

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

In the Matter of the Investigation of **BMS** )  
**Transportation Company, Inc. of Platte** )  
**City, Missouri,** Pursuant to the Kansas )  
Highway Patrol Issuance of a Notice of ) Docket No. 15-GIMM-212-KHP  
Violation(s) and Invoice for the Violations of )  
the Kansas Motor Carrier Safety Statutes, )  
Rules and Regulations )

**DIRECT TESTIMONY  
OF  
MIKE HOEME  
ON BEHALF OF  
THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

January 30, 2015

1   **Q.     Please state your name.**

2   A.     Mike Hoeme.

3   **Q.     Are you employed?**

4   A.     Yes.

5   **Q.     Who is your employer?**

6   A.     The Kansas Corporation Commission.

7   **Q.     Where is your employer located?**

8   A.     1500 SW Arrowhead Road, Topeka, Kansas 66604.

9   **Q.     How long have you been employed at the Kansas Corporation Commission?**

10  A.     15 years.

11  **Q.     What is your current position with the Kansas Corporation Commission?**

12  A.     I am the Director of the Commission's Transportation Division.

13  **Q.     Please summarize your education and professional background?**

14  A.     I have a bachelor's degree in business. My professional background is directly related  
15         to safety compliance in the Transportation industry. Prior to joining the Commission,  
16         I worked for a private motor carrier as its Safety Compliance Director. My  
17         responsibilities were to oversee the company's safety program, including compliance  
18         with motor carrier statutes and regulations.

19             In 2000, I accepted a position with the Commission as Public Service  
20         Administrator in its Transportation Division. In 2001, I accepted the position of  
21         Transportation Division Director. In this capacity, I oversee the Commission's  
22         Transportation Division and am responsible for implementation and enforcement of  
23         the Commission's motor carrier safety program.

1           In 2004, I was elected by my peers to the Executive Committee for the  
2           National Conference of State Transportation Specialists, and on May 1, 2012, I was  
3           elected by my peers to the Unified Carrier Registration Board of Directors. Overall, I  
4           have more than twenty years of experience in the transportation industry.

5   **Q.   Have you previously testified before this Commission?**

6   A.   Yes.

7   **Q.   What is the purpose of your testimony in this proceeding?**

8   A.   The purpose of my testimony is to explain the Commission's jurisdiction as it  
9           pertains to BMS Transportation Company, Inc.

10  **Q.   Please explain this Commission's jurisdiction as it pertains to motor carriers.**

11  A.   Pursuant to K.S.A. 2013 Supp. 66-1,108b, the Commission is given full power,  
12           authority and jurisdiction to supervise and control motor carriers doing business or  
13           procuring business in Kansas, and is empowered to do all things necessary and  
14           convenient for the exercise of such power, authority and jurisdiction. K.S.A. 2013  
15           Supp. 66-1,108(f) defines a "motor carrier" as any person operating as a for-hire  
16           motor carrier or a private motor carrier, and any of that person's agents, officers,  
17           representatives and employees.

18           K.S.A. 2013 Supp. 66-1,111 provides that "[n]o public motor carrier of  
19           property or passengers or private motor carrier of property or local cartage carrier  
20           shall operate any motor vehicle for the transportation of either persons or property on  
21           any public highway in this state except in accordance with the provisions of this act,  
22           and amendments thereto, and other applicable laws." Based on K.S.A. 2013 Supp. 66-  
23           1,112, the Commission is vested with broad power and authority in its duty to license,

1 supervise and regulate every public motor carrier of property, household goods or  
2 passengers in Kansas.

3 **Q. How do this Commission's statutes and regulations apply to BMS**  
4 **Transportation Company, Inc.?**

5 A. With respect to BMS Transportation Company, Inc. specifically, K.S.A. 2013 Supp.  
6 66-1,108(m) defines "public motor carrier of property" as any person who undertakes  
7 for hire to transport the property of others by commercial motor vehicle.  
8 "Commercial motor vehicle" is defined in K.A.R. 82-4-1(f) as:

9 (1) A vehicle that has a gross vehicle weight rating or gross  
10 combination weight rating, or a gross vehicle weight or gross  
11 combination weight, of 4,536 kg (10,001 pounds) or more, whichever  
12 is greater;

13 (2) a vehicle designed or used to transport more than eight passengers,  
14 including the driver, for compensation;

15 (3) a vehicle that is designed or used to transport more than 15  
16 passengers, including the driver, and is not used to transport  
17 passengers for compensation; or

18 (4) a vehicle used in transporting material found by the secretary of  
19 transportation to be hazardous under 49 U.S.C. 5103 and transported  
20 in a quantity requiring placarding according to regulations prescribed  
21 by the secretary under 49 C.F.R. Part 172 as adopted in K.A.R. 82-4-  
22 20.



1   **Q.    Mr. Hoeme, based on the information in this docket, do you believe that**  
2       **BMS Transportation Company, Inc. is a motor carrier subject to this**  
3       **Commission's jurisdiction and authority?**

4    A.    Yes. Based on the information I have in this docket, I have concluded that BMS  
5        Transportation Company, Inc., is a for-hire (public) motor carrier who operates in  
6        interstate commerce.

7   **Q.    What is your understanding of Respondent's reasons for requesting this**  
8       **hearing?**

9    A.    BMS Transportation Company Inc. is contesting the three 49 C.F.R. 393.47(e) brake  
10        violations to axles four and five. The inspection determined the commercial motor  
11        vehicle (CMV) operated by BMS Transportation Company Inc. service brakes were  
12        greater than 20% defective, which led to the brake out-of-service (OOS) violation and  
13        \$150.00 civil fine.

14   **Q.    Have you reviewed the Kansas Highway Patrol Driver/Vehicle Examination**  
15       **Report No. KS00PR000571, dated June 23, 2014?**

16   A.    Yes I have.

17   **Q.    Have you reviewed Respondent's Data Q Challenge with the Kansas Highway**  
18       **Patrol, dated October 16, 2014?**

19   A.    Yes I have.

20   **Q.    Do you have any observations with respect the brake violations being**  
21       **challenged?**

22   A.    No I do not.

1   **Q.**    Based on your experience with Commission policies and practices as they apply  
2           to the issuance of civil penalties, do you believe the assessment of the  
3           recommended penalty is fair and consistent with Kansas law and Commission  
4           practices?

5   A.    Yes.

6   **Q.**    Does this conclude your testimony?

7   A.    Yes.

## CERTIFICATE OF SERVICE

15-GIMM-212-KHP

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing docket was placed in the United States mail, postage prepaid, or hand-delivered this 30th day of January, 2015, to the following:

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Vicki Jacobsen