

FILE

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PUCO EXHIBIT FILING

RECEIVED-DOCKETING DIV

Date of Hearing: 10/21/15

2015 OCT 27 PM 3:50

Case No. 15-1177-TR-CVF

PUCO

PUCO Case Caption: In the Matter of Jerry W.  
Montgomery, Notice of Apparent Violation  
and Intent to Assess Forfeiture

List of exhibits being filed:

Staff 1  
2  
Respondent 1

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Technician MA Date Processed October 27 2015

Reporter's Signature: Karen Sue Gibson  
Date Submitted: 10/26/15

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of Jerry W. :  
Montgomery, Notice of :  
Apparent Violation and : Case No. 15-1177-TR-CVF  
Intent to Assess :  
Forfeiture. :

- - -

PROCEEDINGS

before Mr. Bryce McKenney, Attorney Examiner, at the  
Public Utilities Commission of Ohio, 180 East Broad  
Street, Room 11-C, Columbus, Ohio, called at 10 a.m.  
on Wednesday, October 21, 2015.

- - -

ARMSTRONG & OKEY, INC.  
222 East Town Street, Second Floor  
Columbus, Ohio 43215-5201  
(614) 224-9481 - (800) 223-9481  
Fax - (614) 224-5724

- - -

## DRIVER/VEHICLE EXAMINATION REPORT

**Ohio**

Report Number: OH1366001930  
 Inspection Date: 3/16/2015 Certification Date: 03/19/2015  
 Time Started: 14:04 Time Ended: 14:35  
 Inspection Level: III - Driver-Only Inspection  
 HM Inspection Type: No HM Inspection

JONES FUEL CO  
 350 FRANK RD  
 COLUMBUS, OH 43207  
 USDOT #: 01170528  
 MC/MX #:  
 State #:

Phone #: (614)443-4611  
 Fax #: (614)443-1769

Driver: MONTGOMERY, JERRY W  
 License #: RN401870 State: OH  
 Date of Birth: 4/14/1954

Location: ROADSIDE MilePost: 27  
 Highway: US 33 Origin: COLUMBUS, OH Bill of Lading: 33574987  
 County: FRANKLIN Destination: GROVEPORT, OH Cargo: COMMODITIES, DRY BULK  
 Shipper: JONES TOPSOIL & MULCH

**VEHICLE IDENTIFICATION:**

Unit	Type	Make	Year	State	License#	Equipment ID	Unit VIN	GVWR	CVSA #	CVSA Issued #	OOS Strk.#
1	TR	CAT	2014	OH	PIN1327	206	3HTJGKT7EN061422	69,500			

**BRAKE ADJUSTMENTS:** No brake measurements recorded.

**VIOLATIONS :**

Vio Code	Section	Unit	OOS	State Citation Number	Verify*	Crash	Violation Description
392.82A1	392.82(a)(1)	D	N		N	N	Using a hand-held mobile telephone while operating a CMV.
392.2AU	392.2	1	N		N	N	State Operating Authority violation, PUCO authority invalid since 7/25/14

\* N - Non-OOS or Driver OOS Violation

**HazMat:** No HM Transported. **Placard:** NA **Cargo Tank:**

**Special Checks:**

<input type="checkbox"/> Alcohol/Controlled Substance Check	<input type="checkbox"/> Traffic Enforcement	<input type="checkbox"/> Post Crash Inspection
<input type="checkbox"/> Conducted by Local Jurisdiction	<input type="checkbox"/> PASA Conducted Inspection	<input type="checkbox"/> PBBT Inspection
<input type="checkbox"/> Size and Weight Enforcement	<input type="checkbox"/> Drug Interdiction Search	Arrests:
<input type="checkbox"/> EScreening		

**Inspection Notes:** Driver was using a hand held cell phone in his left hand while operating a CMV as he passed me on US 33. I watched him using the phone from first site until he passed completely by my vehicle. Driver admitted to having a phone in the CMV and attempted to say he was using the company radio. A check of the carrier's authority status revealed that the PUCO # displayed on the vehicle, (6879-1) had been suspended. Carrier was operating on a valid DOT number that was not displayed at the time of the inspection. He was advised to let the carrier know that the DOT number that they have should be displayed on the vehicle.

Deleted violation 390.21B and added 392.2AU on 04/17/2015 by dfe per jrf.

**Special Study Fields:**

Special Study1:	Special Study6:
Special Study2:	Special Study7:
Special Study3:	Special Study8:
Special Study4:	Special Study9:
Special Study5:	Special Study10:

**Locally Defined Fields:**

For-Hire Carrier: Y	Driver Address: 1150 S. 22ND STREET
Driver City: COLUMBUS	Driver State: OH
Driver Zip: 43206	Reason Code: OBVI
FMCSA Credentials Verified-Y/N: Y	CDL Verified (Y/N): Y
FMCSA OOS Order Issued(Y/N): N	

Report Prepared By:  
 L. A. DARDEN

Badge #:  
 1366

Copy Received By:  
 MONTGOMERY, JERRY W

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OH1366001930

# DRIVER/VEHICLE EXAMINATION REPORT

# Ohio

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Driver: MONTGOMERY, JERRY W  
 License #: RN401870 State: OH  
 Date of Birth: 4/14/1954

All violations of the FHMR and FMCSR or Title 49 of the Ohio Revised Code will be reviewed by the PUCO's Transportation Department to determine whether civil forfeitures should be assessed against any responsible parties in accordance with the penalty provisions of Title 49 of the Ohio Revised Code. If civil forfeitures are assessed, you will receive a separate notice by mail. These penalties may be assessed to motor carriers, shippers, and/or drivers.

