24 hours. If the inspection report cannot be delivered within 24 hours the driver must mail or fax the inspection report to the motor carrier.

ATTENTION MOTOR CARRIER: The motor carrier must examine this report and repair all the vehicle defects/violations noted above -AND- The motor carrier must sign the Certification of Repairs below and return the signed form to: Public Utilities Commission of Ohio, T ASD - 4th floor, 180 E Broad St, Columbus, OH 43215-3793 -OR- Fax (614) 752-9274 within 15 days of the inspection. If "No Violations Were Discovered" then you do not need to return this report. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000. If you have any questions, please contact (614) 466-0429.

MOTOR CARRIER CERTIFICATION OF COMPLETED REPAIRS: The undersigned certifies that all violations noted on this report have been corrected and action taken to assure compliance with the Federal Motor Carrier Safety & Hazardous Materials Regulations insofar as they are applicable to motor carriers and drivers. A false certification of repairs is required to be prosecuted with penalties up to \$10,000.

Signature of Carrier Official: X Date: _____

Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature of Repairer: X Facility: _____ Date: _____

Report Prepared By:
J M Holzworth

Badge #:
3291

Copy Received By:
HENRYBRITT, TERRY L

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OH3291012365

X _____ X _____



Public Utilities Commission

Asim Z. Haque, Chairman

Commissioners

M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedeman
Daniel R. Conway

08/02/2018

OH3291012365D
Ms. Andrea Henning
102 Devonshire Ste C
Lima, OH 45804

RE: **NOTICE OF PRELIMINARY
DETERMINATION**
Case No. OH3291012365D

Dear Sir or Madam:

On 05/03/2018, a vehicle operated by CLASSIC CARRIERS INC, and driven by TERRY L HENRYBRITT, was inspected within the State of Ohio. As the result of discovery of the following violations of the Commission's rules, Staff of the Commission timely notified TERRY L HENRYBRITT (Respondent) pursuant to rule 4901:2-7-07, Ohio Administrative Code (O.A.C.), that it intended to assess a civil forfeiture against the Respondent in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
392.82A1	4	Using a hand-held mobile telephone while operating a CMV	250.00
		Total of Group 4	250.00

TOTAL AMOUNT DUE: \$250.00

A conference was conducted pursuant to rule 4901:2-7-10, O.A.C., at which the Respondent had a full opportunity to present any reasons why the violation did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

As a result of the conference, Staff has made a Preliminary Determination that the Commission should assess a civil forfeiture against TERRY L HENRYBRITT in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
392.82A1	4	Using a hand-held mobile telephone while operating a CMV	250.00
		Total of Group 4	250.00

180 East Broad Street
Columbus, Ohio 43215-3793

(614) 466-3016
www.PUCO.ohio.gov





Public Utilities Commission

Asim Z. Haque, Chairman

Commissioners

M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedman
Daniel R. Conway

TOTAL AMOUNT DUE: \$250.00

Within 30 days of this notice, you must either: (1) pay the assessed civil forfeiture or (2) file a written request for an administrative hearing pursuant to rule 4901:2-7-13, O.A.C. Failure to file a written request for an administrative hearing within 30 days shall constitute a waiver of your right to further contest the violations and will conclusively establish the occurrence of the violations. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in the notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

Please consult the enclosed instruction sheet for additional information regarding this Notice of Preliminary Determination.

Sincerely,

Rod Moser, Chief of Compliance
Transportation Department

Compliance Officer: Cheryl Streets



**ROADSIDE INSPECTION
INSTRUCTION SHEET
NOTICE OF PRELIMINARY DETERMINATION**

Please read this instruction sheet carefully. It contains information about your rights and responsibilities in regard to this Notice of Preliminary Determination.

You have received a "Notice of Preliminary Determination" as described in Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). Within 30 days of this notice, you must either: (1) pay the assessed civil forfeiture or (2) file a written request for an administrative hearing. If you do not pay the forfeiture or file a request for an administrative hearing within 30 days of this notice, your case will be placed in our default process. Both procedures are described below.

1. How to Pay the Forfeiture

If you do not wish to further contest the violations described in this notice, you may make payment of the civil forfeiture indicated in this notice via one of the following methods:

Online at <https://omcis.puc.state.oh.us/home.aspx>. You will need your case number and PIN located on the enclosed voucher.

Mail: send a check or money order (no Canadian postal money orders) made payable to "Treasurer, State of Ohio." In order to assure proper credit, you must write the case number on the face of the check or money order. Please send payment to the following address:

Public Utilities Commission of Ohio
Attn: CF Processing
180 East Broad Street, 4th Floor
Columbus, OH 43215-3793

2. How to File a Request for an Administrative Hearing

If you wish to further contest the violations described in this notice, you should file a "Request for an Administrative Hearing" with the Commission's Docketing Division as described in Rule 4901:2-7-13, O.A.C. Your "Request for an Administrative Hearing" must be in writing and must contain the case number indicated on this notice. Also, please include the contact name, address, and telephone number, of the person to whom further communications regarding this matter should be directed. The request shall be signed by the respondent or its authorized representative. A copy of this "Notice of Preliminary Determination" must be attached to your request.

Your "Request for an Administrative Hearing" must be mailed or hand-delivered within 30 days of this notice to the following address:

Public Utilities Commission of Ohio
Attn: Docketing Division
180 East Broad Street
Columbus, OH 43215-3793

3. Failure to Submit a Request for an Administrative Hearing

If you do not serve a timely "Request for an Administrative Hearing" in the manner described above, you will forfeit your right to



further contest the violations described in this notice and the occurrence of the violations will be conclusively established. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in this notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

4. Codes, Violation Groups, and Forfeiture Amounts

"Code" in this notice identifies the rule that was violated. Numbers in a 100 or 300 series refer to specific sections of the Hazardous Materials Regulations or the Federal Motor Carrier Safety Regulations located in Title 49 of the Code of Federal Regulations (C.F.R.). Some section numbers may have suffixes beyond those which appear in the C.F.R. These are used for internal data collection purposes. Codes in other formats refer to violations of Ohio's statutes or regulations.

"Violation Group" identifies the numerical group (1-4) of the violation for purposes of calculating the civil forfeiture. Section 4923.99, Ohio Revised Code, authorizes the Public Utilities Commission of Ohio to assess a civil forfeiture of up to \$25,000 for each day of each violation. The amount of any forfeiture depends upon the nature, gravity, circumstances, and extent of the violation, the offender's degree of culpability for the violation, and the offender's history of violations. "Total Amount Due" is the total amount of the civil forfeiture assessed for all violations described in this notice.

For additional information regarding the civil forfeiture program, please contact the Compliance Division.

5. Violations of 49 C.F.R. 383.51, 391.15, 392.5(c)(2), 392.10, 392.80(a), 392.82(a), 395.13(d), 396.9(c)(2), and rule 4901:2-5-07(D) of the Ohio Administrative Code

If you are "convicted" of violating any of the following: 49 C.F.R. 383.51, 391.15, 392.5(c)(2), 392.10, 392.80(a), 392.82(a), 395.13(d), 396.9(c)(2), or rule 4901:2-5-07(D) of the Ohio Administrative Code, you may be disqualified from operating a commercial motor vehicle for a minimum of 60 days. The federal regulations defines conviction as, "An unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by **an authorized administrative tribunal**, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the **payment of a fine** or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated."

6. Copies of Inspection Reports

A copy of the inspection report for the violations described in this notice was given to the driver at the time of inspection. You may request additional copies of inspection reports.

Obtain copies at this web site:

<https://www.puc.state.oh.us/secure/OMCIS/public/searchcarrierreports.aspx>

Or you may email your request to:

cmvreports@puc.state.oh.us. Please provide the **inspection number and inspection date** in your request.





The Public Utilities
Commission of Ohio
180 E. Broad St. - Fourth Floor
Columbus, OH 43215

OMCIS VOUCHER

Date: 8/2/2018
Legal Name: TERRY L HENRYBRITT
Address: 921 ALTADENA AVE
City: FIRCREST
State: WA
Zip: 98446
Case Number: OH3291012365D
PIN: UB29

Item	DueDate	Amount
1	9/16/2018	\$250.00
Total		\$250.00

Pay online at <https://omcis.puc.state.oh.us/home.aspx> or enclose this voucher with your check or money order if paying by mail.



OH3291012365D



Date	Time	Destination	Number	Call type	Minutes
5/3/2018	10:04 PM	INCOMING	206-227-9683	Off Peak	9
5/3/2018	7:54 PM	VOICE MAIL	000-000-0086	Peak	2
5/3/2018	7:29 PM	INCOMING	612-418-2890	M2M Calling Peak	2
5/3/2018	6:52 PM	INCOMING	509-308-1668	Peak	4
5/3/2018	6:33 PM	KENNEWICK	509-308-1668	Peak	10
5/3/2018	6:03 PM	INCOMING	509-998-5738	M2M Calling Peak	31
5/3/2018	5:33 PM	INCOMING	701-340-4000	M2M Calling Peak	15
5/3/2018	4:36 PM	INCOMING	937-604-8161	M2M Calling Peak	3
5/3/2018	4:31 PM	KENNEWICK	509-308-1668	Peak	3
5/3/2018	4:16 PM	INCOMING	701-340-4000	M2M Calling Peak	16
5/3/2018	4:14 PM	INCOMING	509-308-1668	Peak	20
5/3/2018	3:56 PM	INCOMING	253-905-1896	M2M Calling Peak	12
5/3/2018	3:53 PM	KENNEWICK	509-308-1668	Peak	1
5/3/2018	3:52 PM	INCOMING	509-998-5738	M2M Calling Peak	11
5/3/2018	3:03 PM	SALEM	503-580-6743	M2M Calling Peak	25
5/3/2018	2:54 PM	INCOMING	503-580-6743	M2M Calling Peak	10
5/3/2018	2:44 PM	VOICE MAIL	000-000-0086	Peak	2
5/3/2018	1:30 PM	MINOT	701-340-4000	M2M Calling Peak	69
5/3/2018	1:09 PM	KENNEWICK	509-308-1668	Peak	21
5/3/2018	12:25 PM	INCOMING	701-340-4000	M2M Calling Peak	44
5/3/2018	12:24 PM	KENNEWICK	509-308-1668	Peak	2
5/3/2018	12:13 PM	INCOMING	509-998-5738	M2M Calling Peak	11
5/3/2018	12:10 PM	BILLINGS	406-208-2162	Peak	4
5/3/2018	12:07 PM	INCOMING	406-208-2162	Peak	1
5/3/2018	11:55 AM	INCOMING	509-998-5738	M2M Calling Peak	2
5/3/2018	11:53 AM	BILLINGS	406-208-2162	Peak	1
5/3/2018	11:18 AM	INCOMING	509-998-5738	M2M Calling Peak	31
5/3/2018	11:05 AM	DIXON	815-440-3204	M2M Calling Peak	10
5/3/2018	10:42 AM	KENNEWICK	509-308-1668	Peak	24
5/3/2018	10:34 AM	BUCYRUS	419-562-6325	Peak	8
5/3/2018	10:19 AM	KENNEWICK	509-308-1668	Peak	3
5/3/2018	10:18 AM	KENNEWICK	509-308-1668	Peak	1
5/3/2018	9:12 AM	TOLL-FREE	800-525-4285	Peak	9
5/3/2018	9:10 AM	VERSAILLES	937-526-7047	Peak	2
5/3/2018	8:37 AM	INCOMING	509-998-5738	M2M Calling Peak	33
5/3/2018	8:23 AM	SEATTLE	206-227-9683	M2M Calling Peak	10
5/3/2018	8:21 AM	INCOMING	937-526-5100	Peak	2
5/3/2018	8:17 AM	KENNEWICK	509-308-1668	Peak	4
5/3/2018	8:15 AM	TOLL-FREE	800-525-4285	Peak	3
5/3/2018	8:10 AM	VERSAILLES	937-526-7047	Peak	4
5/3/2018	7:57 AM	INCOMING	509-308-1668	Peak	13
5/3/2018	7:56 AM	KENNEWICK	509-308-1668	Peak	1
5/3/2018	7:51 AM	VERSAILLES	937-526-7047	Peak	1
5/3/2018	6:32 AM	SEATTLE	206-227-9683	M2M Calling Peak	1
5/3/2018	5:58 AM	SEATTLE	206-227-9683	Off Peak	1
5/2/2018	11:02 PM	DAYTON	937-604-8118	Off Peak	2