

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

Before Commissioners:      Dwight D. Keen, Chair  
                                     Shari Feist Albrecht  
                                     Susan K. Duffy

In the Matter of the Investigation of **Lloyd W. )  
Modlin, d/b/a Western Sales Co, of Bunker Hill, )  
Kansas,** Regarding the Violation of the Motor )  
Carrier Safety Statutes, Rules and Regulations and )      Docket No. 12-TRAM-679-PEN  
the Commission's Authority to Impose Penalties, )  
Sanctions and/or the Revocation of Motor Carrier )  
Authority. )

**ORDER REINSTATING INTRASTATE MOTOR CARRIER OPERATIONS**

The above-captioned matter comes on for consideration and determination by the State Corporation Commission of the State of Kansas (Commission), on Transportation Staff's motion. The Commission, being fully advised in the premises, finds as follows:

**I. JURISDICTION**

1. Pursuant to K.A.R. 82-4-1b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.A.R. 82-4-1, 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. 2018 Supp. 66-1,129a, 66-1,130, and 66-1,142b, and amendments thereto, 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. 2018 Supp. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-1 *et seq.*) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

## **II. BACKGROUND**

4. Lloyd W. Modlin, d/b/a Western Sales Co, of Bunker Hill, Kansas (Respondent), is a motor carrier as defined in K.A.R. 82-4-1 that operates commercial motor vehicles in intrastate commerce.

5. Respondent is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT Number 658052.

6. On November 25, 2014, the Commission issued an Order suspending Respondent's intrastate motor carrier operations, other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2018 Supp. 66-1,129, due to non-compliance with a Penalty Order issued in this docket on March 23, 2012. The Penalty Order assessed Respondent a \$6,000 civil fine. The Commission's Penalty Order is incorporated herein by reference and made a part of this Order.

7. On August 22, 2019, Staff filed a Motion to Reinstate Intrastate Motor Carrier Operations on Respondent. In its motion, Staff explained that it was reviewing old records of motor carriers put out-of-service for failure to pay civil fines issued from Commission Orders. Staff found Respondent had paid its civil fine on January 2, 2015, and requests the Commission to reinstate its intrastate motor carrier operations.

### **III. STAFF'S RECOMMENDATION**

8. Based on Staff's Motion and Respondent's compliance, Staff recommends the Commission reinstate Respondent's Kansas motor carrier operations.

### **IV. CONCLUSIONS OF LAW**

9. The Commission finds it has jurisdiction over Respondent because it is a motor carrier as defined in K.A.R. 82-4-1.

10. Based on the available facts, the Commission finds that Staff's recommendation to reinstate Lloyd W. Modlin, d/b/a Western Sales Co's motor carrier operations is reasonable.

#### **THE COMMISSION THEREFORE ORDERS THAT:**

A. Lloyd W. Modlin, d/b/a Western Sales Co's intrastate motor carrier authority is hereby reinstated.

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

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

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 08/29/2019



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Lynn M. Retz  
Executive Director

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## CERTIFICATE OF SERVICE

12-TRAM-679-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/hand delivered on 08/30/2019.

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/S/ DeeAnn Shupe  
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