

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF SKY EGGROLL MIX,
LLC, NOTICE OF APPARENT VIOLATION
AND INTENT TO ASSESS FORFEITURE.

CASE NO. 16-1597-TR-CVF
(OH3204303432C)

ENTRY

Entered in the Journal on February 23, 2017

I. SUMMARY

{¶ 1} In this Entry, the Commission finds that Staff's motion to dismiss should be granted.

II. DISCUSSION

{¶ 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 4901:2-5-02(A), the Commission adopted the Federal Motor Carrier Safety Regulations for the purpose of governing transportation by motor vehicles 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.

{¶ 3} On May 23, 2016, a vehicle operated by Sky Eggroll Mix, LLC (Respondent), and driven by Qinghui Zhao, was inspected within the state of Ohio. Respondent is a for-hire motor carrier, as defined in R.C. 4923.01, and subject to the jurisdiction of the Commission. The inspection resulted in the discovery of two apparent violations of the Code of Federal Regulations (C.F.R.): 49 C.F.R. 393.95(A), for the lack of a fire extinguisher or a discharged/unsecured fire extinguisher (\$0.00); and 49 C.F.R. 391.11(B)(2), for a driver that cannot read or speak the English language sufficiently to respond to official inquiries (\$500.00).

{¶ 4} Staff timely served a notice of preliminary determination (NPD) upon Respondent, in accordance with Ohio Adm.Code 4901:2-7-12. The NPD informed Respondent that Staff intended to assess a \$500.00 civil forfeiture for the alleged violation of 49 C.F.R. 391.11(B)(2).

{¶ 5} On July 19, 2016, Respondent filed a request for an administrative hearing in the above-captioned case in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing settlement conference was held on September 9, 2016; however, the parties were unable to settle this matter at that time.

{¶ 7} On December 13, 2016, Staff filed a motion to dismiss this case, stating that Respondent had paid the assessed forfeiture in full, as recommended in the NPD.

{¶ 8} Ohio Adm.Code 4901:2-7-22 provides, in pertinent part, that payment of an assessed forfeiture shall terminate all further proceedings regarding the alleged violations.

{¶ 9} In view of the payment of the forfeiture, the Commission finds that Staff's motion to dismiss should be granted.

III. ORDER

{¶ 10} It is, therefore,

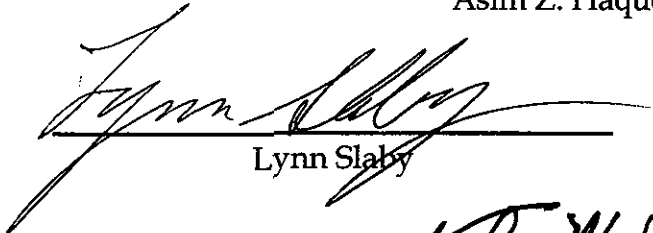
{¶ 11} ORDERED, That Staff's motion to dismiss be granted and this case be closed. It is, further,

{¶ 12} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO




Asim Z. Haque, Chairman



Lynn Slaby



M. Beth Trombold

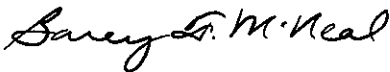


Thomas W. Johnson

MJA/sc

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FEB 23 2017



Barcy F. McNeal
Secretary