

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF BEST AUTO CARRIER,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 17-937-TR-CVF
OH3235003958C

FINDING AND ORDER

Entered in the Journal on November 8, 2017

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement regarding a violation of the Commission's transportation rules.

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 4901:2-5-03(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.

{¶ 3} On November 3, 2016, an inspection of a commercial motor vehicle operated by Best Auto Carrier (Respondent) was conducted within the state of Ohio. The inspection resulted in discovery violations of 49 C.F.R. 393.55(e) (no or defective ABS Malfunction Indicator Lamp for a trailer manufactured after March 1, 1998); 49 C.F.R. 387.301(a) (lack of evidence of public liability and property damage insurance); and 49 C.F.R. 396.9(d)(2) (failure to correct defects noted on a previous inspection report).

{¶ 4} Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12. The NPD assessed Respondent a civil forfeiture totaling \$600 for the alleged violations.

{¶ 5} On April 7, 2017, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on June 12, 2017.

{¶ 7} On August 17, 2017, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves 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) Upon further review of the unique facts of this case, Staff agrees to lower the civil forfeiture amounts to \$0 for the alleged violations of 49 C.F.R. 387.301(a) and 49 C.F.R. 396.9(d)(2).
- (b) For the purposes of this settlement, and not as an admission or evidence that the violations occurred as alleged, Respondent agrees that the violations of 49 C.F.R. 387.301A, 49 C.F.R. 396.9(d)(2), and 49 C.F.R. 393.55(e) listed in the NPD may be included in Respondent's history of violations, insofar as it may be relevant for purposes of determining future penalty actions.
- (c) Accordingly, Respondent does not need to make any payments for civil forfeiture to the Commission in regards to this settled matter.
- (d) This settlement agreement shall not become effective until adopted by the Commission. The date of the entry or order of the Commission adopting this settlement agreement shall be considered the effective date of the settlement agreement. This settlement agreement is intended to resolve only factual

or legal issues raised in this case. It is not intended to have any effect whatsoever in any other case or proceeding.

{¶ 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.

III. ORDER

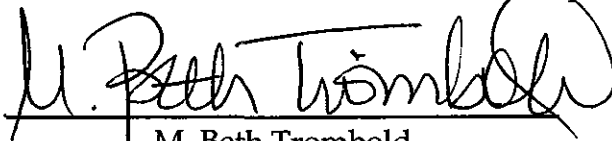
{¶ 9} It is, therefore,


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

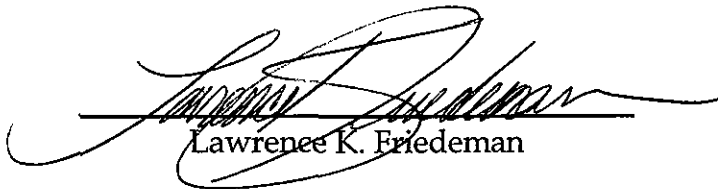
{¶ 11} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

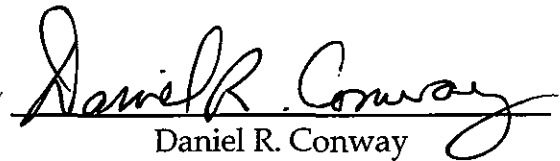
THE PUBLIC UTILITIES COMMISSION OF OHIO

Asim Z. Haque, Chairman


M. Beth Trombold


Thomas W. Johnson

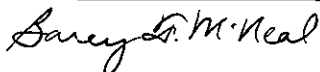

Lawrence K. Friedeman


Daniel R. Conway

NW/SD/vrm

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Barcy F. McNeal
Secretary