

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

In the Matter of the Investigation of **Heavy**)
Equipment Service Inc. of Salina, Kansas,)
Regarding the Violation of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 18-TRAM-121-PEN
Commission's Authority to Impose Penalties,)
Sanctions and/or the Revocation of Motor)
Carrier Authority.)

ORDER AMENDING PENALTY ASSESSMENT

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration. Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

BACKGROUND

1. On September 14, 2017, this Commission issued a Penalty Order to Heavy Equipment Service Inc. (hereinafter Heavy Equipment Service), assessing it a civil penalty of \$1,650, in accordance with the FY 2018 Uniform Penalty Assessment Matrix. The penalty was for four (4) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations.

2. Heavy Equipment Service was advised that it was a New Entrant motor carrier being reviewed for the first time, and was eligible for a reduced penalty of fifty-percent (50%), as long as it complies with the terms and obligations described in the Notice of Penalty Assessment, the Reduced Penalty Agreement and as set out below.

3. Staff states that on September 21, 2017, Heavy Equipment Service submitted the signed Reduced Penalty Agreement. A copy of the Reduced Penalty Agreement was attached to Staff's Motion. The carrier submitted a Corrective Action Plan (CAP), which has been approved by Transportation Staff.

4. On September 29, 2017, Staff filed a Motion for Order Amending Penalty Assessment, recommending the Commission assess Heavy Equipment Service a fifty-percent (50%) reduced penalty of \$825, and set out specific terms and obligations for Heavy Equipment Service's compliance.

FINDINGS OF FACT

5. The Penalty Order issued on September 14, 2017, assessed Heavy Equipment Service a civil penalty(s) of \$1,650 for four (4) violation(s) of the motor carrier safety statutes, rules and regulations.

6. Staff recommended in its Motion that due to Heavy Equipment Service's agreement to comply with the terms and obligations for a fifty-percent (50%) reduced penalty and approval of its CAP, an Order Amending Penalty Assessment should be issued by the Commission assessing it a reduced penalty of \$825, and setting out the terms and obligations as stated in its motion.

7. K.S.A. 66-1,142c authorizes the Commission to determine the amount of civil penalty and states in pertinent part:

"Any civil penalty may be compromised by the state corporation commission. In determining the amount of the penalty or the amount agreed in compromise, the appropriateness of the penalty to the size of the business, the gravity of the violation and the good faith of the person charged in attempting to achieve compliance, shall be considered."

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The civil penalty of \$1,650 assessed to Heavy Equipment Service Inc. in the Penalty Order dated September 14, 2017, is hereby amended to \$825.

(B) This Order Amending Penalty Assessment was mailed on October 10, 2017, via certified mail, return receipt requested, Certified Receipt No. 70161970000105737044. Service is complete upon the date the carrier signs the Domestic Return Receipt.

(C) Payment of \$825 is due within thirty (30) days from the date of service of this Order Amending Penalty Assessment. Payment must be made through your personal account with the Kansas Corporation Commission's KTRAN application located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

(D) Heavy Equipment Service is ordered to, within thirty (30) days from the date of the Penalty Order dated September 14, 2017, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and submit proof of attendance to Litigation Counsel.

(E) Heavy Equipment Service must submit to a follow-up compliance review within eighteen (18) months from the date of the Penalty Order. Transportation Staff will contact Heavy Equipment Service to schedule the review.

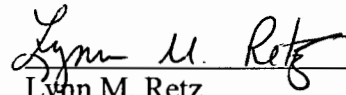
(F) If Heavy Equipment Service fails to pay the reduced fine of \$825 and/or fails to comply with the terms and conditions ordered above, the Commission may order Heavy Equipment Service additional sanctions, including enforcement of an out-of-service order, revoking its authority or any further sanctions as the Commission deems necessary.

(G) The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: OCT 10 2017


Lynn M. Retz
Secretary to the Commission

AAL

Order Mailed Date

OCT 11 2017

CERTIFICATE OF SERVICE

18-TRAM-121-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

first class mail/hand delivered on OCT 10 2017.

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/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

OCT 11 2017