

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Willow Creek Farms, Kirke )  
Porterfield, and Derek J. Cattran, Notice of ) Case No. 08-1023-TR-CVF  
Apparent Violation and Intent to Assess ) (OH3228005205C&D)  
Forfeiture.

ENTRY

The attorney examiner finds:

- (1) Commission staff has served a notice of preliminary determination upon Willow Creek Farms, Mr. Kirke Porterfield, and Mr. Derek J. Cattran (the respondents), in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.), alleging violations of the Commission's transportation regulations.
- (2) The respondents have filed a request for an administrative hearing in the above-captioned case in accordance with Rule 4901:2-7-13, O.A.C.
- (3) Pursuant to Rule 4901:2-7-16(B), O.A.C., a prehearing conference was held on October 21, 2008; however, the parties were unable to resolve this matter. The parties agreed that an evidentiary hearing in this matter should be scheduled.
- (4) On November 10, 2008, Eric Costine, of the Costine Law Firm in St. Clairsville, Ohio, filed a notice of appearance as counsel for the respondents. Also on November 10, 2008, counsel for the respondents filed a motion, and an accompanying memorandum in support, requesting that "any adversarial proceedings" in this case be handled via videoconferencing between the Commission's facilities in Columbus and the courtroom of Judge Jennifer Sargus, Common Pleas Court Judge of Belmont County, Ohio, located in the Belmont County Courthouse. In support of the motion, counsel for the respondents submits that the facilities in the Belmont County Courthouse accommodate videoconferencing and, in the event that the Commission would permit the videoconferencing, counsel for the respondents "would make the necessary contacts so that the video conferencing systems can be synchronized and can be verified" for the purpose of videoconferencing between the two involved locations. The memorandum in support of the motion for videoconferencing also indicates that the request is being made in

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light of the fact that the fines requested are \$450.00 and \$190.00, and that allowing the two individuals who are the respondents to attend the hearing through videoconference would "be more convenient to them both, economically and personally," while at the same time would not be "an undue inconvenience" to the Commission.

- (5) Upon review of the motion for videoconferencing and memorandum in support, the attorney examiner finds that, because the Commission is not equipped with facilities that are set up for conducting its hearings by way of videoconference, that the respondents' motion for videoconferencing shall be denied.
- (6) The attorney examiner finds that an evidentiary hearing should be held in this case on May 14, 2009, at 10:00 A.M., in Hearing Room 11F, at the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215.
- (7) Any party intending to present direct, expert testimony should comply with Rule 4901-1-29(A)(1)(h), O.A.C., which requires that all such testimony to be offered in this type of proceeding be filed and served upon all parties no later than seven days prior to commencement of the hearing.

It is, therefore,

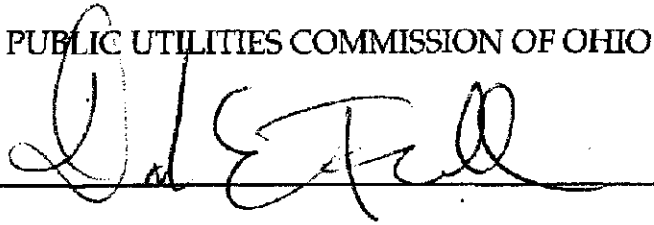
ORDERED, That the respondents' motion for videoconferencing is denied in accordance with Finding (5). It is, further,

ORDERED, That a hearing in this case is scheduled in accordance with Finding (6). It is, further,

ORDERED, That any party intending to present expert testimony comply with Finding (7). It is, further,

ORDERED, That a copy of this entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



By:

Attorney Examiner

grg  
/geb

Entered in the Journal

APR 23 2009



Renee J. Jenkins  
Secretary