

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Scott Simmons)	
Transport LLC, Notice of Apparent)	Case No. 22-1099-TR-CVF
Violation and Intent to Assess)	(OH3293011237C)
Forfeiture.)	

SETTLEMENT AGREEMENT

I. Introduction

Pursuant to Rule 4901:2-7-11 of the Ohio Administrative Code (Ohio Adm.Code), Scott Simmons Transport, LLC (Respondent) and the Staff of the Transportation Department of the Public Utilities Commission of Ohio (Staff) enter into this agreement to resolve all issues in the above captioned case.

It is understood by the Respondent and the Staff that this Settlement Agreement is not binding upon the Public Utilities Commission of Ohio (Commission). This agreement, however, is based on the parties' desire to arrive at a reasonable result considering the law, facts, and circumstances. Accordingly, the Respondent and the Staff encourage and recommend that the Commission adopt this Settlement Agreement.

This Settlement Agreement is submitted on the condition that the Commission adopts the agreed upon terms. In the event the Commission rejects any part of the Settlement Agreement, or adds to, or otherwise materially modifies its terms, each party shall have the right, within thirty days of the date of the Commission's entry or order, to file an application for rehearing that includes a request to terminate and withdraw from

the Settlement Agreement. Upon the application for rehearing and request to terminate and withdraw from the Settlement Agreement being granted by the Commission, the Settlement Agreement shall immediately become null and void. In such event, the parties shall proceed to a hearing as if this Settlement Agreement had never been executed.

II. History

- A. On July 21, 2022, a commercial motor vehicle operated by Scott Simmons Transport, LLC (Respondent) and driven by Dwight E. Beaumont (Driver) was inspected within the State of Ohio.
- B. As a result of the inspection, on July 25, 2022, the Respondent was served with a Notice of Preliminary Determination (NPD) and Notice of Intent to Assess Forfeiture (NIF) in accordance with Ohio Adm.Code 4901:2-7-12 indicating that Staff intended to assess a civil forfeiture of \$1,300.00 against Respondent for violation of 49 C.F.R. §393.75(A)(1) (Tire-ply or belt material exposed), 49 C.F.R. § 393.43 (No/improper breakaway or emergency braking), and 49 C.F.R. § 392.2(A)(U) (State operating authority violation).
- C. The Respondent requested an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13 on August 18, 2022, and a prehearing conference was scheduled for September 15, 2022. Respondent failed to call for the scheduled conference time. A second conference was scheduled for October 19, 2022, and Respondent again failed to call in.

- D. Respondent was served with a second NPD and NIF on October 20, 2022 after failing to attend the prehearing conferences.
- E. A pre-hearing teleconference with the Company's representative (Mandy Cole) was held on April 5, 2023 for the purposes of negotiating a settlement in this case.
- F. The parties have negotiated this Settlement Agreement, which the parties believe resolves all of the issues raised in the case.

III. Settlement Agreement

The Staff and the Respondent agree and recommend that the Commission find as follows:

- A. The Respondent agrees to a violation of 49 C.F.R §393.75(A)(1) and 49 C.F.R. § 393.43. The Respondent recognizes that these violations may be included in the Respondent's Safety-Net Record and Respondent's history of violations insofar as it may be relevant for purposes of determining future penalty actions.
- B. The Respondent provided proof sufficient to the Staff that demonstrates that Respondent's State Operating Authority was valid when the inspection occurred. Therefore, for purposes of settlement, Staff agrees to dismiss the alleged violation of 49 C.F.R. §392.2(A)(U) and eliminate the civil forfeiture of \$1,000 associated with the alleged violation. Additionally, Respondent was listed as having a bad history; however, Staff found that

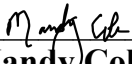
Respondent has not had enough inspections to warrant this classification. Fines are typically increased for bad history, but since Respondent was improperly classified in this case, Staff agrees to reduce the forfeiture for remaining violations (\$300) by half. Therefore, for purposes of settlement, Staff agrees to reduce the amount of the civil forfeiture from \$1,300 to \$150.00 and Respondent agrees to pay the amount of \$150.00 in order to resolve this case.

- C. Respondent shall pay the \$150.00 civil forfeiture in one payment 30 days after the Commission's order approving this Settlement Agreement. The payment shall be made payable to "Public Utilities Commission of Ohio," and they shall be mailed to PUCO, Attn: CF Processing, 180 E. Broad St., 4th floor, Columbus, OH 43215-3793. The case number 22-1099-TR-CVF and inspection number (OH3293011237C) should appear on the face of the check.
- D. This Settlement Agreement shall not become effective until adopted by the Commission. The date of the entry or order of the Commission adopting this Settlement Agreement shall be considered the effective date of the Settlement Agreement.
- E. This Settlement Agreement is intended to resolve only factual or legal issues raised in this case. It is not intended to have any effect whatsoever in any other case or proceeding, except as described in Paragraph A.

IV. Conclusion

The undersigned respectfully request that the Commission adopt the agreement in its entirety. The parties have manifested their consent and authority to enter into the Settlement Agreement by affixing their signatures below.

On Behalf of Scott Simmons
Transport, LLC (Mandy Cole)



Mandy Cole
407 Professional Circle
Ravenswood, WV, 26164

05/22/2023

Date

On Behalf of the Staff of the Public
Utilities Commission of Ohio

[/s/ Ambrosia E. Wilson](#)

Ambrosia E. Wilson
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 26th Floor
Columbus, OH 43215

[05-23-2023](#)

Date

**This foregoing document was electronically filed with the Public Utilities
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in

Case No(s). 22-1099-TR-CVF

Summary: Agreement Settlement Agreement electronically filed by Mrs. Tonnetta Y.
Scott on behalf of PUCO.