

STATE OF KANSAS



CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027

PHONE: 785-271-3100  
FAX: 785-271-3354  
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.  
SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

**NOTICE OF PENALTY ASSESSMENT**

18-TRAM-464-PEN

May 1, 2018

Richard Davey, President  
Lesser Electric, Inc.  
PO Box 8244  
Topeka, Kansas 66608

This is a notice of a penalty assessment against Lesser Electric, Inc. (Lesser Electric) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on April 5, 2018, by Kansas Corporation Commission Special Investigator Verna Jackson. Penalty amounts are assessed in accordance with the FY 2018 Uniform Penalty Assessment Matrix, approved by the Commission on June 27, 2017. For a full description of the penalty and terms and obligations, please refer to the Penalty Order attached to this notice.

**IF YOU ACCEPT THE PENALTY:**

Lesser Electric has been assessed a \$1450 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the fine, unless you choose the reduced penalty option explained below. Please remit payment of \$1450 through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

**LESSER ELECTRIC IS A NEW ENTRANT MOTOR CARRIER AND MAY BE ELIGIBLE FOR A PENALTY REDUCTION OF FIFTY PERCENT (50%) UNDER THE FOLLOWING TERMS:**

New Entrant motor carriers are eligible for a one-time, fifty-percent (50%) reduction in the penalty assessed motor carriers. You have to agree to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the reduction. A fifty-percent (50%) reduction in the penalty assessed may be available if:

(1) within fifteen (15) days from the date of this Penalty Order, the carrier signs and submits the attached Reduced Penalty Agreement to Litigation Counsel at the above address;

(2) within thirty (30) days from the date of this Penalty Order, the carrier submits to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) described in the attached Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future;

(3) within thirty (30) days from the date of this Penalty Order, the carrier sends an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance must be submitted to the undersigned Litigation Counsel shortly thereafter; and

(4) within eighteen (18) months from the date of this Penalty Order, the carrier must submit to a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

If a carrier is approved for a fifty-percent (50%) reduced penalty, an Order Amending Penalty Assessment assessing the reduced penalty and setting out the terms and conditions stated above may be issued by the Commission. Payment of the reduced penalty of \$725 would be due within 30 days from the date of service of the Order Amending Penalty Assessment.

**IF YOU CONTEST THE PENALTY ORDER:**

**You have the right to request a hearing if you contest the terms of the Penalty Order.** A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Lesser Electric, Inc. must file within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to Litigation Counsel at the above address. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Secretary to the Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2017 Supp. 77-542.

**IF YOU FAIL TO ACT:**

Failure to adhere to the terms and obligations set out in the attached Penalty Order, including payment of the penalty of \$1450 within thirty (30) days from the date of service of the Penalty Order, or in the alternative, provide a written request for a hearing within 15 days from the date of service of the Penalty Order, will result in the Order becoming final and the terms and conditions set out therein will be enforced. If Lesser Electric submits the attached Reduced Penalty Agreement as explained above, an Order Amending Penalty Assessment may be issued assessing the reduced penalty of \$725 and that payment would become due within thirty (30) days from the date of service of the Order Amending Penalty Assessment.

Respectfully,



Ahsan A. Latif  
Litigation Counsel  
(785) 271-3118  
[a.latif@kcc.ks.gov](mailto:a.latif@kcc.ks.gov)

# STATE OF KANSAS



CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027

PHONE: 785-271-3100  
FAX: 785-271-3354  
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

## **REDUCED PENALTY AGREEMENT**

### **18-TRAM-464-PEN**

Lesser Electric, Inc. (Lesser Electric) hereby submits this Reduced Penalty Agreement for approval of a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated May 1, 2018. Lesser Electric has agreed to comply with the following terms and obligations:

1. Lesser Electric has submitted, within fifteen (15) days from the date of the Penalty Order this signed and dated Reduced Penalty Agreement to Litigation Counsel.
2. Lesser Electric will, within thirty (30) days from the date of the Penalty Order, submit to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) and describing specific and detailed information explaining its efforts and concrete steps taken to ensure the violation(s) do not occur in the future. I understand the CAP must be approved by Transportation Staff to become eligible for the 50% reduced penalty.
3. Lesser Electric will, within thirty (30) days from the date of the Penalty Order, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance will be submitted to the Litigation Counsel.
4. Lesser Electric will be available within eighteen (18) months from the date of the Penalty Order for a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

Lesser Electric, Inc. understands that if approved, an Order Amending Penalty Assessment will be issued by the Commission assessing a reduced penalty of \$725, and will set out the terms and conditions stated above. Once the Order Amending Penalty Assessment is issued by the Commission, Lesser Electric will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

Lesser Electric, Inc.

\_\_\_\_\_  
Richard Davey  
President

(This Agreement can be mailed via U.S. Mail to the address above to the attention of Ahsan Latif, Litigation Counsel, or sent via e-mail to [v.jacobsen@kcc.ks.gov](mailto:v.jacobsen@kcc.ks.gov) and [alatif@kcc.ks.gov](mailto:alatif@kcc.ks.gov).)

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

## PENALTY ORDER

## I. JURISDICTION

2. Pursuant to K.S.A. 2017 Supp. 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. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and order a hearing on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

## **II. BACKGROUND**

4. Lesser Electric, Inc. (Lesser Electric) has private operating authority with the Commission and further operates under USDOT number 2909479.

5. Richard Davey attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on November 14, 2016, on behalf of Lesser Electric.

6. Lesser Electric is a private motor carrier which primarily hauls utility and construction supplies.

7. Lesser Electric is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduction of the penalty(s) assessed below.

## **III. STATEMENT OF FACTS**

8. Pursuant to the jurisdiction and authority cited above, on April 5, 2018, Commission Staff (Staff) Special Investigator Verna Jackson conducted a compliance review of the operations of Lesser Electric. A copy of the safety compliance review is attached hereto as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified four (4) violation(s) of the Motor Carrier Safety Regulations.

- a. On December 7, 2017, Lesser Electric required or permitted its driver, Jeremy Carter, to operate a CDL-required commercial motor vehicle, a 2003 Freightliner, VIN ending in 00037, GVWR greater than 33,000 lbs., in intrastate commerce in and around the area of Topeka, Kansas. This trip is evidenced by Time Sheet, a copy of which is attached hereto as Attachment

“B” and is hereby incorporated by reference. At the time of this transportation, Lesser Electric failed to obtain a pre-employment controlled substance test with a negative result on driver Jeremy Carter. The carrier’s failure to require its driver to submit to a pre-employment alcohol and/or controlled substances test and to obtain a negative test result within 30 days of him/her employment and prior to requiring or permitting him/her to operate a commercial motor vehicle is a violation of 49 C.F.R. 382.301(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$250.

- b. During the transportation described in paragraph a., above, Lesser Electric failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. The carrier’s failure to inquire into its driver’s MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part 391.25(a) and (c)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2017 Supp. 66-1,112. Staff recommends a fine of \$100.
- c. During the transportation described in paragraph a., above, Lesser Electric failed to require its driver to make a record of duty status showing the date, start time, end time and total number of hours worked. The special investigator discovered 22 violations of this type. Lesser Electric’s failure to require its drivers to keep records of duty status for each 24-hour period, or in the alternative to maintain and retain time records described in 49

C.F.R. 395.1(e) under the short haul exemption, using the method described in 49 C.F.R. 395.8(a), and to submit the original record to the motor carrier within 13 days of creation is a violation of 49 C.F.R. 395.8(a), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$750.

- d. During the transportation described in paragraph a., above, Lesser Electric failed to have the means of indicating the nature and due date of the various inspections and maintenance operations to be performed on the commercial motor vehicle. The carrier's failure to maintain the required records of vehicle inspection, maintenance, and repair on the commercial motor vehicles owned for 30 days is in violation of 49 C.F.R. 396.3(b), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$350.

