

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

FINDING AND ORDER

The Commission finds:

- (1) On February 17, 2012, a vehicle operated by Douglas M. Stoerger was inspected within the State of Ohio. As a result of the inspection, Mr. Stoerger was timely served with a notice of preliminary determination (NPD) in accordance with Rule 4901:2-7-12, O.A.C. The NPD 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).
- (2) On April 26, 2012, Mr. Stoerger requested an administrative hearing and thereby initiated this case.
- (3) A prehearing conference was held on May 31, 2012, and a hearing was scheduled on July 17, 2012.
- (4) On July 10, 2012, the attorney examiner was notified by Staff that a settlement had been reached with Mr. Stoerger. The hearing, therefore, was canceled pending the submission of a settlement agreement in the case.
- (5) On July 30, 2012, a settlement agreement was filed in this matter that, in the parties' opinion, resolves all issues raised in the NPD.
- (6) In the settlement agreement, the parties agree and recommend that the Commission find:
 - (a) For purposes of settlement only, and not as an admission that the violation 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 10 consecutive monthly payments of \$72.00 commencing within 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, Attention Fiscal Division, 4th Floor, 180 East Broad Street, Columbus, Ohio 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.
- (7) 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 Mr. Stoerger pay a total civil forfeiture of \$720.00, with an initial payment of \$72.00 due within 30 days after the effective date of this Finding and Order and the remaining payments made as set forth in the settlement agreement. Payments should be payable to "Treasurer, State of Ohio" and mailed to PUCO, Attention Fiscal Division, 4th Floor, 180 East Broad Street, Columbus, Ohio 43215-3793. In order to assure proper credit, Mr. Stoerger is directed to write the case number (OH3202305346D) on the face of each check. It is, further,

ORDERED, That a copy of this finding and order be served on each party of record.

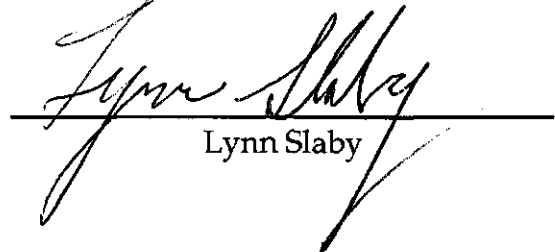
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser


Andre T. Porter

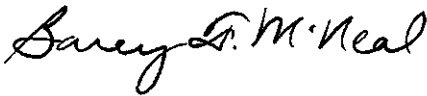

Cheryl L. Roberto


Lynn Slaby

KKS/vrm

Entered in the Journal

AUG 15 2012



Barcy F. McNeal
Secretary