

FAX

RECEIVED-DOCKETING DIV

Thomas McGraw  
1432 Tilia Court  
Galloway, OH 43119

2008 SEP 24 AM 9:18

PUCO

September 23, 2008

Public Utilities Commission of Ohio  
Attn: Examiner Gregory Price/Commission  
180 East Broad Street  
Columbus, OH 43215

**CASE: 06-1311-TR-CVF**  
**REPORT: OH3202303680D**

I would like to respectfully submit this to the records and have admitted as part of record as items noteworthy to my credibility of the case listed above.

- Although there were delays in the proceedings, the original report and date of inspection was provided to me on July 21, 2006. Before any continuations by either party were entered on record it took the commission approximately 1 year and 5 months to schedule the first hearing which was originally set for December 11, 2007.
- This time frame is relevant due to the testimony of John J. Canty of the Public Utilities Commission of Ohio, while being asked if a conference was held by Attorney Kerry Donahue who represents myself, on page 131 of the transcript Mr. Canty states, "I am not sure what happened in this case. It was taken out of the regular course of business, or regular course of our normal operating procedures. Our staff attorney was involved in this. Our staff attorney who is no longer with us". It does not seem fair that I am being assessed a forfeiture based on the fact of witnesses such as the attorney who is no longer there and that the Public Utilities Commission of Ohio "operating outside their normal procedures" as stated by the witness, John J. Canty.
- On Staff Exhibit #1, or otherwise identified as the "Driver/Vehicle Examination Report" I was not asked to sign the report at the time of inspection which concluded at 9:10am. As stated in testimony by Mr. Haskins, I was cooperative and complied with what he asked of me, yet he appeared to neglect as part of his job responsibilities to have me sign a document with the alleged violation. I was told it was a vehicle inspection and he put a sticker on my company vehicle and sent me on my way. I had NO idea that he not only completed an inspection but also charged me with a traffic infraction until I received the 30-day notice of "forfeiture of assessment" at which time I hired my attorney.
- A couple of other items that I feel are worth mentioning is that of the testimony of Mr. Phillip Haskins, Officer for the Public Utilities Commission of Ohio.
  - On page 65 of the transcript Mr. Haskins states when asked if there were vehicles between him and myself, "I don't recall. My job duties allow me

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician Am Date Processed 9/24/08

to focus, concentrate only on commercial vehicles. Had there been passenger vehicles in the intersection it's possible. But, my job duties does not allow me to concentrate on passenger vehicles". So is it possible that he did not see the other vehicles as he alleges when stating "all vehicles proceeded through the crossing" on page 89 of the transcript?

- o It is confusing, however, because Mr. Haskins states that on this particular day at 8:35am that rush hour had concluded and there was not heavy traffic which enabled him to see me not stopping at the railroad but on page 65 of the transcript he states, "the road is a four-lane heavily used route" and "I don't recall the actual traffic pattern at the time". But yet, he indicates that again that all other "passenger" vehicles proceeded through the railroad as did I when he stated he did not observe other passenger vehicles only my own.
- o On page 22 Mr. Haskins stated that there was traffic intervening between both vehicles so I have to ask the question, "Did Mr. Haskins see passenger vehicles or not?" I could not decipher when reading through the transcript.

I am submitting this not for argument or confrontation with the Commission, but to ask of you to please carefully take into consideration all the facts and the evidence that was presented in this case. I have had no traffic violations of any sort and take my record very seriously. Thank you in advance for your careful consideration in the review of the facts and evidence.

Thomas McGraw

