

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF AMERICAN CITIZENS
TRANSPORT LLC, NOTICE OF APPARENT
VIOLATION AND INTENT TO ASSESS
FORFEITURE.

CASE NO. 21-364-TR-CVF
(21-CR-423256)

FINDING AND ORDER

Entered in the Journal on June 2, 2021

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and American Citizens Transport, 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 January 26, 2021, Staff conducted a compliance review of a facility belonging to Big Boss Towing and Recovery, LLC (Respondent). The inspection resulted in the discovery of 32 alleged violations of the FMCSR, 14 violations of the Ohio Administrative Code, and one violation of the Ohio Revised Code.

{¶ 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 \$14,525 for the 47 alleged violations.

{¶ 6} On May 13, 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 January 26, 2021 inspection, Respondent was found in violation of: 49 C.F.R. 395.3(a)(2), 395.3(a)(3)(i), 395.3(a)(3)(ii), 395.8(a)(1), 395.8(e)(1), 395.8(f), 396.17(a), 396.3(a), 396.3(b), 396.7(a), 396.9(d)(3), 177.800(c), 380.509(b), 382.301(a), 382.303(a), 382.303(b), 382.303(d)(1), 382.303(d)(2), 382.305(i)(2), 382.603, 382.701(a), 383.37(a), 383.37(b), 390.15(b)(1), 391.11(b)(6), 391.21(a), 391.23(a), 391.25(a), 391.25(b), 391.45(a), 391.45(b)(1), and 391.51(b)(9); and Ohio Adm.Code 4901:2-5-03; and R.C. 4921.03(A). 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. Pursuant to Ohio Adm.Code 4901:2-7-11, the Settlement Agreement shall not become effective until approved 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.

- C. Respondent shall pay the \$11,307 civil forfeiture for the violations listed in Paragraph II.A. of the Settlement Agreement.
- D. Payment shall be made in 12 consecutive monthly payments, commencing 30 days after the Commission's Order approving the Settlement Agreement.
- E. Payment shall be made payable to "Public Utilities Commission of Ohio," and it shall be mailed to PUCO FISCAL, 180 E. Broad St., 4th floor, Columbus, OH 43215-3793. Case Nos. 21-CR-432256 and 21-364-TR-CVF should appear on the face of the check.
- F. The Settlement Agreement is made in settlement of all factual or legal issues in the case. It is not intended to have any effect in any other case or proceeding, except as described in the Settlement Agreement.

{¶ 7} The Commission notes that in accordance with Ohio Adm.Code 4901:2-7-14(D), if the respondent fails to comply with the provisions of the Settlement Agreement for a period exceeding 30 days, Respondent shall be in default and shall be deemed to have admitted the occurrence of the violations and waived all further right to contest liability for the forfeiture originally assessed by Staff.

{¶ 8} 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

{¶ 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 \$11,307 in accordance with the Settlement Agreement. Payments shall be made by check or money order payable to “Public Utilities Commission 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 numbers 21-CR-419764 and 21-CR-423256 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 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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in

Case No(s). 21-0364-TR-CVF

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