

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
REVIEW OF OHIO ADM.CODE CHAPTER
4901:2-7, FORFEITURES AND
COMPLIANCE ORDERS.

CASE NO. 21-561-TR-ORD

FINDING AND ORDER

Entered in the Journal on October 6, 2021

I. SUMMARY

{¶ 1} The Commission adopts the proposed amendments to Ohio Adm.Code Chapter 4901:2-7 regarding forfeitures and compliance orders, as determined in and attached to this Finding and Order.

II. DISCUSSION

A. *Applicable Law*

{¶ 2} R.C. 111.15(B) and R.C. 106.03(A) require all state agencies to conduct a review, every five years, of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. The Commission opened this docket to review the forfeiture and compliance order rules in Ohio Adm.Code Chapter 4901:2-7.

{¶ 3} R.C. 106.03(A) requires that the Commission determine whether the rules:

- (a) Should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;
- (b) Need amendment or rescission to give more flexibility at the local level;

- (c) Need amendment or rescission to eliminate unnecessary paperwork;
- (d) Incorporate a text or other material by reference and, if so, whether the citation accompanying the incorporation by reference would reasonably enable the Joint Committee on Agency Rule Review or a reasonable person to whom the rules apply to find and inspect the incorporated text or material readily and without charge and, if the rule has been exempted in whole or in part from R.C. 121.71 to 121.74 because the incorporated text or material has one or more characteristics described in R.C. 121.75(B), whether the incorporated text or material actually has any of those characteristics;
- (e) Duplicate, overlap with, or conflict with other rules;
- (f) Have an adverse impact on businesses, as determined under R.C. 107.52;
- (g) Contain words or phrases having meanings that in contemporary usage are understood as being derogatory or offensive; and,
- (h) Require liability insurance, a bond, or any other financial responsibility instrument as a condition of licensure.

{¶ 4} Additionally, in accordance with R.C. 121.82, in the course of developing draft rules, the Commission must evaluate the rules against the business impact analysis (BIA). If there will be an adverse impact on businesses, as defined in R.C. 107.52, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse

impact. Furthermore, the Commission is required, pursuant to R.C. 121.82, to provide the Common Sense Initiative office the draft rules and the BIA.

{¶ 5} Pursuant to R.C. 121.95(F), a state agency may not adopt a new regulatory restriction unless it simultaneously removes two or more other existing regulatory restrictions. In accordance with R.C. 121.95, and prior to January 1, 2020, the Commission identified rules having one or more regulatory restrictions that require or prohibit an action, prepared a base inventory of these restrictions in the existing rules, and submitted this base inventory to JCARR, as well as posted this inventory on the Commission's website at <https://puco.ohio.gov/wps/portal/gov/puco/documents-and-rules/resources/restrictions>. With regard to the amendments discussed in this Finding and Order with respect to Ohio Adm.Code Chapter 4901:2-7, the Commission has both considered and satisfied the requirements in R.C. 121.95(F).

B. Procedural History

{¶ 6} On June 29, 2021, the Commission held a workshop in this proceeding to enable interested stakeholders to propose revisions to Ohio Adm.Code Chapter 4901:2-7. No stakeholders attended the workshop.

{¶ 7} The Commission and Staff evaluated the rules contained in Ohio Adm.Code Chapter 4901:2-7. As a result of that review, Staff recommends changing Ohio Adm.Code 4901:2-7-10(B), which outlines the means by which a respondent may have a conference with Staff to discuss violations and forfeitures. The rule currently provides an option for an in-person conference with Staff, which is proposed to be changed to a video conference option. The rule also provides for options to hold the conference by telephone or through written communications, which Staff does not propose to change. Staff also recommends changing Ohio Adm.Code 4901:2-7-11(C), which requires that settlement agreements to pay forfeitures over a certain dollar amount must be approved by the Commission. Staff proposes increasing the dollar figure that would require Commission approval from \$5,000

to \$10,000. The remaining rules in the chapter were to remain unchanged under Staff's proposal.

{¶ 8} By Entry issued on July 28, 2021, the Commission requested comments and reply comments on Staff's proposed revisions to Ohio Adm.Code Chapter 4901:2-7 and ordered that comments and reply comments should be filed by September 1, 2021, and September 15, 2021, respectively.

{¶ 9} No comments were filed in response to Staff's proposal.

III. CONCLUSION

{¶ 10} In making its rules, an agency is required by R.C. 106.03(A) to consider the continued need for the rules, the nature of any complaints or comments received concerning the rules, and any relevant factors that have changed in the subject matter area affected by the rules. The Commission has evaluated Ohio Adm.Code Chapter 4901:2-7 and recommends amending the rules as demonstrated in the attachment to this Finding and Order.

{¶ 11} An agency must also demonstrate that it has evaluated the impact of the rule on businesses, pursuant to R.C. 106.03(A)(6) and 121.82(A). Moreover, pursuant to R.C. 121.95(F), the agency must remove two or more existing regulatory restrictions for every new regulatory restriction added. The Commission has included stakeholders in the development of these rules, has considered the impact of the rules on businesses, and has adhered to the requirement regarding the removal of regulatory restrictions.

{¶ 12} Accordingly, at this time, the Commission finds that the amendments to Ohio Adm.Code 4901:2-7-10 and -11 should be adopted and filed with JCARR, the Secretary of State, and the Legislative Service Commission (LSC). The Commission also finds that no changes should be made to Ohio Adm.Code 4901:2-7-01, -02, -03, -04, -05, -07, -08, -09, -12, -13, -14, -15, -16, -20, -21, and -22.

{¶ 13} The rules are posted on the Commission's Docketing Information System website at <http://dis.puc.state.oh.us>. To minimize the expense of this proceeding, the Commission will serve a paper copy of this Finding and Order only. All interested persons are directed to input case number 21-561 into the Case Lookup box to view this Finding and Order, as well as the rules, or to contact the Commission's Docketing Division to request a paper copy.

IV. ORDER

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That amended Ohio Adm.Code 4901:2-7-10 and -11 be adopted. It is, further,

{¶ 16} ORDERED, That Ohio Adm.Code 4901:2-7-01, -02, -03, -04, -05, -07, -08, -09, -12, -13, -14, -15, -16, -20, -21, and -22 be adopted with no changes. It is, further,

{¶ 17} ORDERED, That the adopted rules be filed with JCARR, the Secretary of State, and LSC, in accordance with divisions (D) and (E) of R.C. 111.15. It is, further,

{¶ 18} ORDERED, That the final rules be effective on the earliest date permitted by law. Unless otherwise ordered by the Commission, the five-year review date for Ohio Adm. Code Chapter 4901:2-7 shall be in compliance with R.C. 106.03. It is, further,

{¶ 19} ORDERED, That a copy of this Finding and Order, with the rules and BIA, be served upon the Common Sense Initiative at CSIPublicComments@governor.ohio.gov. It is, further,

{¶ 20} ORDERED, That a copy of this Entry be sent to the transportation list-serve. It is, further,

{¶ 21} ORDERED, That a copy of this Entry be served upon the Ohio Petroleum Marketers Association, National Tank Truck Carriers, Inc., Ohio State Highway Patrol, the

Ohio Trucking Association, Ohio Department of Public Safety, Ohio Department of Transportation, Ohio Association of Chiefs of Police, Buckeye State Sheriff's Association, Ohio Association of Movers, Ohio Municipal League, County Commissioners' Association of Ohio, Ohio Township Association, WreckMaster Inc. USA, Towing and Recovery Association of America, North American Towing Academy, American Towing and Recovery Institute, Ohio Insurance Institute, Towing and Recovery Association of Ohio, AAA Ohio, and all other interested persons of record.

COMMISSIONERS:

Approving:

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

JWS/mef

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NO CHANGE

4901:2-7-01 Definitions.

As used in this chapter:

- (A) "Commission" means the public utilities commission of Ohio.
- (B) "Days," when used to compute any period of time prescribed or allowed by these rules, shall not include the date of the act or event from which the designated period of time begins to run. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.
- (C) "Director" means the director of the commission's transportation department or the director's designee.
- (D) "Filing" means delivery to the commission's docketing division in accordance with rule 4901-1-02 of the Administrative Code.
- (E) "Hearing" means all proceedings before the commission involving a violation, commencing with the filing of a request for administrative hearing and concluding with the issuance of a final order of the commission.
- (F) "Parties" means the staff, the respondent, and any persons permitted to intervene in accordance with rule 4901-1-11 of the Administrative Code, after commencement of a hearing.
- (G) "Person" has the same meaning as in section 1.59 of the Revised Code.
- (H) "Report of violation" means the information provided to staff in accordance with rule 4901:2-7-04 of the Administrative Code, or as a result of an inspection conducted pursuant to rule 4901-2-5-13 of the Administrative Code, including any documentary, photographic, or other evidence collected regarding the violation.
- (I) "Respondent" means a person that the staff has determined may be responsible for a violation.
- (J) "Staff" means employees of the transportation department of the commission to whom responsibility has been delegated for administering the provisions of section 4923.99 of the Revised Code, as applicable.
- (K) "Violation" means any conduct, act, or failure to act, prohibited by Chapters 4921. and 4923. of the Revised Code, and rules adopted thereunder, or commission order.

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4901:2-7-02 Purpose and scope.

- (A) This chapter governs all proceedings of the commission to assess forfeitures and make compliance orders as authorized by section 4923.99 of the Revised Code.
- (B) The commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.

NO CHANGE

4901:2-7-03 Service.

(A) General provisions

- (1) The official address of the staff is "Public Utilities Commission of Ohio, Transportation Compliance Division, 180 East Broad Street, Columbus, OH 43215-3793".
- (2) All documents served upon the staff via facsimile transmission must be sent to the facsimile machine in the commission's transportation compliance division at (614) 466-2753.
- (B) Unless provided otherwise by this chapter, service upon the staff may be made by ordinary or certified United States mail, by courier service, by facsimile transmission, by personal service, or via any electronic means that the staff makes available to a respondent to achieve service upon the staff. Service is effective upon receipt except that service by United States mail is complete upon mailing and service by facsimile transmission or electronic means is complete upon transmission.
- (C) Service upon a respondent shall be made by ordinary or certified United States mail, by courier service, by facsimile transmission, by personal service, or via any electronic means that a respondent has consented to for the purpose of receiving service. Service is effective upon receipt by any person, except that service by ordinary or certified United States mail is effective upon mailing and service by facsimile transmission or electronic mail is complete upon transmission. Service upon a respondent by ordinary or certified United States mail shall be made at any of the following:
 - (1) If the respondent is a natural person:
 - (a) The address listed on a report of violation.

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- (b) The address listed on the respondent's driver's license or in the records of drivers' licenses maintained by a state.
 - (c) If the respondent has filed a request for conference or otherwise appeared, itself or through an authorized representative, at the address indicated in the appearance or other communication.
 - (d) The respondent's place of employment.
 - (e) The last known address of the respondent.
- (2) If the respondent is other than a natural person:
- (a) If the respondent has filed a request for conference or otherwise appeared, itself or through an authorized representative, at the address indicated in the appearance or other communication.
 - (b) The address listed on an application form submitted pursuant to Chapter 4901:2-6, 4901:2-15, or 4901:2-21 of the Administrative Code, or otherwise designated by the respondent, in writing, with the staff.
 - (c) The address disclosed on a report of violation.
 - (d) Any business address of the respondent.
 - (e) The address of any agent designated by the respondent to receive service on its behalf.
- (D) Once a respondent has served a request for administrative hearing in pursuant to rule 4901:2-7-13 of the Administrative Code, any further service shall be made in accordance with Chapter 4901-1 of the Administrative Code.

NO CHANGE

4901:2-7-04 Investigation and reports of violations.

- (A) The commission, any commissioner, the legal director, the deputy legal director, or an attorney examiner may issue subpoenas, upon the request of the staff, when the staff has cause to believe that a violation for which a forfeiture may be assessed has been committed. A subpoena shall command the person to whom it is directed to attend and give testimony at the time and place

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specified therein. A subpoena may also command such person to produce the papers, documents, or other tangible things described therein. A subpoena issued under this rule shall be served by personal service or by certified United States mail and is effective upon receipt.

- (B) The commission, any commissioner, the legal director, the deputy legal director, or an attorney examiner may, upon his or her own motion or upon motion of the person to whom the subpoena is directed, quash a subpoena if it is unlawful, unreasonable, or oppressive.
- (C) Any person having statutory authority to take enforcement action regarding a violation may transmit a report of violation to staff. The report shall be made on forms prescribed by the director, or shall contain substantially the same information called for on such forms.

NO CHANGE

4901:2-7-05 Notice of apparent violation.

When the staff receives a report of violation, or otherwise discovers a violation, it may serve a "notice of apparent violation" upon one or more respondents. The notice of apparent violation shall contain:

- (A) An identification of the date of the violation and person, vehicle, or facility concerning which the violation occurred.
- (B) Reference to the statute, rule or regulation, or order of the commission that was violated.
- (C) A brief description of the manner in which the violation is alleged to have occurred.
- (D) Instructions regarding the manner in which the respondent may serve a timely request for conference to contest the violation.
- (E) A notice that failure to contest the violation will conclusively establish the occurrence of the violation.

NO CHANGE

4901:2-7-07 Notice of intent to assess forfeiture.

- (A) Within ninety days of the receipt of a report of violation, or the discovery of a violation, but no later than one year following the date the violation occurred, the staff may serve a "notice of

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intent to assess forfeiture" for that violation upon one or more respondents. The notice of intent to assess forfeiture shall contain:

- (1) An identification of the date of the violation and person, vehicle, or facility concerning which the violation occurred.
- (2) Reference to the statute, rule or regulation, or order of the commission that was violated.
- (3) A brief description of the manner in which the violation is alleged to have occurred.
- (4) The amount of the forfeiture intended to be assessed.
- (5) A statement that respondent's failure to serve a timely request for conference shall constitute a waiver of respondent's right to further contest liability to the state for the forfeiture described in the notice.
- (6) A description of the manner in which the respondent may make payment of the forfeiture.
- (7) Instructions regarding the manner in which the respondent may serve a timely request for conference to contest the occurrence of the violation or the amount of the forfeiture.

(B) In determining the amount of any forfeiture to be assessed, staff shall consider:

- (1) The nature and circumstances of the violation.
- (2) The extent and gravity of the violation.
- (3) The degree of the respondent's culpability.
- (4) The respondent's history of violations, and any other available information concerning the respondent's operations.

NO CHANGE

4901:2-7-08 Notice of intent to make compliance order.

When staff has reason to believe that a person or entity has committed one or more violations, staff may serve a "notice of intent to make compliance order" upon one or more respondents. Any such order shall be reasonably calculated to prevent future violations. The notice of intent to make compliance order shall contain:

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- (A) An identification of the date of each violation and person, vehicle, or facility concerning which the violation occurred.
- (B) Reference to the statute, rule or regulation, or order of the commission that was violated.
- (C) A brief description of the manner in which each violation is alleged to have occurred.
- (D) The language of the compliance order intended to be made.
- (E) A statement that respondent's failure to serve timely a request for conference shall constitute a waiver of respondent's right to further contest the making of the order described in the notice.
- (F) Instructions regarding the manner in which the respondent may serve a timely request for conference to contest the making of the compliance order.

NO CHANGE

4901:2-7-09 Combined notices.

One or more timely notices directed to a single respondent may be combined or merged in any combination.

AMENDED

4901:2-7-10 Request for conference.

- (A) A respondent upon whom a notice of apparent violation, a notice of intent to assess forfeiture, a notice of intent to make compliance order, or a combined notice has been served may, within thirty days, serve upon staff a "request for conference." The request for conference shall be in writing, and may be in any legible form which identifies the matter to be discussed and communicates respondent's desire to have a conference concerning the matter. The request for conference shall contain the name, address, and telephone number of the respondent or the respondent's authorized representative.
- (B) The conference may occur ~~in person~~ via video conference, by telephone, or through written communications, and may be held with the respondent or the respondent's authorized

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representative. The respondent shall have the opportunity to present reasons why the violation did not occur as alleged, mitigating circumstances regarding the amount of the forfeiture, reasons why the compliance order may be unjustified, or any other information relevant to the action proposed to be taken.

- (C) The staff shall notify the respondent of the date and time of the settlement conference by service of a scheduling notice, at least fourteen days prior to the date and time established for the conference, unless otherwise agreed by the staff and the respondent.
- (D) Unless contained in or otherwise provided in a settlement agreement, no statement or conduct occurring in a settlement conference is admissible in any hearing regarding the violation.

AMENDED

4901:2-7-11 Settlement agreements.

- (A) Should the staff and the respondent reach agreement regarding the occurrence of a violation, the amount of a forfeiture to be assessed, or the nature of a compliance order to be made, the agreement may be reduced to writing in a "settlement agreement." Such an agreement shall be signed by the director and by the respondent, and shall be fully binding upon the commission and the respondent upon execution, except as otherwise provided in this rule.
- (B) A settlement agreement may contain an agreed forfeiture, an agreed compliance order, another agreed remedy, or withdrawal of the violation, regardless of the remedy specified in the notice of apparent violation, notice of intent to assess forfeiture, notice of intent to make compliance order, or a combined notice.
- (C) Settlement agreements providing for the payment of forfeitures of ~~five~~ten thousand dollars or more for any violation shall not be effective until approved by and made the order of the commission.
- (D) In negotiating a settlement agreement, staff may consider any matters as justice may require, including, but not limited to:
 - (1) Mitigating circumstances relevant to the occurrence of the violation.
 - (2) The respondent's ability to pay.
 - (3) The effect on the respondent's ability to continue in business.

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- (4) Imposition of remedies to assure future compliance other than those specified in the notice.
- (E) Notwithstanding paragraph (A) of rule 4901:2-7-11 of the Administrative Code, a respondent shall be deemed to have accepted the terms of a settlement agreement, if the settlement agreement only requires the respondent to pay an agreed forfeiture and the respondent pays that forfeiture.

NO CHANGE

4901:2-7-12 Notice of preliminary determination.

Following service of a notice of apparent violation, a notice of intent to assess forfeiture, a notice of intent to make compliance order, or a combined notice, the staff may serve a "notice of preliminary determination" upon the respondent. The notice of preliminary determination shall be signed by the director and shall contain:

- (A) An identification of the date of the violation and person, vehicle, or facility concerning which the violation occurred.
- (B) Reference to the statute, rule or regulation, or order of the commission which was violated.
- (C) A brief description of the violation, the amount of the forfeiture intended to be assessed, or the language of the compliance order intended to be made.
- (D) Instructions regarding the manner in which the respondent may serve a timely request for administrative hearing to contest the alleged violation, the proposed forfeiture, or the making of the compliance order.
- (E) A notice that failure to file a request for administrative hearing will conclusively establish the occurrence of the violation described in the notice of preliminary determination and will constitute a waiver of the right of the respondent to contest liability to the state for the forfeiture proposed in the notice of preliminary determination or the right of the respondent to contest the making of the compliance order proposed in the notice of preliminary determination.

NO CHANGE

4901:2-7-13 Request for administrative hearing.

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Within thirty days following service by the staff of a notice of preliminary determination in accordance with rule 4901:2-7-12 of the Administrative Code, the respondent may file a "request for administrative hearing" with the commission's docketing division. The request for administrative hearing shall be in writing and shall contain the name, address, and telephone number of the respondent and the case number assigned to the matter by the staff. The request for administrative hearing shall be signed by the respondent or its authorized representative. A copy of the notice of preliminary determination served by the staff upon the respondent shall be attached to the request for administrative hearing.

NO CHANGE

4901:2-7-14 Default.

- (A) A respondent upon whom a notice of intent to assess forfeiture has been served who fails within thirty days to pay the amount of the forfeiture stated in the notice or to serve upon staff a request for conference shall be in default. A respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability to the state for the forfeiture described in the notice of intent to assess forfeiture.
- (B) A respondent upon whom a notice of intent to make compliance order has been served who fails to serve upon staff within thirty days a request for conference shall be in default. A respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest the making of the compliance order described in the notice of intent to make compliance order.
- (C) A respondent upon whom a notice of preliminary determination has been served who fails within thirty days to pay the amount of the forfeiture proposed in the notice of preliminary determination or to file with the commission's docketing division a request for administrative hearing shall be in default. A respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability for the forfeiture proposed in the notice of preliminary determination or to contest the making of the compliance order described in the notice of preliminary determination.
- (D) A respondent who has failed to comply with the provisions of a settlement agreement for a period exceeding thirty days shall be in default. A respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability for the

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forfeiture proposed in the notice of intent to assess forfeiture or to contest the making of the compliance order described in the notice of intent to assess forfeiture.

- (E) A respondent who has requested an administrative hearing and fails to appear for the evidentiary hearing shall be in default. A respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability for the forfeiture proposed in the notice of preliminary determination or to contest the making of the compliance order described in the notice of preliminary determination.
- (F) If a respondent is in default, the commission may, on its own motion and without prior notification to respondent, make an order adopting the remedy set out in the notice with respect to which a default has occurred pursuant to this rule. A copy of the order shall be served upon any affected respondent. A respondent that is in default, and has been subjected to an order of the commission, may file an application for rehearing in accordance with rule 4901-1-35 of the Administrative Code.

