

FILE

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ATTORNEY GENERAL'S OFFICE  
PUBLIC UTILITIES SECTION

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of O&P Oil & Gas, Inc., : Case No. 13-1029-TR-CVF  
Notice of Apparent Violation and Intent : (OH3205006193C)  
to Assess Forfeiture. :

SETTLEMENT AGREEMENT

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I. Introduction

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (O.A.C.), O&P Oil & Gas, Inc. (Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this settlement agreement and urge the Commission to adopt the same.

It is understood by the Respondent 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 Respondent's and the Staff's desire to arrive at a reasonable result considering the law, facts and circumstances. Accordingly, the Respondent and the Staff believe that the Commission should 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, either party

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may terminate and withdraw consent to the agreement within 30 days of issuance of the Commission's order, by filing with the Commission.

## **II. Procedural History**

- A. On January 14, 2013, a a vehicle operated by Respondent was inspected within the state of Ohio. At the time of the inspection, Respondent was hauling Class 3 hazardous materials. The inspection resulted in the discovery of a violation of 49 C.F.R. §393.48(a) (inoperative/defective brakes). As a result of the violation, the vehicle was placed out-of-service.
- B. Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12 O.A.C. for Case No. OH3205006193C. The notice of preliminary determination assessed Respondent \$630.00 for the violation.
- C. Respondent made a timely formal request for 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 the issues raised in the notice of preliminary determination.

## **III. Settlement Agreement**

The parties hereto agree and recommend that the Commission find as follows:

- A. Respondent agrees to the violation listed above and recognizes that the violation may be included in the Respondent's Safety-Net Record and Respondent's history of violations insofar as it may be relevant for purposes of determining future penalty actions.
- B. Following a review of the evidence, the Ohio State Highway Patrol determined that the violation did not meet the out-of-service criteria. Therefore, the parties agree that the inspection report should be amended to reflect that the violation was non out-of-service.
- C. Because no forfeiture would have been assessed by Staff had the violation been designated as non out-of-service at the time of the inspection, the parties agree that the forfeiture should be reduced to \$0.
- D. This settlement agreement shall not become effective until adopted by an Opinion and Order of the Commission. The date of the entry or of the Commission adopting the settlement agreement shall be considered the effective date of the settlement agreement.
- E. This settlement agreement is made in settlement of all factual or legal issues of only this case. It is not intended to have any effect whatsoever in any other case or proceeding.
- F. Respondent hereby waives its right to apply for rehearing under Ohio Rev. Code §4903.10 and O.A.C. § 4901-1-35.

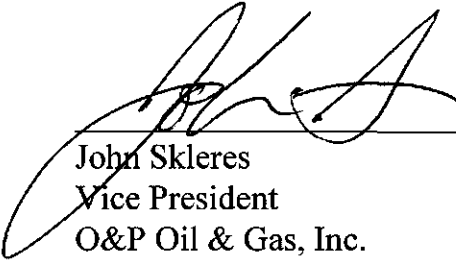
### III. Conclusion

The Signatory parties agree that this Settlement Agreement is in the best interest of all parties, and urge the Commission to adopt the same. The undersigned respectfully request that the Commission issue an entry in accordance with the terms set forth in this Settlement Agreement.

The parties have manifested their consent to this Settlement Agreement by affixing their signatures below on this 21<sup>st</sup> day of June, 2013.


On behalf of O&P Oil & Gas, Inc.

On behalf of the Staff of  
The Public Utilities Commission of Ohio



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John Skleres  
Vice President  
O&P Oil & Gas, Inc.  
P.O. Box 1298  
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