

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF AVFUEL
CORPORATION, NOTICE OF APPARENT
VIOLATION AND INTENT TO ASSESS
FORFEITURE.

CASE NO. 16-2414-TR-CVF
(OH0616004143C)

ENTRY

Entered in the Journal on November 20, 2018

{¶ 1} Staff served a notice of preliminary determination (NPD) upon Avfuel Corporation and its driver, Brian K. Fargher (collectively, Respondents), in accordance with Ohio Adm.Code 4901:2-7-12, alleging violations of the Commission's transportation regulations.

{¶ 2} On December 19, 2016, Oscar A. Rodriguez, counsel for Respondents, filed a request for an administrative hearing in the above-captioned case in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 3} A prehearing settlement conference was conducted on February 27, 2017; however, the parties were unable to settle this matter.

{¶ 4} On June 13, 2017, Respondents indicated that they were attempting to secure an interpretation from the U.S. Department of Labor, as well as a special permit letter from the Pipeline and Hazardous Materials Safety Administration (PHMSA), both of which may result in the resolution of this matter without the need of an evidentiary hearing.

{¶ 5} Thereafter, by Entry issued October 30, 2018, the attorney examiner directed the parties to file a status report by November 16, 2018, indicating whether the interpretative documents have been received from the U.S. Department of Labor and PHMSA. If no such report was filed by that date, the attorney examiner indicated that it would be presumed that the parties were ready to proceed to an evidentiary hearing.

{¶ 6} No status report was filed by November 16, 2018, as requested.

{¶ 7} At this time, the attorney examiner finds it appropriate to schedule an evidentiary hearing in this matter. Accordingly, this case should be scheduled for hearing on January 17, 2019, 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. Visitors should register at the lobby desk and then proceed to the 11th floor in order to participate in the hearing.

{¶ 8} Pursuant to Ohio Adm.Code 4901:2-7-14, 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.

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That an evidentiary hearing be scheduled in accordance with Paragraph 7. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Megan J. Addison

By: Megan J. Addison
Attorney Examiner

JRJ/mef

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 16-2414-TR-CVF

Summary: Attorney Examiner Entry scheduling and evidentiary hearing for 1/17/19 at 10:00am at the Commission offices electronically filed by Ms. Mary E Fischer on behalf of Megan J. Addison, Attorney Examiner, Public Utilities Commission of Ohio