#### **IV. STAFF'S RECOMMENDATIONS**

9. Based upon the available facts, Staff recommends the Commission find Lesser Electric committed four (4) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

10. Staff recommends a civil penalty of \$1450 for four (4) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff provides notice to the Commission that Lesser Electric, Inc. is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduced civil penalty. The carrier must

submit to Litigation Counsel within fifteen (15) days of the date of this Penalty Order the signed and dated Reduced Penalty Agreement and Transportation Staff must approve the carrier's Corrective Action Plan (CAP).

12. Staff recommends Lesser Electric, Inc. submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future. The CAP must be approved by Transportation Staff to qualify for the fifty-percent (50%) discount.

13. Staff further recommends that a representative from Lesser Electric attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel.

14. Finally, Staff recommends that Lesser Electric submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

## **V. CONCLUSIONS OF LAW**

15. The Commission finds it has jurisdiction over Lesser Electric because it is a motor carrier as defined in K.S.A. 2017 Supp. 66-1,108.

16. The Commission finds a penalty of \$1450 should be assessed to Lesser Electric for committing four (4) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.



17. The Commission finds Lesser Electric is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduction in the penalty(s) assessed herein.

**THE COMMISSION THEREFORE ORDERS THAT:**

A. Lesser Electric, Inc., of Topeka, Kansas is hereby assessed a penalty of \$1450 for four (4) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations. Payment of \$1450 must be made through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty owed.

B. A representative from Lesser Electric is ordered to attend a Commission-sponsored safety meeting within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel. A schedule of dates and locations for safety seminars can be found at the Commission's website [http://www.kcc.state.ks.us/trans/safety\\_meetings.htm](http://www.kcc.state.ks.us/trans/safety_meetings.htm).

C. Lesser Electric must submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described above, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Lesser Electric is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

E. If Lesser Electric does not submit the Reduced Penalty Agreement and fails to pay the penalty of \$1450 within thirty (30) days from the date of service of this Penalty Order, *see*

K.S.A. 66-1,105, and/or fails to comply with the provisions of this Order, the Commission will have the right to order further sanctions, including suspension of Lesser Electric's motor carrier operating authority without further notice. Additionally, the Commission may issue and enforce revocation of motor carrier authority and/or issue cease and desist order(s), and may order other remedies available to the Commission by law, without further notice.

F. On May 1, 2018, this Order was mailed via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105743526. Service of this Order is deemed complete upon the date delivered shown on the Domestic Return Receipt.

G. **Pursuant to K.S.A. 2017 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought, within fifteen (15) days from the date of service of this Penalty Order.** The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, and a copy mailed to the Litigation Counsel. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Lesser Electric's right to a hearing.

H. If a request for hearing is filed, 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. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties less

than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2017 Supp. 66-1,142b(e) and amendments thereto.

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

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

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 05/01/2018



---

Lynn M. Retz  
Secretary to the Commission

AAL

## **ATTACHMENT “A”**



US DOT #  
2909479

Legal: LESSER ELECTRIC INC  
Operating (DBA):

MC/MX #:

Federal Tax ID: [REDACTED] (EIN)

Review Type: Compliance Review (CR)

Scope: Principal Office

Location of Review/Audit: Company facility in the U S

Territory:

Operation Types Interstate Intrastate

Carrier: N/A Non-HM

Shipper: N/A N/A

Cargo Tank: N/A

Business: Corporation

Gross Revenue: \$ [REDACTED] for year ending: 12/31/2017

Company Physical Address:

[REDACTED]

Contact Name: Richard Davey

Phone numbers: (1) [REDACTED]

E-Mail Address: [REDACTED]

Company Mailing Address:

PO BOX 8244  
TOPEKA, KS 66608-0244

Carrier Classification

Private Property

Cargo Classification

Utility

Construction

Equipment

Owned Term Leased Trip Leased

Owned Term Leased Trip Leased

Truck

1

0

0

Power units used in the U S : 1

Percentage of time used in the U.S : 100

Does carrier transport placardable quantities of HM? No

Is an HM Permit required? N/A

Driver Information

Inter

Intra

Average trip leased drivers/month: 0

< 100 Miles:

1

Total Drivers: 1

>= 100 Miles:

CDL Drivers: 1





**LESSER ELECTRIC INC**  
U S DOT #, 2909479

Review Date  
04/12/2018

**Part A**

QUESTIONS regarding this report or the Federal Motor Carrier Safety or  
Hazardous Materials rules may be addressed to the Kansas Corporation Commission at  
  
1500 SW Arrowhead Rd  
Topeka KS 66604-4027  
Phone 785-271-3104

**This report will be used to assess your safety compliance.**

**Person(s) Interviewed**

**Name:** Richard Davey

**Title:** President

**Name:** [REDACTED]

**Title:** Office Manager





LESSER ELECTRIC INC  
U S DOT # 2909479

Review Date  
04/12/2018

### Part B Violations

1 FEDERAL	Primary: 382.301(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Using a driver before the motor carrier has received a negative pre-employment controlled substance test result. <b>Example</b> [REDACTED] 12/7/2017					
2 STATE	Primary: 391.21(a) CFR Equivalent: 391.21(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Using a driver who has not completed and furnished an employment application <b>Example</b> [REDACTED] 12/7/2017 The application used did not meet the requirements of the Federal Regulations as adopted by the State.					
3 STATE	Primary: 391.23(c) CFR Equivalent: 391.23(c)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to investigate driver's background within 30 days of employment <b>Example</b> [REDACTED] 12/7/2017 Lesser Electric Inc hired [REDACTED] as an electrician February 16, 2017. The motor carrier became aware that [REDACTED] possessed a CDL, [REDACTED] was then converted to a driver in July of 2017.					
4 STATE	Primary: 391.23(e)(1) CFR Equivalent: 391.23(e)(1)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to investigate the driver's alcohol and controlled substances history for the previous 3 years. <b>Example</b> [REDACTED] 12/7/2017 Hired as driver in July 2017. No investigation of the driver's safety performance history with Department of Transportation regulated employers during the preceding three years was conducted.					
5 STATE	Primary: 391.51(b)(2)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to maintain inquiries into driver's driving record in driver's qualification file. <b>Example</b> [REDACTED] 12/7/2017 Lesser Electric Inc failed to investigate into the driver's driving record for the previous 3 years at the time [REDACTED] was transferred to the driving position.					





**LESSER ELECTRIC INC**  
U S DOT #: 2909479

Review Date  
04/12/2018

### Part B Violations

6 STATE	Primary 391.51(b)(4)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a). <b>Example</b> [REDACTED] 12/7/2017 Lesser Electric Inc failed to maintain the responses to the annual MVR request.					
7 STATE	Primary 391.51(b)(5)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). <b>Example</b> [REDACTED] 12/7/2017 Lesser Electric Inc failed to maintain a note relating to the annual review of the driver's MVR.					
8 STATE	Primary 391.51(b)(6)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. <b>Example</b> [REDACTED] 12/7/2017 Lesser Electric Inc failed to maintain a list or certificate relating to the violations noted on the MVR					
9 STATE	Primary 391.51(b)(9) CFR Equivalent 391.51(b)(9)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to place a note related to the verification of the medical examiner's listing on the National Registry of Certified Medical Examiners required by 391.23(m) in driver disqualification file(s)  <b>Example</b> [REDACTED] 12/7/2017 Lesser Electric Inc failed to obtain adequate documentation proving the medical examiner was listed on the National Registry of Certified Medical Examiners					







LESSER ELECTRIC INC  
U.S. DOT # 2909479

Review Date  
04/12/2018

### Part B Violations

10 STATE	Primary 395.8(a)	Discovered 22	Checked 22	Drivers/Vehicles In Violation	Checked
				1	1

#### Description

Failing to require driver to make a record of duty status.

