

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Ozark Motor Lines,)
Inc., Notice of Apparent Violation and) Case No. 13-589-TR-CVF
Intent to Assess Forfeiture.) (OH0111004939C)

FINDING AND ORDER

The Commission finds:

- (1) On October 4, 2012, a vehicle operated by Ozark Motor Lines, Inc. (respondent) was inspected within the state of Ohio. The inspection resulted in the discovery of four apparent violations of the same provision of the Code of Federal Regulations (C.F.R.): no placards and/or markings when required, in violation of 49 C.F.R. 177.823(a). Each of the four violations represents a different type of hazardous material (Class 3, 5.1, 6.1, and 8) that respondent was transporting at the time of the inspection.
- (2) Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). A total civil forfeiture of \$20,160.00 was assessed against respondent, based on a history factor of 4, which had the effect of quadrupling the amount of the forfeiture.
- (3) On March 5, 2013, respondent filed a request for an administrative hearing pursuant to Rule 4901:2-7-13, O.A.C. Thereafter, a prehearing conference was held on the matter.
- (4) On August 14, 2013, Commission Staff (Staff) and respondent filed a settlement agreement, which, in the parties' opinion, resolves all of the issues raised in the notice of preliminary determination.
- (5) In the settlement agreement, the parties agree and recommend that the Commission find:
 - (a) Respondent admits the violations of 49 C.F.R. 177.823(a) and agrees to pay \$5,040.00 of the civil forfeiture as described below in paragraph (b). The remainder of the civil forfeiture will be

held in abeyance until July 1, 2014. On that date, the civil forfeiture will be recomputed using respondent's present history factor (1, 2, or 4). Respondent will pay the difference between the recomputed civil forfeiture and the \$5,040.00 already paid, as described below in paragraph (c).

- (b) Respondent will pay the civil forfeiture of \$5,040.00 within 30 days of the Commission's order approving the settlement agreement. The payment shall be made by check or money order made payable to "Treasurer, State of Ohio," and shall be mailed to PUCO Fiscal, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. The case number (OH0111004939C) must appear on the face of the check.
- (c) Respondent will pay any remaining civil forfeiture resulting from the recomputation of the civil forfeiture under paragraph (a) within 30 days of the Commission's order determining that additional monies are owed according to paragraph (a). Any payment ordered shall be made by check or money order made payable to "Treasurer, State of Ohio," and shall be mailed to PUCO Fiscal, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. The case number (OH0111004939C) must appear on the face of the check.
- (d) The 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.
- (e) The settlement agreement is intended to resolve the factual or legal issues raised in this case as it relates to respondent. The settlement agreement is not intended to have any effect 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 respondent pay a civil forfeiture of \$5,040.00 in accordance with the settlement agreement. Payment should be made by certified check or money order made payable to "Treasurer, State of Ohio," and mailed to PUCO Fiscal, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, respondent is directed to write the inspection number (OH0111004939C) on the face of the check or money order. 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



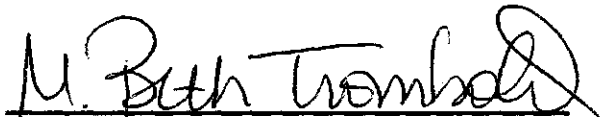
 Todd A. Spitchler, Chairman



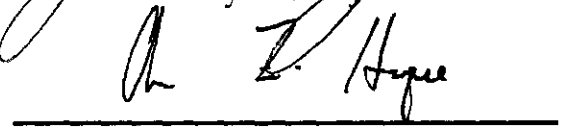
 Steven D. Lesser



 Lynn Slaby



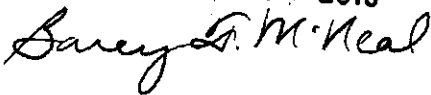
 M. Beth Trombold



 Asim Z. Haque

SJP/sc

Entered in the Journal
AUG 28 2013



 Barcy F. McNeal
 Secretary