

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF ED BURDUE & CO.,
LLC, NOTICE OF APPARENT VIOLATION
AND INTENT TO ASSESS FORFEITURE.

CASE NO. 21-70-TR-CVF
(21-CR-406671)

FINDING AND ORDER

Entered in the Journal on April 7, 2021

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and Ed Burdue & Co., LLC regarding a violation 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} On August 20, 2020, an inspector inspected a vehicle operated by Ed Burdue & Co., LLC (Respondent) within the state of Ohio. The inspection resulted in the discovery of two violations of the FMCSR and four violations of the Ohio Adm.Code.

{¶ 4} Staff served a notice of preliminary determination upon Respondent in accordance with Ohio Adm.Code 4901:2-7-12, alleging violations of the Commission's transportation regulations and assessing a civil forfeiture of \$15,300.

{¶ 5} On January 22, 2021, Respondent requested an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 6} By Entry dated February 10, 2021, the attorney examiner scheduled a prehearing conference in this matter for March 9, 2021. During the conference, the parties were able to settle this matter.

{¶ 7} On March 11, 2021, Staff and Respondent filed a settlement agreement that, in the parties' opinion, resolves the issue raised in the notice of preliminary determination. 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 acknowledges that pursuant to the August 20, 2020 inspection, Respondent was found in violation of 49 C.F.R. 382.305(i)(2), 49 C.F.R. 382.603, and four violations of Ohio Adm.Code 4901:2-5-03. Respondent agrees that the violation may be included in Respondent's Safety-Net Record and Respondent's history of violations insofar as it may be relevant for purposes of determining future penalty actions.
- b) Respondent shall pay a reduced forfeiture in recognition of Respondent's satisfactory compliance plan.
- c) Respondent shall pay a reduced total forfeiture of \$7,950 within 30 days of the Commission's order approving this settlement agreement. Payment shall be made by check or money order payable to "Treasurer State of Ohio," and mailed to: PUCO Finance, 180 E. Broad St., 4th floor, Columbus, Ohio 43215-3793. The case number (21-70-TR-CVF) and inspection number (21-CR-406671) should appear on the face of the check or money order.
- 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.

- e) 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.

{¶ 8} The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, it 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 the civil forfeiture of \$7,950 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 21-70-TR-CVF and inspection number 21-CR-406671 on the face of each check or money order. It is, further,

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

COMMISSIONERS:

Approving:

Jenifer French, Chair

M. Beth Trombold

Lawrence K. Friedeman

Dennis P. Deters

JWS/kck

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Case No(s). 21-0070-TR-CVF

Summary: Finding & Order approving the settlement agreement filed between Staff and Ed Burdue & Co., LLC regarding a violation of the Commission's transportation rules.
electronically filed by Kelli C. King on behalf of The Public Utilities Commission of Ohio