

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF SCOTT SIMMONS
TRANSPORT LLC, NOTICE OF APPARENT
VIOLATION AND INTENT TO ASSESS
FORFEITURE.

CASE NO. 22-1099-TR-CVF
(OH3293011237C)

FINDING AND ORDER

Entered in the Journal on July 12, 2023

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and Scott Simmons Transport 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} On July 21, 2022, a commercial motor vehicle operated by Scott Simmons Transport, LLC (Respondent) was inspected within the state of Ohio.

{¶ 4} On July 25, 2022, pursuant to Ohio Adm.Code 4901:2-7-12, the Respondent was served with a Notice of Preliminary Determination (NPD) and Notice of Intent to Assess Forfeiture (NIF) 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).

{¶ 5} On November 28, 2022, Respondent timely requested an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} By Entry issued March 9, 2023, the attorney examiner scheduled a prehearing conference in this matter for April 5, 2023. During the prehearing conference, the parties were able to settle this matter.

{¶ 7} On May 23, 2023, Staff and Respondent filed a settlement agreement (Settlement Agreement) that, in the parties' opinions, resolves the issues raised in this case. 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. 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, 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 was improperly classified in this case. Therefore, Staff agrees to reduce the 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 it 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. 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. This Settlement Agreement is made in settlement of all factual or legal issues in this case.
- E. The Settlement Agreement is intended to resolve only factual or legal issues raised in the case. It is not intended to have any effect whatsoever in any other case or proceeding, except as described in Paragraph A.

{¶ 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 violations and waived 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 \$150 in accordance with the Settlement Agreement. Payment can be made via the Commission website or by check or money order payable to “Public Utilities Commission of Ohio,” and mailed to PUCO, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to ensure proper credit, Respondent is directed to write Case No. 22-1099-TR-CVF and inspection number OH3293011237C on the face of the 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

MJS/LJB/dr

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

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

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