

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF TERRY COLLETTI,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 16-864-TR-CVF
(OH3298014192D)

FINDING AND ORDER

Entered in the Journal on September 29, 2016

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement entered into by Staff and Terry Colletti concerning the civil forfeiture assessed by Staff.

II. DISCUSSION

A. *Applicable Law*

{¶ 2} 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.

B. *Procedural History*

{¶ 3} On November 2, 2015, a commercial motor vehicle (CMV) driven by Terry Colletti (Respondent) was inspected by Staff. The inspection resulted in the discovery of the following violation, attributed to Respondent in his capacity as a driver: 49 C.F.R. 393.51(a) (driving a CMV while commercial driver's license (CDL) is suspended for a safety-related or unknown reason and in the state of the driver's license issuance).

{¶ 4} Respondent was issued a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, on February 25, 2016. The NPD assessed Respondent a civil forfeiture of \$500.

{¶ 5} On April 21, 2016, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on May 26, 2016.

{¶ 7} On September 6, 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 the 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 violation occurred as alleged, Respondent agrees that the alleged violation may be included in Respondent's history of violations, insofar as it may be relevant for purposes of determining future penalty actions.
- (b) Staff agrees to reduce the civil forfeiture for the violation to \$100. In mitigation, Respondent provided proof to Staff that he obtained a release of his *suspended* license from the New Philadelphia Municipal Court and reinstated his CDL with the Ohio Bureau of Motor Vehicles immediately after the inspection.
- (c) Respondent shall pay the \$100 civil forfeiture 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 of State of Ohio" and mailed to PUCO, Attn: CF Processing, 180 East Broad Street, 4th Floor,

Columbus, Ohio 43215-3793. Case No. 16-684-TR-CVF and inspection number OH3298014192D should be written on the face of the check.

- (d) 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.

III. CONCLUSION

{¶ 8} 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.

IV. ORDER

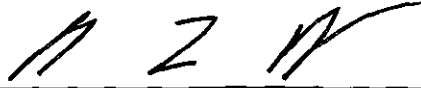
{¶ 9} It is, therefore,

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



{¶ 11} ORDERED, That Respondent pay a civil forfeiture of \$100 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. 16-864-TR-CVF and inspection number OH3298014192D on the face of the check or money order. It is, further,

{¶ 12} 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



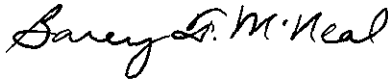
Asim Z. Haque, Chairman


Lynn Slaby
M. Beth Trombold
Thomas W. Johnson
M. Howard Petricoff

JML/sc

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SEP 29 2016



Barcy F. McNeal
Secretary