

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Egal Trucking, Notice of)
Apparent Violation and Intent to Assess) Case No. 15-1753-TR-CVF
Forfeiture.) (OH3261007122C)

FINDING AND ORDER

The Commission finds:

- (1) R.C. 4923.04 provides that the Commission shall adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce. Pursuant to Ohio Adm.Code 4901:2-5-03(A), the Commission adopted the Federal Motor Carrier Safety Regulations for the purpose of governing transportation by motor vehicle in the state of Ohio. Further, R.C. 4923.99 authorizes the Commission to assess a civil forfeiture of up to \$25,000 per day against any person who violates the safety rules adopted by the Commission.
- (2) On June 28, 2015, a commercial motor vehicle operated by Egal Trucking (Respondent) was inspected by Staff. The inspection resulted in the discovery of the following violations: 49 C.F.R. 393.75(c) (tire tread depth less than 2/32 inch, \$0.00); 49 C.F.R. 396.3(a)(1) (brakes—missing retainer for slack adjuster on camshaft, \$0.00); 49 C.F.R. 393.45 (brake tubing and hose adequacy, \$50.00); 49 C.F.R. 396.3(a)(1) (inspection, repair, and maintenance --- steel plate hanging on wires at rear of trailer, \$40.00). The total forfeiture for all violations is \$90.00.
- (3) Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, on September 16, 2015. The NPD assessed Respondent a total civil forfeiture of \$90.00.
- (4) On October 15, 2015, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.
- (5) A prehearing conference was conducted on December 1, 2015, at which time Respondent presented mitigating circumstances regarding the forfeiture and other information relevant to the action proposed to be taken by Staff. Subsequently, the Ohio

State Highway Patrol reviewed the 49 C.F.R. 396.3(a)(1) violation concerning the hanging steel plate on wires and determined that the violation should be deleted. The parties request that the Commission dismiss this violation. The parties further agree that Respondent does not contest the remaining violations, and recommend a civil forfeiture of \$50.00 for the brake tubing violation.

- (6) On January 22, 2016, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves all of the issues raised in the NPD. The following is a summary of conditions agreed to by the parties and is not intended to replace or supersede the settlement agreement.
 - (a) For purposes of settlement only, and not as an admission that the violations occurred as alleged, Respondent agrees to pay a reduced forfeiture of \$50.00, and agrees that the remaining violations may be included in its Safety-Net record and history of violations, insofar as they may be relevant for purposes of determining future penalty actions.
 - (b) Respondent shall pay \$50.00 within 30 days of the Commission order approving this settlement agreement. The payment shall be made by certified check or money order payable to "Treasurer, State of Ohio" and mailed to PUCO, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. Case No. 15-1753-TR-CVF and inspection number OH3261007122C should be written on the face of the check.
 - (c) The settlement agreement shall not become effective until adopted by the Commission. The date of the Commission order adopting the settlement agreement shall be considered as the effective date of the settlement agreement. The settlement agreement is made in settlement of all factual and legal issues in this case. It is not intended to have any effect whatsoever in any other case or proceeding.

- (7) The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, the settlement agreement shall 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,

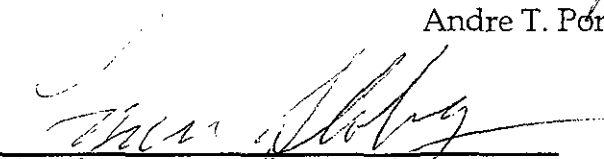
ORDERED, That the 49 C.F.R. 396.3(a)(1) violation be deleted from Respondent's Safety-Net record and history of violations. It is, further,

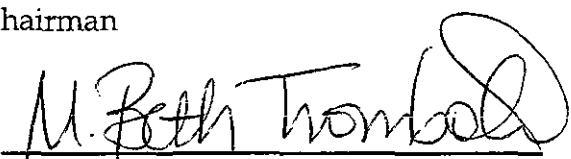
ORDERED, That Respondent pay a civil forfeiture of \$50.00 in accordance with the settlement agreement. Payment shall be made by check or money order payable to "Treasurer, State of Ohio," and mailed to PUCO, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write Case No. 15-1753-TR-CVF and inspection number OH3261007122C on the face of the check or money order. It is, further,

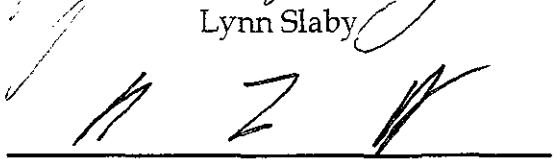
ORDERED, That a copy of this Finding and Order be served upon Respondent and all other interested parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Andre T. Porter, Chairman


Lynn Slaby



M. Beth Trombold


Asim Z. Haque


Thomas W. Johnson

JML/sc

Entered in the Journal **MAR 02 2016**


Barcy F. McNeal
Secretary