

FILE

5
Cm # 7010-1670-0000-3151-1021

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Notice of Apparent :
Violation and Intent to Assess :
Forfeiture against Hill Farms :
Trucking, LLC. :

Case No. 10-422-TR-CVF
(CR10C078)

Respondent. :

RECEIVED
MAR 14 2011
ATTORNEY GENERAL'S OFFICE
PUBLIC UTILITIES SECTION

SETTLEMENT AGREEMENT

I. Introduction

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), Hill Farms Trucking LLC (Carrier or Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this Settlement Agreement and urge the Commission to adopt the same.

It is understood by the Respondent and the Staff that this Settlement Agreement is not binding upon the Public Utilities Commission of Ohio (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

This is to certify that the above appearing are an accurate and complete report of a true file document delivered in the regular course of business
Technician Am Date Presented 3/14/11

shall have the right, within thirty days of the Commission's order, to file an application for rehearing that includes a request to terminate and withdraw from the Settlement Agreement. Upon the application for rehearing and request to terminate/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 December 11, 2009, a compliance review was conducted at Respondent's facility. Respondent owns two truck tractors, two trailers, and employs two CDL drivers. Respondent hauls general freight, mobile homes, and campers. As a result of the inspection, Respondent was served a compliance review report containing the following violations that were discovered: 1) Failing to conduct a post accident alcohol test on driver following a recordable crash in violation of 49 C.F.R. 382.303(a); 2) Failing to conduct post accident testing on driver for controlled substances in violation of 49 C.F.R. 382.303(b); 3) Failing to implement a random drug/alcohol test program in violation of 49 C.F.R. 382.305; and 4) Failing to submit record of duty status within 13 days in violation of 49 C.F.R. 395.8(i).
- B. On January 8, 2010, Commission Staff sent Respondent a combined Notice of Apparent Violation and Intent to Assess Forfeiture in accordance with Rules 4901:2-7-05 and 07 for the Carrier citations. This notice contained

the same violations that were listed in the compliance review report that was served on Respondent at the time of the inspection. The Carrier was assessed a \$2,600 forfeiture by Staff for the violations listed in the notice.

- C. On February 24, 2010, a settlement conference was held between Staff and Respondent, but the parties were unable to settle the case at that time.
- D. On March 15, 2010, Staff sent Respondent a notice of preliminary determination, pursuant to Rule 4901:2-07-12 of the O.A.C., which contained the same violations that were included in the compliance review report above. In response to the notice of preliminary determination, Respondent made a timely formal request for an administrative hearing pursuant to Rule 4901:2-7-13 of the O.A.C. in this case.
- E. The parties have negotiated this Settlement Agreement which the parties believe resolves all the issues raised in the case.

III. Settlement Agreement

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

- A. The parties agree to a civil forfeiture of \$1,800 for the violations contained in the compliance review report. Staff agrees to waive the two monetary fines associated with the post accident drug/alcohol testing violations, which total \$800, because Respondent provided sufficient documentary proof that the truck involved in the referenced accident was not registered to Respondent and the driver of said vehicle was terminated by Respondent prior to the accident.

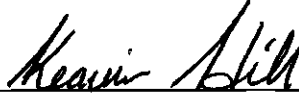
- B. The Commission Staff and Respondent agree that the violations served on Respondent in the compliance review report and notice of preliminary determination may be included in Respondent's Safety-Net record and history of violations for purposes of determining future penalty actions.
- C. Within 30 days of the effective date of the Settlement Agreement, Respondent shall make a payment of \$1,800 by submitting a certified check or money order payable to: "Treasurer State of Ohio," and mail to: PUCO Fiscal, 180 E. Broad St., 4th Floor, Columbus, Ohio 43215-3793. The case number should be referenced with the payment.
- D. This Settlement Agreement shall not become effective until adopted by an Opinion and Order of the Commission. The date of the entry of the Commission order 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 affect whatsoever in any other case or proceeding.

IV. Conclusion

This 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 in accordance with the terms set forth in this Settlement Agreement.

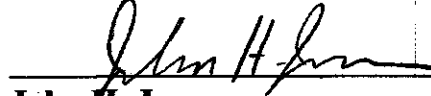
The parties have manifested their consent to the Settlement Agreement by affixing their signatures below on this 8 day of March, 2011.

On behalf of the Respondent



Keavin Hill
Hill Farms Trucking, LLC
8901 St. Rte. 762
Orient, OH 43146
(614) 679-0574

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



John H. Jones
Assistant Attorney General
Public Utilities Section
180 East Broad Street, 6th Floor
Columbus, Ohio 43215-3793
(614) 466-4395