



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET FIRST FLOOR NEW YORK,NY 11217	Summons No: 000881105R et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- HUGH OKANE ELECTRIC CO INC Hearing Date: 12/08/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount:\$600.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000881105R	Sustained	07/26/2024	ON EAST 49TH ST BETWEEN MADISON AVE AND 5TH AVE Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1F	24 -163	Sustained	\$600.00

Findings of Fact & Conclusions of Law

This remote hearing was conducted on September 8, 2025. Respondent (Hugh O'Kane Electric Co. Inc.) appeared by authorized representative, Ilma Babu. Inspector Monica Dorson appeared for Petitioner (DEP).

Respondent was charged with a repeat violation of 24-163 (3rd and subsequent offense). "Respondent cause or permitted the idling of a motor vehicle while parked, standing or stopped. As per DEP records, citizen observed TRUCK with NY License Plate #70936MH idling for longer than three minutes from 7/26/2024 12:58:05 PM to 7/26/2024 1:01:35 PM on East 49th St between Madison and 5th Ave." The predicate summonses are #000712070Z and #000733405Y. This instant summons was issued on 7/26/2024. See: Hearing Officer Exhibit #1 (Summons copy).

Ms. Dorson submitted Petitioner's evidence package including the redacted NYC Citizen Idling Complaint; a copy of the summons and Affidavit/Certificate of Service; a photo of the vehicles side panel displaying the USDOT number and Respondent's contact information; a photo of the license plate; copies of the Summons & Notice records for the predicate summonses (#70Z and #05Y). See: Pet. Ex. #1-#6. Ms. Dorson also submitted a video (3 minutes and 30 seconds). All participants viewed the video.

Ms. Dorson stated that, in the video, the engine is audibly running for more than three (3) minutes. There were no loading/unloading activities or devices.

Ms. Babu contended that there were workers in the back of the truck. She further stated that the citizen did not go to the back of the truck (as per normal)-particularly if you do not know whether they need the engine or not.

Mr. Dorson rebutted. She stated that it is Respondent's burden to prove the work. In addition, in the citizen's statement indicates that there was no work (requiring the running of the engine), and the video does not show processing.

Ms. Babu did not contest the predicate summonses.

Based on the record before me, I sustain this summons. I find that Respondent fails to credibly refute the factual allegations, nor does Respondent establish any legally valid defenses. I credit the citizen complainant's detailed written description indicating that Respondent's vehicle was observed idling for longer than three (3) minutes.

Moreover, in the video, the engine can be heard audibly idling for longer than three (3) minutes. In addition, although the citizen did not walk directly to the rear of the cited vehicle, the citizen angled his camera to capture the rear of the vehicle showing that there were workers moving around at the rear of the truck. However, in the video the citizen also clearly states that the cited truck was equipped with a generator for use with independent equipment, but the generator was not connected, and there were no processing devices in use. The citizen further states that there was no reason for the vehicle's engine to be running because there was a generator. Moreover, I note that in the NYC Citizen Idling Complaint, the citizen affirms that, "This truck was not engaged in any process mechanically connected to the vehicle's engine." Furthermore, Respondent failed to present any credible evidence to establish that there were loading/unloading activities and/or a processing device in use at the time and place of occurrence. For the foregoing reasons, I sustain this summons. I impose the 3rd and subsequent offense penalty.

J Beck-Wall

12/12/2025

12/12/2025

Joan B Beck-Wall, Judicial Hearing Officer

Date