

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

|   |   |                         |
|---|---|-------------------------|
| In the Matter of the Request of Michael | ) |                         |
| D. Bolen & Son Trucking for an          | ) | Case No. 09-1961-TR-CVF |
| Administrative Hearing.                 | ) | (OH1120003719C)         |

FINDING AND ORDER

The Commission finds:

- (1) On September 22, 2009, a vehicle operated by Michael D. Bolen & Son Trucking (Bolen) was inspected within the state of Ohio. The inspection resulted in citations for violations of 49 Code of Federal Regulations (C.F.R.) 393.201(a) — having a frame rail webbing crack from top to bottom of flange on I-beam holding axle #5; 49 C.F.R. 392.9(a)(1) — failure to secure cargo as specified in 49 C.F.R. 393; two violations of 49 C.F.R. 396.3(a)(1) — failing to inspect, repair, and maintain parts and accessories, being the left side brake chamber and loose bolts on air tanks on the trailer; and 49 C.F.R. 393.75(a)(3) — having a flat and/or audible leak at #4 axle left inside tire.
- (2) Pursuant to Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.), the Commission staff has served a notice of preliminary determination (NPD) upon Michael D. Bolen & Son Trucking (Bolen), alleging a violation of the Commission's transportation regulations.
- (3) On December 15, 2009, Bolen filed a request for an administrative hearing in the above-captioned case in accordance with Rule 4901:2-7-13, O.A.C.
- (4) On June 25, 2010, the parties filed a settlement agreement, which in the parties' opinion, resolves all of the issues raised in the NPD.
- (5) In the settlement agreement, the parties agree and recommend that the Commission find:
  - (a) That there will be no civil forfeiture assessed for the carrier citations.

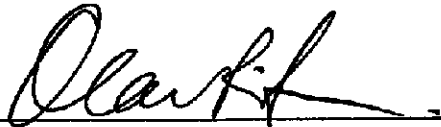
- (b) That the carrier citations will become part of Bolen's Safety-Net record and history of violations for purposes of determining future penalty actions.
  - (c) The settlement agreement shall not become effective until adopted by the Commission. The date of the entry or order of the Commission adopting the settlement agreement shall be considered the effective date of the settlement agreement.
  - (d) The settlement agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any affect whatsoever in any other case or proceeding.
- (6) 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 a copy of this finding and order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



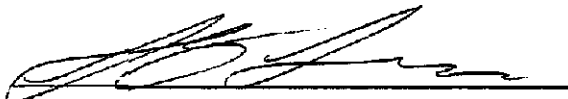
Alan R. Schriber, Chairman



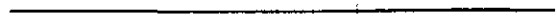
Paul A. Centolella



Valerie A. Lemmie



Steven D. Lesser



Cheryl L. Roberto

KLS/dah

Entered in the Journal

JUL 14 2010



Renee J. Jenkins  
Secretary