

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Michael W. Murton,	:	Case No. 17-1278-TR-CVF
Notice of Apparent Violation and	:	(OH3230011017C)
Intent to Assess Forfeiture.	:	

SETTLEMENT AGREEMENT

- 1) Pursuant to Rule 4901:2-7-11, Ohio Admin. Code, Michael W. Murton (Carrier or Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) (Collectively, the Parties) enter into this Settlement Agreement to resolve all issues in the above captioned case.
- 2) On March 21, 2017, a vehicle operated by O & I Transport Inc., and driven by Michael W. Murton was inspected within the state of Ohio. As the result of the inspection, Respondent was served a notice of preliminary determination (NPD) that cited Respondent for the following rule violations of the Public Utilities Commission of Ohio (Commission) and assessed forfeitures of \$0 for the Group O violations, \$250 for the Group 1 violations and \$150 for the Group 2 violations that totaled \$400, as follows:
 - 49 C.F.R. 393.9 (Inoperable Required Lamp) - (Group O);
 - 49 C.F.R. 393.9 (Inoperable Required Lamp) - (Group O);
 - 49 C.F.R. 392.9(a)(1) (Failing to secure cargo as specified in 49 C.F.R. 393.100 through 393.142) - (Group 1);

- 49 C.F.R. 392.9(a)(2) (Failing to secure vehicle equipment) - (Group 1);
 - 49 C.F.R. 393.45(b)(2) (Brake hose or tubing chafing and/or kinking) - (Group 2);
 - 49 C.F.R. 392.9 (Inoperable Required Lamp) - (Group 2);
 - 49 C.F.R. 392.9 (Inoperable Required Lamp) - (Group 2);
- 3) In response to the NPD, the Respondent made a timely formal request for an administrative hearing pursuant to Rule 4901:2-7-13, Ohio Admin. Code. A pre-hearing conference was conducted on July 11, 2017.
- 4) For purposes of settlement only, Staff agrees to drop the Group 1 violations of failing to secure cargo and failing to secure vehicle equipment, which will reduce the total civil forfeiture to \$250.00. Staff agrees to dismiss these violations for the reasons of insufficient evidence to proceed on these two citations and to facilitate a resolution of the remaining violations cited in the NPD. In mitigation, Respondent has submitted proof that he has taken affirmative corrective steps to repair the lamps and hose underlying the remaining violations. Accordingly, the Parties agree that Respondent shall make a civil forfeiture payment of \$250.00 no later than 30 days after the effective date of this Settlement Agreement. The date of the entry of the Commission order adopting the Settlement Agreement shall be considered the effective date of the Settlement Agreement.
- 5) It is understood by the Respondent and the Staff that this Settlement Agreement can be considered to determine future forfeitures if Respondent has any future cases before the Commission. It is also understood by the Respondent and the

Staff that this Settlement Agreement is not binding upon the Commission. This agreement, however, is based on the Respondent's and the Staff's desire to arrive at a reasonable result considering the law, facts and circumstances. Accordingly, the Respondent and the Staff recommend that the Commission adopt this Settlement Agreement.

- 6) This Settlement Agreement is submitted on the condition that the Commission adopts the agreed upon terms. In the event the Commission rejects any part of the Settlement Agreement, or adds to, or otherwise materially modifies its terms, each party shall have the right, within thirty days of the Commission's order, to file an application for rehearing that includes a request to terminate and withdraw from the Settlement Agreement. Upon the application for rehearing and request to terminate/withdraw from the Settlement Agreement being granted by the Commission, the Settlement Agreement shall immediately become null and void. In such event, the parties shall proceed to a hearing as if this Settlement Agreement had never been executed.
- 7) This Settlement Agreement is made in settlement of all factual and/or legal issues in this case.
- 8) This agreement, which is subject to the Rules of the Commission, constitutes the entire agreement of the Parties. The Signatory Parties agree that this Settlement Agreement is in the best interest of all the Parties, and recommend the Commission to adopt the same. The undersigned respectfully request that the Commission issue an entry in accordance with the terms set forth in this Settlement Agreement.

- 9) The Parties have manifested their consent to the Settlement Agreement by affixing their signatures below on this 26 day of October, 2017.

On behalf of the Respondent



Michael W. Murton
9994 Sunset Drive
Chagrin Falls, OH 44023
216.926.6891 (telephone)
murtonfam@yahoo.com

On behalf of the Staff of the Public
Utilities Commission of Ohio



John H. Jones
Assistant Section Chief
Public Utilities Section
30 East Broad Street, 16th Floor
Columbus, OH 43215-3414
614.466.4397 (telephone)
866.524.1223 (fax)
john.jones@ohioattorneygeneral.gov

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/1/2017 3:09:35 PM

in

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

Summary: Agreement Settlement Agreement submitted by Assistant Attorney General John Jones on behalf of the Staff of the Public Utilities Commission of Ohio. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio