

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF PKS TURBO INC.,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 22-134-TR-CVF
(OH3248016088C)

FINDING AND ORDER

Entered in the Journal on August 24, 2022

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement regarding a violation of the Commission's transportation rules.

II. DISCUSSION

{¶ 2} R.C. 4923.04 provides that the Commission shall 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 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 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 December 23, 2021, a commercial motor vehicle owned by PKS Turbo, Inc. (Respondent), and operated by Jakub Malinowski was inspected within the State of Ohio. As a result of the inspection, Staff found violations of 49 C.F.R. §393.75(a), Tire-flat and/or audible air leak.

{¶ 5} On February 5, 2022, Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, which assessed Respondent a total civil forfeiture of \$50 for the violations.

{¶ 6} By letter docketed on February 22, 2022, Jakub Malinowski, on behalf of Respondent, made a formal request for an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 7} A prehearing conference was conducted on June 28, 2022.

{¶ 8} On July 21, 2022, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves the issues raised in the NPD. The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the settlement agreement.

- (a) Respondent agrees to violations of 49 C.F.R. §393.75(a) and recognizes that they may be included in Respondent's history of violations and recognizes that this violation may be included in the Respondent's Safety-Net Record and history of violations, insofar as it may be relevant for purposes of determining penalty actions.
- (b) Respondent and Staff agree that Respondent should pay a civil forfeiture of \$35 for the violations. Payment shall be made within 30 days following Commission approval of the 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 and inspection numbers (22-134-TR-CVF and OH3248016088C) should appear on the face of the check or money order.

- (c) The settlement agreement shall not become effective until adopted by the Commission. The date of the entry of the Commission order adopting the settlement agreement shall be considered the effective date of the settlement agreement.

{¶ 9} The Commission notes that, in accordance with Ohio Adm.Code 4901:2-7-14(D), if the respondent fails to comply with the provisions of the settlement agreement for a period exceeding 30 days, the 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.

{¶ 10} 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

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

{¶ 13} ORDERED, That Respondent pay a civil forfeiture of \$35 in accordance with the settlement agreement. Payment 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 and inspection numbers (22-134-TR-CVF and OH3248016088C) should appear on the face of the check or money order. In order to assure proper credit. It is, further,

{¶ 14} 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

JMD/dmh

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Case No(s). 22-0134-TR-CVF

Summary: Finding & Order finding reasonable and approving the settlement agreement regarding a violation of the Commission's transportation rules electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio