

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF MICHAEL W. MURTON,  
NOTICE OF APPARENT VIOLATION AND  
INTENT TO ASSESS FORFEITURE.

CASE NO. 17-1278-TR-CVF  
(OH3230011017C)

### ENTRY

Entered in the Journal on August 14, 2017

{¶ 1} Pursuant to Ohio Adm.Code 4901:2-7-12, Staff served a notice of preliminary determination (NPD) upon O & I Transport, Inc. (Respondent) alleging violations of the Commission's transportation regulations.

{¶ 2} On May 17, 2017, Respondent's driver, Michael W. Murton, filed a request for an administrative hearing as contemplated by Ohio Adm.Code 4901:2-7-13.

{¶ 3} On July 11, 2017, Mr. Murton participated in a prehearing conference and indicated that he was the owner/operator of O & I Transport, but the case was not resolved. Mr. Murton subsequently indicated that he would be available for hearing on October 2, 2017.

{¶ 4} Accordingly, the attorney examiner now sets this case for hearing on October 2, 2017, at 10:00 a.m., in Hearing Room 11-D at the offices of the Commission, 180 East Broad Street, 11th Floor, Columbus, Ohio 43215-3793.

{¶ 5} At the evidentiary hearing, Staff must prove that Respondent committed the violation alleged in the NPD by a preponderance of the evidence pursuant to Ohio Adm.Code 4901:2-7-20.

{¶ 6} Following Staff's presentation of evidence at the hearing, it shall be Respondent's responsibility to present evidence supporting its contentions regarding the alleged violations in this matter.

{¶ 7} Ohio Adm.Code 4901-1-08 generally requires that a corporation be represented in Commission proceedings by an attorney-at-law authorized to practice in Ohio.

{¶ 8} In the determination of transportation matters such as this, however, R.C. 4901.14 permits a regular salaried employee of a directly concerned corporation to appear before the Commission and testify as to factual issues. But, the employee may not act as an attorney and cannot examine witnesses, make motions, or argue points of law.

{¶ 9} Finally, Ohio Adm.Code 4901:2-7-14(E) provides that a respondent who has requested an administrative hearing and fails to appear for the evidentiary hearing shall be in default. A respondent in default shall be deemed to have admitted the occurrence of the violation charged and to have waived all further right to contest liability for the forfeiture proposed in the NPD.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That Case No. 17-1278-TR-CVF be set for hearing on October 2, 2017, at 10:00 a.m., as set forth in Paragraph 4. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Patricia Schabo

By: Patricia A. Schabo  
Attorney Examiner

JRJ/sc

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 17-1278-TR-CVF**

Summary: Attorney Examiner Entry scheduling hearing for 10/02/2017 in accordance with Paragraph 4. - electronically filed by Sandra Coffey on behalf of Patricia Schabo, Attorney Examiner, Public Utilities Commission of Ohio