

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Civil Forfeiture Proposed to )  
be Assessed Against Gregory W. Gray. ) Case No. 97-162-TR-CVF

FINDING AND ORDER

The Commission finds:

- (1) Section 4919.76, Revised Code, authorizes the Commission to adopt rules applicable to the interstate highway transportation and the offering for transportation of hazardous materials. Pursuant to this authority, the Commission adopted in Rule 4901:2-5-02, Ohio Administrative Code (O.A.C.), the provisions of the hazardous materials regulations of the U.S. Department of Transportation contained in Title 49, Parts 171 through 180, Code of Federal Regulations (C.F.R.). Section 4905.83(A), Revised Code, authorizes the Commission to assess a forfeiture against any person who violates these rules. Pursuant to this statutory authority, the Commission adopted the civil forfeiture and compliance proceedings rules contained in Rules 4901:2-7-01 through 4901:2-7-22, O.A.C. This action is brought pursuant to those rules and regulations.
- (2) On September 13, 1996, staff conducted an inspection of a motor vehicle operated by Gregory Gray. As the result of the inspection, staff timely notified Mr. Gray pursuant to Rule 4901:2-7-07, O.A.C., that it intended to make a civil monetary assessment in the amount of \$490.00 for violations of the following 49 C.F.R. Sections: 393.48A (Inoperative brake), 393.203 (Cab and body components), 393.201 (Frame violations), 393.51 (Low air pressure warning device), and 393.67 (Fuel leak). Respondent filed a request for an administrative hearing on February 13, 1997.
- (3) Pursuant to Mr. Gray's request, a prehearing conference was scheduled for March 11, 1997, and a hearing was scheduled for May 6, 1997. The prehearing conference was held as scheduled.
- (4) On May 16, 1997, the parties filed a settlement agreement which resolves all outstanding apparent violations set forth in Finding (2). Under the terms of the settlement agreement, respondent agrees to make payment of a civil forfeiture of \$450.00 for these violations, in \$75.00 installments received on

or before the first day of each successive month. Further, if at any time following the date of the Finding and Order, Mr. Gray fails to comply with its obligations under this settlement agreement, or staff conducts an inspection and determines a pattern of violations of the U.S.D.O.T. Hazardous Materials Regulations by Mr. Gray, staff may choose to commence formal proceedings consistent with the Commission rules to seek the full forfeiture amount assessed. Mr. Gray also agrees that the finding of violations identified in Finding (2) may be included in his Safety-Net record, and in his history of violations solely for the purpose of determining future penalty actions.

- (5) The settlement agreement entered into between staff and Mr. Gray represents a fair and equitable settlement of this matter and should be approved and adopted by the Commission. Upon receipt of the final payment of the forfeiture, staff should notify the Commission's Docketing Division which is then directed to close this case of record.

It is, therefore,

ORDERED, That the terms and conditions of the settlement agreement entered into between staff and Mr. Gray be approved and adopted by the Commission by this finding and order. It is, further,

ORDERED, That upon receipt of the final payment of the forfeiture, staff notify the Commission's Docketing Division which is directed to close this case of record. It is, further,

ORDERED, That a copies of this Finding and Order be served on all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

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Craig A. Glazer, Chairman

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Jolynn Barry Butler

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Ronda Hartman Fergus

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David W. Johnson

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Judith A. Jones