

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the Matter of the Investigation of **D & M**)
Marketing LLC of Larned, Kansas,)
Regarding the Violation(s) of the Motor)
Carrier Safety Statutes, Rules and Regulations) Docket No. 24-TRAM-258-PEN
and the Commission’s Authority to Impose)
Penalties, Sanctions and/or the Revocation of)
Motor Carrier Authority.)

PREHEARING ORDER OF PRESIDING OFFICER

A prehearing conference was held in this Docket on May 22, 2024, by Zoom video conferencing before the Presiding Officer, Kyler C. Wineinger, on behalf of State Corporation Commission of the State of Kansas (the “Commission”) to, in part, identify the issues involved and explore the possibilities of stipulations and settlement and determine whether the Docket is suitable for alternative dispute resolution. At the prehearing conference, D & M Marketing LLC (“D&M”) appeared by its Owner, Rae Rae Munden, and with counsel, Michael C. Robinson of Bell and Robinson LLC, Hutchinson, Kansas. Commission technical staff (“Staff”) appeared by Litigation Counsel, Ahsan A. Latif. The following matters were identified and determined during the prehearing conference:

1. On September 26, 2023, the Commission determined that D&M had violated provisions of Kansas law pertaining to motor carrier safety and, accordingly, issued a Penalty Order requiring D&M to satisfy certain terms, including the payment of a \$4,500 penalty.
2. At the prehearing conference, D&M represented to the Prehearing Officer that D&M does not have an issue with paying the \$4,500 penalty or having to satisfy the other terms

of the Penalty Order. D&M does, however, take exception to the charging language in Count One of the Penalty Order.

3. Count One of the Penalty Order states that under 49 C.F.R. 382.215 as adopted by K.A.R. 82-4-3c, no motor carrier “having knowledge that a driver has tested positive or has adulterated or substituted a test specimen for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions.”

4. D&M contests the charging language, asserting it did not have knowledge that the D&M driver at issue had acted contrary to the Kansas regulation.

5. After determining the lone contested issue, the parties agreed it is likely that the parties can reach a resolution without having to proceed with an evidentiary hearing.

THEREFORE, THE PRESIDING OFFICER ORDERS:

A. The parties shall confer in good faith to reach a resolution of this Docket.

B. Before 5:00 p.m. on June 28, 2024, the parties shall either submit proposed settlement terms for the Commission’s consideration or advise the Presiding Officer that the parties cannot determine agreeable settlement terms.

C. This Order is intermediate to subsequent action of the Commission and constitutes nonfinal agency action.¹

Dated: June 11, 2024

/s/ Kyler C. Wineinger
Kyler C. Wineinger
Presiding Officer

¹ K.S.A. 77-607(b)(2).

CERTIFICATE OF SERVICE

24-TRAM-258-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 06/11/2024.

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/S/ KCC Docket Room
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