NO CHANGE

4901:2-7-15 Extensions of time.

- (A) Prior to a respondent filing a request for an administrative hearing pursuant to rule 4901:2-7-13 of the Administrative Code, any time within which a respondent is required to act under this chapter may be extended by the director, in writing, for good cause shown.
- (B) Prior to a respondent filing a request for an administrative hearing pursuant to rule 4901:2-7-13 of the Administrative Code, any time within which the staff is required to act under this chapter may be extended by the written agreement of the staff and the respondent.

NO CHANGE

4901:2-7-16 Conduct of hearing.

- (A) Unless otherwise provided in this chapter, all hearings shall be conducted in accordance with Chapter 4901-1 of the Administrative Code.
- (B) Subsequent to a respondent filing a request for administrative hearing pursuant to rule 4901:2-7-13 of the Administrative Code, a prehearing conference shall be scheduled in accordance with

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rule 4901-1-26 of the Administrative Code, unless otherwise ordered by the commission or agreed by the parties.

- (C) Discovery shall be conducted in accordance with rules 4901-1-16 to 4901-1-24 of the Administrative Code except that depositions will be permitted only upon agreement of all parties or motion granted by the commission, the legal director, the deputy legal director, or the attorney examiner assigned to the case, which leave shall not be unreasonably withheld.
- (D) The commission, the legal director, the deputy legal director, or an attorney examiner shall assign the time and place for an evidentiary hearing. The evidentiary hearing may consist of written stipulations, oral testimony, or such other evidence that is admitted.

NO CHANGE

4901:2-7-20 Burden of proof.

- (A) During the evidentiary hearing, the staff must prove the occurrence of a violation by a preponderance of the evidence.
- (B) If staff is required to establish respondent's history of violations, prior reports of violation relied upon by staff to meet its burden shall constitute prima facie evidence of the occurrence of those violations. Additionally, the staff's reliance on any of the following shall conclusively establish the occurrence of a prior violation:
 - (1) Any final order concerning a prior violation rendered by the commission as the result of a hearing.
 - (2) Any final order concerning a prior violation rendered by the commission in accordance with paragraph (F) of rule 4901:2-7-14 of the Administrative Code.
- (C) Any instance for which staff has served a notice of apparent violation concerning a prior violation, and no request for conference has been served by respondent within the time provided in this chapter, or, for which staff has served a notice of preliminary determination concerning a prior violation, and no request for administrative hearing has been filed by respondent within the time provided in this rule.

NO CHANGE

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4901:2-7-21 Remedy ordered.

If justified by the evidence in any hearing, the commission may order payment of a forfeiture greater than, less than, or equal to the forfeiture requested in the notice of intent to assess forfeiture or the notice of preliminary determination. The commission is not restricted in the making of any compliance order by the order proposed in the notice of intent to make compliance order or the notice of preliminary determination, if another order is justified by the evidence.

NO CHANGE

4901:2-7-22 Payment of forfeitures.

- (A) Any forfeiture shall be paid by check, money order, or by any other means the staff makes available to a respondent. A check or money order shall be made payable to "Treasurer, State of Ohio," and shall be mailed or delivered to:

Public Utilities Commission of Ohio
Transportation Compliance Division
Attn: CF Processing
180 East Broad Street
Columbus, Ohio 43215-3793"

Any instrument of payment shall contain the identifying case number of the violation for which payment is tendered.

- (B) If the only remedy requested with respect to a violation is the payment of a forfeiture, and full payment of the forfeiture demanded in the notice is made prior to the execution of a settlement agreement or any final commission order, full payment constitutes an admission of the occurrence of the violation and shall terminate all further proceedings under this chapter, and Chapter 4901-1 of the Administrative Code, regarding that violation. Full payment under these circumstances shall conclusively establish the occurrence of the violation for purposes of consideration of a respondent's history of violations and for determining the appropriate remedy for any future violation.

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in

Case No(s). 21-0561-TR-ORD

Summary: Finding & Order adopting the proposed amendments to Ohio Adm.Code Chapter 4901:2-7 regarding forfeitures and compliance orders, as determined in and attached to this Finding and Order. electronically filed by Kelli C. King on behalf of The Public Utilities Commission of Ohio