

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

Before Commissioners:                      Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Dwight D. Keen

In the Matter of the Investigation of Danny G.    )  
Lambeth, d/b/a Truck Wholesale of Wellsville,    )  
Kansas, Pursuant to the Kansas Highway Patrol    )  
Issuance of a Notice of Violation for Violation(s) of    )    Docket No. 17-GIMM-408-KHP  
the Kansas Motor Carrier Safety Statutes, Rules and    )  
Regulations and the Commission's Authority to    )  
Impose Penalties, Sanctions and/or the Revocation    )  
of Motor Carrier Authority.                            )

**ORDER SETTING PROCEDURAL SCHEDULE**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission makes the following findings:

**BACKGROUND:**

1.        On January 5, 2017, the Commission issued a Notice of Violation(s) to Danny G. Lambeth d/b/a Truck Wholesale stemming from a January 3, 2017, Kansas Highway Patrol (KHP) roadside inspection.<sup>1</sup>

2.        On January 24, 2017, another "Notice of Violation" was issued to Mr. Lambeth, reiterating the above violations and the penalty issued in the January 5, 2017, Notice of Violation(s).<sup>2</sup>

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<sup>1</sup> See Notice of Violation(s), Invoice Number H000566219, p. 1 (Jan. 5, 2017). See also KHP Driver/Vehicle Examination Report No. KSHP02550894 (Jan. 3, 2017) (Page 2 of the Examination Report contains the KHP Officer's Inspection Notes, detailing the Officer's observations based on his inspection of Mr. Lambeth's vehicle.).

<sup>2</sup> See Notice of Violation, p. 2 (Jan. 24, 2017).

3. In response to the Notice of Violations, Mr. Lambeth sent a letter to the KHP, challenging the Notice of Violation(s) with the KHP.<sup>3</sup>

4. The KHP issued Mr. Lambeth a challenge denial letter, dated February 27, 2017, stating that “Invoice #H000566219 remains valid,”<sup>4</sup> and that if he wanted a hearing before the Commission, his hearing request must be received by the KHP within fifteen days from the date of the denial letter.<sup>5</sup>

5. Subsequent to the KHP’s denial of his challenge, Mr. Lambeth requested a hearing with the Commission regarding KCC Invoice # H000566219 via handwritten letters, dated March 10, 2017, and March 14, 2017, respectively.<sup>6</sup>

6. In response to various motions and pleadings, the Commission issued an Order on February 27, 2018, dismissing Mr. Lambeth’s hearing request.<sup>7</sup> On March 12, 2018, Mr. Lambeth petitioned for reconsideration of the Commission’s Order.

7. On April 10, 2018, the Commission granted in part and denied in part Mr. Lambeth’s petition for reconsideration, “grant[ing] reconsideration on [Mr. Lambeth’s] request for hearing.”<sup>8</sup>

8. On April 25, 2018, Mr. Lambeth petitioned for reconsideration of the Commission’s Order granting reconsideration on Mr. Lambeth’s request for hearing.

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<sup>3</sup> See handwritten letter from Danny Lambeth, dated Feb. 22 by Mr. Lambeth, but filed with the Commission on March 29, 2017.

<sup>4</sup> KHP Challenge Denial Letter (Feb. 27, 2017).

<sup>5</sup> *Id.*

<sup>6</sup> Lambeth Request for Hearing, pp. 1-2.

<sup>7</sup> *Order Dismissing Request for Hearing and Denying Motion to Convert Proceeding*, Ordering Clause A (Feb. 27, 2018).

<sup>8</sup> *Order Granting in Part and Denying in Part Danny Lambeth’s Petition for Reconsideration*, Ordering Clause A (Apr. 10, 2018).

9. On May 24, 2018, the Commission denied Mr. Lambeth's petition for reconsideration of the Commission's April 10, 2018, Order.<sup>9</sup> However, the Commission's May 24, 2018 Order granted Mr. Lambeth's original request for a hearing and directed that a status conference be held to work out a procedural schedule.<sup>10</sup>

10. On June 21, 2018, the parties held a status conference and agreed to the following procedural schedule:

Staff Pre-filed Direct Testimony	DUE: July 20, 2018
Lambeth Pre-filed Direct Testimony	DUE: July 27, 2018
Rebuttal Testimony (all parties)	DUE: August 3, 2018
Evidentiary Hearing	<b>Wednesday, August 15, 2018 @ 9:00 a.m.</b> <u>To be held at:</u> The Commission's Topeka Office First Floor Hearing Room 1500 SW Arrowhead Road Topeka, KS 66604

11. Failure to submit pre-filed testimony may result in the Commission restricting the right to testify and present evidence at the evidentiary hearing. At the hearing, the Commission may limit the parties' direct and rebuttal testimony to the pre-filed testimony.

12. Any settlement agreement the parties wish to present for Commission consideration shall be due by August 3, 2018.

13. Any person requiring special accommodations under the Americans with Disabilities Act should notify the Commission at least 10 days before the scheduled hearing date.

14. Any party who fails to attend or participate in the evidentiary hearing or in any other stage of this proceeding may be held in default under the Kansas Administrative Procedure Act.<sup>11</sup>

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<sup>9</sup> *Order Denying Danny Lambeth's Petition for Reconsideration of Order Granting in Part and Denying in Part Danny Lambeth's Petition for Reconsideration*, Ordering Clause A (May 24, 2018).

<sup>10</sup> *Id.*, Ordering Clause B.

<sup>11</sup> K.S.A. 77-518(c)(8); K.S.A. 77-520.

15. A corporation shall appear before the Commission by a Kansas licensed attorney.<sup>12</sup>

**THEREFORE, THE COMMISSION ORDERS:**

A. The procedural schedule in paragraph 10 above is adopted.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).<sup>13</sup>

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

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 07/10/2018 \_\_\_\_\_



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Lynn M. Retz  
Secretary to the Commission

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<sup>12</sup> K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

<sup>13</sup> K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

**CERTIFICATE OF SERVICE**

17-GIMM-408-KHP

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of  
electronic service on 07/10/2018.

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/S/ DeeAnn Shupe  
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DeeAnn Shupe