

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of A. D. Transport	:	Case No. 20-1816-TR-CVF
Express, Inc. and Patrick Arvay,	:	(OH3202307012C)
Notice of Apparent Violation and	:	
Intent to Assess Forfeiture.	:	

SETTLEMENT AGREEMENT: CARRIER

I. Introduction

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), A. D. Transport Express, Inc. (Carrier 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 Carrier 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 Carrier Respondent's and the Staff's desire to arrive at a reasonable result considering the law, facts and circumstances. Accordingly, the Carrier Respondent and the Staff believe that the Commission should adopt this Settlement Agreement.

This Settlement is conditioned upon adoption of the Settlement by the Commission in its entirety and without material modification. Each Signatory Party has the right, in its sole discretion, to determine whether the Commission's approval of this

Settlement constitutes a "material modification" thereof. If the Commission rejects or materially modifies all or any part of this Settlement, any Signatory Party shall have the right to apply for rehearing. If the Commission does not adopt the Settlement without material modification upon rehearing, or if the Commission makes a material modification to any Order adopting the Settlement pursuant to any reversal, vacation and/or remand by the Supreme Court of Ohio, then within thirty (30) days of the Commission's Entry on Rehearing or Order on Remand any Signatory Party may withdraw from the Settlement by filing a notice with the Commission ("Notice of Withdrawal"). No Signatory Party shall file a Notice of Withdrawal without first negotiating in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Settlement. If a new agreement achieves such an outcome, the Signatory Parties will file the new agreement for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Settlement are unsuccessful, and a Signatory Party files a Notice of Withdrawal, then the Commission will convene an evidentiary hearing to afford that Signatory Party the opportunity to contest the Settlement by presenting evidence through witnesses, to cross examine witnesses, to present rebuttal testimony, and to brief all issues that the Commission shall decide based upon the record and briefs. If the discussions to achieve an outcome that substantially satisfies the intent of the Settlement are successful, then some or all of the Signatory Parties shall submit the amended Settlement to the Commission for approval after a hearing if necessary.

II. Procedural History

- A. On September 17, 2020, a vehicle operated by Carrier Respondent was inspected within the State of Ohio. The inspection resulted in the discovery of four out-of-service violations of the federal motor carrier safety regulations. The violations were: improper transportation of hazardous materials in violation of 49 C.F.R. § 177.839; an unsecured package containing hazardous material in the vehicle in violation of 49 C.F.R. § 177.834(a); defective brakes in violation of 49 C.F.R. § 393.48(a); and moving a transport vehicle containing hazardous material without a placard in violation of C.F.R. § 177.823(a).
- B. On or around December 16, 2020, Carrier Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, O.A.C. for Case No. OH3202307012C. The preliminary determination assessed Carrier Respondent \$2,340.00 for the violations.
- C. On December 28, 2020, Carrier Respondent made a timely formal request for an administrative hearing pursuant to Rule 4901:2-7-13, O.A.C.
- D. The parties have negotiated this settlement agreement which the parties believe resolves all the issues raised in the notice of preliminary determination.

III. Settlement Agreement

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

- A. Carrier Respondent agrees to violations of 49 C.F.R. §§ 177.839, 177.834(a), 393.48(a), 177.823(a) and recognizes that they may be included in the Carrier Respondent's Safety-Net Record and Carrier Respondent's history of violations insofar as they may be relevant for purposes of determining future penalty actions.
- B. Carrier Respondent agrees to pay a civil forfeiture of \$966.00 for the violations. Payment will be due thirty (30) days from Commission approval of this settlement agreement. Payment should be made by certified check or money order to "Treasurer State of Ohio," and mailed to: PUCO FISCAL, 180 East Broad St., 4th Floor, Columbus, OH 43215-3793.
- C. 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.
- D. 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.

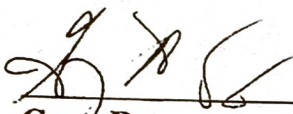
III. Conclusion

The Signatory parties agree that this Settlement Agreement is in the best interest of all parties, and urge the Commission to 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 5 day of ^{MARCH}~~February~~, 2021.

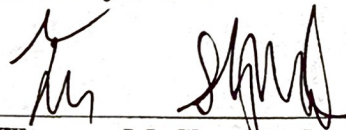
On behalf of Carrier Respondent



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Case No(s). 20-1816-TR-CVF

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