

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

Before Commissioners: Dwight D. Keen, Chair
 Susan K. Duffy
 Andrew J. French

In the Matter of the Investigation of **KS**)
Underground & Trailer Town Inc, of Wichita,)
Regarding the Violation(s) of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 23-TRAM-167-PEN
Commission's Authority to Impose Penalties,)
Sanctions and/or the Revocation of Motor Carrier)
Authority.

ORDER GRANTING STAFF'S MOTION TO VACATE PENALTY ORDER

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, 66-1,112g and 66-1,115, 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 in 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.

II. FINDINGS OF FACTS

3. KS Underground & Trailer Town Inc (Carrier) is a motor carrier, as defined in 49 C.F.R. 390.5 and as adopted in K.A.R. 82-4-3f, which operates commercial motor vehicles in interstate commerce under the USDOT Number 2826575.

4. On November 10, 2022, the Commission issued a Penalty Order in this docket assessing a \$300 civil penalty against Carrier for failure to pay its 2022 UCR fees.

5. Carrier contacted Staff after the issuance of the Penalty Order stating that Carrier has been out of business since May of 2021. Carrier also requested Staff inactivate Carrier's USDOT number.

6. Staff after reviewing available records inactivated Carrier's USDOT number. Additionally, Staff reviewed available records and could not find evidence the carrier was found operating in interstate commerce. Staff therefore determined the Penalty Order issued for not paying their 2022 UCR fees should be vacated.

7. On November 15, 2022, Transportation Staff filed its Motion to Vacate Penalty Order recommending the Commission vacate the Penalty Order.

III. CONCLUSIONS OF LAW

8. The Commission finds it has jurisdiction over KS Underground & Trailer Town Inc because Carrier is a motor carrier as defined in 49 C.F.R. 390.5 and as adopted in K.A.R. 82-4-3f.

9. The Commission further finds that Carrier does not operate in interstate commerce.

10. Therefore the Commission concludes it is appropriate to vacate the Penalty Order issued November 10, 2022.

THE COMMISSION THEREFORE ORDERS THAT:

A. The Penalty Order issued to KS Underground & Trailer Town Inc on November 10, 2022 is hereby vacated.

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).¹

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 11/22/2022



Lynn M. Retz
Executive Director

AAL

¹ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

23-TRAM-167-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 11/22/2022.

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/S/ KCC Docket Room

KCC Docket Room