

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Energy	:	
Transportation, LLC , Notice of	:	Case No. 19-1505-TR-CVF
Apparent Violation and Intent to	:	(OH3207302697C)
Assess Forfeiture.	:	

SETTLEMENT AGREEMENT

I. Introduction

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), Energy Transportation, LLC (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. The Parties agree that if the Commission rejects all or any part of this Settlement Agreement or otherwise materially modifies its terms, either Party shall have the right, within thirty (30) business days of the Commission's order, either to

file an application for rehearing or to terminate and withdraw from this agreement by filing a notice with the Commission. If an application for rehearing is filed, and if the Commission does not, on rehearing, accept the Settlement Agreement without material modification, either Party may terminate and withdraw from this agreement by filing a notice with the Commission within ten (10) business days of the Commission's order or entry on rehearing. In such an event, a hearing shall go forward, and the Parties shall be afforded the opportunity to present evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to file briefs on all issues.

II. Procedural History

- A. On May 1, 2019, a vehicle operated by Energy Transportation, LLC and driven by James Pennesi was inspected within the State of Ohio. The inspection resulted in the discovery of four (4) violations of the federal hazardous materials regulations. The violations were: transporting a hazardous material without emergency response information in violation of 49 C.F.R. §171.6(c); transporting a vehicle containing a hazardous material not properly marked and placarded in violation of 49 C.F.R. §177.823(a); improper minimum road clearance in violation of 49 C.F.R. §178.345-8(a)(5); and improper pressure relief in violation of 49 C.F.R. §178.345-10.
- B. On July 3, 2019, Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, O.A.C. for

Case No. OH3207302697C. The preliminary determination assessed Respondent \$10,800.00 for the violations.

- C. On July 29, 2019, Respondent made a timely formal request for an administrative hearing pursuant to Rule 4901:2-7-13, O.A.C.
- D. A prehearing conference was held on September 9, 2019 via telephone.
- E. On September 18, 2019, Respondent indicated to Staff that it no longer intended to proceed to hearing and accepted the violations and forfeitures as written.

III. Settlement Agreement

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

- A. Respondent acknowledges that pursuant to the May 1, 2019 inspection, Energy Transportation LLC was found in violation of 49 C.F.R. §171.6(c); 49 C.F.R. §177.823(a); 49 C.F.R. §178.345-8(a)(5); and 49 C.F.R. §178.345-10.
- B. The civil forfeiture assessed is \$10,800.00.
- C. Respondent has agreed that it no longer wishes to proceed to hearing and accepts the violations and forfeitures as written.
- D. This settlement agreement shall not become effective until adopted by an Opinion and Order of the Commission. The date of the entry of the Commission order adopting the settlement agreement shall be considered the effective date of the settlement agreement.


- E. This settlement agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any effect whatsoever in any other case or proceeding.
- F. Pursuant to Rule 4901:2-7-11(C) of the O.A.C., Respondent shall pay the assessed civil forfeiture within 30 days of the adoption of this Settlement Agreement by an Opinion and Order of the Commission.

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 the Settlement Agreement by affixing their signatures below on this 20th day of September, 2019.

On behalf of Energy Transportation, LLC


Pasco Altovilla [per authorization]
DOT Compliance Director
Energy Transportation LLC
PO Box 430
Bridgeport, WV 26330

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


Andrew B. Shaffer
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 16th Floor
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in

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Summary: Agreement electronically filed by Mrs. Tonnetta Y Scott on behalf of PUCO