

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of D.L. Kellerman )  
Company, Inc., Notice of Apparent ) Case No. 12-484-TR-CVF  
Violation and Intent to Assess Forfeiture. ) OH3226006375C

ENTRY

The attorney examiner finds:

- (1) Commission staff served a notice of preliminary determination upon D.L. Kellerman Company, Inc. (respondent), in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.), alleging multiple violations of the Commission's transportation regulations.
- (2) On January 30, 2012, Don Kellerman, on behalf of respondent, filed a request for an administrative hearing in accordance with Rule 4901:2-7-13, O.A.C.
- (3) A prehearing settlement conference was held on February 27, 2012; however, the parties were unable to settle this matter.
- (4) Accordingly, this matter should be set for hearing on April 3, 2012, 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 violations, pursuant to Rule 4901:2-7-20(A), O.A.C.
- (7) Rule 4901-1-8, O.A.C., provides that corporations must be represented by an attorney-at-law.
- (8) Section 4901.14, Revised Code, provides that any person who is a regular salaried employee of the corporation and who possesses the necessary qualifications to enable him to render valuable service

before the Commission shall be permitted to appear before the Commission in the determination of transportation matters involving questions of fact only.

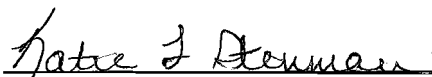
- (9) It appears from the filings in this case that Mr. Kellerman is not an attorney-at-law, but is a regularly salaried employee of D.L. Kellerman Company, Inc. Therefore, provided that he possesses the necessary qualifications to enable him to render valuable service before the Commission, he will be permitted to appear at the hearing as a witness solely to answer questions of fact in the determination of transportation matters in this case.

It is, therefore,

ORDERED, That this matter be set for hearing on April 3, 2012, 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 each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

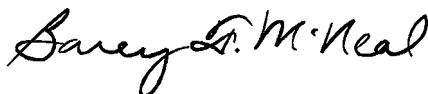


By: Katie L. Stenman  
Attorney Examiner

  
/dah

Entered in the Journal

FEB 27 2012



Barcy F. McNeal  
Secretary