

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF OHIO EASTERN
EXPRESS, INC., NOTICE OF APPARENT
VIOLATION AND INTENT TO ASSESS
FORFEITURE.

CASE NO. 19-2225-TR-CVF
(20-CR-314126)

FINDING AND ORDER

Entered in the Journal on June 2, 2021

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and Ohio Eastern Express, Inc. regarding violations of the Commission's transportation rules.

II. DISCUSSION

{¶ 2} R.C. 4923.04(A)(1) mandates that the Commission 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 (FMCSR), published in the Code of Federal Regulations (C.F.R.), 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} Pursuant to Ohio Adm.Code 4901:2-7-11(C) settlement agreements providing for the payment of forfeitures of \$5,000 or more for any violation must be approved by order of the Commission.

{¶ 4} On October 8, 2019, Staff conducted a compliance review of the facility of Ohio Eastern Express, Inc. (Respondent) in Sandusky, Ohio. The inspection resulted in the discovery of eight alleged violations of the FMCSR. Based upon these alleged violations, Respondent was assessed a total civil forfeiture of \$8,400.

{¶ 5} On May 17, 2021, Staff and Respondent filed a settlement agreement (Settlement Agreement) that, in the parties' opinions, resolves the issues raised in this case. Staff and Respondent filed the Settlement Agreement in accordance with Ohio Adm.Code 4901:2-7-11(C), which requires settlement agreements providing for the payment of forfeitures of \$5,000 or more for any violation to be approved by order of the Commission. The following is a summary of the conditions agreed to by the parties; it is not intended to replace or supersede the Settlement Agreement.

- A. Respondent acknowledges that pursuant to the October 8, 2019 inspection, Respondent was found in violation of: 49 C.F.R. 382.303(a); 49 C.F.R. 382.303(b); 49 C.F.R. 382.303(d)(1); 49 C.F.R. 382.303(d)(2); 49 C.F.R. 382.309; 49 C.F.R. 392.2; 49 C.F.R. 395.8(a)(1); and 49 C.F.R. 395.8(e)(1). Respondent further acknowledges that the violations listed above may be included in Respondent's compliance record and history of violations insofar as they may be relevant for the purposes of determining penalty actions for future violations.
- B. In recognition of mitigating circumstances offered by Respondent, the parties agree that Respondent shall pay a reduced forfeiture of \$6,240 for the eight violations.
- C. Pursuant to Ohio Adm.Code 4901:2-7-11, the Settlement Agreement shall not become effective until adopted by the Commission. The date of the Commission's order shall be the effective date of the Settlement Agreement.
- D. Respondent shall pay the \$6,240 civil forfeiture within 30 days after the issuance of the Commission's order approving the Settlement Agreement. Payments shall be made by certified check or money order payable to "Treasurer State of Ohio," and

mailed to PUCO FINANCE, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. The case number 20-CR-314126 shall appear on the face of the check or money order.

- E. The Settlement Agreement is intended to resolve factual or legal issues raised in this case; it is not intended to have any effect on any other case or proceeding.

{¶ 6} 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. The Commission notes that in accordance with Ohio Adm.Code 4901:2-7-14(D), if the Respondent fails to comply with the provisions of the Settlement Agreement for a period exceeding 30 days, Respondent shall be in default and shall be deemed to have admitted the occurrence of the violations and waived all further right to contest liability for the forfeiture originally assessed by Staff.

III. ORDER

{¶ 7} It is, therefore,

{¶ 8} ORDERED, That the Settlement Agreement submitted in this case be approved and adopted in its entirety. It is, further,

{¶ 9} ORDERED, That Respondent pay the civil forfeiture of \$6,240 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 FINANCE, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write case number 20-CR-314126 on the face of the check or money order. It is, further,

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

COMMISSIONERS:

Approving:

Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

DMH/kck

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Summary: Finding & Order approving the settlement agreement filed between Staff and Ohio Eastern Express, Inc. regarding violations of the Commission's transportation rules.
electronically filed by Kelli C. King on behalf of The Public Utilities Commission of Ohio