

FILE

17-1576-TR-CVF 1

OHIO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF

CASE NO. OH0593000660C

OHIO PUBLIC UTILITIES COMMISSION

AND

ERIC AHLERS, RESPONDENT

REQUEST FOR ADMINISTRATIVE HEARING

Pursuant to Ohio Administrative Code, Section 4901:2-7-13, comes now Respondent, by and through counsel, and hereby requests an Administrative Hearing before the Commission's Docketing Division. See attached Exhibit A as required by the Ohio Administrative Code.

Respectfully submitted,

McINTOSH & McINTOSH

By

A. Brian McIntosh (0067295)  
Attorney for Respondent  
1136 St. Gregory Street, Suite 100  
Cincinnati, Ohio 45202  
513-929-4040 (Telephone)  
513-929-4070 (Fax)  
Brian@McIntoshlaw.com

CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing has been mailed to:

Public Utilities Commission of Ohio  
Attn: Docketing Division  
180 East Broad Street  
Columbus, Ohio 43215-3793

By ordinary U.S. Mail, postage prepaid this 7 day of July, 2017.

*[Handwritten signature]*

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.

Technician JM Date Processed JUL 12 2017

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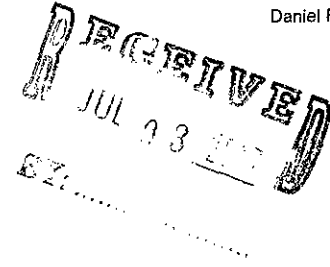
# Public Utilities Commission

Asim Z. Haque, Chairman



M. Beth Trombold  
Thomas W. Johnson  
Lawrence K. Friedeman  
Daniel R. Conway

06/27/2017



OH0593000660C  
McINTOSH & McINTOSH  
1136 Saint Gregory Street, Suite 100  
CINCINNATI, OH 45224

RE: NOTICE OF PRELIMINARY DETERMINATION  
Case No. OH0593000660C

Dear Sir or Madam:

On 05/26/2017, a vehicle operated by ERIC AHLERS, and driven by GARRETT J GRUEN, 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 ERIC AHLERS (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
393.9	0	Inoperable Required Lamp	
393.9	0	Inoperable Required Lamp	
393.9	0	Inoperable Required Lamp	
393.95A	0	No/discharged/unsecured fire extinguisher	
393.95F	0	No / insufficient warning devices	
396.17C	0	Operating a CMV without proof of a periodic inspection	
393.75A	3	Flat tire or fabric exposed	
393.75C	3	Tire-other tread depth less than 2/32 of inch	
390.21B	4	Carrier name and/or USDOT Number not displayed as required	100.00
392.9BA-NOR 4		USDOT REGISTRATION REQUIRED. Operating a commercial motor vehicle in interstate commerce without a USDOT Registration.	500.00
		Total of Group 0	0.00
		Total of Group 3	90.00
		Total of Group 4	600.00





# Public Utilities Commission

Asim Z. Haque, Chairman

## Commissioners

M. Beth Trombold  
Thomas W. Johnson  
Lawrence K. Friedeman  
Daniel R. Conway

TOTAL AMOUNT DUE: \$690.00

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 ERIC AHLERS in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
393.9	0	Inoperable Required Lamp	
393.9	0	Inoperable Required Lamp	
393.9	0	Inoperable Required Lamp	
393.95A	0	No/discharged/unsecured fire extinguisher	
393.95F	0	No / insufficient warning devices	
396.17C	0	Operating a CMV without proof of a periodic inspection	
393.75A	3	Flat tire or fabric exposed	
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392.9BA-NOR	4	USDOT REGISTRATION REQUIRED. Operating a commercial motor vehicle in interstate commerce without a USDOT Registration.	500.00
		Total of Group 0	
		Total of Group 3	90.00
		Total of Group 4	600.00

TOTAL AMOUNT DUE: \$690.00





# Public Utilities Commission

Asim Z. Haque, Chairman

## Commissioners

M. Beth Trombold  
Thomas W. Johnson  
Lawrence K. Friedeman  
Daniel R. Conway

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: Michael Hines



**ROADSIDE INSPECTION  
INSTRUCTION SHEET  
NOTICE OF PRELIMINARY DETERMINATION**

*Please read this instruction sheet carefully. It contains information about your rights and responsibilities in regard to this Notice of Preliminary Determination.*

You have received a "Notice of Preliminary Determination" as described in Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). **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.** If you do not pay the forfeiture or file a request for an administrative hearing within 30 days of this notice, your case will be placed in our default process. Both procedures are described below.

**1. How to Pay the Forfeiture**

If you do not wish to further contest the violations described in this notice, you may make payment of the civil forfeiture indicated in this notice via one of the following methods:

Online at <https://omcis.puc.state.oh.us/home.aspx>. You will need your case number and PIN located on the enclosed voucher.

Mail: send a check or money order (no Canadian postal money orders) made payable to "Treasurer, State of Ohio." **In order to assure proper credit, you must write the case number on the face of the check or money order.** Please send payment to the following address:

Public Utilities Commission of Ohio  
Attn: CF Processing  
180 East Broad Street, 4th Floor  
Columbus, OH 43215-3793

**2. How to File a Request for an Administrative Hearing**

If you wish to further contest the violations described in this notice, **you should file a "Request for an Administrative Hearing"** with the Commission's Docketing Division as described in Rule 4901:2-7-13, O.A.C. Your "Request for an Administrative Hearing" must be **in writing** and must contain the **case number** indicated on this notice. Also, please include the **contact name, address, and telephone number**, of the person to whom further communications regarding this matter should be directed. The request shall be signed by the respondent or its authorized representative. A copy of this "Notice of Preliminary Determination" must be attached to your request.

Your "Request for an Administrative Hearing" must be mailed or hand-delivered **within 30 days of this notice** to the following address:

Public Utilities Commission of Ohio  
Attn: Docketing Division  
180 East Broad Street  
Columbus, OH 43215-3793

**3. Failure to Submit a Request for an Administrative Hearing**

If you do not serve a timely "Request for an Administrative Hearing" in the manner described above, you will forfeit your right to



further contest the violations described in this notice and the occurrence of the violations will be conclusively established. 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 this notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

#### **4. Codes, Violation Groups, and Forfeiture Amounts**

"Code" in this notice identifies the rule that was violated. Numbers in a 100 or 300 series refer to specific sections of the Hazardous Materials Regulations or the Federal Motor Carrier Safety Regulations located in Title 49 of the Code of Federal Regulations (C.F.R.). Some section numbers may have suffixes beyond those which appear in the C.F.R. These are used for internal data collection purposes. Codes in other formats refer to violations of Ohio's statutes or regulations.

"Violation Group" identifies the numerical group (1-4) of the violation for purposes of calculating the civil forfeiture. Section 4923.99, Ohio Revised Code, authorizes the Public Utilities Commission of Ohio to assess a civil forfeiture of up to \$25,000 for each day of each violation. The amount of any forfeiture depends upon the nature, gravity, circumstances, and extent of the violation, the offender's degree of culpability for the violation, and the offender's history of violations. "Total Amount Due" is the total amount of the civil forfeiture assessed for all violations described in this notice.

For additional information regarding the civil forfeiture program, please contact the Compliance Division.

#### **5. Violations of 49 C.F.R. 383.51, 391.15, 392.5(c)(2), 392.10, 392.80(a), 392.82(a), 395.13(d), 396.9(c)(2), and rule 4901:2-5-07(D) of the Ohio Administrative Code**

If you are "convicted" of violating any of the following: 49 C.F.R. 383.51, 391.15, 392.5(c)(2), 392.10, 392.80(a), 392.82(a), 395.13(d), 396.9(c)(2), or rule 4901:2-5-07(D) of the Ohio Administrative Code, you may be disqualified from operating a commercial motor vehicle for a minimum of 60 days. The federal regulations defines conviction as, "An unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by **an authorized administrative tribunal**, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the **payment of a fine** or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated."

#### **6. Copies of Inspection Reports**

A copy of the inspection report for the violations described in this notice was given to the driver at the time of inspection. You may request additional copies of inspection reports.

Obtain copies at this web site:

<https://www.puc.state.oh.us/secure/OMCIS/public/searchcarrierreports.aspx>

Or you may email your request to:

[cmvreports@puc.state.oh.us](mailto:cmvreports@puc.state.oh.us). Please provide the **inspection number and inspection date** in your request.





The Public Utilities  
Commission of Ohio  
180 E. Broad St. - Fourth Floor  
Columbus, OH 43215

## OMCIS VOUCHER

**Date:** 6/27/2017  
**Legal Name:** ERIC AHLERS  
**Address:** 6045 BUDMAR AVE  
**City:** CINCINNATI  
**State:** OH  
**Zip:** 45224  
**Case Number:** OH0593000660C  
**PIN:** B8HC

Item	DueDate	Amount
1	8/11/2017	\$690.00
<b>Total</b>		<b>\$690.00</b>

Pay online at <https://omcis.puc.state.oh.us/home.aspx> or enclose this voucher with your check or money order if paying by mail.



OH0593000660C

