

FILE

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

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2011 MAY 11 PM 3:26  
PUCO

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

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SETTLEMENT AGREEMENT

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I. Introduction

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), Steven F. Cath (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, either party

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may terminate and withdraw consent to the agreement within 30 days of issuance of the Commission's order, by filing with the Commission.

## **II. Procedural History**

- A. On September 28, 2010 a vehicle operated by Buckeye Waste Industries, Inc. and driven by Steven F. Cath was inspected within the State of Ohio. The inspection resulted in the discovery of one apparent violation for which a forfeiture was later assessed. The apparent violation was operating a commercial motor vehicle without a valid commercial driver's license in violation of 49 C.F.R. §383.23(a)(2). Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12 O.A.C. for Case No. OH3245009768D. The preliminary determination assessed Respondent \$350.00 as a forfeiture.
- B. On January 26, 2011, Respondent's employer made a timely formal request for an administrative hearing pursuant to §4901:2-7-13, O.A.C.
- C. The parties have negotiated this settlement agreement which the parties believe resolves all the issues raised in the notice of preliminary determination.

## **III. Settlement Agreement**

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

- A. Respondent admits to a violation of 49 C.F.R. 383.23(a)(2) and acknowledges that the violation 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.
- B. Based on evidence of mitigating circumstances provided by the Respondent, the Staff and Respondent recommend that a forfeiture of \$0.00 be assessed for the violation.
- C. 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.
- D. 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.

### **III. Conclusion**

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.

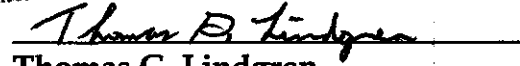
The parties have manifested their consent to the Settlement Agreement by affixing their signatures below on this 14<sup>th</sup> day of May, 2011.

On behalf of Steven F. Cath

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



Steven F. Cath  
P.O. Box 26373  
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