

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the Matter of the Investigation of)
Night Train Express LLC of Troy,)
Kansas, Regarding the Violation of the)
Motor Carrier Safety Statutes, Rules and)
Regulations and the Commission's) Docket No. 25-TRAM-073-UCR
Authority to Impose Penalties, Sanctions)
and/or the Revocation of Motor Carrier)
Authority.)

ORDER SUSPENDING INTRASTATE MOTOR CARRIER OPERATIONS

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

I. JURISDICTION AND BACKGROUND

1. Pursuant to K.S.A. 66-1,111, 66-1,112, and 66-1,114b, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R 390.5 and as adopted by K.A.R. 82-4-3f, 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. 66-1,129a, 66-1,130, and 66-1,142b, 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. 66-1,105, “[e]very order and decision of the commission on matters covered by this act shall become operative and effective within 30 days after service, and the motor carrier shall carry the provisions of the order into effect, unless the order is enjoined or set aside by a court of proper jurisdiction.”

II. ANALYSIS

4. On November 6, 2024, Commission Staff filed a Motion to Suspend Intrastate Motor Carrier Operations (Staff’s Motion) due to the carrier’s failure to comply with a Commission-issued Penalty Order.

5. Staff advised that Night Train Express LLC of Troy, Kansas (Carrier) is a motor carrier, as defined in 49 C.F.R. 390.5 and as adopted by K.A.R. 82-4-3f, which operates commercial motor vehicle(s) in interstate commerce and operates under USDOT Number 1772176.

6. On July 25, 2024, Carrier was issued a penalty assessment of \$300 for failing to pay its 2024 Unified Carrier Registration (UCR) fees by January 1, 2024, as required by 49 C.F.R. 367.40 and adopted by K.A.R. 82-4-30a, in this docket.¹ The Commission’s Penalty Order is incorporated herein by reference and made a part of this Order.

7. Staff sent the Penalty Order via U.S. certified mail, return receipt requested, on July 25, 2024, pursuant to K.S.A. 66-1,105. The Penalty Order was returned as refused/undelivered on August 24, 2024. Staff deposited the Penalty Order in U.S. mail to the same address on August 24, 2024, pursuant to K.S.A. 77-613, which states “service by mail is complete upon mailing.” The second attempt was not returned.

8. The Carrier had 30 days from the date served to pay the civil penalty of \$300.

¹See Penalty Order (Jul. 25, 2024).

9. Carrier was mailed a collection letter dated August 27, 2024, notifying it of its unpaid fine and lack of compliance with the above-referenced Penalty Order, giving the Carrier ten (10) days from the date of the collection letter to pay the penalty amount and the 2024 UCR fees. The Carrier did not respond to the collection letter.

10. As of November 6, 2024, Commission records indicate Carrier has not complied with requirements of the Penalty Order in that Carrier had thirty (30) days from the date of service to pay the fine of \$300 as well as its 2024 UCR fees, and Transportation Division records indicate the fine and 2024 UCR fees remain unpaid.

11. Staff requested the Commission place Night Train Express LLC out-of-service due to its failure to comply with the Commission's Penalty Order.²

III. FINDINGS AND CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Carrier pursuant to K.S.A. 66-1,108b, as it is a motor carrier, as defined in 49 C.F.R. 390.5 and as adopted by K.A.R. 82-4-3f.

13. The Commission finds Carrier was properly served, pursuant to K.A.R. 82-1-216, and received sufficient notice of the Commission's Penalty Order and the requirement to pay the fine within 30 days from the date of service of the Penalty Order.

14. The Commission finds Carrier intentionally failed to act upon the collection letter and comply with the requirements of the Penalty Order. The Commission concludes that suspending Carrier's intrastate motor carrier authority operations is appropriate and the suspension shall remain in place until such time as Carrier comes into compliance with the applicable motor

²See Staff's Motion (Nov. 6, 2024).

carrier statutes, rules and regulations, and cooperates with Transportation Staff comply with the Commission's Penalty Order

THE COMMISSION THEREFORE ORDERS THAT:

A. Night Train Express LLC of Troy, Kansas is suspended and ordered to immediately cease all intrastate commercial motor carrier operations, other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 66-1,129, until such time as Carrier pays the penalty amount of \$300, pays its 2024 UCR fees, and brings its motor carrier operation into compliance with motor carrier safety statutes, rules and regulations. This Suspension of Intrastate Motor Carrier Operations Order may also attach and apply to the operations of successor entities, including any motor carrier entity or entities established or used to avoid the consequences of any Order to cease operations or suspending operating authority.

B. **Pursuant to K.S.A. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Executive Director, at 1500 S.W. Arrowhead Road Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order.** Pursuant to K.S.A. 66-1,129a, hearings will be held within ten (10) days upon written request. Failure to timely request a hearing will result in a waiver of Carrier's right to a hearing, and this Order will become a Final Order.

C. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 66-1,142b(e) and amendments thereto.

D. Failure to comply with the provisions of this Order may result in further sanctions to include, but not limited to, the assessment of civil penalties and/or the impoundment of commercial motor vehicles found operating in violation of this Order and any other remedies available to the Commission by law, without further notice.

BY THE COMMISSION IT IS SO ORDERED

French, Chairperson; Keen, Commissioner; Kuether,

Commissioner Dated: 11/14/20224



Lynn M. Retz
Executive Director

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CERTIFICATE OF SERVICE

25-TRAM-073-UCR

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 11/14/2024.

Travis Culp, OWNER
Night Train Express LLC
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/S/ KCC Docket Room
KCC Docket Room