

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of K & P Trucking, Inc. Notice)	Case No. 12-2812-TR-CVF
of Apparent Violation and Intent to Assess)	(OH3255008788C)
Forfeiture.)	

FINDING AND ORDER

The Commission finds:

- (1) Commission staff served a Notice of Preliminary Determination (NPD) upon K & P Trucking, Inc. (K & P) in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). The NPD assessed a total civil forfeiture of \$100.00 for violation of Title 49 Code of Federal Regulations (C.F.R.) 396.3(a)(1), regarding brakes out of service.
- (2) On October 22, 2012, K & P requested an administrative hearing in accordance with Rule 4901:2-7-13, O.A.C.
- (3) The parties in this case participated in a prehearing conference on November 14, 2012, but did not resolve matters at that time.
- (4) Rule 4901:2-7-14(E), O.A.C., provides that a respondent who has requested an administrative hearing and fails to participate in the hearing proceeding shall be in default. The rule additionally states that a respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability to the state for the forfeiture described in the notice.
- (5) By entry of November 15, 2012, a hearing in this matter was scheduled for January 29, 2013. On January 25, 2013, K & P requested that the hearing be continued. By entry of January 29, 2013, the hearing was continued to February 28, 2013. Both hearing entries were served upon K & P in accordance with the Commission's rules.

- (6) The hearing was convened on February 28, 2013. No one representing K & P appeared at the hearing. Staff moved for a default judgment against K & P.
- (7) Because K & P failed to appear or participate in the hearing, the Commission finds that, pursuant to Rule 4901:2-7-14(E), O.A.C., K & P is in default and, therefore, has admitted to the violation cited in the case and waived all further right to contest liability to the state for the forfeiture described in the notice. The recommended civil forfeiture of \$100.00, set forth in the NPD, should be assessed against K & P and should be paid within 30 days.
- (8) Rule 4901:2-7-22, O.A.C., requires that payment of any forfeiture be made by check or money order payable to "Treasurer, State of Ohio," and shall be mailed or delivered to "Fiscal Division, Public Utilities Commission of Ohio, 180 East Broad Street, Fourth Floor, Columbus, Ohio 43215-3793." To ensure proper credit, K & P is directed to write the citation number (OH3255008788C) on the check or money order.

It is, therefore,

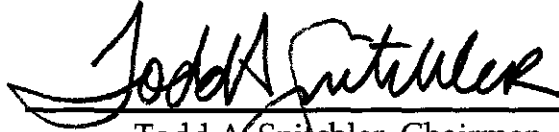
ORDERED, That, pursuant to Rule 4901:2-7-14(E), O.A.C., K & P is in default and the assessed civil forfeiture of \$100.00 is adopted. It is, further,

ORDERED, That K & P is ordered to pay the state of Ohio the assessed civil forfeiture set forth above. It is, further,

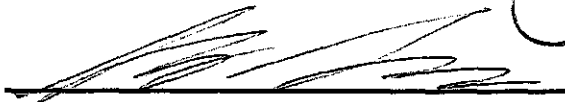
ORDERED, That, if payment is not received within 30 days of the date of this finding and order, the Attorney General of Ohio is authorized to take any appropriate action allowed by law to recover the assessed civil forfeiture. If is, further,

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

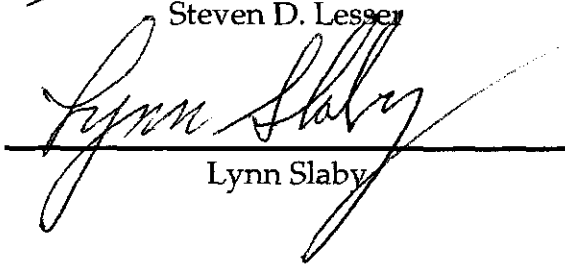
THE PUBLIC UTILITIES COMMISSION OF OHIO



Todd A. Sritchler, Chairman



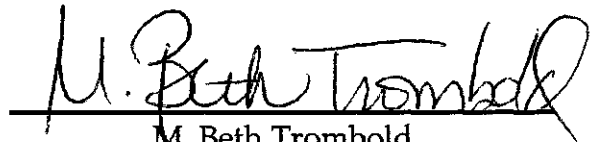
Steven D. Lesser



Lynn Slaby



Andre T. Porter

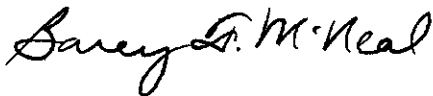


M. Beth Trombold

JML/sc

Entered in the Journal

MAR 27 2013



Barcy F. McNeal
Secretary