## BEFORE

## THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of a Settlement Agreement	)	
Between the Public Utilities Commission of	)	Case No. 06-274-TR-UNC
Ohio and Cincinnati Sub-Zero Products.	)	

## FINDING AND ORDER

## The Commission finds:

- (1) Sections 4919.79 and 4921.04 of the Revised Code authorize the Commission to adopt safety rules applicable to interstate and intrastate highway transportation and the offering for transportation of hazardous materials. Pursuant to this authority, the Commission adopted in Rule 4901:2-5-02, Ohio Administrative Code (O.A.C.), the provisions of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations of the U.S. Department of Transportation contained in 49 CFR 40, 382, 383, 385, 387, 390 to 397, and 49 CFR 171 to 180. Sections 4905.83, 4919.99 and 4921.99 of the Revised Code authorize the Commission to assess forfeiture against any person who violates these rules. Pursuant to this statutory authority, the Commission adopted the civil forfeiture and compliance proceeding rules contained in Rules 4901:2-7-01 through 4901:2-7-22, O.A.C. This action is brought pursuant to those rules and regulations.
- (2) On September 1, 2005, Staff conducted a compliance review of a facility operated by Cincinnati Sub-Zero Products and located at 12011 Mosteller Road, Cincinnati, Ohio.
- (3) During the compliance review, staff discovered the following apparent violations:

49 C.F.R. 391.45(a)	Using a driver not medically examined and			
	certified.	\$	500.00	
49 C.F.R. 391.51(b)(2)	Failing to maintain inquiries into driver's			
	driving record	\$	600.00	
49 C.F.R. 391.51(b)(3)	Failing to maintain road test certificate			
	in driver's file	\$	0.0	
49 C.F.R.391.51(b)(4)	Failing to maintain response of each			
	state agency	\$	0.0	
49 C.F.R.391.51(b)(5)	Failing to maintain a note related to			
	annual review	\$	0.0	
49 C.F.R. 391.51(b)(6)	Failing to maintain a list or certificate	\$	0.0	an
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Technician Ann Date Processed (2/20/06)

49 C.F.R. 391.51(d)	Failing to keep required records in	
	driver's file	\$ 0.0
49 C.F.R. 395.8(a)	Failing to require driver to make record	
	of duty status	\$ 3,300.00
49 C.F.R. 396.11(a)	Failing to require driver to prepare	
, .	inspection report	\$ 1,125.00
49 C.F.R. 172.704	Failing to train haz mat	-
	Employee	\$ 0.0
	± *	

- (4) Respondent requested a conference pursuant to Rule 4901:2-7-10, O.A.C. The matter was discussed, and the Respondent had a full opportunity to present any evidence that the violations did not occur as alleged, mitigating circumstances regarding the amount of the forfeiture, and any other information relevant to the action proposed to be taken by Staff.
- (5) As the result of this conference, Staff and Respondent entered into a settlement agreement to resolve these inspections. Among the terms of the settlement agreement, the Respondent agreed to make payments of a civil forfeiture of \$2,762.50 in five consecutive monthly payments of \$552.50. The consecutive monthly payments will commence within 30 days after the effective date of this settlement agreement.
- (6) Respondent agrees that the findings of violations enumerated above will be included in the Respondent's Safety-Net record and in Respondent's history of violations insofar as they may be relevant for purposes of determining future penalties.
- (7) Rule 4901:2-7-11(C), O.A.C., provides that settlement agreements providing for the payment of civil forfeitures of one thousand dollars or more for any violation shall not be effective until approved by and made the order of the Commission.
- (8) The settlement agreement entered into between Staff and Respondent represents an equitable settlement of the matter and should be approved and adopted by the Commission.

It is, therefore,

ORDERED, That the terms and conditions of the settlement agreement entered into between Staff and Cincinnati Sub-Zero Products be approved and adopted by the Commission by this Finding and Order. It is, further,

ORDERED, That the Respondent make five consecutive monthly payments of \$552.50 each commencing 30 days from the effective date of this settlement agreement. It is, further,

ORDERED, That the Commission's Docketing Division serve a copy of this Finding and Order on Respondent, Cincinnati Sub-Zero.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Ronda Hartman Fergus

Valerie A. Lemmie

Judith . Jones

Donald L. Mason

EW: sm

Entered in the Journal DEC 20 2006

Reneé J. Jenkins

Secretary