

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REQUEST FOR
APPROVAL OF THE SETTLEMENT
BETWEEN STAFF AND DELTA TRANSPORT
SERVICES LLC, PURSUANT TO OHIO
ADM.CODE 4901:2-7-11.

CASE NO. 22-496-TR-CVF
(22-CR-CFA-00360208)

FINDING AND ORDER

Entered in the Journal on August 10, 2022

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and Delta Transport Services LLC 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} Pursuant to Ohio Adm.Code 4901:2-7-11(C) settlement agreements providing for the payment of forfeitures of \$10,000 or more for any violation must be approved by order of the Commission.

{¶ 4} On February 23, 2022, Staff conducted a compliance review of Delta Transport Services LLC (Respondent). The inspection resulted in the discovery of seven violations of the FMCSR.

{¶ 5} Pursuant to Ohio Adm.Code 4901:2-7-07, on March 11, 2022, Staff timely served Respondent with a Notice of Intent to Assess a Forfeiture (NIA). The NIA assessed Respondent a total civil forfeiture of \$10,889.60 for the violations. On April 10, 2022, Staff sent a second NIA.

{¶ 6} Respondent made a request for a conference with Staff, which was held on May 4, 2022.

{¶ 7} On June 13, 2022, Staff and Respondent filed a settlement agreement (Settlement Agreement) that, in the parties' opinions, resolves the issues raised in this case. Staff and Respondent filed the Settlement Agreement in accordance with Ohio Adm.Code 4901:2-7-11(C), which requires settlement agreements providing for the payment of forfeitures of \$10,000 or more for any violation to be approved by order of the Commission. Although the forfeiture amount proposed in the Settlement Agreement is below \$10,000, the Settlement Agreement states that it shall not become effective until adopted by the Commission, as noted below. 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 violations of 49 C.F.R. §§382.301(a); 382.303(a); 382.303(b); 382.303(d)(1); 382.303(d)(2); 382.701(a); and 395.8(a)(1). Respondent recognizes that these violations may be included in Respondent's Safety-Net Record and Respondent's history of violations insofar as they may be relevant for purposes of determining future penalty actions.
- (b) Respondent has provided proof sufficient to Staff that it has a compliance plan in place to correct the violations found in this inspection. Staff therefore agrees to reduce the forfeiture amount from \$10,889.60 to \$8,252.72. Respondent agrees to pay a total civil forfeiture of \$8,252.72 for the violations.

- (c) Respondent shall pay the \$8,252.72 civil forfeiture in 21 monthly payments commencing 30 days after the Commission's order approving this Settlement Agreement. Payments shall be made via the Commission website or by certified check or money order made payable to: "Public Utilities Commission of Ohio" and shall be mailed or delivered to: Public Utilities Commission of Ohio, Attn: CF Processing, 180 E. Broad St., 4th floor, Columbus, Ohio 43215-3793. The case numbers (22-CR-CFA-00360208 and 22-496-TR-CVF) should appear on the face of each 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.
- (e) This Settlement Agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any effect whatsoever in 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.

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 \$8,252.72 in accordance with the Settlement Agreement. Payment of such forfeiture shall be made via the

Commission website or by certified check or money order made payable to: "Public Utilities Commission of Ohio" and shall be mailed or delivered to: Public Utilities Commission of Ohio, Attn: CF Processing, 180 E. Broad St., 4th floor, Columbus, Ohio 43215-3793. Case Numbers 22-CR-CFA-00360208 and 22-0496-TR-CVF shall be written on the face of each 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

CAQ/JWS/mef

**This foregoing document was electronically filed with the Public Utilities
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8/10/2022 2:38:52 PM

in

Case No(s). 22-0496-TR-CVF

Summary: Finding & Order that the Commission finds reasonable and approves the settlement agreement filed between Staff and Delta Transport Services LLC regarding violations of the Commission's transportation rules electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio