

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Rockmill Machinery)
Transfer, Inc., Notice of Apparent Violation) Case No. 07-18-TR-CVF
and Intent to Assess Forfeiture.) (OH290002764C)

FINDING AND ORDER

The Commission finds:

- (1) On April 26, 2006, a vehicle operated by Rockmill Machinery Transfer, Inc. (Respondent) was inspected within the State of Ohio by staff of the Department of Public Safety (Staff). The inspection resulted in the discovery of two apparent violations: Failure to have a unit number on both sides of the power unit in violation of 49 C.F.R. Section 392.2, and no or defective brake warning device, no audible or visual warning, in violation of 49 C.F.R. Section 393.51.
- (2) Respondent was timely served with a notice of preliminary determination (NPD) in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.), for Inspection Report OH290002764C. The preliminary determination assessed Respondent \$150.00 as a forfeiture.
- (3) Respondent made a timely request for an administrative hearing pursuant to 4901:2-7-13, O.A.C.
- (4) The parties filed a settlement agreement which, in the parties' opinion, resolves all issues raised in the NPD. In the settlement agreement, Staff and Respondent agree, and recommend that the Commission find, as follows:
 - (a) The Commission Staff and Respondent agree that Respondent does not contest the 49 C.F.R. Section 393.51 violation of no or defective brake warning device, no audible or visual warning. The Commission Staff and Respondent agree that Respondent will pay a civil forfeiture in the amount of \$50.00 for the no or defective brake-warning violation. The Commission Staff and Respondent agree that the violation for company markings, as required by 49 C.F.R. Section 392.2

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and Rule 4901:2-5-10 of the O.A.C., should be dismissed with no civil forfeiture being assessed.

- (b) For purposes of settlement, and not as an admission or evidence that the violations above occurred, Respondent agrees that the citations for the no or defective brake warning device and no company markings on the power unit above may be included in the Respondent's Safety-Net record and history of violations insofar as they may be relevant for purposes of determining future penalty actions.
 - (c) This settlement agreement shall not become effective until adopted by an order of the Commission. The date of the Commission order adopting the settlement agreement shall be considered the effective date of the settlement agreement.
 - (d) Respondent shall have 30 days from the entry of the Commission order adopting the settlement agreement to pay the \$50.00 forfeiture for the no or defective brake warning device violation of 49 C.F.R. Section 393.51, which shall be paid using a certified check or money order payable to: "Treasurer State of Ohio," and mail to: PUCO Fiscal, 180 E. Broad St., 13th Floor, Columbus, Ohio 43215-3793.
 - (e) This settlement agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any affect whatsoever in any other case or proceeding.
- (5) The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, the settlement agreement should be approved and adopted in its entirety.

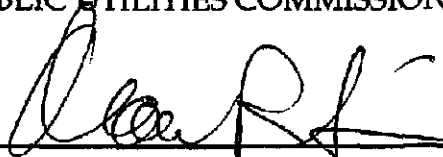
It is, therefore,

ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

ORDERED, That Case No. 07-18-TR-CVF be dismissed. It is, further,

ORDERED, That a copy of this entry be served upon Rockmill Machinery Transfer, Inc. and all other interested parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



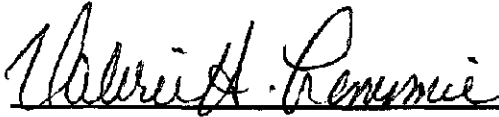
Alan R. Schriber, Chairman



Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie

Cheryl L. Roberto

KKS/vrm

Entered in the Journal

JUL 31 2008



Renee J. Jenkins
Secretary