

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Millis Transfer, Inc.,)
Notice of Apparent Violation and Intent) Case No. 13-2058-TR-CVF
to Assess Forfeiture.) (OH1100004819C)

FINDING AND ORDER

The Commission finds:

- (1) On August 7, 2013, a commercial motor vehicle operated by Millis Transfer, Inc. (respondent) was inspected within the state of Ohio. The inspection resulted in the discovery of apparent violations of the Code of Federal Regulations (C.F.R.) and Ohio Administrative Code (O.A.C.): speeding in a work/construction zone, in violation of 49 C.F.R. 392.2; failing to comply with Alliance for Uniform Hazardous Materials Registration requirements, in violation of 49 C.F.R. 397.3; emergency response information not immediately available, in violation of 49 C.F.R. 172.600(c); no placards and/or markings on the vehicle when required, in violation of 49 C.F.R. 177.823(a); package not secure in vehicle, in violation of 49 C.F.R. 177.834(a); and carrier not registered for hazardous materials haul, in violation of Rule 4901:2-6-03, O.A.C.
- (2) Respondent was timely served with a notice of preliminary determination in accordance with Rule 4901:2-7-12, O.A.C. A total civil forfeiture of \$3,220.00 was assessed against respondent.
- (3) On October 7, 2013, respondent filed a request for an administrative hearing in accordance with Rule 4901:2-7-13, O.A.C.
- (4) On November 22, 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) For purposes of settlement only, and not as an admission that the violations occurred as alleged, respondent agrees that the violations may be included in its history of violations, insofar as it may be relevant for purposes of determining future penalty actions.
- (b) Staff agrees, for purposes of settlement only, to a reduced civil forfeiture amount of \$2,004.00. This reflects a reduction of the forfeiture for the violation of Rule 4901:2-6-03, O.A.C., from \$500.00 to \$100.00 and a 30 percent reduction of the forfeitures for the other violations. The reduction is premised upon a recognition that respondent is not in the business of transporting hazardous materials and that respondent has undertaken corrective actions. Respondent has instructed all of its drivers to inspect loads for securement and has directed its drivers not to transport any materials not properly secured, among other actions.
- (c) Within 30 days of the effective date of the settlement agreement, respondent shall pay \$2,004.00. Payment shall be made by check or money order payable to "Treasurer, State of Ohio," and mailed to PUCO Fiscal, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. Respondent should write the case number (OH1100004819C) on the face of the payment.
- (d) The settlement agreement shall not become effective until adopted by the Commission. The date of the entry of the Commission order adopting the settlement agreement will be the settlement agreement's effective date.
- (e) The settlement agreement settles all factual and legal issues in this case. The parties do not intend the settlement agreement to have any effect 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 \$2,004.00 in accordance with the settlement agreement. Payment shall be made by check or money order 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 (OH1100004819C) 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. Snitchler, Chairman



 Steven D. Lesser

 Lynn Slaby



 M. Beth Trombold



 Asim Z. Haque

SJP/sc

Entered in the Journal

DEC 11 2013



 Barcy F. McNeal
 Secretary