

**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 Investigation of **Dave's**)
Recycling, Inc., of Plainville, Kansas, Regarding)
the Violation of the Motor Carrier Safety Statutes,)
Rules and Regulations and the Commission's) Docket No. 17-TRAM-500-PEN
Authority to Impose Penalties, Sanctions and/or)
the Revocation of Motor Carrier Authority.)
)

ORDER REINSTATING INTRASTATE MOTOR CARRIER OPERATIONS

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

I. JURISDICTION

1. Pursuant to K.S.A. 2016 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2016 Supp. 66-1,108, 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. 2016 Supp. 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. 2016 Supp. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-1 *et seq.*) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

II. BACKGROUND

4. Dave's Recycling, Inc., of Plainville, Kansas (Respondent), is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108 that operates commercial motor vehicles in intrastate commerce.

5. Respondent is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT Number 1433867.

6. On July 25, 2017, the Commission issued an Order suspending Respondent's intrastate motor carrier operations, other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2016 Supp. 66-1,129, due to non-compliance with a Penalty Order issued in this docket on May 23, 2017. The Penalty Order also assessed Respondent a \$3,850 civil fine. The Commission's Penalty Order is incorporated herein by reference and made a part of this Order.

7. On July 18, 2017, the Federal Motor Carrier Association (FMCSA) placed Respondent out-of-service due to an unfit safety rating.

8. On August 8, 2017, Respondent submitted evidence to Transportation Staff (Staff) of bringing its motor carrier operation into compliance with Kansas motor carrier safety statutes, rules

and regulations pursuant to the above-referenced Penalty Order. Respondent paid the \$3850 civil assessment.

9. The FMCSA reinstated Dave's Recycling, Inc.'s motor carrier operations on October 30, 2017.

10. On November 2, 2017, Staff filed a Motion requesting the Commission to reinstate Respondent's intrastate motor carrier operations.

III. STAFF'S RECOMMENDATION

11. Based on Staff's Motion and Respondent's compliance, Staff recommended the Commission reinstate Respondent's Kansas motor carrier operations.

IV. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Respondent because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

13. Based on the available facts, the Commission finds that Staff's recommendation to reinstate Dave's Recycling, Inc.'s motor carrier operations is reasonable.

THE COMMISSION THEREFORE ORDERS THAT:

A. Dave's Recycling, Inc.'s ability to carry on motor carrier operations in the state of Kansas is hereby reinstated.

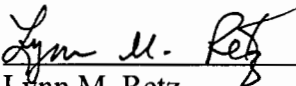
B. Dave's Recycling, Inc. remains obligated to attend a Commission-sponsored safety seminar within ninety (90) days, pursuant to paragraph (B) of the Penalty Order. Respondent must also provide Litigation Counsel with written proof of attendance.

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

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chair; Albrecht, Commissioner; Emler, Commissioner

Dated: NOV 07 2017



Lynn M. Retz
Secretary to the Commission

AAL

Order Mailed Date
NOV 08 2017

CERTIFICATE OF SERVICE

17-TRAM-500-PEN

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 NOV 07 2017.

ERIC PFEIFER, PRESIDENT
DAVE'S RECYCLING, INC.
2330 R ROAD
PLAINVILLE, KS 67663-9210
davesrecycling@yahoo.com

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
NOV 08 2017