

FILE

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PUCO EXHIBIT FILING

Date of Hearing: April 21, 2016

Case No. 15-2029-TR-CVF

PUCO Case Caption: In the matter of
Kenneth Wylie, Notice of Apparent
violation and intent to
assess Forfeiture.

List of exhibits being filed:

Staff Exhibits
1- Driver/Vehicle Examination Report 8/5/15
2- Notice of Preliminary Determination

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Technician KN Date Processed APR 21, 2016

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PUCO

Reporter's Signature: _____
Date Submitted: _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of Kenneth :
Wylie, Notice of Apparent : Case No. 15-2029-TR-CVF
Violation and Intent to :
Assess Forfeiture. :

- - -

PROCEEDINGS

before Bryce McKenney, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-D, Columbus, Ohio, called at 10:15
a.m. on Thursday, April 21, 2016.

- - -

EXHIBITS

ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-4620
(614) 224-9481 - (800) 223-9481
Fax - (614) 224-5724

- - -

DRIVER/VEHICLE EXAMINATION REPORT

Staff Exhibit No. 1



Public Utilities Commission of Ohio
180 East Broad Street
Transportation Department
Columbus, OH 43215
Phone #: (614)466-0429 Fax #: (614)752-9274

Report Number: OH3270007648
Inspection Date: 8/5/2015 Certification Date: 08/07/2015
Time Started: 07:58 Time Ended: 08:31
Inspection Level: III - Driver-Only Inspection
HM Inspection Type: No HM Inspection

NAVAJO EXPRESS INC
1400 WEST 64TH AVENUE
DENVER, CO 80221
USDOT #: 00202381
MC/MX #: 157626
State #:

Phone #: (303)287-3800
Fax #:

Driver: WYLIE, KENNETH JR R
License #: 922570927 State: CO
Date of Birth: 8/5/1974

Location: ROADSIDE
Highway: IR80
County: ERIE
Shipper: TYSON

MilePost: 133
Origin: OTTAWA, IL
Destination: POTTSVILLE, PA

Bill of Lading: 410J04003
Cargo: REFRIGERATED FOODS

VEHICLE IDENTIFICATION:

Unit	Type	Make	Year	State	License#	Equipment ID	Unit VIN	GVWR	CVSA #	CVSA Issued #	OOS Stkr.#
1	TT	KW	2014	OK	2TZ150	3181	1XKYD49X6EJ405493	52,000			
2	ST	UTIL	2011	OK	4655GU	55185	1UYVS2532BU043010	65,000			

BRAKE ADJUSTMENTS: No brake measurements recorded.

VIOLATIONS :

Vio Code	Section	Unit	OOS	State Citation Number	Verify*	Crash	Violation Description
390.17	390.17	D	N		N	N	Operating a CMV while using additional equipment and accessories that decreases the safety of operation. OBVI <SEE NOTES>

* 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: While driving EB on Ohio Turnpike, we observed the driver go off the right side of the roadway and completely past the warning "rumble strips". As we passed driver on the left side, U-3260 observed the driver holding/using a cell phone. Upon speaking with the driver he was asked what he was doing when he crossed over the right white line and rumble strips. Driver said he was trying to get a drink of his coffee. Driver was informed that the phone was observed in his hand and he was asked if he was texting. Driver responded that he was looking up directions with his phone. Driver's use of his phone decreased the safety of operation of his CMV.

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: 3055 WOODLAN HILLS DR APT 417
Driver City: COLORADO SPRINGS	Driver State: CO
Driver Zip: 80918	Photos Taken (Y/N): N
Co-Investigator #: 3260	Reason Code: OBVI
FMCSA Credentials Verified-Y/N: Y	CDL Verified (Y/N): Y
FMCSA OOS Order Issued(Y/N): N	

Report Prepared By:
Robert Richards

Badge #:
3270

Copy Received By:
WYLIE, KENNETH JR R

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OH3270007648

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DRIVER/VEHICLE EXAMINATION REPORT



Public Utilities Commission of Ohio
180 East Broad Street
Transportation Department
Columbus, OH 43215
Phone #: (614)466-0429 Fax #: (614)752-9274

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NAVAJO EXPRESS INC
1400 WEST 64TH AVENUE
DENVER, CO 80221

USDOT #: 00202381
MC/MX #: 157626

Phone #: (303)287-3800
Fax #:

Driver: WYLIE, KENNETH JR R
License #: 922570927 State: CO
Date of Birth: 8/5/1974

State #:

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, T ASD - 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

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:

Report Prepared By:
Robert Richards

Badge #:
3270

Copy Received By:
WYLIE, KENNETH JR R

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OH3270007648

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Public Utilities Commission

John R. Kasich, Governor
Andre Porter, Chairman

Commissioners

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

10/27/2015

OH3270007648D

Mr. Kenneth R. Wylie Jr.

3065 WOODLAN HILLS DR APT 417

COLORADO SPRINGS, CO 80918

RE: **NOTICE OF PRELIMINARY
DETERMINATION**

Case No. OH3270007648D

Dear Sir or Madam:

On 08/05/2015, a vehicle operated by NAVAJO EXPRESS INC, and driven by KENNETH JR R WYLIE, 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 KENNETH JR R WYLIE (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
390.17	4	Operating a CMV while using additional equipment and accessories that decreases the safety of operation. OBVI	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 KENNETH JR R WYLIE in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
390.17	4	Operating a CMV while using additional equipment and accessories that decreases the safety of operation. OBVI	250.00
		Total of Group 4	250.00

180 East Broad Street
Columbus, Ohio 43215-3793

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

An equal opportunity employer and service provider



Public Utilities Commission

John R. Kasich, Governor
Andre Porter, Chairman

Commissioners

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

TOTAL AMOUNT DUE: \$250.00

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,

Milan Orbovich, Director
Transportation Department

Compliance Officer: Cheryl Streets