

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF BOB LITTER'S FUEL
AND HEATING COMPANY, INC., NOTICE
OF APPARENT VIOLATION AND INTENT
TO ASSESS FORFEITURE.

CASE NO. 22-84-TR-CVF
(22-CR-494991)

FINDING AND ORDER

Entered in the Journal on May 18, 2022

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and Bob Litter's Fuel and Heating Company, Inc. 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 November 2, 2021, a compliance review of the facility of Bob Litter's Fuel and Heating Company, Inc. (Respondent), located in the state of Ohio, resulted in the discovery four alleged violations of the Commission's rules.

{¶ 4} Following the compliance review, Staff 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 \$1,600 for the alleged violations.

{¶ 5} On February 1, 2022, Respondent timely requested an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} The parties participated in a prehearing conference on March 25, 2022. During the prehearing conference, the parties were able to settle this matter.

{¶ 7} On April 14, 2022, 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 certain conditions agreed to by the parties; it is not intended to replace or supersede the Settlement Agreement.

- A. Pursuant to the November 2, 2021 compliance review, Respondent agrees to the cited violations of: 49 C.F.R. 172.802(b); 49 C.F.R. 172.802(c); 49 C.F.R. 382.701(b)(1); and 49 C.F.R. 382.701(a). Respondent further acknowledges that these violations may be included in Respondent's compliance record and history of violations insofar as it may be relevant for the purposes of determining penalty actions for future violations.
- B. Based upon mitigating circumstances offered by Respondent, Staff and Respondent agree that Respondent will pay a reduced civil forfeiture of \$960.
- C. Respondent agrees to pay the \$960 civil forfeiture for the violations within 30 days after the Commission's order approving the Settlement Agreement. The payment can be made via the Commission website or by certified check or money order payable to "Public Utilities Commission of Ohio," and mailed to Public Utilities Commission of Ohio, CF Processing, 180 E. Broad St., 4th Floor, Columbus, OH 43215-3793. The case number 22-CR-494991 should appear on the face of the check or money order.

- 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.

{¶ 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 violations 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 \$960 in accordance with the Settlement Agreement. Payment can be made via the Commission website or by check or money order payable to "Public Utilities Commission of Ohio," and mailed to Public Utilities Commission of Ohio, CF Processing, 180 E. Broad St., 4th Floor, Columbus, OH 43215-3793. The case number 22-CR-494991 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 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/hac

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in

Case No(s). 22-0084-TR-CVF

Summary: Finding & Order finding reasonable and approving the settlement agreement filed between Staff and Bob Litter's Fuel and Heating Company, Inc. regarding violations of the Commission's transportation rules electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio