

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of O & S Trucking, Inc.,)
Notice of Apparent Violation and Intent) Case No. 14-1400-TR-CVF
to Assess Forfeiture.)

ENTRY

The Commission finds:

- (1) Pursuant to Ohio Adm.Code 4901:2-7-12, Staff served a notice of preliminary determination (NPD) upon O & S Trucking, Inc. (O&S), alleging a violation of 49 C.F.R. 392.2SLLSWZ (State/Local laws-speeding work/construction zone, 66 in posted 50 zone.). No civil forfeiture was assessed against the carrier. John Robinson, the driver of the commercial motor vehicle, was also charged in local court with the speeding violation.
- (2) Ohio Adm.Code 4901:2-7-13, provides that, following service of the NPD, the respondent may file a request for administrative hearing.
- (3) On August 12, 2014, Mr. Robinson filed a request for an administrative hearing regarding the violation against O&S, the respondent in this case. O&S never requested an administrative hearing.
- (4) Pursuant to Entry issued August 21, 2014, a prehearing conference was held on September 5, 2014.
- (5) Thereafter, on September 30, 2014, Staff filed a motion to dismiss this case. In its memorandum in support, Staff explains that the notice of apparent violation (NAV) was issued to O&S, not to Mr. Robinson. Therefore, Staff asserts, Mr. Robinson lacks standing to contest the matter on behalf of O&S. Staff adds that there has been no indication that Mr. Robinson has authority to represent O&S in this matter or file the request for hearing on behalf of O&S, as he is not an attorney, an officer, or a representative of O&S. No pleading was filed in response to Staff's motion.

- (6) The Commission finds that Staff's motion to dismiss is reasonable and should be granted. In this case, the apparent violation indicated in the NPD was against O&S, which was the operator of the CMV, and not Mr. Robinson. Therefore, only O&S, and not Mr. Robinson, would have standing as the respondent to file the request for administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13. Accordingly, Staff's motion to dismiss should be granted and the violation of 49 C.F.R. 392.2SLLSWZ should remain on O&S's record of violations.

It is, therefore,

ORDERED, That Staff's motion to dismiss is granted. It is, further,

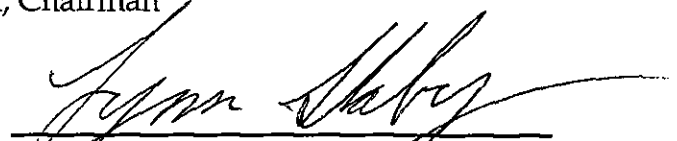
ORDERED, That the violation of 49 C.F.R. 392.2SLLSWZ remain on O&S's record of violations in accordance with 49 C.F.R. 390.11. It is, further,

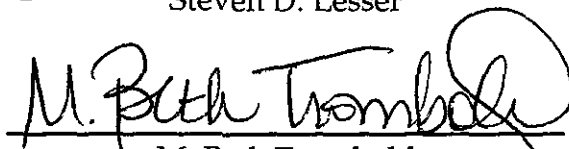
ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman


Steven D. Lesser

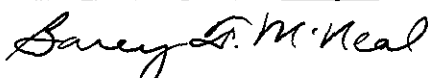

Lynn Slaby


M. Beth Trombold


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JML/sc

Entered in the Journal
OCT 22 2014


Barcy F. McNeal
Secretary