

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF ANDRIY GOVDYAK,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 21-59-TR-CVF
(OH1651013329D)

FINDING AND ORDER

Entered in the Journal on May 5, 2021

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and Andriy Govdyak 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} On September 22, 2020, a vehicle operated by Wendigo Express Inc., and driven by Andriy Govdyak (Respondent) was inspected within the State of Ohio. The inspection resulted in the discovery of an alleged violations of the FMCSR. Pursuant to Ohio Adm.Code 4901:2-7-12, Staff timely served Respondent with a Notice of Preliminary Determination (NPD). The NPD assessed Respondent a total civil forfeiture of \$250 for the alleged violation.

{¶ 4} On January 19, 2021, Respondent requested an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13. On March 2, 2021, the parties participated in a prehearing conference.

{¶ 5} On March 30, 2021, and updated on April 1, 2021, Staff and Respondent filed a settlement agreement (Settlement Agreement) that, in the parties' opinions, resolves the issues raised in this case. 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 September 22, 2020 inspection, Respondent was found in violation of 49 C.F.R. 383.23(a)(2) (operating a CMV without a CDL), and recognizes that it 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 agrees to pay a civil forfeiture of \$175 for the violation. Payment will be due thirty days from Commission approval of the Settlement Agreement. Payment should be made by certified check or money order to "Treasurer State of Ohio," and mailed to "PUCO FISCAL, 180 East Broad St., 4th Floor, Columbus, OH 43215-3793.
- C. The Settlement Agreement shall not become effective until adopted by an Opinion and Order of the Commission. The date of the entry of the Commission order adopting the Settlement Agreement shall be considered the effective date of the Settlement Agreement.
- D. The 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 case or proceeding.

{¶ 6} 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

{¶ 7} It is, therefore,

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

{¶ 9} ORDERED, That Respondent pay the civil forfeiture of \$175 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 FISCAL, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write case number 21-59-TR-CVF and inspection number OH1651013329D on the face of the check or money order. It is, further,

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

COMMISSIONERS:

Approving:

Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

JMD/kck

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Case No(s). 21-0059-TR-CVF

Summary: Finding & Order approving the settlement agreement filed between Staff and Andriy Govdyak regarding violations of the Commission's transportation rules. electronically filed by Kelli C. King on behalf of The Public Utilities Commission of Ohio