

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF STEVEN P.
UPCHURCH, NOTICE OF APPARENT
VIOLATION AND INTENT TO ASSESS
FORFEITURE.

CASE NO. 19-2237-TR-CVF
(OH3230014289D)

ENTRY

Entered in the Journal on September 21, 2021

{¶ 1} Staff served a notice of preliminary determination upon Steven P. Upchurch (Respondent) in accordance with Ohio Adm.Code 4901:2-7-12, alleging a violation of the Commission's transportation regulations.

{¶ 2} On December 27, 2019, Respondent requested an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 3} On January 7, 2020, the attorney examiner scheduled a prehearing conference for February 11, 2020. The attorney examiner subsequently conducted two more prehearing conferences, which were scheduled by Entries issued on February 20 and April 2, 2020. During the prehearing conferences, Staff and Respondent were unable to reach a settlement.

{¶ 4} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19.

{¶ 5} By Entry dated May 1, 2020, the attorney examiner scheduled a hearing in this matter for July 29, 2020. Due to scheduling conflicts and the continuing COVID-19 state of emergency, the hearing for this matter has been rescheduled multiple times by Entries issued on July 2, August 3, and ultimately October 19, 2020, within which the attorney examiner noted that a hearing date would be set by future Entry.

{¶ 6} In light of the continuing COVID-19 pandemic, the attorney examiner finds it appropriate to schedule a hearing for October 20, 2021, at 10:00 a.m., to be conducted via virtual hearing technology. Instructions for participation in the evidentiary hearing will be emailed to the parties. Additionally, all exhibits intended to be used on direct and cross-examination shall be marked and exchanged by the parties and provided to the attorney examiner via electronic means prior to the hearing. Individuals interested in attending the evidentiary hearing as a non-party can access the hearing using the link <https://bit.ly/19-2237-EVH> and entering the password PUCO, or by calling 1-408-418-9388 and entering access code/event number 2339 877 5198.

{¶ 7} If the Respondent has questions regarding the virtual hearing process, please contact the attorney examiner at 614-728-2516 or matthew.sandor@puco.ohio.gov.

{¶ 8} Ohio Adm.Code 4901:2-7-14(E) provides that a respondent who has requested an administrative hearing and fails to participate in the hearing proceeding shall be in default. The rule further states that a respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability to the state for the forfeiture described in the notice.

{¶ 9} At the hearing, Staff must prove, by a preponderance of the evidence, that Respondent committed the alleged violation, pursuant to Ohio Adm.Code 4901:2-7-20(A).

{¶ 10} Following the Staff's presentation of evidence at the hearing, it shall be the responsibility of Respondent to present evidence supporting his contentions regarding the alleged violation in this matter.

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That the hearing be scheduled for October 20, 2021, to be held via virtual hearing technology in accordance with Paragraph 6. It is, further,

{¶ 13} ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Matthew Sandor

By: Matthew Sandor
Attorney Examiner

GAP/kck

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 19-2237-TR-CVF

Summary: Attorney Examiner Entry ordering that the hearing be scheduled for October 20, 2021, to be held via virtual hearing technology in accordance with Paragraph 6. electronically filed by Kelli C. King on behalf of Matthew Sandor, Attorney Examiner, Public Utilities Commission of Ohio