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**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Charles W. Byers, : Case No. 09-1057-TR-CVF  
Notice of Apparent Violation and : (OH3269005630C)  
Intent to Assess Forfeiture. :

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**SETTLEMENT AGREEMENT**

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**I. Introduction**

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), Mr. Charles W. Byers (Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this Settlement Agreement and urge the Public Utilities Commission of Ohio (Commission) to adopt the same.

It is understood by the Respondent and the Staff that this Settlement Agreement is not binding upon the Commission. This agreement, however, is based on the Respondent's and the Staff's desire to arrive at a reasonable result considering the law, facts, and circumstances. Accordingly, the Respondent and the Staff believe that the Commission should adopt this Settlement Agreement.

This Settlement Agreement is submitted on the condition that the Commission adopts the agreed upon terms. In the event the Commission rejects any part of the Settlement Agreement, or adds to, or otherwise materially modifies its terms, each party shall have the right, within thirty days of the date of the Commission's entry or order, to file an application for rehearing that includes a request to terminate and withdraw from

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the Settlement Agreement. Upon the application for rehearing and request to terminate and withdraw from the Settlement Agreement being granted by the Commission, the Settlement Agreement shall immediately become null and void. In such event, the parties shall proceed to a hearing as if this Settlement Agreement had never been executed.

## **II. Procedural History**

- A. On June 17, 2009, a vehicle operated and driven by the Respondent was inspected within the State of Ohio. The inspection resulted in the discovery of three apparent violations: (1) brakes out of service (the number of defective brakes is equal to or greater than 20 percent of the service brakes on the vehicle or combination) in violation of 49 C.F.R. § 396.3(a)(1); (2) inadequate brakes for safe stopping in violation of 49 C.F.R. § 393.47(a); and (3) operating without the required operating authority in violation of 49 C.F.R. § 392.9a(a)(1).
- B. The Staff timely served the Respondent with a notice of preliminary determination in accordance with O.A.C. Rule 4901:2-7-12 for Case No. OH3269005630C. The total forfeiture assessed the Respondent by the Staff was \$650.00 for the alleged violations.
- C. The Respondent made a timely formal request for an administrative hearing pursuant to O.A.C. Rule 4901:2-7-13.

- D. The parties have negotiated this Settlement Agreement, which the parties believe resolves all of the issues raised in the notice of preliminary determination.

### **III. Settlement Agreement**

The parties hereto agree and recommend that the Commission find as follows:

- A. The Staff and the Respondent agree that the Respondent will pay a civil forfeiture in the amount of \$150.00.
- B. The Staff and the Respondent agree that the citations may be included in the Respondent's Safety-Net record and history of violations insofar as they may be relevant for purposes of determining future penalty actions.
- C. The Respondent shall have thirty days from the entry of the Commission order adopting the Settlement Agreement to pay the forfeiture of \$150.00. The payment shall be made using a certified check or money order payable to "Treasurer State of Ohio" and mailed to PUCO Fiscal, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793.
- D. This Settlement Agreement shall not become effective until adopted by the Commission. The date of the entry or order of the Commission adopting the Settlement Agreement shall be considered the effective date of the Settlement Agreement.

E. This Settlement Agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any effect whatsoever in any other case or proceeding.

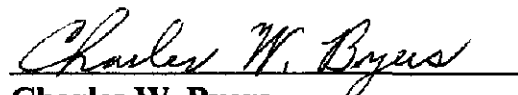
#### **IV. Conclusion**

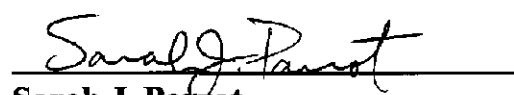
This Settlement Agreement, which is subject to the rules of the Commission, constitutes the entire agreement of the parties. The signatory parties agree that this Settlement Agreement is in the best interest of all parties, and urge the Commission to adopt the same. The undersigned respectfully request that the Commission issue an entry or order in accordance with the terms set forth in this Settlement Agreement.

The parties have manifested their consent to the Settlement Agreement by affixing their signatures below on this 25<sup>th</sup> day of February, 2010.

On behalf of the Respondent:

On behalf of the Staff of the Public  
Utilities Commission of Ohio:

  
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