ATTENTION DRIVER: This report must be sent to the motor carrier whose name appears at the top of this inspection report within 24 hours. If the inspection report cannot be delivered within 24 hours the driver must mail or fax the inspection report to the motor carrier.

ATTENTION MOTOR CARRIER: The motor carrier must examine this report and repair all the vehicle defects/violations noted above -AND- The motor carrier must sign the Certification of Repairs below and return the signed form to: Public Utilities Commission of Ohio, TASD - 4th floor, 180 E Broad St, Columbus, OH 43215-3793 -OR- Fax (614) 752-9274 within 15 days of the inspection. If "No Violations Were Discovered" then you do not need to return this report. Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000. If you have any questions, please contact (614) 466-0429.

MOTOR CARRIER CERTIFICATION OF COMPLETED REPAIRS: The undersigned certifies that all violations noted on this report have been corrected and action taken to assure compliance with the Federal Motor Carrier Safety & Hazardous Materials Regulations insofar as they are applicable to motor carriers and drivers. A false certification of repairs is required to be prosecuted with penalties up to \$10,000.

Signature of Carrier Official: X Title: \_\_\_\_\_ Date: \_\_\_\_\_

Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature of Repairer: X Facility: \_\_\_\_\_ Date: \_\_\_\_\_





# Public Utilities Commission

John R. Kasich, Governor  
Andre Porter, Chairman

Commissioners

Thomas W. Johnson  
Asim Z. Haque  
Lynn Slaby  
M. Beth Trombold

05/21/2015

OH1366001930D  
JERRY MONTGOMERY  
1150 S. 22ND STREET  
COLUMBUS, OH 43206

RE: **NOTICE OF PRELIMINARY  
DETERMINATION**

Case No. OH1366001930D

Dear Sir or Madam:

On 03/16/2015, a vehicle operated by THE JONES FUEL COMPANY, and driven by JERRY W MONTGOMERY, was inspected within the State of Ohio. As the result of discovery of the following violations of the Commission's rules, Staff of the Commission timely notified JERRY W MONTGOMERY (Respondent) pursuant to rule 4901:2-7-07, Ohio Administrative Code (O.A.C.), that it intended to assess a civil forfeiture against the Respondent in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
392.82A1	4	Using a hand-held mobile telephone while operating a CMV.	250.00
		Total of Group 4	250.00

**TOTAL AMOUNT DUE: \$250.00**

A conference was conducted pursuant to rule 4901:2-7-10, O.A.C., at which the Respondent had a full opportunity to present any reasons why the violation did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

As a result of the conference, Staff has made a Preliminary Determination that the Commission should assess a civil forfeiture against JERRY W MONTGOMERY in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
392.82A1	4	Using a hand-held mobile telephone while operating a CMV.	250.00
		Total of Group 4	250.00

**TOTAL AMOUNT DUE: \$250.00**

180 East Broad Street  
Columbus, Ohio 43215-3793

(614) 466-3016  
www.PUCO.ohio.gov



# Public Utilities Commission

John R. Kasich, Governor  
Andre Porter, Chairman

## Commissioners

Thomas W. Johnson  
Asim Z. Haque  
Lynn Slaby  
M. Beth Trombold

Within 30 days of this notice, you must either: (1) pay the assessed civil forfeiture or (2) file a written request for an administrative hearing pursuant to rule 4901:2-7-13, O.A.C. Failure to file a written request for an administrative hearing within 30 days shall constitute a waiver of your right to further contest the violations and will conclusively establish the occurrence of the violations. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in the notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

Please consult the enclosed instruction sheet for additional information regarding this Notice of Preliminary Determination.

Sincerely,

A handwritten signature in cursive script that reads "Milan Orbovich".

Milan Orbovich, Director  
Transportation Department

Compliance Officer: Wanda Williams

## Wireless

## Current Usage

Details for: 614-205-4901

The following reflects current usage since your last statement

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Minutes Messages Data

Cycle ends 04/01/2015

Anytime Minutes Used : 255 minutes

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Date	Time	Number	Minutes	Desc
03/17/2015	03:50 PM	6144434611	1	INCOMING
03/17/2015	03:46 PM	6144434611	2	COLUMBUS
03/17/2015	03:10 PM	6144434611	5	COLUMBUS
03/17/2015	12:56 PM	6145867900	4	INCOMING
03/17/2015	09:21 AM	6144970083	1	LOCKBOURNE
03/17/2015	08:02 AM	7409630022	2	PATASKALA
03/17/2015	06:30 AM	6147541675	1	COLUMBUS
03/16/2015	05:48 PM	8556157246	2	INCOMING
03/16/2015	01:59 PM	6144434611	3	INCOMING
03/15/2015	05:16 PM	6145996932	1	INCOMING
03/15/2015	04:16 PM	6145996932	1	COLUMBUS
03/14/2015	02:41 PM	6145377357	2	COLUMBUS
03/13/2015	05:25 PM	6145996932	2	COLUMBUS
03/13/2015	01:47 PM	6144434611	2	INCOMING
03/13/2015	01:40 PM	6144642403	5	COLUMBUS
03/13/2015	01:26 PM	6143128909	1	COLUMBUS
03/13/2015	12:55 PM	6143128909	1	COLUMBUS
03/13/2015	12:37 PM	6147541675	5	COLUMBUS
03/13/2015	11:49 AM	6144434611	1	COLUMBUS
03/13/2015	11:42 AM	6144197631	2	COLUMBUS

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