

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF KYLE FREY, NOTICE
OF APPARENT VIOLATION AND INTENT
TO ASSESS FORFEITURE.

CASE NO. 19-1827-TR-CVF
(OH1931000324D)

ENTRY

Entered in the Journal on May 6, 2020

I. SUMMARY

{¶ 1} The Commission grants Staff's motion to dismiss and finds the alleged violation should be deleted from Respondent's SafetyNet record.

II. DISCUSSION

{¶ 2} R.C. 4923.04 provides that the Commission shall adopt rules applicable to the transportation of persons or property 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 (FMCSR) 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 September 30, 2019, Kyle Frey (Respondent) requested an administrative hearing regarding an alleged driver violation in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 4} A prehearing conference took place on November 19, 2019, pursuant to Ohio Adm.Code 4901:2-7-16(B); however the parties were unable to resolve this matter. The attorney examiner scheduled a hearing to take place on January 27, 2020, and then rescheduled to February 3, 2020.

{¶ 5} On January 17, 2020, Staff filed a motion to dismiss. In support of its motion to dismiss, Staff avers that it is unable to prosecute the alleged violation of 49 C.F.R. 392.16

against Respondent. Staff states that, after a review of the facts, further investigation, and discussions with the Ohio State Highway Patrol, Staff determined that further prosecution of the violation against Respondent is unwarranted. Staff represents that the Ohio State Highway Patrol supports Staff's motion to dismiss. Staff recommends that the Commission dismiss the alleged violation and order it deleted from Respondent's SafetyNet record.

{¶ 6} After review, the Commission finds that Staff's uncontested motion to dismiss is reasonable and should be granted. Accordingly, the alleged violation shall be deleted from Respondent's SafetyNet record and this case shall be dismissed and closed of record.

III. ORDER

{¶ 7} It is, therefore,

{¶ 8} ORDERED, That Staff's motion to dismiss be granted. It is, further,

{¶ 9} ORDERED, That the alleged violation be deleted from Respondent's SafetyNet record. It is, further,

{¶ 10} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record in this proceeding.

COMMISSIONERS:

Approving:

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

LLA/hac

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Case No(s). 19-1827-TR-CVF

Summary: Entry granting Staff's motion to dismiss and finds the alleged violation should be deleted from Respondent's SafetyNet record electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio