

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Mid State Systems Inc.,	)	Case No. 12-1054-TR-CVF
Notice of Apparent Violation and Intent	)	OH3274012188C
to Assess Forfeiture.	)	

FINDING AND ORDER

The Commission finds:

- (1) On January 19, 2012, Commission Staff (Staff) conducted an inspection of a motor vehicle owned by Mid State Systems Inc. (respondent). The inspection resulted in a citation for a violation of 49 Code of Federal Regulation (C.F.R.) 177.823(a), the movement of a vehicle that is not properly placarded.
- (2) Pursuant to Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.), Staff served a notice of preliminary determination (NPD) upon respondent alleging a violation of the Commission's transportation regulations and assessing a \$4,080.00 civil forfeiture.
- (3) On March 23, 2012, respondent filed a request for an administrative hearing in accordance with Rule 4901:2-7-13, O.A.C.
- (4) On May 18, 2012, the parties filed a settlement agreement, which in the parties' opinion, resolves all of the issues raised in the NPD.
- (5) In the settlement agreement, the parties agree and recommend that the Commission find:
  - (a) Respondent agrees to the violation of 49 C.F.R. 177.823(a) and recognizes 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 agrees to make payment of a civil forfeiture of \$2,040.00. Respondent has represented to Staff that it has undertaken measures to improve safety and prevent similar violations in the future. Respondent submitted a statement to Staff indicating that respondent will, amongst other measures, hold

periodic group meetings with drivers to re-educate them on the laws and company procedures, update the driver's handbook to reflect the procedures and penalties for not adhering to them, and engage in conversations with their customers to emphasize their role in compliance.

- (c) Respondent will pay the civil forfeiture of \$2,040.00 within 30 days of the date of this order.
- (d) The civil forfeiture shall be paid by certified check or money order payable to "Treasurer, State of Ohio" and mailed to PUCO Fiscal, 180 East Broad Street, 4<sup>th</sup> Floor, Columbus, Ohio 43215-3793. OH3274012188C should appear on the face of the checks.
- (e) Respondent agrees to grant consensual access to Staff to conduct compliance reviews, without notice, of all its facilities located in Ohio, in any time during a one year period commencing on the date of this order.
- (f) In the event respondent fails to fulfill its obligations under the settlement agreement, or in the event that compliance reviews of facilities reveal a pattern of violations of the Hazardous Materials Regulations (49 C.F.R. parties 171 through 180), respondent agrees to make payment of an additional civil forfeiture of \$2,040.00. A pattern of violations shall only be established if a critical violation is determined to have occurred at a rate of 10 percent or greater, or if any acute violation is determined to have occurred.
- (g) Respondent and Staff agree that nothing in this settlement agreement shall prevent Staff from assessing civil forfeitures pursuant to Chapter 4901:2-7, O.A.C., as a result of future compliance reviews or roadside inspections.
- (h) The settlement agreement shall not become effective until adopted by the Commission. The date of this finding and order shall be considered the effective date of the settlement agreement.
- (i) The settlement agreement is intended to resolve only factual or legal issues raised in this case and is not

intended to have any effect in any other case or proceeding.

- (j) Respondent waives its right to seek rehearing under Section 4903.10, Revised Code and Rule 4901-1-35, O.A.C.
- (6) The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, the settlement agreement should be approved and adopted in its entirety.

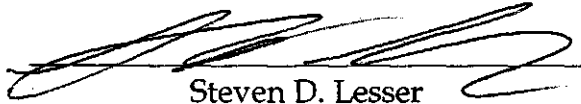
It is, therefore,

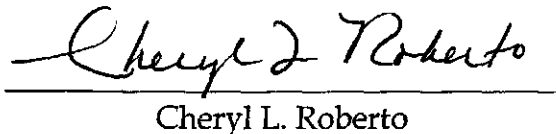
ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,


ORDERED, That a copy of this finding and order be served upon all parties of record.

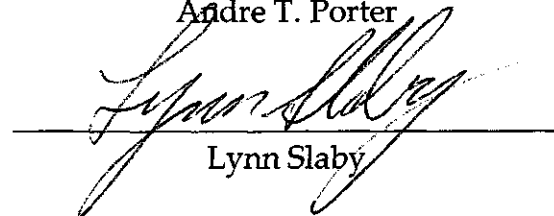
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman

  
Steven D. Lesser

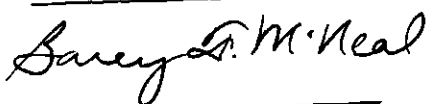
  
Cheryl L. Roberto

  
Andre T. Porter

  
Lynn Slaby

KLS/dah

Entered in the Journal  
**MAY 30 2012**

  
Barcy F. McNeal

Barcy F. McNeal  
Secretary