

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

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

In the Matter of the Investigation of **Mike E.)**
Darbyshire d/b/a Darbyshire Farms, LLC, of)
Hartford, Kansas, Regarding the Violation(s) of)
the 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. 21-TRAM-405-PEN

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. Part 390.5, and adopted by 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. Mike E. Darbyshire, d/b/a Darbyshire Farms, LLC (Carrier) is a motor carrier as defined in K.A.R. 82-4-3f, which operates commercial motor vehicles in interstate commerce under the USDOT Number 798135.

4. On April 29, 2021, Commission Staff (Staff) Special Investigator (SI) Verna Jackson submitted a Report and Recommendation regarding Carrier's failure to pay its UCR fees for year 2020.

5. On May 6, 2021, the Commission issued a Penalty Order in this docket assessing a \$300 civil penalty against Carrier for failure to pay its UCR fees.

6. On May 17, 2021, Mike Darbyshire, Owner of Carrier, contacted Staff regarding the Penalty Order. Mr. Darbyshire stated that due to the pandemic he had very limited operations in 2020 and did not know he had to pay his 2020 UCR fees. Staff determined that Carrier had paid its 2020 UCR fees on May 12, 2021 and had already paid its 2021 UCR fees.

7. On May 18, 2021, Transportation Staff filed its Motion to Vacate Penalty Order with an attached receipt of payment, recommending the Commission vacate the Penalty Order.

III. CONCLUSIONS OF LAW

8. The Commission finds it has jurisdiction over Mike E. Darbyshire, d/b/a Darbyshire Farms, LLC because Carrier is a motor carrier as defined in K.A.R. 82-4-3f.

9. The Commission further finds that Carrier paid its 2020 UCR fees on May 12, 2021.

10. Therefore the Commission concludes it is appropriate to vacate the Penalty Order issued May 6, 2021.

THE COMMISSION THEREFORE ORDERS THAT:

A. The Penalty Order issued to Mike E. Darbyshire, d/b/a Darbyshire Farms, LLC on May 6, 2021 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.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 05/25/2021



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

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail or electronic service this 25th day of May, 2021:

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