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October 7, 2021

The Honorable Nicholas Walstra
Public Utilities Commission of Ohio
180 East Broad Street, 12th Floor
Columbus, OH 43215-3793

Re: Staff's Response to Applicant's Request
to Reopen the Proceeding,
Case No: 21-1018-TR-CVF

Dear Examiner Walstra:

In response to the request to reopen the proceeding filed by Carmen Faustino (Applicant) in this matter, Staff of the PUCO Transportation Division (Staff) makes the following statements:

1. On January 6, 2021, a vehicle operated by Prime Electrical Contracting LLC (Carrier) and driven by the Applicant was inspected within the state of Ohio.
2. On January 8, 2021, as a result of the inspection, the Applicant and the Carrier were each served with a Notice of Intent to Assess a Forfeiture (NIF) for violations of the Commission's rules. The NIFs provided thirty (30) days for the Applicant to respond to the NIFs on behalf of himself and the Carrier by either requesting an administrative hearing or paying the forfeiture due. The NIFs advised the Applicant that failure to respond to the NIFs would result in admission of the violation as fact. The NIFs also stated that payment of the forfeiture would act as an admission of the violation. No forfeiture was paid and no conference was requested on behalf of the Applicant or the Carrier.
3. On February 7, 2021, a second NIF was sent to the Applicant and the Carrier. Again, no forfeiture was paid and no conference was requested on behalf of the Applicant or the Carrier.
4. On March 25, 2021, the Applicant and the Carrier were served with notices of unpaid civil forfeiture, along with a copy of the Commission's Finding and Order

directing the recipients to pay the amounts assessed by April 23, 2021.¹ Both the Applicant and the Carrier failed to pay the amounts assessed or otherwise contact the Commission by the deadline.

5. On May 7, 2021, pursuant to the Commission's Finding and Order, both the Applicant's and Carrier's cases were sent to the Ohio Attorney General's Office for collections.²
6. On September 27, 2021, both the Applicant and the Carrier made payment in full to the Ohio Attorney General's Office.
7. On September 30, 2021, the Commission's Transportation Department received the Applicant's request for refund on behalf of the Applicant and the Carrier via regular US Mail. The Commission's Docketing Division opened a case and docketed this request, as is custom.

Staff recommends denial of the Applicant's request to reopen this case because it is an improper attempt to argue a matter that is already closed. The Applicant and the Carrier were both provided multiple opportunities to challenge the violations and chose not to do so.

Pursuant to Ohio Adm.Code 4901:2-7-14(A), a respondent who fails to respond to a notice of intent to assess forfeiture by either paying the forfeiture stated in the notice or requesting a conference is in default. By failing to respond to the Commission's directives in a timely manner, the Applicant and Carrier are in default and have effectively admitted the violations. Further, under Commission rules, the payment of a fine amounts to a conviction. Therefore, the request to reopen the case should be denied.

¹ *In re the Default of Motor Carriers, Drivers, and Shippers Pursuant to Rule 4901:2-7-14 of the Ohio Administrative Code*, Finding and Order (March 21, 2021).

² *Id.* at 3.

Respectfully submitted,

/s/ Thomas M. Shepherd

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On behalf of Staff of the

Public Utilities Commission of Ohio

cc: Parties of Record

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Summary: Response to Applicants Request to Reopen the Proceeding electronically filed by
Mrs. Tonnetta Y. Scott on behalf of PUCO