

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF DOUGLAS R. ENNIS,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 21-1201-TR-CVF
(OH3202307229D)

ENTRY

Entered in the Journal on October 19, 2022

I. SUMMARY

{¶ 1} The Commission grants Staff's motion to dismiss due to Staff's determination that further prosecution of the alleged violation is not warranted and that the alleged violation should be removed from Douglas R. Ennis's Safety-Net record.

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 (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} Staff served a notice of apparent violation and intent to assess forfeiture upon Douglas R. Ennis (Respondent), alleging a violation of the Commission's transportation regulation: 49 C.F.R. 392.10(a)(4) (failure to stop at railroad grade crossing).

{¶ 4} On November 29, 2021, Respondent filed a request for an administrative hearing in the case, in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 5} On May 6, 2022, the attorney examiner scheduled this matter for a prehearing conference on July 14, 2022. The parties were unable to settle the matter.

{¶ 6} On August 4, 2022, the attorney examiner scheduled this matter for an evidentiary hearing on October 11, 2022.

{¶ 7} On October 6, 2022, Staff filed a motion to dismiss the case based on further investigation, which Staff maintains demonstrated that the alleged violation of 49 C.F.R. 392.10(a)(4) was not warranted and that the alleged violation should be deleted from the Respondent's Safety-Net Record. Staff contacted Respondent and he did not object to this motion to dismiss.

{¶ 8} Accordingly, on October 6, 2022, the attorney examiner canceled the evidentiary hearing scheduled to occur on October 11, 2022.

{¶ 9} For the reasons outlined in Staff's motion to dismiss, the Commission finds that this case should be dismissed, and the related docket should be closed. Further, the alleged violation should be removed from Respondent's Safety-Net record.

III. ORDER

{¶ 10} It is, therefore,

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

{¶ 12} ORDERED, That the alleged violation of 49 C.F.R. 392.10(a)(4) should be removed from Respondent's Safety-Net record.

{¶ 13} 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

JD/IMM/mef

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in

Case No(s). 21-1201-TR-CVF

Summary: Entry that the Commission grants Staff's motion to dismiss due to Staff's determination that further prosecution of the alleged violation is not warranted and that the alleged violation should be removed from Douglas R. Ennis's Safety-Net record electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio