

FILE

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January 3, 2020

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Via Facsimile (614) 466-0313 & U.S. Mail
Public Utilities Commission of Ohio
Attn: Docketing Division
180 East Broad Street
Columbus, OH 43215-3793

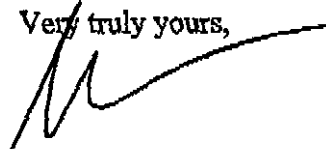
Re: **Drayer, Inc.**
Case No. 18-1436-TR-CVF
(CR201806220312)


Dear Sir or Madam:

In accordance with the Hearing Examiner's request, enclosed please find a Brief of Respondent in the above-referenced case, which I would appreciate you filing.

Thank you in advance for your attention to this matter. Please call me if you have any questions.

Very truly yours,


Michael J. Yemc, Jr.MJY/klm
Enclosure

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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of	:	
DRAYER, INC.,	:	Case No. 18-1436-TR-CVF
	:	(CR201806220312)
Notice of Apparent Violation and	:	
Intent to Assess Forfeiture	:	

BRIEF OF RESPONDENT

Respondent asserts that there are only a few points that need to be highlighted regarding the hearing held herein.

First, the pre-2000 ELD exemption applies to the year the engine was manufactured and NOT the age of the chassis. (Transcript p. 13). Drayer, Inc. operates 11 tractors with the exact same Series 60 Detroit Diesel engines, all of which were originally manufactured prior to 2000. (Transcript p. 173). During the period in question, Drayer, Inc. always maintained paper logs. (Transcript p. 173).


Second, the Public Utilities Commission failed to present testimony to authenticate its assertion that some of Drayer's engines were "remanufactured" after 2000. The Commission had the opportunity to have representatives from WW Williams and/ Daimler to authenticate its Exhibits but failed to do so. (Transcript p. 26, 114-115, and 141-142).

Third, testimony from Drayer was consistent that the engines it bought to install in its glider trucks were originally manufactured prior to 2000. (Transcript p. 160 and 173). According to witnesses for Drayer, only Detroit Diesel places new serial numbers on its remanufactured engines, which is done for warranty reasons. (Transcript p. 156, 169, and 175). As the testimony from Christopher Drayer indicates, you could lay all of Drayer's truck engines side-by-side and you could not tell the difference in the engines. (Transcript p. 175-176). This is due to the fact that they are all

the same engines.

All of the engines run by Drayer were originally manufactured prior to 2000, which would make these vehicles and Drayer exempt from the ELD requirements. As a result, the portion of this compliance review and subsequent civil forfeiture relating to failing to require a driver to prepare a record of duty status using appropriate method should be dismissed.

Respectfully submitted,



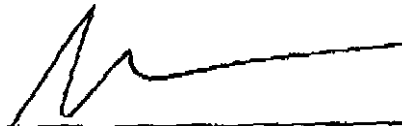
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Attorney for Respondent

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served via U.S. Mail upon the following:

Werner L. Margard, III
Principal Assistant Attorney General
Public Utilities
30 E. Broad Street, 16th Floor
Columbus, OH 43215

on this 3rd day of January, 2020.



Michael J. Yemc, Jr. (0065390)