

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF NORTH STAR
METALS MFG. CO., NOTICE OF
APPARENT VIOLATION AND INTENT TO
ASSESS FORFEITURE.

CASE NO. 21-1011-TR-CVF
(OH3220005114C)

FINDING AND ORDER

Entered in the Journal on March 6, 2024

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement filed between Staff and North Star Metals MFG. Co. 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, 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 August 2, 2021, Staff inspected a commercial motor vehicle operated by North Star Metals MFG. Co. (Respondent) and driven by Scott A. Kerns within the state of Ohio.

{¶ 4} Pursuant to Ohio Adm.Code 4901:2-7-07, Staff timely served Respondent with a Notice of Intent to Assess a Forfeiture on August 3, 2021. On September 2, 2021, a conference was held in which Staff participated but Respondent did not.

{¶ 5} On September 9, 2021, Respondent was served with a Notice of Preliminary Determination (NPD) pursuant to Ohio Adm.Code 4901:2-7-12. The NPD indicated that Staff intended to assess a civil forfeiture of \$250 against Respondent for four violations of 49 C.F.R. 393.48(a)(2), inoperative/defective brakes, and for violation of 49 C.F.R. 393.47(a), inadequate brakes for safe stopping – brake lining condition.

{¶ 6} On September 28, 2021, Respondent requested an administrative hearing pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 7} On March 4, 2022, a prehearing conference was held between Staff and Respondent.

{¶ 8} On September 11, 2023, Staff and Respondent filed a settlement agreement (Settlement Agreement) that, in the parties' opinions, resolves the issues raised in this case. Staff and Respondent filed the Settlement Agreement, which must be approved by order of the Commission. 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. Respondent agrees to four violations of 49 C.F.R. 393.48(a)(2), and a violation of 49 C.F.R. 393.47(a). Respondent recognizes that these violations may be included in Respondent's SafetyNet Record and Respondent's history of violations insofar as it may be relevant for purposes of determining future penalty actions.
- B. After discussions with Respondent, Staff believes a reduction in the forfeiture amount is warranted. Staff agrees to reduce the amount of the civil forfeiture from \$250 to \$175 for corrective actions and Respondent agrees to pay the amount of \$175 in order to resolve this case.
- C. Respondent shall pay the civil forfeiture within 30 days after the Commission's order approving the Settlement Agreement. The

payment shall be made by certified check or money order 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. Case No. 21-1011-TR-CVF and the inspection number, OH3220005114C, should appear on the face of the certified check or money order.

- D. The Settlement Agreement shall not be effective until adopted by the Commission. The date of the order adopting the Settlement Agreement shall be considered the effective date of the Settlement Agreement.
- E. The 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.

{¶ 9} 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 violation and waived all further right to contest liability for the forfeiture originally assessed by Staff.

{¶ 10} 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.

III. ORDER

{¶ 11} It is, therefore,

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

{¶ 13} ORDERED, That Respondent pay the civil forfeiture of \$175 in accordance with the Settlement Agreement. Payment shall 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. 21-1011-TR-CVF and the inspection number, OH3220005114C, on the face of the check or money order. It is, further,

{¶ 14} 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

JMD/dr

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in

Case No(s). 21-1011-TR-CVF

Summary: Finding & Order that the Commission finds reasonable and approves the settlement agreement filed between Staff and North Star Metals MFG. Co. regarding violations of the Commission's transportation rules electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio.