

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

In the Matter of the Investigation of **Bender**)
Steel & Repair Inc. of Valley Center,)
Kansas, Regarding the Violation of the Motor)
Carrier Safety Statutes, Rules and Regulations) Docket No. 20-TRAM-081-PEN
and the Commission's Authority to Impose)
Penalties, Sanctions and/or the Revocation of)
Motor Carrier Authority.)

MOTION FOR ORDER AMENDING PENALTY ASSESSMENT

The Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively), by and through its counsel, Ahsan A. Latif, files this Motion requesting the Commission issue an Order Amending Penalty Assessment reducing the penalty assessed to Bender Steel & Repair Inc. (Bender Steel), fifty-percent (50%) less than the penalty assessed in the Penalty Order dated August 29, 2019. In support of its Motion, Staff states as follows:

1. On August 29, 2019, a Penalty Order was issued to Bender Steel assessing it a penalty of \$1,900 for five (5) 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. The violations were found during a Safety Compliance Review conducted on July 11, 2019, by Special Investigator Doug Handy.

2. The Notice of Penalty Assessment advised Bender Steel it was a New Entrant carrier and may be eligible for a fifty-percent (50%) reduced penalty if it submitted a signed and dated Reduced Penalty Agreement within fifteen (15) days from the date of the Penalty Order, stating it will comply with the reduced penalty option terms and obligations stated therein.

3. On September 10, 2019, Bender Steel submitted the Reduced Penalty Agreement. The Corrective Action Plan was submitted by the carrier and has been approved by

Transportation Staff. The Reduced Penalty Agreement is attached hereto and is hereby incorporated by reference.

4. Staff recommends the Commission issue an Order Amending Penalty Assessment assessing Bender Steel a 50% reduced penalty of \$950 and requesting it to comply with the following terms and obligations:

- a. within thirty (30) days from the date of the Penalty Order dated August 29, 2019, Bender Steel shall send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance must be submitted to Litigation Counsel;
- b. within eighteen (18) months of the Penalty Order, Bender Steel must submit to a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to set up the review; and
- c. within thirty (30) days from the date of service of the Order Amending Penalty Assessment, Bender Steel must make the payment of \$950 through the KTRAN system located at <https://puc.kcc.ks.gov/ktran/>.

WHEREFORE, for the reasons set forth herein, Staff requests an Order Amending Penalty Assessment be issued by the Commission assessing Bender Steel & Repair Inc. a reduced penalty of \$950 and ordering it to comply with the proposed terms and obligations set out in paragraph 4 above.

Respectfully submitted,



Ahsan A. Latif, S. Ct. #24709
Litigation Counsel
Kansas Corporation Commission
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Attorney for Commission Staff

VERIFICATION

20-TRAM-081-PEN

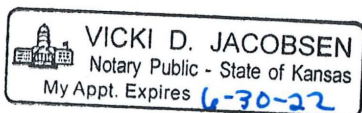
STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)


Ahsan A. Latif, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Motion for Order Amending Penalty Assessment*, and attests that the statements therein are true and correct to the best of his knowledge, information and belief.



Ahsan A. Latif, S. Ct. # 24709
Litigation Counsel
The State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 10th day of September, 2019.





Notary Public

My Appointment Expires: June 30, 2022

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Topeka, KS 66604-4027



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Dwight D. Keen, Chair
Shari Feist Albuecht, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

REDUCED PENALTY AGREEMENT

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Bender Steel & Repair Inc. (Bender Steel) hereby submits this Reduced Penalty Agreement for approval of a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated August 29, 2019. Bender Steel has agreed to comply with the following terms and obligations:

1. Bender Steel has submitted, within fifteen (15) days from the date of the Penalty Order this signed and dated Reduced Penalty Agreement to Litigation Counsel.

2. Bender Steel 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. Bender Steel 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. Bender Steel 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.

Bender Steel & Repair Inc. understands that if approved, an Order Amending Penalty Assessment will be issued by the Commission assessing a reduced penalty of \$950, and will set out the terms and conditions stated above. Once the Order Amending Penalty Assessment is issued by the Commission, Bender Steel will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this 5th day of September, 2019.

Bender Steel & Repair Inc.

Ted Bender
Vice 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 and alatif@kcc.ks.gov.)

CERTIFICATE OF SERVICE

20-TRAM-081-PEN

I, the undersigned, certify that a true and correct copy of the above and foregoing Motion to Amend Penalty Assessment was placed in the United States mail, postage prepaid, or hand-delivered this 10th day of September, 2019, to the following:

TED BENDER, VICE PRESIDENT
BENDER STEEL & REPAIR INC.
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VALLEY CENTER, KS 67147
ted@bendersteel.com

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Vicki Jacobsen