



The Commonwealth of Massachusetts
Department of Revenue
Office of the General Counsel

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December 20, 2024

Sent via e-mail: cmartorana@iftach.org

Mr. Carmen Martorana
Executive Director
International Fuel Tax Association, Inc.
PO Box 7147
Mesa, AZ 85216-7147

Dear Mr. Martorana:

This agency received a letter (Letter) dated November 18th signed by Rodney Richards, President of the IFTA Board of Trustees, setting forth a February 3rd hearing date with respect to a decision handed down against this agency by the IFTA Dispute Resolution Committee this past summer. That letter stated that this agency could direct questions concerning this hearing to you.

On December 9th of this year, this agency received an email from you asking it to "please let me know whether your jurisdiction plans on attending the Appeals Hearing in-person or virtually." That email further stated, "We are trying to plan accordingly and need to know soon to arrange the AV required to do a hybrid if your jurisdiction plans on attending virtually via Microsoft Teams." A follow-up email, received on December 18th, advised that the hearing will be conducted via a hybrid model, allowing respondent members to participate either in-person or remotely via Teams.

With respect to these communications, this agency has the following questions concerning the upcoming IFTA hearing, the answers to which would help it to determine, among other things, whether it should send representative(s) to the February 3rd hearing, or whether it should plan to attend the hearing remotely. As set forth below, we have questions that are both logistical and substantive in nature.

Logistical Questions

- Would the Board consider ordering some sort of mediation/ADR as a precursor to the hearing? This Agency believes it would be in all parties' best interest to resolve the instant dispute short

Mr. Carmen Martorana
December 20, 2024
Page two

of a formal Board proceeding (and, if at all possible, without the potential need for subsequent judicial review). Would the Board consider referring the dispute between the affected state members and the DRC to a neutral mediator, in the hopes of brokering a resolution acceptable to all parties?

- Your December 18th email indicates that all membership representatives will have the opportunity “to listen and watch virtually” via Teams, “with just the respondents allowed to be heard and seen.” Does this mean that representatives of respondents, if they elect to participate via Teams, will have full functionality, including the ability to address the Board members and to question witnesses, i.e., assuming there are any?
- Will the hearing be recorded or transcribed? If IFTA has no plans to create a recording or transcription, does IFTA have any objection if a state requests or initiates that?
- Will this state be permitted to ask questions of IFTA at this hearing, i.e., of the Board and/or the DRC Chair?

Substantive Questions

- Assuming the February 3rd hearing goes forward, will it be conducted on a “blank slate”? In other words, will the Board accept the facts found by the DRC, and focus only on the respondents’ legal arguments regarding the sanctions imposed (i.e., conduct appellate review of the DRC’s decision)? Or, conversely, will it seek a restatement of facts previously submitted and/or hear new evidence, then draw its own conclusions about the facts of each state member’s case (i.e., conduct something akin to a new trial)? Understanding the Board’s expectations will help this Agency, both in preparing for the hearing and in deciding whom to name as its representative(s).
- The letter from Rodney Richards states that “The Findings on Appeal will be issued within 60 days of the Appeals Hearing” and that “If the Board does not issue Findings on Appeal, the decision of the DRC becomes final.” This agency is concerned about a ruling that would issue without Findings, and requests that IFTA commit to issue formal Findings in the aftermath of the Hearing, to take effect after a reasonable passage of time. Can IFTA commit to issue such formal Findings and also specify when those Findings would likely be issued?

I thank you in advance for your attention to these questions, and for any further guidance you can furnish.

Very truly yours,



Michael T. Fatale
General Counsel