

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of M PARKS	:	
TRUCKING LLC , Notice of	:	Case No. 19-2042-TR-CVF
Apparent Violation and Intent to	:	(20-CR-304311)
Assess Forfeiture.	:	

SETTLEMENT AGREEMENT

I. Introduction

Pursuant to Rule 4901:2-7-11(C) of the Ohio Administrative Code (O.A.C.), M PARKS TRUCKING LLC (Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this settlement agreement and request the approval of the Commission.

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 approve this Settlement Agreement.

This settlement agreement is submitted on the condition that the Commission approves 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, approve 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 August 7, 2019, Staff of the Public Utilities Commission of Ohio (Staff) conducted a compliance review of M PARKS TRUCKING at 150 Zane Oak Road, Oak Hill, OH 45656. The compliance review resulted in the discovery of three (3) violations of the Federal Motor Carrier Safety Administration regulations and one (1) violation of the Ohio Administrative Code. The violations were: failing to preserve driver's record of duty status for six months in violation of 49 C.F.R. §395.8(k)(1); failing to require driver to prepare vehicle inspection report in violation of 49 C.F.R. §396.11(a); failing to keep a maintenance record identifying the vehicle in violation of 49 C.F.R. §396.3(b)(1); and failing to require a driver to prepared a record of duty status in violation of O.A.C. Rule 4901:2-5-03. Due to a technical error that Staff later discovered, Respondent was incorrectly assessed two additional violations. Due to the violations described above and in accordance with rule

4901:2-7-07 of the Ohio Administrative Code, Staff sent respondent a Notice of Intent to Assess a Forfeiture for the six violations in the amount of \$27,250.00. After Staff removed the two additional violations, the correct forfeiture amount for the four violations was of \$13,850.00. Respondent was notified of these changes and the forfeiture reduction.

- B. Pursuant to O.A.C. Rule 4901:2-7-10, Respondent made a timely request for conference. A conference was held on November 8, 2019, where Respondent had the opportunity to present reasons why the violations did not occur as alleged, mitigating circumstances regarding the amount of the forfeiture, reasons why the compliance order may be unjustified, or any other information relevant to the action proposed to be taken. Respondent accepted full responsibility and indicated it has switched electronic logging device (ELD) providers to ensure future compliance.
- C. The parties have negotiated this settlement agreement which the parties believe resolves all the issues raised in the notice of apparent violation. Because the civil forfeiture exceeds five thousand dollars, this settlement agreement is submitted for the Commission's approval in accordance with O.A.C. Rule 4901:2-7-11(C).

III. Settlement Agreement

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

- A. Respondent acknowledges that pursuant to the August 7, 2019 review, M PARKS TRUCKING LLC was found in violation of 49 C.F.R. §395.8(k)(1);

49 C.F.R. §396.11(a); 49 C.F.R. §396.3(b)(1); and O.A.C. Rule 4901:2-5-03.

- B. The civil forfeiture assessed is \$9,695.00
- C. Respondent accepts the violations and forfeitures as written.
- D. Respondent shall pay the \$9,695.00 civil forfeiture in 10 consecutive monthly installments of \$969.50 commencing 30 days after the Commission's order approving this Settlement Agreement. The payments shall be made payable to "Treasurer State of Ohio," and they shall be mailed to PUCO, Attn: CF Processing, 180 E. Broad St., 4th floor, Columbus, OH 43215-3793. The case number (20-CR-304311) should appear on the face of each check.
- E. In accordance with O.A.C. Rule 4901:2-7-14(D), if the Respondent fails to comply with the provisions of this settlement agreement for a period exceeding 30 days, Respondent shall be in default and shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability for the forfeiture proposed in the notice of intent to assess forfeiture.
- F. Pursuant to O.A.C. Rule 4901:2-7-11, this settlement agreement shall not become effective until approved 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.

G. 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.

III. Conclusion

The Signatory parties agree that this Settlement Agreement is in the best interest of all parties, and urge the Commission to approve 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 30th day of December, 2019.

On behalf of M PARKS TRUCKING LLC

Utilities Commission of Ohio

/s/ Melanie Parks, per auth.
M PARKS TRUCKING LLC
150 Zane Oak Road
Oak Hill, OH 45656

/s/ Andrew B. Shaffer
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 16th Floor
Columbus, OH 43215

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Case No(s). 19-2042-TR-CVF

Summary: Agreement Amended Settlement Agreement electronically filed by Mrs. Kimberly M Naeder on behalf of PUCO