

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF LOVELAND
TRANSPORTATION LLC, NOTICE OF
APPARENT VIOLATION AND INTENT TO
ASSESS FORFEITURE.

CASE NO. 21-187-TR-CVF
(21-CR-418153)

FINDING AND ORDER

Entered in the Journal on March 24, 2021

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and Loveland Transportation LLC regarding violations of the Commission's transportation rules.

II. DISCUSSION

{¶ 2} R.C. 4923.04(A)(1) mandates that the Commission 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 (FMCSR), published in the Code of Federal Regulations (C.F.R.), 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, per violation, against any person who violates the safety rules adopted by the Commission.

{¶ 3} Pursuant to Ohio Adm.Code 4901:2-7-11(C) settlement agreements providing for the payment of forfeitures of \$5,000 or more for any violation must be approved by order of the Commission.

{¶ 4} On December 30, 2020, Staff conducted a compliance review of a facility belonging to Loveland Transportation LLC (Respondent). The inspection resulted in the discovery of 15 alleged violations of the FMCSR.

{¶ 5} Pursuant to Ohio Adm.Code 4901:2-7-07, Staff timely served Respondent with a Notice of Intent to Assess a Forfeiture (NIA). The NIA assessed Respondent a total civil forfeiture of \$28,350 for the 15 alleged violations.

{¶ 6} On March 4, 2021, Staff and Respondent filed a settlement agreement (Settlement Agreement) that, in the parties' opinions, resolves the issues raised in this case. Staff and Respondent filed the Settlement Agreement in accordance with Ohio Adm.Code 4901:2-7-11(C), which requires settlement agreements providing for the payment of forfeitures of \$5,000 or more for any violation to be approved by order of the Commission. The following is a summary of the conditions agreed to by the parties; it is not intended to replace or supersede the Settlement Agreement.

- A. Respondent acknowledges that pursuant to the December 30, 2020 inspection, Respondent was found in violation of: 49 C.F.R. 382.701(a), 383.37(b), 390.35, 391.21(a), 391.45(a), 391.5(b)(2), 391.51(b)(4), 391.51(b)(5), 391.51(b)(6), 391.51(b)(9), 392.2, 395.8(a)(1), 395.8(e)(1), 396.17(a), and 396.19(b). Respondent further acknowledges that the violations listed above may be included in Respondent's compliance record and history of violations insofar as they may be relevant for the purposes of determining penalty actions for future violations.
- B. Respondent and Staff agree that Respondent will pay a reduced forfeiture of \$19,845.00 based on Respondent's corrective action plan.
- C. Respondent shall pay the \$19,845.00 civil forfeiture in twenty-four (24) monthly payments beginning 30 days immediately following the Commission's Order approving the Settlement Agreement. The payments shall be made payable to "Treasurer State of Ohio," and shall be mailed to PUCO FINANCE, 180 E. Broad St., 4th Floor, Columbus, OH 43215-3793. The case number (21-CR-418153) should appear on the face of the payments.

- D. Respondent and Staff agree that nothing in the Settlement Agreement shall prevent Staff from assessing civil forfeitures pursuant to Ohio Adm.Code 4091:2-7, as a result of future compliance reviews or roadside inspections.
- E. The Settlement Agreement shall not become effective until adopted by an Opinion and Order of the Commission. The date of the Commission's adoption of the Settlement Agreement shall be considered the effective date of the Settlement Agreement.
- F. The Settlement Agreement is made in settlement of all factual or legal issues of only this case. It is not intended to have any effect whatsoever in any other case or proceeding.

{¶ 7} 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

{¶ 8} It is, therefore,

{¶ 9} ORDERED, That the Settlement Agreement submitted in this case be approved and adopted in its entirety. It is, further,

{¶ 10} ORDERED, That Respondent pay the civil forfeiture of \$19,845 in accordance with the Settlement Agreement. Payments shall be made by check or money order payable to "Treasurer State of Ohio," and mailed to PUCO FINANCE, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write case number 21-CR-418153 on the face of each check or money order. It is, further,

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

COMMISSIONERS:

Approving:

M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

JMD/mef

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in

Case No(s). 21-0187-TR-CVF

Summary: Finding & Order finding reasonable and approving the settlement agreement filed between Staff and Loveland Transportation LLC regarding violations of the Commission's transportation rules. electronically filed by Ms. Mary E Fischer on behalf of Public Utilities Commission of Ohio