

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF ERIC AHLERS,  
NOTICE OF APPARENT VIOLATION AND  
INTENT TO ASSESS FORFEITURE.

CASE NO. 17-1576-TR-CVF  
(OH0593000660C)

## FINDING AND ORDER

Entered in the Journal on May 16, 2018

### I. SUMMARY

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

### II. DISCUSSION

#### A. *Applicable Law*

{¶ 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.

#### B. *Procedural History*

{¶ 3} On May 26, 2017, a commercial motor vehicle (CMV) operated by Eric Ahlers (Respondent), and driven by Garrett J. Gruen, was inspected within the state of Ohio. The inspection resulted in the discovery of two out-of-service violations of the federal motor carrier safety regulations. The out-of-service violations were: (1) a flat tire or tire with fabric exposed, in violation of 49 C.F.R. 393.75(a); and (2) tire tread depth of less than 2/32 of an inch, in violation of 49 C.F.R. 393.75(c). In addition, the inspection also discovered the following violations, among others: (1) operating a commercial motor vehicle in interstate commerce without a United States Department of Transportation (USDOT) registration in

violation of 49 C.F.R. 392.9b(a); and, (2) failure to display the carrier's name and/or USDOT number in violation of 49 C.F.R. 390.21(b).

{¶ 4} On June 27, 2017, Respondent was timely served with a notice of preliminary determination (NPD) in accordance with Ohio Adm.Code 4901:2-7-12. The NPD assessed Respondent \$690.00 for the violations.

{¶ 5} On July 12, 2017, Respondent made a timely formal request for an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on August 16, 2017.

{¶ 7} The parties negotiated a settlement agreement that, in the parties' opinion, resolves all of the issues 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) Respondent agrees to violations of 49 C.F.R. 393.75(a) and 49 C.F.R. 393.75(c), and recognizes that they may be included in the Respondent's Safety-Net record and Respondent's history of violations insofar as they may be relevant for purposes of determining future penalty actions.
- (b) Respondent agrees to pay a civil forfeiture of \$190.00 for the violations.
- (c) The proposed forfeiture for the violations of 49 C.F.R. 393.75(a) and 49 C.F.R. 393.75(c) was \$90.00, and Respondent agrees to pay this amount in full.
- (d) The proposed forfeiture for the violations of 49 C.F.R. 392.9b(a) and 49 C.F.R. 390.21(b) was \$600.00. Respondent has provided proof sufficient to Staff that he has obtained USDOT

registration, and Staff agrees to reduce the forfeiture amount to \$100.00. Respondent acknowledges he did not have a USDOT registration at the time of the inspection and agrees to pay the \$100.00 forfeiture amount for these violations.

- (e) Payment will be due thirty (30) days from Commission approval of this settlement agreement. Payment should be made by certified check or money order to "Treasurer, State of Ohio," and mailed to PUCO, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793.
- (f) This settlement agreement shall not become effective until adopted by the Commission. The date of the order of the Commission adopting this settlement agreement shall be considered the effective date of the settlement agreement.
- (g) This settlement agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any effect whatsoever in any other case or proceeding.

**C. Commission Conclusion**

{¶ 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,

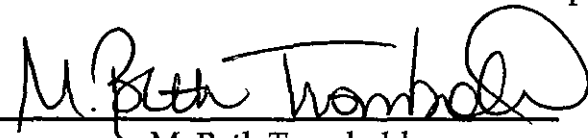
{¶ 10} ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

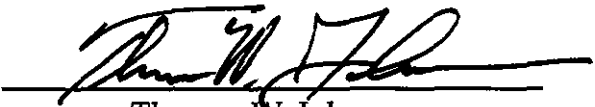
{¶ 11} ORDERED, That Respondent pay a civil forfeiture of \$190.00 in accordance with the settlement agreement. Payment shall be made by check or money order payable to "Treasurer, State of Ohio," and mailed to PUCO, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write Case No. 17-1576-TR-CVF and inspection number OH0593000660C on the face of the check or money order. It is, further,

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

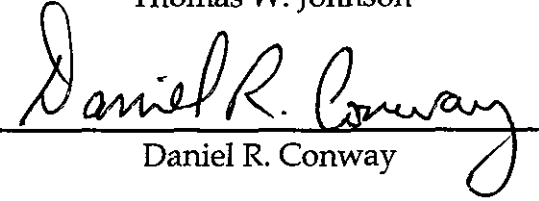
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Asim Z. Haque, Chairman

  
M. Beth Trombold

  
Thomas W. Johnson

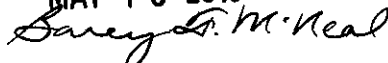
  
Lawrence K. Friedeman

  
Daniel R. Conway

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MAY 16 2018



Barcy F. McNeal  
Secretary