## 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 Danny G. ) Lambeth, d/b/a Truck Wholesale of Wellsville, ) Kansas, Pursuant to the Kansas Highway Patrol ) Issuance of a Notice of Violation for Violation(s) of ) the Kansas Motor Carrier Safety Statutes, Rules and ) Regulations and the Commission's Authority to ) Impose Penalties, Sanctions and/or the Revocation ) of Motor Carrier Authority.

Docket No. 17-GIMM-408-KHP

#### PREHEARING OFFICER ORDER SETTING EVIDENTIARY HEARING

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having reviewed the pleadings and record, the Prehearing Officer makes the following findings:

1. On October 14, 2019, Commission Staff (Staff) filed a Motion to Suspend Intrastate Motor Carrier Operations, requesting the Commission suspend Danny G. Lambeth, d/b/a Wholesale Trucking of Wellsville, Kansas (Respondent) from all Kansas commercial motor carrier operations for failing to pay a \$550 civil fine issued by the Commission in its Order on Status of Danny Lambeth's Petition for Reconsideration of Order on Petition for Reconsideration of Final Order.<sup>1</sup>

2. On October 24, 2019, the Commission issued an Order Suspending Motor Carrier Operations in Kansas, immediately suspending Danny G. Lambeth, d/b/a Wholesale Trucking of Wellsville, Kansas from all commercial motor carrier operations in

<sup>&</sup>lt;sup>1</sup> Motion to Suspend Intrastate Motor Carrier Operations, Oct. 14, 2019, ¶ 10.

Kansas other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2018 Supp. 66-1,129, until such time as it pays the civil fine of \$550 and brings its motor carrier operation into compliance with motor carrier safety statutes, rules and regulations.<sup>2</sup>

3. On November 6, 2019, Danny Lambeth filed a Request for Hearing, claiming that he is not a motor carrier, and outside the Commission's jurisdiction.

4. Pursuant to K.S.A. 77-511, the Prehearing Officer schedules a hearing on the Suspension of Lambeth's Motor Carrier Operations for November 14, 2019, beginning at 1:00 p.m., and concluding by 2:00 p.m., in the First Floor Hearing Room at the Commission's Topeka Office, 1500 SW Arrowhead Road, Topeka, Kansas 66604.

5. The hearing will be formal in nature and will involve both the rules of civil procedure and the rules of evidence. 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.<sup>3</sup>

6. If any party fails to appear and participate in this hearing, the Commission may hear evidence against the party and enter an order consistent with the evidence. Failure to participate may result in default judgment against the Respondent.<sup>4</sup>

### THEREFORE, THE PREHEARING OFFICER ORDERS:

A. A hearing on the Suspension of Lambeth's Motor Carrier Operations is scheduled for Thursday, November 14, 2018, beginning at 1:00 p.m. and concluding

<sup>&</sup>lt;sup>2</sup> Order Suspending Motor Carrier Operations in Kansas, Oct. 14, 2019, ¶ 10.

<sup>&</sup>lt;sup>3</sup> K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1 -202(a).

<sup>&</sup>lt;sup>4</sup> K.S.A. 77-520.

**by 2:00 p.m.,** in the First Floor Hearing Room at the Commission's Topeka Office, 1500 SW Arrowhead Road, Topeka, Kansas 66604.

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).<sup>5</sup>

C. The Commission retains jurisdiction over the subject matter and parties to enter further orders as it deems necessary.

Dated: November 8, 2019

<u>/s/ Brian G. Fedotin</u> Brian G. Fedotin Prehearing Officer

<sup>&</sup>lt;sup>5</sup> K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

# **CERTIFICATE OF SERVICE**

#### 17-GIMM-408-KHP

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of

electronic service on \_\_\_\_\_

DANNY G. LAMBETH D/B/A TRUCK WHOLESALE PO BOX 501 22640 PLEASANT VALLEY RD WELLSVILLE, KS 66092 Fax: 913-262-8155 truckwholesale@gmail.com

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

/S/ DeeAnn Shupe DeeAnn Shupe