

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

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

In the Matter of the Emergency Suspension of)
Operating Authority of **Don C. Johnson, d/b/a Red**)
Bone Trucking of Wichita, Kansas, for Failure to) Docket No. 15-TRAM-537-OOS
Comply with New Entrant Safety Requirements as)
Required by the Motor Carrier Safety Statutes,)
Rules and Regulations.)

ORDER REINSTATING MOTOR CARRIER OPERATING AUTHORITY

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

I. JURISDICTION

1. Pursuant to K.S.A. 66-1,108b, 66-1,111, 66-1,112, and 66-1,114b, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.A.R. 82-4-3f, 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, 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. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-3f) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

II. BACKGROUND

4. Don C. Johnson, d/b/a Red Bone Trucking is a motor carrier as defined in K.A.R. 82-4-3f that operates commercial motor vehicle(s) in both intrastate and interstate commerce in a manner that requires authority.

5. Don C. Johnson, d/b/a Red Bone Trucking is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT Number 2435681.

6. The Commission received notice from the U.S. Department of Transportation, Federal Motor Carrier Safety Administration that Don C. Johnson, d/b/a Red Bone Trucking's New Entrant Registration had been revoked effective May 13, 2015, for failure to comply with safety requirements.

7. Pursuant to the above authority, on June 2, 2015, the Commission entered an Emergency Suspension of Operating Authority Order on Don C. Johnson, d/b/a Red Bone Trucking in the above-referenced docket, until such time that Staff recommended reinstatement.

III. STATEMENT OF CURRENT FACTS

8. On September 23, 2020, the Staff of the Transportation Division of the Kansas Corporation Commission (Staff) received notice from the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, that Don C. Johnson, d/b/a Red Bone Trucking has

submitted evidence of compliance with safety requirements as required in 49 C.F.R. 385.329. As a result, the carrier's reapplication for New Entrant registration under USDOT No. 2435681 has been approved and the carrier's authority to operate in interstate operations has been reinstated. See attached FMCSA reinstatement documentation.

9. Based on the Federal Motor Carrier Safety Administration's reinstatement, the Commission may reinstate Don C. Johnson, d/b/a Red Bone Trucking's ability to conduct intrastate motor carrier operations in Kansas.

IV. CONCLUSIONS OF LAW

10. The Commission finds it has jurisdiction over Don C. Johnson, d/b/a Red Bone Trucking because it is a motor carrier as defined in K.A.R. 82-4-3f.

11. Based on the available facts, the Commission finds that the reinstatement of Don C. Johnson, d/b/a Red Bone Trucking's operating authority in Kansas is reasonable.

THE COMMISSION THEREFORE ORDERS THAT:

A. Don C. Johnson, d/b/a Red Bone Trucking's ability to conduct intrastate motor carrier operations, including the ability to apply for a certificate, permit or license that is necessary to carry on the business of a private and/or public motor carrier in Kansas is hereby reinstated.

B. Don C. Johnson, d/b/a Red Bone Trucking is still obligated to attend a Commission-sponsored Safety Seminar and provide Litigation Counsel with proof of attendance. Due to the circumstances surrounding COVID-19, the Commission suspended its safety seminars as part of its *Emergency Order Temporarily Suspending the Requirement to Attend Commission Sponsored Safety Seminars During State of Emergency* (Emergency Order) in Docket No. 20-TRAM-392-PEN. As such, Staff recommends the Carrier's requirement to attend a Commission-sponsored

safety seminar must be completed within 90 days of the Commission's Emergency Order being lifted.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 10/01/2020



Lynn M. Retz
Executive Director

AAL



U.S. Department of
Transportation
1200 New Jersey Ave. S.E.
Washington, D.C. 20590

**Federal Motor Carrier
Safety Administration**

**DON C JOHNSON
1156 N CLEVELAND AVE
WICHITA, KS 67214-3032**

Midwestern Service Center
4749 Lincoln Mall Drive, Suite
300a
Matteson, IL 60443

September 23, 2020

In reply refer to:
USDOT Number: **2435681**
MC Number: MC839857

Acceptance of Corrective Action

A safety audit was conducted on your company, which resulted in a failed safety audit. Following the safety audit, your company was advised to submit a written response outlining your company's corrective action plan (CAP) or your company's New Entrant registration would be revoked. DON C JOHNSON submitted a CAP designed to ensure compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) and/or the Hazardous Materials Regulations (HMRs).

After reviewing your response, the Federal Motor Carrier Safety Administration (FMCSA) has determined your corrective action plan is acceptable.

FMCSA will continue to monitor and evaluate DON C JOHNSON's safety management practices and on-road performance to ensure DON C JOHNSON has basic safety management controls that are operating effectively and is complying with Federal requirements including the FMCSRs and applicable HMRs. Failure to comply with applicable requirements may result in the revocation of DON C JOHNSON's USDOT New Entrant or permanent registration.

If your New Entrant registration was revoked and its interstate operations placed out-of-service, you may reapply no earlier than 30 days after the date of revocation as follows: In order to reapply, your company must begin the application process from the beginning by submitting an updated Motor Carrier Identification Report (MCS-150), and restart the 18-month new entrant monitoring period. Reapplication may be made via the FMCSA web site (<http://safer.fmcsa.dot.gov>) or by submitting a MCS-150 form. The form may be obtained by calling FMCSA support services at 1-800-832-5660 or via the FMCSA web site at <http://www.fmcsa.dot.gov>. Additional instructions can be found in the enclosure entitled "Instructions for Electronic Re-application."

Please be aware, if DON C JOHNSON requires motor carrier operating authority in addition to a USDOT New Entrant registration number, or if reinstatement of operating authority is necessary, DON C JOHNSON is required to apply for and be granted such operating authority before conducting any transportation as a motor carrier in interstate commerce. Information on applying for motor carrier operating authority may be found at FMCSA's Web site, <http://www.fmcsa.dot.gov>.

Should you have any questions or need additional information, please contact a New Entrant Transportation Specialist at Telephone No.: 708-283-3564.

Sincerely,

Davina L. Farmer
Service Center Director

Enclosure:
Instructions for Electronic Re-application

CERTIFICATE OF SERVICE

15-TRAM-537-OOS

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 10/02/2020.

DON C. JOHNSON, OWNER
DON C. JOHNSON
D/B/A RED BONE TRUCKING
1156 N CLEVELAND AVE
WICHITA, KS 67214-3032

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KANSAS CORPORATION COMMISSION
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TOPEKA, KS 66604
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/S/ DeeAnn Shupe
DeeAnn Shupe