12/7/2017

Lesser Electric Inc failed to require the driver to prepare a record of duty status in the form and nature required by the Federal Regulations. Short Haul Exception requires the driver to provide the time in, time out, and total hours as well as starting and ending the day at the same location, working no more than 12 hours in a day, and staying within a 100 air mile radius of the principal place of business. When any one of these factors are absent, a log book is required. Records only reflected the total hours for the day.

11 STATE	Primary: 396.3(b)(2) CFR Equivalent: 396.3(b)(2)	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked
				1	1

#### Description

Failing to have a means of indicating the nature and due date of the various inspection and maintenance operations to be performed.

#### Example

12/7/2017

Unit #1 2003 Freightliner VIN 00037

No written maintenance policy was available.

Safety Fitness Rating Information:		OOS Vehicle (CR): 0
Total Miles Operated	150	Number of Vehicle Inspected (CR): 0
Recordable Accidents	0	OOS Vehicle (MCMIS): 0
		Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :

**This Review is not Rated.**





LESSER ELECTRIC INC  
U S DOT # 2909479

Review Date  
04/12/2018

## Part B Requirements and/or Recommendations

### 1. For all Investigations

- Understand Why Compliance Saves Time and Money: Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business
- Document and Follow Through on Action Plans Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.
- NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period
- NOTICE 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.  
The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information.  
<http://www.psp.fmcsa.dot.gov/Pages/default.aspx>
- All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information:  
<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>  
FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012. The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents. Motor carrier's currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases, (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels, and, (3) more specific fact-based displays of SMS results on the SMS Web site. The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.

The KCC requires that you prepare a corrective action letter, addressing the measures taken to correct the violations identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Mail the letter along with copies of your supporting evidence to.

Kansas Corporation Commission  
Attn: Gary Davenport  
1500 SW Arrowhead Rd





LESSER ELECTRIC INC  
U S DOT # 2909479

Review Date:  
04/12/2018

## Part B Requirements and/or Recommendations

Topeka, KS 66604-4027

### 2. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN Qualification and Hiring

**DESCRIPTION OF PROCESS BREAKDOWN** Lesser Electric Inc failed to obtain a Pre-employment drug and alcohol test when driver was hired. Motor Carrier also failed to obtain the previous history of the driver in regards to the controlled substance and alcohol for the previous 3 years. Without obtaining the pre-employment test results or the previous safety sensitive information from other employers, the motor carrier cannot determine if the driver is qualified to operate a CDL CMV.

#### BASIC SPECIFIC RECOMMENDED REMEDIES

**Implement Safety Improvement Practices:** The following are recommended practices related to Qualification and Hiring.

- Ensure that the controlled-substance and alcohol-testing program manager is qualified to query applicants and previous employers about their knowledge and experience regarding rules, interpretations, and compliance practices of other companies.
- Review and evaluate driver applicants' gaps in employment, frequent job changes, and incomplete applications. Require applicants to explain reasons for any gaps in their employment record in order to allay suspicion of controlled-substance and/or alcohol abuse or misuse.
- Ensure that contracted service agents are qualified to facilitate the company's adherence to regulations and company policies and procedures.
- Verify that the qualifications of all prospective service agents are in accordance with regulations.
- Ensure that the employment application captures all information required by the Federal Motor Carrier Safety Regulations for example, whether applicants have ever tested positive or have refused to take a controlled substance and alcohol test, and if so, whether they have complied with the return-to-duty process as required by regulations.

#### Seek Out Resources:

- You are encouraged to review your company's record at the following website. <http://ai.fmcsa.dot.gov/SMS> You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

3. 391.23 (a) Except as provided in subpart G of this part, each motor carrier shall make the following investigations and inquiries with respect to each driver it employs, other than a person who has been a regularly employed driver of the motor carrier for a continuous period which began before January 1, 1971 (2) An investigation of the driver's safety performance history with Department of Transportation regulated employers during the preceding three years.

### 4. DRIVER FITNESS BASIC PROCESS BREAKDOWN Monitoring and Tracking

**DESCRIPTION OF PROCESS BREAKDOWN** Lesser Electric Inc failed to obtain a motor vehicle report within the first 30 days of hiring the driver. Lesser Electric Inc failed to obtain and maintain motor vehicle reports annually. The application used did not meet the criteria of the regulations. Using the incorrect driver application allows for the carrier to miss important information regarding the drivers past history. The motor carrier will not know the driver's age, if the driver has ever driven before safely, and if there is a need for safety sensitive investigation. The MVR is crucial as it provides the information needed to verify if the license is valid and the driver is ok to operate such vehicle.

#### BASIC SPECIFIC RECOMMENDED REMEDIES

**Implement Safety Improvement Practices:** The following are recommended practices related to Monitoring and Tracking Processes.

- Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.





**LESSER ELECTRIC INC**  
U S. DOT #: 2909479

Review Date  
04/12/2018

### Part B Requirements and/or Recommendations

- Maintain each driver's investigation history file in a secure location with limited and controlled access for as long as the driver is employed and for three years thereafter.
- Maintain roadside inspection reports, moving violation records, training records, the Commercial Driver's License (CDL), the dispatch schedule, bills of lading, and the medical report to help evaluate the performance of all staff involved in qualifying drivers (dispatchers and managers) and the effectiveness of the policies and procedures.
- Evaluate personnel who are monitoring driver fitness performance by making sure they are reviewing driver-assignment and qualification files, applying the performance standards fairly, consistently, and equitably, and documenting the evaluations.
- Regularly evaluate the company's driver fitness-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them. Use data to help implement an effective process beyond self-reporting to monitor, document, and evaluate compliance with driver-fitness regulations and company policies.
- When monitoring and tracking any driver-fitness-related issue, always assess whether it is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

#### Seek Out Resources

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
  - Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.
5. Pursuant to 391.23 (a) (1) An inquiry to each state where the driver held or holds a motor vehicle operator's license or permit during the preceding 3 years to obtain that driver's motor vehicle record
  6. As per 391.51(b)(9). The qualification file must include a note relating to verification of medical examiner listing on the National Registry of Certified Medical Examiners required by 391.23(m).
  7. As required by 391.25(a), motor carriers shall, at least once every 12 months, make an inquiry to obtain the motor vehicle record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of every State in which the driver held a commercial motor vehicle operator's license or permit during the time period.
  8. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN. Lesser Electric Inc failed to require driver to record time in, time out, and total hours for the day which would require the driver to create a log book.

#### BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices. The following are recommended practices related to Monitoring and Tracking Processes.

- Implement an effective process for monitoring, tracking, and evaluating all drivers' compliance with Hours-of-Service (HOS) regulations and company policies.
- Promptly review all Records of Duty Status (RODS) for Hours-of-Service (HOS) violations and falsification. Look for discrepancies by comparing driver logs with their "check-in" calls and other supporting documents.
- Document all findings of fatigue-related noncompliance with regulations and/or company policies.
- Maintain roadside inspection, Records of Duty Status (RODS), supporting documents, dispatch schedules, and communication records to help evaluate the performance of all staff (drivers, dispatchers, and managers) involved in Hours of Service (HOS) and the effectiveness of compliance with HOS policies, procedures, and regulations.
- Regularly evaluate the company's fatigue-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them.
- Implement a system for keeping accurate records of employees' Hours-of-Service (HOS) training needs and completed training, via software, a checklist in the driver's file, and/or another appropriate method
- Evaluate personnel (log clerks, payroll, dispatchers, and third-party safety consultants) who are monitoring





**LESSER ELECTRIC INC**  
U S. DOT #: 2909479

Review Date  
04/12/2018

### Part B Requirements and/or Recommendations

drivers' Records of Duty Status (RODS) for accuracy, for whether they are applying performance standards fairly, consistently, and equitably, and for whether they are documenting evaluations.

- When monitoring and tracking any fatigue-related issues, always assess whether an issue is individual or represents a systemic breakdown in the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.)

#### Seek Out Resources

- You are encouraged to review your company's record at the following website. <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry

9. If you want drivers to use the 100 air-mile radius exemption, make sure that the drivers meet all terms of the exemption, including being released from duty no more than 12 hours from when they report for duty. Logs must be prepared if a driver does not meet the 12 hour requirement. Time records should indicate beginning time, ending time, and total hours for the day.
10. **VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN.** Monitoring and Tracking

**DESCRIPTION OF PROCESS BREAKDOWN** Lesser Electric Inc failed to require the driver to complete a daily vehicle inspection report on the days the CDL CMV was utilized. Lesser Electric Inc does not currently have a written maintenance schedule or policy.

#### BASIC SPECIFIC RECOMMENDED REMEDIES

**Implement Safety Improvement Practices** The following are recommended practices related to Monitoring and Tracking Processes.

- Check all inspections and relevant records, such as Driver Vehicle Inspection Records (DVIRs), pre-trip and annual inspections, and maintenance and repair records, to ensure that company inspection, repairing, and maintenance policies and procedures are adhered to and properly documented.
- Ensure that Driver Vehicle Inspection Records (DVIRs) are effectively coordinated with maintenance and operations, result in timely corrective measures, and are verified during pre-trip inspections as applicable
- Implement a system for keeping accurate records of employee inspection, repair, and maintenance training needs, including updates on a carrier's fleet or equipment and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Regularly evaluate the company's vehicle maintenance-related inspection results via the Federal Motor Carrier Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS> Assess violations for process breakdowns and how to remedy them.
- Maintain inspection, repair, maintenance, vehicle identification, and communication records to help evaluate the performance of all staff (drivers, dispatchers, mechanics, and managers) involved in fleet maintenance and the effectiveness of compliance with vehicle maintenance policies, procedures, and regulations.
- Evaluate personnel who are monitoring vehicle maintenance performance by making sure they are using Driver Vehicle Inspection Records (DVIRs), roadside inspections, and other data; applying performance standards fairly, consistently, and equitably; and documenting evaluations.
- When monitoring and tracking vehicle maintenance issues, always assess whether an issue is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

#### Seek Out Resources

- You are encouraged to review your company's record at the following website <http://ai.fmcsa dot gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

11. Ensure that you have in writing a means of indicating the nature and due date of various inspection and maintenance





LESSER ELECTRIC INC  
U.S DOT #. 2909479

Review Date.  
04/12/2018

### Part B Requirements and/or Recommendations

operations to be performed.

12. I understand that monetary penalties will be assessed as a result of violations found in this compliance investigation. The penalty schedule can be found at this web site: [http://kcc.ks.gov/trans\\_penalty\\_assessment\\_table.htm](http://kcc.ks.gov/trans_penalty_assessment_table.htm)

*Rick D* *President*  
Carrier Name Carrier Official

13. I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Lesser Electric Inc's operating authority and/or the impoundment of Lesser Electric Inc's vehicles.

*Rick D* *4/12/18*  
Carrier Representative Date  
*Rick Dary* *President*  
Printed name and Title



## **ATTACHMENT “B”**



## TIME SHEET

**Week of 11/29/2017 - 12/5/2017**[illegible]**Week of 12/6/2017 - 12/12/2017**[illegible]



## **CERTIFICATE OF SERVICE**

18-TRAM-464-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on 05/02/2018.

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
a.latif@kcc.ks.gov

RICHARD DAVEY, PRESIDENT  
LESSER ELECTRIC, INC.  
PO BOX 8244  
TOPEKA, KS 66608-0244  
Fax: 785-232-5168  
rdavey@lesserelectric.com

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe