

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Donald G. Hill,	)	
Notice of Apparent Violation and	)	Case No. 08-1259-TR-CVF
Intent to Assess Forfeiture.	)	(OH3202304545D)

FINDING AND ORDER

The Commission finds:

- (1) On August 15, 2008, a vehicle operated by Old Dominion Freight Line, Inc. and driven by Donald G. Hill (Respondent) was observed failing to stop at a railroad grade crossing within the State of Ohio by a hazardous materials inspector of the Commission. The vehicle was carrying class 8 hazardous materials. As a result, the driver was cited for the following apparent violation:  
  
49 C.F.R. Sec. 392.10(a)(3) Failure to stop at railroad crossing  
- placarded class 8.
- (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 OH3202304545D. A civil forfeiture of \$75.00 was assessed to Respondent by Staff for the alleged violation.
- (3) Respondent made a timely request for an administrative hearing pursuant to Rule 4901:2-7-13, O.A.C. The hearing was scheduled for April 23, 2009. Prior to April 23, 2009, staff asked for postponement of the hearing because of settlement discussions. On April 29, 2009, staff informed the attorney examiner that a settlement had been agreed upon.
- (4) On August 19, 2009, 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) Staff and Respondent agree that Respondent withdraws his hearing request and agrees to pay the \$75 civil forfeiture identified in the NPD.

- (b) Respondent agrees that this violation may be included in his Safety-Net record and history of violations insofar as it may be relevant for purposes of determining future penalty actions.
  - (c) The payment shall be made using a certified check or money order payable to "Treasurer, State of Ohio" and mailed to PUCO Fiscal Division, 180 E. Broad Street, 13<sup>th</sup> Floor, Columbus, Ohio 43215-3793. In order to ensure proper credit, Respondent is directed to write the inspection number OH3202304545D on the face of the check.
  - (d) The settlement agreement shall not become effective until adopted by the Commission. The date of the Commission finding and order adopting the settlement agreement shall be considered the effective date of the settlement agreement.
  - (e) The settlement agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any effect 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.

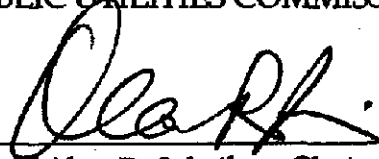
It is, therefore,

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

ORDERED, That Case No. 08-1259-TR-CVF be dismissed. It is, further,

ORDERED, That a copy of this entry be served upon Donald G. Hill and all other interested parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



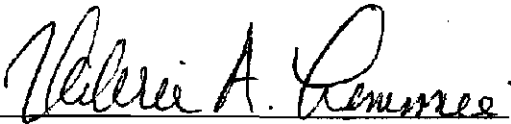
Alan R. Schriber, Chairman



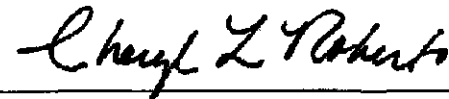
Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie

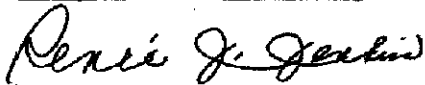


Cheryl L. Roberto

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Entered in the Journal

SEP 02 2008



Renee J. Jenkins  
Secretary