

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF AKROCHEM  
CORPORATION, NOTICE OF APPARENT  
VIOLATION AND INTENT TO ASSESS  
FORFEITURE

CASE NO. 19-1302-TR-CVF  
(OH3202306779S3)

## FINDING AND ORDER

Entered in the Journal on January 29, 2020

### I. SUMMARY

{¶ 1} The Commission approves the settlement agreement filed between Staff and Akrochem Corporation regarding 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, per violation, against any person who violates the safety rules adopted by the Commission.

{¶ 3} On March 26, 2019, a vehicle operated by USF Holland LLC and driven by Randal Culbertson was inspected within the state of Ohio. Akrochem Corporation (Respondent) was the shipper. The inspector discovered a violation of 49 C.F.R. 173.25(A).

{¶ 4} On May 10, 2019, Staff served a notice of preliminary determination (NPD) upon Respondent in accordance with Ohio Adm.Code 4901:2-7-12, alleging one violation of the Commission's transportation regulations. The NPD notified Respondent that Staff intended to assess a civil forfeiture in the amount totaling \$780 for a violation of 49 C.F.R. 173.25(A), for a failure to meet overpack conditions.

{¶ 5} On June 10, 2019, Respondent requested an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on September 16, 2019.

{¶ 7} Subsequently, on November 6, 2019, Staff and Respondent filed a settlement agreement that, in the parties' opinion, resolves all of the issues raised in the NPD. The parties state that the settlement agreement is based on the parties' desire to arrive at a reasonable result considering the law, facts, and circumstances. The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the settlement agreement:

- (a) Respondent agrees to the violation and recognizes that the violation may be included in the Respondent's Safety-Net Record and Respondent's history of violations insofar as it may be relevant for purposes of determining future penalty actions.
- (b) Respondent and Staff agree that the civil forfeiture amount should be reduced to \$546 based upon Respondent providing documentation of additional training for its employees.
- (c) Respondent shall pay the \$546 civil forfeiture within 30 days after the Commission's order approving the settlement agreement.
- (d) Respondent and Staff agree that nothing in the settlement agreement shall prevent Staff from assessing civil forfeitures pursuant to Ohio Adm.Code Chapter 4901:2-7, as the result of future compliance reviews or roadside inspections.
- (e) The settlement agreement is intended to resolve only factual or legal issues raised in this case, and it is not intended to have any effect whatsoever in any other case or proceeding.

{¶ 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 \$546 civil forfeiture within 30 days after the Commission's order approving the settlement agreement. The payment shall be made payable to "Treasurer State of Ohio," and it shall be mailed to Public Utilities Commission of Ohio, Attn: CF Processing, 180 East Broad Street, 4th floor, Columbus, Ohio 43215-3793. In order to ensure proper credit, the Case Number 19-1302-TR-CVF and inspection number OH3202306779S3 should appear on the face of each check or money order. It is, further,

{¶ 12} ORDERED, That a copy of this Finding and Order be served upon Respondent and all other interested parties of record.

COMMISSIONERS:

*Approving:*

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Dennis P. Deters

LLA/hac

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**1/29/2020 3:34:23 PM**

**in**

**Case No(s). 19-1302-TR-CVF**

Summary: Finding & Order that the Commission approves the settlement agreement filed between Staff and Akrochem Corporation regarding a violation of the Commission's transportation rules. electronically filed by Docketing Staff on behalf of Docketing