

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

FINDING AND ORDER

The Commission finds:

- (1) On January 14, 2013, a vehicle operated by O&P Oil & Gas, Inc. (Respondent) was inspected within the state of Ohio. The inspection resulted in the discovery of the following apparent violation of the Code of Federal Regulations (C.F.R.): 49 C.F.R. §393.48(a) - inoperative/defective brakes. As a result, the vehicle was placed out-of-service.
- (2) Respondent was timely served with a Notice of Preliminary Determination (NPD) in accordance with Rule 4901.2-7-12, Ohio Administrative Code (O.A.C.). The NPD assessed Respondent \$630.00 as a forfeiture.
- (3) On April 25, 2013, Respondent made a timely formal request for an administrative hearing pursuant to Rule 4901.2-7-13, O.A.C. Thereafter, a prehearing conference was held and a hearing was scheduled in the matter.
- (4) On June 21, 2013, the parties filed a settlement agreement which, in the parties' opinion, resolves all issues raised in the NPD.
- (5) In the settlement agreement, the parties agree and recommend that the Commission find:
 - (a) Respondent admits to a violation of 49 C.F.R. 393.48(a) and acknowledges that the violation may be included in the Respondent's Safety-Net record and history of violations insofar as it may be relevant for purposes of determining future penalty actions.

- (b) Staff and Respondent agree that, because the violation did not meet the out-of-service criteria, the inspection report should be amended to reflect that the violation was non out-of-service. Staff and Respondent also agree that, 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 forfeiture should be reduced to \$0.
 - (c) This settlement agreement shall not become effective until adopted by an order of the Commission. The date of the entry of the Commission order adopting the settlement agreement shall be considered the effective date of the settlement agreement.
 - (d) This settlement agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any affect whatsoever in any other case or proceeding.
- (6) 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 a copy of this finding and order be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Todd A. Snitchler, Chairman




Steven D. Lesser

Lynn Slaby



M. Beth Trombold



Asim Z. Haque

SEF/sc

Entered in the Journal

JUL 10 2013



Barcy F. McNeal
Secretary