

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Request of National)
Safe T Propane, Inc., for an) Case No. 08-24-TR-CVF
Administrative Hearing.) (0158002209C)

FINDING AND ORDER

The Commission finds:

- (1) On January 10, 2008, National Safe T Propane, Inc., (Respondent) filed a request for an administrative hearing regarding a notice of preliminary determination issued by the Commission staff which alleged that Respondent violated 49 Code of Federal Regulations (C.F.R.) Section 177.834(a).
- (2) A prehearing conference was held on March 11, 2008.
- (3) By entry dated September 30, 2009, the attorney examiner set this matter for hearing on October 27, 2009. A copy of the entry was properly served upon Respondent by certified mail and a certified mail receipt was filed in the docket. On October 5, 2009, the Respondent filed a motion to dismiss. Staff filed a memorandum contra the motion to dismiss on October 9, 2009. The motion to dismiss was denied by the attorney examiner at the hearing on October 27, 2009.
- (4) Prior to the hearing, Respondent's counsel contacted the attorney examiner and stated that the Respondent would not attend or otherwise participate in the hearing. At the hearing, the Staff presented evidence in support of the alleged violation and proposed forfeiture. The Respondent did not appear at hearing or present any evidence why it should not be held liable for the forfeiture proposed in this case. At the conclusion of the hearing, the Staff moved for a default judgment against respondent for the proposed forfeiture of \$1,020.00.
- (5) Rule 4901:2-7-14, Ohio Administrative Code, provides that a Respondent who has requested an administrative hearing and fails to participate in the hearing proceeding shall be in default. Further, a Respondent in default shall be deemed to have admitted the

occurrence of the alleged violation and waived all further right to contest liability for the proposed forfeiture described in the notice.

- (6) The Commission finds that the Staff's motion for default judgment should be granted. Therefore, the Commission finds that Respondent violated 49 C.F.R. Section 177.834(a), as alleged by Staff, and that Respondent should be assessed a civil forfeiture of \$1,020.00.

It is, therefore,

ORDERED, That Staff's motion for default judgment be granted. It is, further,

ORDERED, That Respondent pay a civil forfeiture of \$1,020.00 within 30 days after the effective date of this Finding and Order. Payment should be made payable to "Treasurer, State of Ohio" and mailed to PUCO, Attention Fiscal Division, 13th Floor, 180 East Broad Street, Columbus, Ohio 43215. In order to assure proper credit, Respondent is directed to write the case number on the face of the check. It is, further,

ORDERED, That a copy of this Finding and Order be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman


Paul A. Centolella


Ronda Hartman Fergus



Valerie A. Lemmie


Cheryl L. Roberto

GAP:ct

Entered in the Journal

DEC 02 2009


Renee J. Jenkins
Secretary