

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Buckeye Waste Industries, Inc., Notice of Apparent Violation and Intent to Assess Forfeiture.	)	Case No. 11-445-TR-CVF
	)	OH3245009768D
	)	

ENTRY

The attorney examiner finds:

- (1) Commission staff served a notice of preliminary determination upon Steven F. Cath, who was operating a commercial motor vehicle (CMV) for Buckeye Waste Industries, Inc. (Buckeye), in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.), alleging two violations of the Commission's transportation regulations.
- (2) On January 26, 2011, Buckeye filed a request for an administrative hearing of the violations cited against Mr. Cath, in accordance with Rule 4901:2-7-13, O.A.C.
- (3) A prehearing conference was held on March 24, 2011; however, the parties were unable to settle this matter during the prehearing conference.
- (4) Accordingly, this matter should be set for a hearing on May 3, 2011, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th floor, Hearing Room 11-C, Columbus, Ohio 43215-3793.
- (5) Rule 4901:2-7-14(A), O.A.C., provides that a respondent who has requested an administrative hearing and fails to participate in the hearing proceeding shall be in default. The rule additionally states that a respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability to the state for the forfeiture described in the notice.
- (6) At the hearing, staff must prove, by the preponderance of the evidence, that respondent committed the alleged violation, pursuant to Rule 4901:2-7-20(A), O.A.C.

- (7) The attorney examiner reminds Buckeye and Mr. Cath that, although Buckeye filed the request for an administrative hearing, the violations at issue allege that: Mr. Cath did not have a valid medical certificate in his possession in violation of 49 C.F.R. 383.23A2 and that Mr. Cath was operating a commercial motor vehicle with a suspended license in violation of 49 C.F.R. 41A. These are both driver violations. Therefore, at the hearing, Buckeye will not be able to act in any representative capacity for Mr. Cath and Mr. Cath will have to either proceed with or without aide of legal counsel.

It is, therefore,

ORDERED, That this matter be set for hearing on May 3, 2011, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th floor, Hearing Room 11-C, Columbus, Ohio 43215-3793. It is, further,

ORDERED, That a copy of this entry be served upon both Buckeye and Mr. Cath.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Katie L. Stenman  
By: Katie L. Stenman  
Attorney Examiner

grg  
/dah

Entered in the Journal

MAR 24 2011

Renee J. Jenkins

Renee J. Jenkins  
Secretary