

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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PUCO

In the Matter of Douglas M. Stoerger, )  
Sr., Notice of Apparent Violation and ) Case No. 12-1392-TR-CVF  
Intent to Assess Forfeiture. ) (OH3202305346D)

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SETTLEMENT AGREEMENT

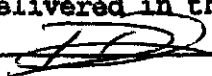
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**I. Introduction**

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), Mr. Douglas M. Stoerger, Sr. (Mr. Stoerger or Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this agreement to resolve all issues in the above captioned case.

It is understood by Mr. Stoerger 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 parties' desire to arrive at a reasonable result considering the law, facts, and circumstances. Accordingly, Mr. Stoerger and the Staff encourage and recommend that the Commission 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, each party shall have the right, within thirty (30) days of the date of the Commission's entry or order, to file an application for rehearing that includes a request to terminate and

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withdraw from the Settlement Agreement. Upon the application for rehearing and request to terminate and withdraw from the Settlement Agreement being granted by the Commission, the Settlement Agreement shall immediately become null and void. In such event, the parties shall proceed to a hearing as if this Settlement Agreement had never been executed.

## **II. History**

- A. On February 17, 2012, a vehicle operated by Mr. Stoerger was inspected within the State of Ohio.
- B. As a result of the inspection, Mr. Stoerger was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, O.A.C. The preliminary determination assessed a civil forfeiture of \$720.00 for violation of 49 C.F.R. §392.10(a)(4) (failure to stop at a railroad crossing while carrying hazardous materials).
- C. Mr. Stoerger requested an administrative hearing pursuant to 4901:2-7-13, O.A.C.
- D. The parties have negotiated this Settlement Agreement, which the parties believe resolves all of the issues raised in the notice of preliminary determination.

## **III. Settlement Agreement**

The Staff and Mr. Stoerger agree and recommend that the Commission find as follows:

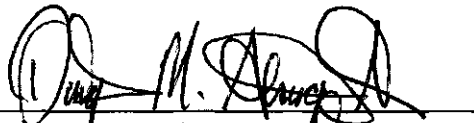
- A. For purposes of settlement only, and not as an admission that the violations occurred as alleged, Mr. Stoerger agrees that the violation of 49 C.F.R. §392.10(a)(4) may be included in his Safety-Net Record and history of violations, insofar as it may be relevant for purposes of determining future penalty actions.
- B. Mr. Stoerger will pay the \$720.00 in ten (10) consecutive monthly payments of \$72.00 commencing within thirty (30) days of the Commission's order approving this Settlement Agreement. The payments shall be made payable to "Treasurer State of Ohio," and they shall be mailed to PUCO Fiscal, 180 E. Broad St., 4th floor, Columbus, OH 43215-3793. The case number (OH3202305346D) should appear on the face of each check.
- C. This Settlement Agreement shall not become effective until adopted by the Commission. The date of the entry or order of the Commission adopting the Settlement Agreement shall be considered the effective date of the Settlement Agreement. This Settlement Agreement is intended to resolve only factual or legal issues raised in this case. It is not intended to have any effect whatsoever in any other case or proceeding.


**IV. Conclusion**

The undersigned respectfully request that the Commission adopt the agreement in its entirety.

The parties have manifested their consent and authority to enter into the Settlement Agreement by affixing their signatures below on this 30<sup>th</sup> day of July, 2012.

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

  
**Douglas M. Stoerger Sr.**  
1152 E. 1300 North Road  
Montecello, IN 61856

  
**Steven L. Beeler**  
Assistant Attorney General  
Public Utilities Section  
180 East Broad Street, 6<sup>th</sup> Floor  
Columbus, OH 43215-3793