

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Regulatory Relief for     )  
Specified Motor Carriers.                     ) Case No. 10-2386-TR-EHS

ENTRY

The Commission finds:

- (1) Rule 4901:2-5-02, Ohio Administrative Code (O.A.C.), provides for regulatory relief from 49 Code of Federal Regulations (C.F.R.) Part 395, hours-of-service regulations, for motor carriers operating in intrastate commerce when necessary, in times of emergency, to provide for the health and safety of the public. Pursuant to this authority, the Commission adopted procedures to be followed in granting regulatory relief to intrastate motor carriers. The Commission Policy for Regulatory Relief in Emergency Situations provides that the Director of the Commission's Transportation Department (Director) may grant relief when the federal government has issued a notice granting relief to carriers in interstate commerce, there is a local emergency, or an application is made by any association or individual carrier. Following the grant of regulatory relief, the Director is required to place the matter on a Commission agenda for appropriate action.
- (2) On October 6, 2010, the Federal Motor Carrier Safety Administration (FMCSA) granted regulatory relief for the interstate transportation of anhydrous ammonia during the planting and harvesting season as determined by the states in which the transportation takes place (Docket No. FMCSA-2010-0230). Anhydrous ammonia is used as fertilizer in agricultural applications. FMCSA granted a limited two-year waiver from federal hours-of-service regulations for drivers of property-carrying vehicles engaged in the transportation of anhydrous ammonia from any distribution point to a local farm retailer or to the ultimate consumer, and from a local farm retailer to the ultimate consumer, as long as the transportation takes place within a 100 air-mile radius of the retail or wholesale distribution point. Further, in order to take advantage of the exemption, the motor carrier using the driver must have a "satisfactory" safety rating or be "unrated." Drivers for motor carriers with "conditional" or "unsatisfactory" safety ratings are prohibited from taking

advantage of the exemption. The exemption is effective until October 9, 2012, unless revoked earlier by the FMCSA.

- (3) On October 20, 2010, consistent with the regulatory relief issued by the FMCSA, the Director granted regulatory relief from the hours-of-service requirements pursuant to Rule 4901:2-5-02, O.A.C., for the intrastate transportation of anhydrous ammonia effective until 12:01 a.m., November 20, 2010. The declaration provides relief for intrastate transporters only from 49 C.F.R. 395.3, hours-of-service regulations.
- (4) After review of the Director's action, the Commission finds the relief granted is appropriate and it therefore affirms the Director's action. Said relief for the intrastate transportation of anhydrous ammonia during the planting and harvesting season is authorized under the same terms, conditions, and limitations as the exemption granted by the FMCSA, effective until 12:01am, October 9, 2012, unless revoked earlier by the Commission. A revocation of the interstate exemption by the FMCSA shall automatically terminate the intrastate exemption granted by this Entry.

It is, therefore,

ORDERED, That, pursuant to Rule 4901:2-5-02, O.A.C., and the Policy for Regulatory Relief in Emergency Situations, the Commission affirms the limited grant of relief from hours-of-service regulations to the carriers set forth herein until 12:01 AM, October 9, 2012, unless revoked earlier. It is, further,

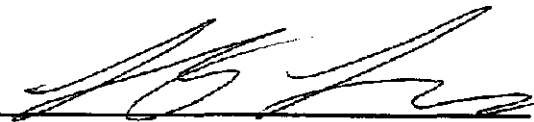
ORDERED, That a copy of this Entry be served upon the Ohio Trucking Association, the Ohio Farm Bureau, and the Ohio State Highway Patrol.


THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Alan R. Schriber, Chairman

  
Paul A. Centolella

  
Valerie A. Lemmie

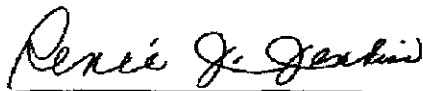
  
Steven D. Lesser

  
Cheryl L. Roberto

JST/dah

Entered in the Journal

NOV 03 2010



Renee J. Jenkins  
Secretary