

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF WALID S. DIAB,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 20-40-TR-CVF
(OH3230014749D)

FINDING AND ORDER

Entered in the Journal on June 16, 2021

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and Walid S. Diab 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 October 28, 2019, Staff inspected within the State of Ohio a commercial motor vehicle operated by Nada Trucking, Inc., and driven by Walid S. Diab (Respondent).

{¶ 4} Pursuant to Ohio Adm.Code 4901:2-7-12, on December 18, 2019 Staff timely served Respondent with a Notice of Preliminary Determination (NPD). The NPD assessed Respondent a total civil forfeiture of \$100 for a violation of 49 C.F.R. § 395.8(e).

{¶ 5} On January 9, 2020, pursuant to Ohio Adm.Code 4901:2-7-13, Respondent requested an administrative hearing following his receipt of the NPD.

{¶ 6} On May 20, 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 the violation of 49 C.F.R. § 395.8(e) may be included in Respondent's history of violations insofar as they may be relevant for the purposes of determining penalty actions for future violations.
- B. Staff agrees to reduce the amount of the civil forfeiture from \$100 to \$70.00 and Respondent agrees to pay the amount of \$70 in order to resolve this case. Respondent shall pay the \$70 civil forfeiture within 30 days of the Commission's approving an order approving the Settlement Agreement. Payment shall be made payable to "Treasurer State of Ohio," and shall be mailed to PUCO, Attn: CF Processing, 180 E. Broad St., 4th Floor, Columbus, OH 43215-3793. The case number, 20-40-TR-CVF and inspection number, OH3230014749D should appear on the face of the check or money order.
- C. The Settlement Agreement shall not be effective until adopted by the Commission. The date of the Order adopting the Settlement Agreement shall be considered the effective date of the Settlement Agreement. The Settlement Agreement is intended to resolve only factual or legal issues raised in the case.

{¶ 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 \$70 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, Attn: CF Processing 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write case numbers 20-40-TR-CVF and OH3230014749D on the face of the 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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Case No(s). 20-0040-TR-CVF

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