

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

2012 APR 19 AM 9:39

PUCO

In the Matter of Elite Express, LLC, : Case No. 11-5517-TR-CVF
Notice of Apparent Violation and : (OH3258002704D)
Intent to Assess Forfeiture. :

SETTLEMENT AGREEMENT

I. Introduction

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), John Mercer (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

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician Je Date Processed APR 19 2012

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 January 12, 2011 a vehicle operated by Elite Express, LLC and driven by John Mercer was inspected within the State of Ohio. The inspection resulted in the discovery of one apparent violation attributed to the driver. The apparent violation was operating a commercial motor vehicle while out of service in violation of 49 O.A.C. §2-5-07(D). Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12 O.A.C. The preliminary determination assessed Respondent \$1,000.00 as a forfeiture.
- B. On October 20, 2011, Respondent 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 O.A.C. 2-5-07(D) and agrees to pay a forfeiture of five hundred dollars (\$500.00) for this violation.

Respondent 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. Respondent will pay the forfeiture in five monthly installments of one hundred dollars (\$100.00) each, with the first payment being due within thirty days of the Commission entry approving this stipulation.
- 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.

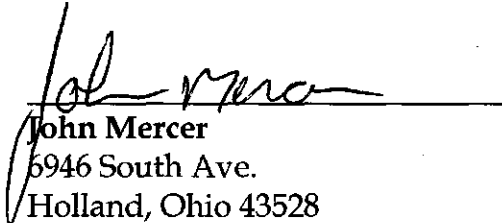
III. Conclusion

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.

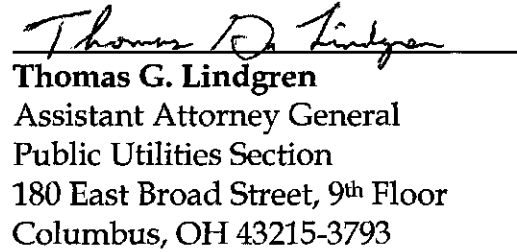
②

The parties have manifested their consent to the Settlement Agreement by affixing their signatures below on this 12 day of April, 2012.

On behalf of John Mercer


John Mercer
6946 South Ave.
Holland, Ohio 43528

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


Thomas G. Lindgren
Assistant Attorney General
Public Utilities Section
180 East Broad Street, 9th Floor
Columbus, OH 43215-3793