

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF SILK WAY CARGO INC.,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 22-928-TR-CVF
(OH3245014497C)

FINDING AND ORDER

Entered in the Journal on November 30, 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, as 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 June 15, 2022, a commercial motor vehicle operated by Silk Way Cargo Inc. (Respondent) and driven by Islam S. Otepbergen was inspected within the state of Ohio.

{¶ 4} Respondent was served with a Notice of Preliminary Determination (NPD) on September 9, 2022, indicating that Staff intended to assess a civil forfeiture of \$550 for violating Ohio Adm.Code 4901:2-5-11(A) (avoiding inspection by bypassing established inspection station) and 49 C.F.R. 393.75(a)(1) (tire-ply or belt material exposed).

{¶ 5} On October 6, 2022, Respondent requested an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 6} By Entry issued December 20, 2022, a prehearing conference was scheduled for January 5, 2023. Staff attempted to call Respondent on January 5, 2023, but was not successful, and the prehearing conference was rescheduled for February 13, 2023.

{¶ 7} The parties participated in the February 13, 2023 conference call but did not agree upon a settlement. In addition, Respondent indicated its interest in a hearing and stated that it would obtain legal counsel.

{¶ 8} In the months following February 13, 2023, Respondent repeatedly informed the attorney examiner that it was continuing its search for counsel. However, in May 2023, Respondent stated in an email to the attorney examiner that it had decided to proceed to a hearing without counsel.

{¶ 9} Accordingly, a hearing was scheduled for August 14, 2023. Because of unforeseen conflicts with the schedules of Respondent and the attorney examiner, the hearing was continued to November 6, 2023.

{¶ 10} On November 3, 2023, Respondent contacted Staff, indicating its interest in a settlement instead of a hearing.

{¶ 11} On November 6, 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 violations of Ohio Adm.Code 4901:2-5-11(A) (avoiding inspection by bypassing established inspection station) and 49 C.F.R. 393.75(a)(1) (tire-ply or belt material exposed). Respondent recognizes that the

aforementioned violations 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) After discussion with Respondent, Staff believes that the \$550 forfeiture is warranted. Respondent agrees to pay the \$550 forfeiture.
- (c) Respondent shall pay the \$550 civil forfeiture 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 PUCO, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, OH 43215-3793. Case No. 22-928-TR-CVF and inspection report number OH3245014497C should appear on the face of the check or money order.
- (d) 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.
- (e) The Settlement Agreement is intended to resolve all 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).

{¶ 12} 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.

{¶ 13} 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 is in default and is 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

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That the Settlement Agreement submitted in this case be approved and adopted in its entirety. It is, further,

{¶ 16} ORDERED, That Respondent pay the civil forfeiture in accordance with the Settlement Agreement within 30 days of the date of this Finding and Order. The payment can be made via the Commission website or by check or money order made payable to: "Public Utilities Commission of Ohio" and mailed or delivered to: PUCO, Attn: CF Processing, 180 East Broad St., 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Case No. 22-928-TR-CVF and inspection number OH3245014497C should be written on the face of the check or money order. It is, further,

{¶ 17} 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/dr

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

Case No(s). 22-0928-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.