THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Before Commissioners:

Pat Apple, Chairman Shari Feist Albrecht Jay Scott Emler

In the Matter of the General Investigation)	
of Benfer Enterprises II LLC of)	
Independence, Missouri, Pursuant to the)	
Kansas Highway Patrol Issuance of a)	Docket No. 17-GIMM-269-KHF
Notice of Violation(s) and Invoice for the)	
Violations of the Kansas Motor Carrier)	
Safety Statutes, Rules and Regulations.)	

ORDER SETTING HEARING

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having examined its files and records and being fully advised in the premises, the Commission makes the following findings:

1. On October 6, 2016, the Kansas Highway Patrol issued a Notice of Violation(s) against Benfer Enterprises II LLC (Respondent), for alleged violations found during three September 27, 2016, routine motor carrier stops and inspections conducted by the Kansas Highway Patrol (KHP). Respondent was assessed \$600 in civil fines, comprised of the following violations: a \$150.00 fine for Tire-Other Thread Depth Less Than 2/32 of Inch, citing 393.75C related to Driver/Vehicle Examination Report No. KSHP02520638, a \$300.00 fine for Failure to Register and Pay UCR Fees, citing 392.2UCR related to Driver/Vehicle Examination Report No. KSHP01000842 and a \$150.00 fine for No Parking Brake, citing 393.41 related to Driver/Vehicle Examination Report No. KSHP00531286.

- 2. Subsequently, Respondent initiated a formal challenge with the KHP.
- 3. On October 28, 2016, the Kansas Highway Patrol denied Respondent's challenges and advised Respondent of its right to an administrative hearing before the Commission.
- 4. On November 14, 2016, the Kansas Corporation Commission received Respondent's request for hearing before the Commission postmarked November 9, 2016.

 The request for hearing was filed December 28, 2016.
- 5. Pursuant to K.S.A. 2016 Supp. 77-511, the above-referenced matter has been set for hearing on April 11, 2017 at 1:30 p.m., in the First Floor Hearing Room at the Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas 66604.
- 6. The hearing will be formal in nature and will involve both the rules of civil procedure and the rules of evidence. Please note that 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. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2016 Supp. 66-1,142b(e) and amendments thereto.
- 7. Pursuant to K.A.R. 82-1-229(c), parties will prefile direct testimony ten (10) days prior to the scheduled hearing date. The Commission has authorized the use of electronic filing and service in lieu of the traditional physical filing and service of documents. If electronic filing and service is not utilized, one original and seven copies of the prefiled testimony must be filed with the Secretary of the Commission, 1500 SW

Arrowhead Road, Topeka, Kansas 66604. Rebuttal testimony may be presented at the hearing.

- 8. Nothing in the Kansas Administrative Procedure Act shall preclude the Commission's Transportation Staff (Staff) and Respondent from reaching an informal settlement, subject to formal Commission approval. See K.S.A. 77-505. Thus, Staff and its counsel will contact Respondent and/or Respondent's counsel to schedule an informal telephone conference prior to the hearing in order to clarify the issues and explore provisional settlement possibilities.
- 9. If any party(s) fails to appear and participate in this hearing, the Commission may proceed to hear evidence against the party(s) and enter such order as shall be justified by the evidence. Failure to participate may result in default judgment against the Respondent pursuant to K.S.A. 2016 Supp. 77-520. Further, at any point in the proceedings, a proceeding may be converted into another type of agency proceeding pursuant to K.S.A. 77-506.
- 10. Any person requiring special accommodations under the Americans With Disabilities Act needs to give notice to the Commission at least ten (10) days prior to the scheduled hearing date.
- 11. The Commission will preside over this hearing. The attorney designated to appear on behalf of the agency is Ahsan Latif, telephone number 785-271-3118, 1500 SW Arrowhead Road, Topeka, Kansas 66604.
- 12. If applicable, any and all prehearing orders issued in this matter are attached in accordance with K.S.A. 2016 Supp. 77-518(b).

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The evidentiary hearing is scheduled for Tuesday, April 11, 2017, beginning at 1:30 p.m. or as soon thereafter as the matter can be heard. The hearing will be held in the Commission's Topeka offices.

B. The parties have fifteen (15) days, plus three (3) days if served by mail, from the date this order was served in which to petition the Commission for reconsideration. K.S.A. 66-118b; K.S.A. 77-529(a)(1).

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

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: FEB 1 6 2017

Amy L. Green Secretary to the Commission

AAL

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FEB 1 7 2017

CERTIFICATE OF SERVICE

17-GIMM-269-KHP

I, the undersigned, certify that the	true copy of the attached Order has been served to the following parties by means of
first class mail/hand delivered on _	FEB 1 6 2017

BILL BENFER, MANAGING MEMBER BENFER ENTERPRISES II LLC 10047 E WILSON RD INDEPENDENCE, MO 64053 AHSAN LATIF, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 Fax: 785-271-3354 a.latif@kcc.ks.gov

/S/ DeeAnn Shupe	
DeeAnn Shupe	

Order Mailed Date FEB 1 7 2017