

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Roeder Cartage Company,)
Inc., Notice of Apparent Violation and) Case No. 14-404-TR-CVF
Intent to Assess Forfeiture.) (OH3211302053C)

FINDING AND ORDER

The Commission finds:

- (1) On October 4, 2013, a vehicle operated by Roeder Cartage Company, Inc. (Respondent), was inspected within the State of Ohio. As a result of the inspection, the Respondent was timely served with a notice of preliminary determination (NPD) in accordance with Ohio Adm.Code 4901:2-7-12. The NPD assessed a total civil forfeiture amount of \$6,100.00. The NPD alleged two violations of 49 C.F.R. 173.24(f)(1), a violation of 49 C.F.R. 173.24(b)(1), a violation of 49 C.F.R. 173.33(a), and a violation of 49 C.F.R. 178.345-11(b). Many of the violations alleged in the NPD are for the same offense, which is for having a faulty or leaking tank valve.
- (2) On March 3, 2014, the Respondent requested an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13.
- (3) On April 29, 2014, a prehearing conference was held in this matter for the purpose of discussing settlement of the issues raised and to determine an appropriate date for hearing.
- (4) By Entry issued on May 5, 2014, the attorney examiner scheduled this matter for hearing on May 28, 2014. Subsequently, on May 27, 2014, Staff filed a motion to continue the hearing and asserted that the parties had reached a settlement in this matter. The attorney examiner found that the motion was reasonable and granted the motion.
- (5) On June 3, 2014, a settlement agreement was filed in this case that, in the parties' opinion, resolves all the issues raised in the NPD.
- (6) The following is a summary of the provisions agreed to by the parties and is not intended to replace or supersede the

settlement agreement. In the settlement agreement, the parties agree and recommend that the Commission find:

- (a) After a review of the facts in this case, Staff agrees that further prosecution of the alleged violations of 49 C.F.R. 173.24(b)(1), 49 C.F.R. 173.33(a), and 49 C.F.R. 178.345-11(B) is not warranted and that these violations should be deleted.
 - (b) The Respondent agrees that both violations of 49 C.F.R. 173.24(f)(1) may be included in its history of violations as they may be relevant for purposes of determining future penalty actions. Staff agrees, for purposes of settlement only, to waive the civil forfeiture for one of these violations in recognition that the assessments were for violations of the same regulation.
 - (c) The respondent shall pay the \$1,260.00 civil forfeiture within 30 days after the Commission's entry or order approving this settlement agreement. The 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. The Respondent should write the case number (OH3211302053C) on the face of the payment.
 - (d) This settlement agreement shall not become effective until the Commission adopts the agreement. 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 only factual and legal issues in this case. It is not intended to have any affect in any other case or proceeding.
- (7) The Commission finds that the settlement agreement submitted in this case is reasonable. The Commission notes that the Respondent was assessed civil forfeitures for duplicative

violations of 49 C.F.R. 173.24(f)(1) and that the settlement reasonably includes both violations in the Respondent's history of violations while waiving the civil forfeiture for one of the violations. Therefore, the settlement agreement should be approved and adopted in its entirety.

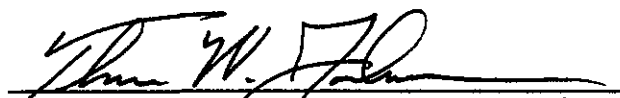
It is, therefore,

ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,


ORDERED, That Roeder Cartage Company, Inc., pay a total civil forfeiture of \$1,260.00 in accordance with the settlement agreement. Payment shall be made by check or money order made payable to "Treasurer of State of Ohio," and mailed to PUCO Fiscal, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Roeder Cartage Company, Inc., is directed to write the inspection number "OH3211302053C" on the face of each check or money order. It is, further,

ORDERED, That a copy of this Finding and Order be served upon each party of record.

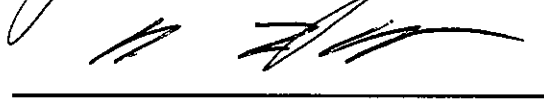
THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman


Steven D. Lesser



Lynn Slaby


M. Beth Trombold


Asim Z. Haque

BAM/sc

Entered in the Journal **AUG - 6 2014**


Barcy F. McNeal
Secretary