

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of a Settlement Agreement	)	
between the Public Utilities Commission of	)	Case No. 08-1112-TR-CVF
Ohio and Danco Trucking LLC.	)	CR08C087
	)	

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 Title 49, Parts 40,383, 385, 387, 390 through 397, and Parts 171 through 180, Code of Federal Regulations (C.F.R.). 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 December 19, 2007, Staff conducted a compliance review of a facility operated by Danco Trucking LLC (Danco Trucking, Respondent), and located at Ironton, Ohio.
- (3) During the compliance review, staff discovered apparent violations of the Code of Federal Regulations including:

49 CFR §382.301(a)	Using a driver before receiving a negative pre-employment controlled substance test result.	400.00
49 CFR §395.8(a)	Failing to require driver to make a record of duty status.	1400.00

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49 CFR §396.11(a)	Failing to require driver to prepare vehicle inspection reports.	2200.00
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- (4) Respondent requested a conference pursuant to Rule 4901:2-7-10, OAC. 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. At conference, Danco presented evidence to show that it had taken corrective action relative to the violations at issue, including requiring all of its drivers to undergo pre-employment drug tests before they are ever dispatched, establishing company policies dealing with log book and supporting documentation retention and requiring all drivers to prepare and retain vehicle inspection reports whenever required. As a result of these corrective actions and because Danco met Commission policy and was otherwise eligible, staff offered to hold half of the assessed forfeiture amount in abeyance if Danco agreed to pay the other half and agreed to a follow up audit within 12 months.
- (5) As a result of this conference, Staff and Respondent entered into a settlement agreement to resolve this case. Among the terms of the settlement agreement, the Respondent agreed to make payment of a civil forfeiture of \$2,000.00 within thirty days after the effective date of this settlement agreement.
- (6) Respondent further agrees to grant consensual access to the Staff to conduct compliance reviews, without notice, of all its facilities located in the state of Ohio, at any time during the period of one year from the effective date of this settlement agreement. In the event that the Respondent fails to fulfill its obligations under this agreement or in the event that compliance reviews conducted during the period of one year following the effective date of this agreement reveal a pattern of violations of the Hazardous Materials Regulations 49 CFR Parts 171-180, or the Federal Motor Carrier Safety Rules, 49 CFR Parts 382, 383, 387, 390-397, by the Respondent, the Respondent agrees to make payment of an additional civil forfeiture of \$2,000.00.

- (7) Rule 4901:2-7-11(C), OAC, 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,

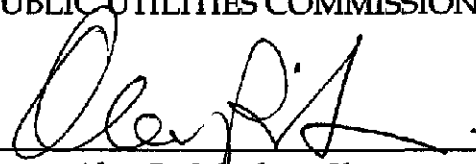
ORDERED, That the terms and conditions of the settlement agreement entered into between Staff and Danco Trucking LLC be approved and adopted by the Commission by this Finding and Order. It is, further,

ORDERED, That Danco Trucking LLC pay a total civil forfeiture of \$2,000.00, with such payment due within thirty days after the effective date of this Finding and Order. Payments should be made payable to "Treasurer, State of Ohio" and mailed to PUCO, Attention Fiscal Division, 13<sup>th</sup> Floor, 180 East Broad Street, Columbus, Ohio 43215. In order to assure proper credit, Danco Trucking LLC is directed to write the inspection number (CR08C087) on the face of the check. It is, further,

ORDERED, That the Danco Trucking LLC pay an additional civil forfeiture of \$2,000.00 should it fail to fulfill its obligations under this settlement agreement as set forth in Finding 6 above. It is, further,

ORDERED, That the Commission's Docketing Division serve a copy of this Finding and Order on Danco Trucking LLC.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman

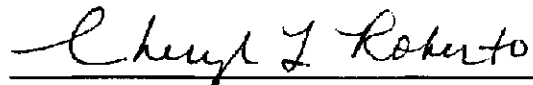


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REM:js

Entered in the Journal

OCT 08 2008



Renee J. Jenkins  
Secretary