

Bond Case Briefs

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PUBLIC UTILITIES - OHIO

In re LMD Integrated Logistic Services, Inc.

Supreme Court of Ohio - September 26, 2018 - N.E.3d - 2018 WL 4627587 - 2018 -Ohio-3859

Carrier sought judicial review of decision of Public Utilities Commission imposing civil forfeiture for violation of hazardous material regulation governing shipping papers. Commission filed a motion to dismiss based on carrier's failure to file its notice of appeal with the Commission.

The Court of Appeals denied the motion. Commission appealed.

The Supreme Court of Ohio held that:

- As matter of first impression, statute governing appeals from civil forfeiture orders did not requiring filing of notice of appeal with Commission, and
- Supreme Court's decision would be applied prospectively.

Statute governing appeals from civil forfeiture orders of the Public Utilities Commission did not require an appealing party to file its notice of appeal with the Commission to invoke the jurisdiction of the Court of Appeals, but required only that the notice be served on the Commission; the statute did not specify where the notice was to be filed, but it did specify that the notice was to be served on the Commission chairperson or another commissioner or by leaving a copy at the Commission's office, statute did not refer to Commission's docketing division, and requiring that the notice both be filed with and served upon the Commission was duplicative and unnecessarily reiterative.

Supreme Court would apply prospectively its decision that a statute governing appeals from civil forfeiture orders of the Public Utilities Commission did not require an appealing party to file its notice of appeal with the Commission to invoke the jurisdiction of the Court of Appeals, but required only that the notice be served on the Commission; the decision concerned a matter of first impression, application of the decision prospectively would establish a procedural guide for interpreting the statute, and prospective-only application would avoid inequitable result of prejudice to a party with a pending appeal who filed a notice of appeal with the Commission.