

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

CASE NO. 21-102-TR-CVF
(OH9450300207C)

FINDING AND ORDER

Entered in the Journal on August 11, 2021

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and SVS Transport 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. 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 October 30, 2020, a vehicle operated by SVS Transport LLC (Respondent) was inspected within the state of Ohio. The inspection resulted in the discovery of alleged violations of 49 C.F.R. § 385.325(C), operating in interstate commerce on or after the operational out of service order date for failure of a safety audit; and 49 C.F.R. § 393.9, inoperable required lamp.

{¶ 4} On January 5, 2021, Staff timely served Respondent with a notice of preliminary determination (NPD), in accordance with Ohio Adm.Code 4901:2-7-12. The NPD assessed Respondent a civil forfeiture of \$2,750 for the alleged violations.

{¶ 5} On February 1, 2021, Respondent timely requested an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} The parties participated in a prehearing conference on May 28, 2021. During the prehearing conference, the parties were able to settle this matter.

{¶ 7} On June 29, 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 agrees to the violations of 49 C.F.R. § 385.325(C) and 49 C.F.R. § 393.9 and acknowledges that the violations may be included in Respondent's SafetyNet record and history of violations insofar as it may be relevant for the purposes of determining penalty actions for future violations.
- B. The recommended civil forfeiture for the violations of 49 C.F.R. § 385.325(C) and 49 C.F.R. § 393.9 will be reduced from \$2,750 to \$1,925. Respondent agrees to pay the recommended \$1,925 civil forfeiture for the violations.
- C. Respondent shall pay the \$1,925 civil forfeiture in three monthly installments, beginning within 30 days after the Commission's order approving the Settlement Agreement. The payment shall be made by certified check or money order payable to "Treasurer State of Ohio," and mailed to PUCO, Attn: CF Processing, 180 E. Broad St., 4th Floor, Columbus, OH 43215-3793. The case numbers 21-102-TR-CVF and OH9450300207C should appear on the face of the certified checks or money orders.

- D. Pursuant to Ohio Adm.Code 4901:2-7-11, the Settlement Agreement shall not become effective until adopted by the Commission. The date of the Commission's order shall be the effective date of the Settlement Agreement.
- E. The Settlement Agreement is intended to resolve factual or legal issues raised in this case; it is not intended to have any effect on any other case or proceeding.

{¶ 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. The Commission notes that in accordance with Ohio Adm. Code 4901:2-7-14(D), if 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 violation and waived all further right to contest liability for the forfeiture originally assessed by Staff.

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 \$1,925 in accordance with the Settlement Agreement. Payments can be made via the Commission website or by check or money order to "Treasurer State of Ohio," and mailed to PUCO, Attn: CF Processing, 180 E. Broad St., 4th Floor, Columbus, OH 43215-3793. The case numbers 21-102-TR-CVF and OH9450300207 should appear on the face of the certified checks or money orders. 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

DMH/kck

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

8/11/2021 2:45:24 PM

in

Case No(s). 21-0102-TR-CVF

Summary: Finding & Order finding reasonable and approving the settlement agreement filed between Staff and SVS Transport LLC regarding a violation of the Commission's transportation rules electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio