

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF OHIO
TRANSPORTATION SERVICE, LLC,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 21-1179-TR-CVF
(21-CR-457064)

ENTRY

Entered in the Journal on July 13, 2022

I. SUMMARY

{¶ 1} The Commission denies Applicant's request to reopen the case.

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, published in the Code of Federal 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.

{¶ 3} On November 15, 2021, Anastasiya Chugay, on behalf of Ohio Transportation Service, LLC (Applicant), filed correspondence seeking to "reopen" her case. In this filing, Ms. Chugay describes that Applicant attempted to set up a conference with Staff to discuss the alleged violations by using the Commission's website, but, due to technical difficulties, it was unable to do so. Ms. Chugay asserts that this error was not Applicant's fault and that Applicant hopes the case can be reopened for the purpose of reducing the assessed fine.

{¶ 4} On December 7, 2021, Staff filed a response to Applicant's case reopening request. Staff described that Applicant was served a notice of apparent violation and intent to assess forfeiture (NIF) for violation of the Commission's transportation regulations as a result of a compliance review conducted by Staff at an Applicant facility that occurred on May 28, 2021. According to Staff, the NIF was served on June 12, 2021, and stated that

Applicant could either request an administrative hearing or pay the assessed forfeiture. Also, it advised Applicant that failing to respond to the NIF would result in the admission of the violation and a potential suspension of Applicant's commercial vehicle driver's license. Further, it stated that payment of the forfeiture would act as an admission of the violation. According to Staff, Applicant did not respond to the NIF. On September 27, 2021, in response to Applicant's failure to respond to the Staff's NIF letter, the Commission mailed a letter to Applicant, informing Applicant that failure to pay the civil forfeiture by the deadline would result in the forfeiture amount being referred to the Ohio Attorney General's Office (OAG) for collection. As no payment was received, Applicant's case was submitted to the OAG for collection on November 6, 2021. Staff asserts that, on November 10, 2021, Applicant called the OAG and said that she had tried to set up a conference call with Staff, as well as a payment arrangement, but was unable to do so because of a system glitch; thereafter, Applicant filed the request to reopen the case.

{¶ 5} Staff maintained that Applicant's lack of response to the NIF letter and the notice of unpaid civil forfeiture operated as an admission of the violations listed in the NIF such that the matter should not be further considered by the Commission. Accordingly, Staff requested that the Commission either (1) deny Applicant's request to reopen the case, or (2) issue a show cause order requiring Applicant to demonstrate why the case should proceed.

{¶ 6} On April 7, 2022, the attorney examiner issued an Entry ordering that Applicant had until April 27, 2022, to file a response to Staff's correspondence in opposition to reopening the case.

{¶ 7} No response to Staff's correspondence was filed.

{¶ 8} After review, the Commission finds that Applicant's request to reopen the proceeding be denied. This case should be dismissed and considered closed of record.

III. ORDER

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That Applicant's request to reopen the proceeding be denied. It is, further,

{¶ 11} ORDERED, That this case be dismissed and closed of record. It is, further,

{¶ 12} ORDERED, That a copy of this Entry be served upon all parties of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

MJS/CAQ/hac

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in

Case No(s). 21-1179-TR-CVF

Summary: Entry denying Applicant's request to reopen the case electronically filed
by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio