

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Melco Transfer Inc., Notice)
of Apparent Violation and Intent to Assess) Case No. 12-1282-TR-CVF
Forfeiture.)

ENTRY

The Commission finds:

- (1) On March 19, 2012, Commission Staff served a notice of preliminary determination (NPD) upon Melco Transfer Inc. (Melco), in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.), alleging a violation of the Commission's transportation regulations. There was no fine assessed for the alleged violation.
- (2) On April 18, 2012, the driver of the vehicle that was inspected, William Bishop (Mr. Bishop), requested an administrative hearing in accordance with Rule 4901:2-7-13, O.A.C. Melco never filed a request for hearing.
- (3) Mr. Bishop and Staff participated in a prehearing conference on June 7, 2012. Melco did not participate in the prehearing conference.
- (4) On June 21, 2012, Staff filed a motion to dismiss the case. According to Staff, Mr. Bishop confirmed during the prehearing conference that he is not an officer, employee or representative of Melco, the entity that was cited during the roadside inspection. Thus, Staff asserts that Mr. Bishop lacks standing to contest the matter and further prosecution of the case is unwarranted.
- (5) No memorandum conta was filed concerning Staff's motion to dismiss.
- (6) Under Rule 4901:2-7-01(I), O.A.C., a "respondent" is defined as "the shipper, carrier, individual, or several such persons, which the staff has determined may be responsible for a violation." In addition, Rule 4901:2-7-13, O.A.C., provides that the respondent may file a request for administrative hearing with the Commission's docketing division.

- (7) As Melco is the identified entity cited for the violation alleged in this case and served with the NPD, Melco, rather than Mr. Bishop, is the respondent in this case. Based on the fact that Melco never filed a request for hearing and, given the uncontested assertion that Mr. Bishop is not an officer, employee or representative of Melco, we find it appropriate to conclude that Mr. Bishop lacks the requisite authority to file a request for hearing on behalf of Melco, pursuant to Rule 4901:2-7-13, O.A.C., and, therefore, Mr. Bishop lacks standing to pursue this matter on behalf of Melco. Accordingly, Staff's motion to dismiss should be granted and the case closed.

It is, therefore,

ORDERED, That Staff's motion to dismiss be granted and the case closed. It is, further,

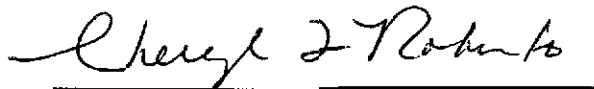
ORDERED, That a copy of this Entry be served upon all parties of record.

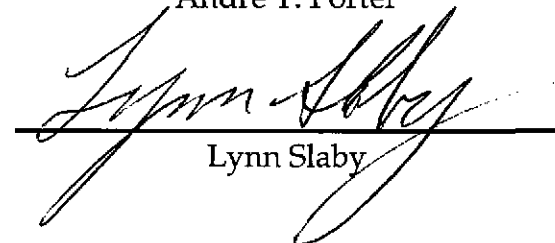
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser


Andre T. Porter


Cheryl L. Roberto


Lynn Slaby

JML/dah

Entered in the Journal
JUL 18 2012


Barcy F. McNeal

Barcy F. McNeal
Secretary