

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF TYRONE CARD, NOTICE
OF APPARENT VIOLATION AND INTENT TO
ASSESS FORFEITURE

CASE NO. 22-13-TR-CVF

FINDING AND ORDER

Entered in the Journal on May 31, 2023

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} On September 27, 2021, a commercial motor vehicle operated by Trans-SBQ Company and driven by Tyrone Card (Respondent) was stopped and inspected within the state of Ohio.

{¶ 4} As a result of the inspection, Respondent was served with a Notice of Alleged Violation and Intent to Assess Forfeiture (NAV) in accordance with Ohio Adm.Code 4901:2-7-07, indicating that Staff intended to assess a civil forfeiture of \$3,174 against Respondent for violating 49 C.F.R. 390.3(e) (prohibited from performing safety sensitive functions per 49 C.F.R. 382.501(a) in the Drug and Alcohol Clearinghouse).

{¶ 5} A settlement conference was conducted pursuant to Ohio Adm.Code 4901:2-10. Both parties participated in the conference but not all issues were resolved.

{¶ 6} A hearing was scheduled for August 31, 2022. The hearing was called but was ultimately continued to April 27, 2023, during which time the parties continued settlement discussions.

{¶ 7} On April 25, 2023, the parties filed a Settlement Agreement which the parties believe resolves all issues raised in this case. 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 the violation of 49 C.F.R. 390.3(e) (prohibited from performing safety sensitive functions per 49 C.F.R. 382.501(a) in the Drug and Alcohol Clearinghouse). Respondent recognizes that this violation may be included in Respondent's history of violations and Safety-Net Record, insofar as it may be relevant for purposes of determining future penalty actions.
- (b) For purposes of settlement, Staff agrees to reduce the amount of the civil forfeiture from \$3,174 to \$500, and Respondent agrees to pay \$500 to resolve this case. Respondent shall pay within 30 days after the Commission order approving this Settlement Agreement. Payment shall be made payable to "Public Utilities Commission of Ohio," and shall be mailed to Public Utilities Commission of Ohio, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, OH 43215-3793. The Case No. 22-13-TR-CVF and the inspection number OH3248015981D should appear on the face of the check or money order.

- (c) This Settlement Agreement shall not become effective until adopted by the Commission. The date of the entry of the Commission order adopting this Settlement Agreement shall be considered the effective date of the Settlement Agreement.
- (d) If Respondent fails to comply with all provisions of the Settlement Agreement, he shall be in default and deemed to have admitted the violation. In the event of a default, the Commission may set aside this agreement and order Respondent to pay the amount indicated in the NAV.

{¶ 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. 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, Respondent shall be in default and shall be deemed to have admitted the occurrence of the violation and waive all further right to contest liability for the forfeiture originally assessed by Staff.

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 \$500 in accordance with the Settlement Agreement. Payment can be made by check or money order payable to "Public Utilities Commission of Ohio," and mailed to the Public Utilities Commission of Ohio, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. To

ensure proper credit, Respondent is directed to write Case No. 22-13-TR-CVF and inspection number OH3248015981D 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
Daniel R. Conway
Lawrence K. Friedeman
Dennis P. Deters
John D. Williams

JML/mef

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5/31/2023 4:16:33 PM

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Case No(s). 22-0013-TR-CVF

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