

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Milan Express Co., Inc., )  
Notice of Apparent Violation and Intent to ) Case No. 10-71-TR-CVF  
Assess Forfeiture. ) (OH3206301639C)

FINDING AND ORDER

The Commission finds:

- (1) On September 25, 2009, a vehicle operated by Milan Express Co., Inc. (respondent) and driven by Thomas L. Rowley was inspected within the state of Ohio. The inspection resulted in the discovery of an apparent violation of the Code of Federal Regulations (C.F.R.): Packages not secured in vehicle, in violation of 49 C.F.R. 177.834(a).
- (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.). A civil forfeiture in the amount of \$2,240 was assessed against respondent.
- (3) On January 20, 2010, respondent filed a formal request for an administrative hearing pursuant to Rule 4901:2-7-13, O.A.C. A prehearing conference was held on March 30, 2010, after which the parties requested that a hearing be held in abeyance in order to allow additional time to continue settlement negotiations.
- (4) On November 22, 2010, the parties filed a settlement agreement which, in the parties' opinion, resolves all of the issues raised in the NPD.
- (5) The settlement agreement explains that respondent has improved its carrier safety rating since the civil forfeiture was originally proposed in this case, and contends that, based on the improvement in respondent's carrier safety rating, a settlement reducing the penalty is appropriate.
- (6) In the settlement agreement, the parties agree and recommend that the Commission find:
  - (a) Respondent shall pay a civil forfeiture in the amount of \$1,120.

- (b) For purposes of settlement, and not as an admission or evidence that the violation occurred, the staff and the respondent agree that the citation may be included in the respondent's Safety-Net record and history of violations insofar as it may be relevant 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.
- (7) 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.
- (8) Rule 4901:2-7-22, O.A.C., requires that payment of any forfeiture be made by company check, certified check, or money order payable to "Treasurer, State of Ohio," and shall be mailed or delivered to "Fiscal Division, Public Utilities Commission of Ohio, 180 East Broad Street, Fourth Floor, Columbus, Ohio, 43215-3793. The case number (10-71-TR-CVF) should be referenced with all payments.

It is, therefore,

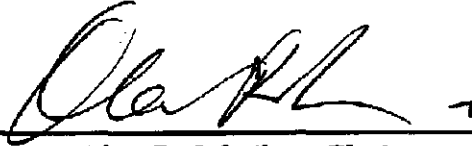
ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

ORDERED, That respondent is ordered to pay the state of Ohio as set forth in finding (8). It is, further,

ORDERED, That the Attorney General take the appropriate action to enforce this order as provided by law. It is, further,

ORDERED, That a copy of this finding and order be served on each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
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Alan R. Schriber, Chairman

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Paul A. Centolella


  
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Valerie A. Lemmie

  
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Steven D. Lesser

  
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Cheryl L. Roberto

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Entered in the Journal  
**DEC 08 2010**

  
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Renee J. Jenkins  
Secretary