

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

ORDER AMENDING PENALTY ASSESSMENT

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration. Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

BACKGROUND

1. On August 29, 2019, this Commission issued a Penalty Order to Bender Steel & Repair Inc. (hereinafter Bender Steel), assessing it a civil penalty of \$1,900. The penalty was 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.

2. Bender Steel was advised that it was a New Entrant motor carrier being reviewed for the first time, and may be eligible for a reduced penalty of fifty-percent (50%), as long as it complies with the terms and obligations described in the Notice of Penalty Assessment, the Reduced Penalty Agreement and as set out below.

3. Staff states that on September 10, 2019, Bender Steel timely submitted the signed Reduced Penalty Agreement. A copy of the Reduced Penalty Agreement was attached to Staff's Motion. The carrier further submitted a Corrective Action Plan (CAP), which has been approved by Transportation Staff.

4. On September 10, 2019, Staff filed a Motion for Order Amending Penalty Assessment, recommending the Commission assess Bender Steel a fifty-percent (50%) reduced penalty of \$950, and set out specific terms and obligations.

FINDINGS OF FACT

5. The Penalty Order issued on August 29, 2019, assessed Bender Steel a civil penalty of \$1,900 for five (5) violation(s) of the motor carrier safety statutes, rules and regulations.

6. Staff recommended in its Motion that due to Bender Steel's agreement to comply with the terms and obligations for a fifty-percent (50%) reduced penalty and approval of its CAP, an Order Amending Penalty Assessment is recommended to be issued by the Commission assessing Bender Steel a reduced penalty of \$950, and setting out the terms and obligations as stated in its motion.

7. K.S.A. 66-1,142c authorizes the Commission to determine the amount of civil penalty and states in pertinent part:

"Any civil penalty may be compromised by the state corporation commission. In determining the amount of the penalty or the amount agreed in compromise, the appropriateness of the penalty to the size of the business, the gravity of the violation and the good faith of the person charged in attempting to achieve compliance, shall be considered."

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The civil penalty of \$1,900 assessed to Bender Steel & Repair Inc. in the Penalty Order dated August 29, 2019, is hereby amended to \$950.

B. Payment of \$950 is due within thirty (30) days from the date of service of this Order Amending Penalty Assessment. Payment must be made through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty owed.

C. Bender Steel is ordered to, within thirty (30) days from the date of the Penalty Order dated August 29, 2019, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and submit proof of attendance to Litigation Counsel.

D. Bender Steel must submit to a follow-up compliance review within eighteen (18) months from the date of the Penalty Order. Transportation Staff will contact Bender Steel to schedule the review.

E. If Bender Steel fails to pay the reduced fine of \$950 and/or fails to comply with the terms and conditions ordered above, the Commission may order Bender Steel additional sanctions, including enforcement of an out-of-service order, revoking its authority or any further sanctions as the Commission deems necessary.

F. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 09/17/2019



Lynn M. Retz
Executive Director

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CERTIFICATE OF SERVICE

20-TRAM-081-PEN

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 09/17/2019.

TED BENDER, VICE PRESIDENT
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/S/ DeeAnn Shupe

DeeAnn Shupe