

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF BARRETT OIL
PURCHASING, INC., NOTICE OF
APPARENT VIOLATION AND INTENT TO
ASSESS FORFEITURE.

CASE No. 21-351-TR-CVF
(OH3207302885C)

FINDING AND ORDER

Entered in the Journal on July 14, 2021

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and Barrett Oil Purchasing, Inc. regarding a violation of the Commission's transportation rules.

II. DISCUSSION

{¶ 2} R.C. 4923.04 provides that the Commission shall 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 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. Ohio Adm.Code 4901:2-7-20 requires that, at the hearing, Staff prove the occurrence of a violation by a preponderance of the evidence.

{¶ 3} On November 27, 2020, an inspector inspected a vehicle operated within the state of Ohio by Barrett Oil Purchasing, Inc. (Respondent). The inspector discovered a violation of 49 C.F.R. 180.451B, pertaining to test or inspection markings on a hazardous material cargo tank.

{¶ 4} Staff served notice of preliminary determination (NPD) upon Respondent in accordance with Ohio Adm.Code 4901:2-7-07, alleging a violation of the Commission's

transportation regulations, and assessing a civil forfeiture of \$1,260.

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

{¶ 6} By Entry dated April 29, 2021, the attorney examiner scheduled a settlement teleconference in this matter for June 4, 2021. During the teleconference, the parties were able to settle this matter.

{¶ 7} On June 24, 2021, Staff and Respondent filed a settlement agreement that, in the parties' opinion, resolves the issue raised in the NPD. 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 admits to the violation of 49 C.F.R. 180.415B and recognizes 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 and the Staff agree that Respondent shall pay a reduced total forfeiture of \$882 in recognition of mitigating circumstances offered by Respondent.
- C. Respondent shall pay the reduced civil forfeiture within 30 days of the Commission's order approving this settlement agreement. Payment shall be made by certified check or money order to "Treasurer, State of Ohio," and mailed to: PUCO FINANCE, 180 E. Broad St., 4th floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Case No.

21-351-TR-CVF and inspection number OH3207302885C 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. Respondent and Staff agree that nothing in their settlement agreement shall prevent Staff from assessing civil forfeitures pursuant to Chapter 4901:1-2-7, O.A.C., as a result of future compliance reviews or roadside inspections.
- F. The parties' 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.

{¶ 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 \$882 civil forfeiture within 30 days of the Commission's order approving this settlement agreement. Payment should be made by certified check or money order to "Treasurer, State of Ohio," and mailed to: PUCO FINANCE, 180 E. Broad St., 4th floor, Columbus, Ohio 43215-3793. In order to assure

proper credit, Case No. 21-351-TR-CVF and inspection number OH3207302885C should appear 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 each party of record.

COMMISSIONERS:

Approving:

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

DEF/kck

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in

Case No(s). 21-0351-TR-CVF

Summary: Finding & Order finding reasonable and approving the settlement agreement filed between Staff and Barrett Oil Purchasing, Inc. regarding a violation of the Commission's transportation rules. electronically filed by Ms. Mary E Fischer on behalf of Public Utilities Commission of Ohio