

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

In the Matter of the Investigation of **Orear**)
Fencing LLC, of Allen, Kansas, Regarding the)
Violation of the Motor Carrier Safety Statutes,) Docket No. 19-TRAM-050-PEN
Rules and Regulations and the Commission's)
Authority to Impose Penalties, Sanctions and/or)
the Revocation of Motor Carrier Authority.)

ORDER REINSTATING INTRASTATE MOTOR CARRIER OPERATIONS

The above-captioned matter comes on for consideration and determination by the State Corporation Commission of the State of Kansas (Commission), on Transportation Staff's motion. The Commission, being fully advised in the premises, finds as follows:

I. JURISDICTION

1. Pursuant to K.A.R. 82-4-1b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.A.R. 82-4-1, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority, and jurisdiction.

2. Pursuant to K.S.A. 2018 Supp. 66-1,129a, 66-1,130, and 66-1,142b, and amendments thereto, the Commission may suspend operations, revoke, or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision

of Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision, or regulation of the Commission.

3. Pursuant to K.S.A. 2018 Supp. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-1 *et seq.*) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

II. BACKGROUND

4. Orear Fencing LLC, of Allen, Kansas (Respondent), is a motor carrier as defined in K.A.R. 82-4-1 that operates commercial motor vehicles in intrastate commerce.

5. Respondent is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT Number 2846444.

6. On October 23, 2018, the Commission issued an Order suspending Respondent's intrastate motor carrier operations, other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2018 Supp. 66-1,129, due to non-compliance with a Penalty Order issued in this docket on August 7, 2018. The Penalty Order also assessed Respondent a \$1,200 civil fine. The Commission's Penalty Order is incorporated herein by reference and made a part of this Order.

7. On December 6, 2018, Respondent submitted evidence to Transportation Staff (Staff) of bringing its motor carrier operation into compliance with Kansas motor carrier safety statutes, rules and regulations pursuant to the above-referenced Penalty Order. Respondent paid the \$1,200 civil assessment.

8. On August 1, 2019, Staff filed a Motion to Reinstate Intrastate Motor Carrier Operations on Respondent.

III. STAFF'S RECOMMENDATION

9. Based on Staff's Motion and Respondent's compliance, Staff recommends the Commission reinstate Respondent's Kansas motor carrier operations.

IV. CONCLUSIONS OF LAW

10. The Commission finds it has jurisdiction over Respondent because it is a motor carrier as defined in K.A.R. 82-4-1.

11. Based on the available facts, the Commission finds that Staff's recommendation to reinstate Orear Fencing LLC's motor carrier operations is reasonable.

THE COMMISSION THEREFORE ORDERS THAT:

A. Orear Fencing LLC's ability to carry on motor carrier operations in the state of Kansas is hereby reinstated.

B. Orear Fencing LLC remains obligated to attend a Commission-sponsored safety seminar within ninety (90) days, pursuant to paragraph (B) of the Penalty Order. Respondent must also provide Litigation Counsel with written proof of attendance.

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 08/08/2019



Lynn M. Retz
Executive Director

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CERTIFICATE OF SERVICE

19-TRAM-050-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
first class mail/hand delivered on 08/09/2019.

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/S/ DeeAnn Shupe

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