

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. 66-1,129(a)(7), no public motor carrier of property, household goods or passengers or private motor carrier of property shall operate, or allow the operation of, any commercial motor vehicle on any public highway in this state without following rules and regulations consistent with the federal motor carrier safety assistance program.

4. 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

5. On February 27, 2025, Commission Staff filed a Motion to Suspend Intrastate Motor Carrier Operations due to the carrier’s failure to comply with a Commission-issued Penalty Order.

6. Staff advised that C & D Transport of Garden City, Kansas (Carrier) is a motor carrier as defined in 49 C.F.R. 390.5, as adopted in K.A.R. 82-4-3f, which operates commercial motor vehicle(s) in intrastate commerce and operates under USDOT Number 4030972.

7. On November 21, 2024, Carrier was issued a penalty assessment of \$11,650 for violations of the Kansas Motor Carrier Safety Statutes, Rules and Regulations discovered during a compliance review conducted, by a Staff Special Investigator (SI) on August 23, 2024, through September 16, 2024. In the Penalty Order, the Carrier was ordered to pay the \$11,650 civil penalty within thirty (30) days of service, to attend a Commission-sponsored safety seminar within thirty (30) days of the date of the Penalty Order, and to submit a written, comprehensive corrective action

plan (CAP) to Transportation Staff within thirty (30) days of the date of the Penalty Order. The Commission's Penalty Order is incorporated herein by reference and made a part of this Order.

8. Staff sent the Penalty Order via U.S. certified mail, return receipt requested, on November 21, 2024, pursuant to K.S.A. 66-1,105. The Penalty Order was returned as refused/undelivered on December 27, 2024. Staff deposited the Penalty Order in U.S. mail to the same address on December 27, 2024, pursuant to K.S.A. 77-613, which states "service by mail is complete upon mailing." The second attempt was not returned.

9. To date, the Carrier has failed to submit a CAP that has been approved by Transportation Staff, failed to attend a Commission-sponsored safety seminar, and failed to pay their civil penalty.

10. Carrier was mailed a collection letter dated January 14, 2025, 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 do so. The Carrier did not respond to the collection letter.

11. As of February 25, 2025, 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 submit a CAP, pay their penalty, and attend a Commission-sponsored safety seminar. Transportation Division records indicate no CAP has been received.

12. Staff recommended the Commission place C & D Transport LLC out-of-service due to its failure to comply with the Commission's Penalty Order.

III. CONCLUSIONS OF LAW

13. 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. Part 390.5, as adopted by K.A.R. 82-4-3f.

14. The Commission finds Carrier received sufficient notice of the Commission's Penalty Order and the requirement to comply with the Commission's Penalty Order.

15. The Commission finds that Carrier has violated K.S.A. 66-1,105 and 66-1,142b by failing to comply with the Commission's Penalty Order.

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

THE COMMISSION THEREFORE ORDERS THAT:

A. C & D Transport LLC of Garden City, 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 submits a written, comprehensive corrective action plan that is approved by Staff 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 Acting Secretary to the Commission, 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 exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest.¹ For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation.²

D. Failure to comply with the provisions of this Order will 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: 03/04/2025



Abigail D. Emery
Acting Secretary of the Commission

AAL/km

¹ K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

² K.S.A. 66-1,142b(e) and amendments thereto.

CERTIFICATE OF SERVICE

25-TRAM-172-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 and electronic service on 03/04/2025.

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/S/ KCC Docket Room
KCC Docket Room