

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF ENERGY
TRANSPORTATION, LLC,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 19-1505-TR-CVF
(OH3207302697C)

FINDING AND ORDER

Entered in the Journal on October 9, 2019

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement regarding violations 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} On May 1, 2019, a vehicle operated by Energy Transportation, LLC (Respondent) was inspected within the State of Ohio. The inspection resulted in the discovery of four violations of the federal hazardous materials regulations, including: 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.

{¶ 4} Staff timely served a notice of preliminary determination (NPD) upon Respondent in accordance with Ohio Adm.Code 4901:2-7-12. The NPD assessed

Respondent a civil forfeiture totaling \$10,800 for the alleged violations of the Commission's transportation regulations.

{¶ 5} On July 29, 2019, Respondent requested an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 6} On September 9, 2019, the parties participated in a prehearing conference.

{¶ 7} On September 20, 2019, Staff filed a joint 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 supersede the settlement agreement.

- a. Respondent acknowledges that pursuant to the inspection of May 1, 2019, that 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.
- c. Respondent agrees 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 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. The 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 Ohio Adm.Code 4901:2-7-11(C), Respondent shall pay the assessed civil forfeiture within 30 days of the adoption of this settlement agreement by the Commission.

{¶ 8} 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

{¶ 9} It is, therefore,

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

{¶ 11} ORDERED, That Respondent pay the civil forfeiture of \$10,800 in accordance with the settlement agreement. Payment shall be made by check or money order payable to "Treasurer, State of Ohio," and mailed to PUCO, Attn: CF processing, 180 East Broad Street, 4th Floor, Columbus Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write Case No. 19-1505-TR-CVF and the inspection number OH3207302697C on the face of the check or money order. It is, further,

{¶ 12} ORDERED, That a copy of this Entry be served upon all parties of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

MLW/hac

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Case No(s). 19-1505-TR-CVF

Summary: Finding & Order that the Commission finds reasonable and approves the settlement agreement regarding violations of the Commission's transportation rules. electronically filed by Docketing Staff on behalf of Docketing