

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 **Danny G.**)
Lambeth, d/b/a Truck Wholesale of)
Wellsville, Kansas, Pursuant to the Kansas)
Highway Patrol Issuance of a Notice of) Docket No. 20-GIMM-211-KHP
Violation(s) and Invoice for the Violations of)
the Kansas Motor Carrier Safety Statutes,)
Rules and Regulations.)

ORDER DESIGNATING PREHEARING OFFICER AND
SETTING PREHEARING CONFERENCE

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings and conclusions:

1. On September 20, 2019, the Commission issued a Notice of Violation(s) against Danny G. Lambeth d/b/a Truck Wholesale (Truck Wholesale), for alleged violations found during a September 13, 2019, routine minor carrier stop and inspection.¹ The Notice of Violation(s) informed Truck Wholesale it could submit a challenge to the Kansas Highway Patrol (KHP), and depending on the outcome of the KHP challenge, it had “the right to an administrative hearing with the Kansas Corporation Commission.”²
2. On October 15, 2019, Truck Wholesale challenged the Notice of Violations with the KHP.³
3. On November 3, 2019, Truck Wholesale requested a hearing.⁴

¹ Notice of Violation and Invoice, pg. 1 (Sept. 20, 2019). – filed in the docket on Nov. 5, 2019.

² *Id.* at ¶ 3.

³ Challenge Letter to KHP (Oct. 15, 2019). – filed in the docket on Nov. 5, 2019.

⁴ Request for Hearing (Nov. 3, 2019). – filed in the docket on Nov. 5, 2019.

4. On November 8, 2019, Commission Transportation Staff (Staff) filed a Motion to Set Prehearing Conference for the purpose of setting a procedural schedule and hearing date in this docket.⁵

5. Based on the foregoing, the Commission finds a Prehearing Officer should be designated in this proceeding to address any matters listed in K.S.A. 77-517(b), and a Prehearing Conference should be scheduled.

6. Although a Prehearing Officer is designated, parties are still required to file pleadings with the Commission, and filings shall be made with the Commission's Docket Room before 5:00 p.m. on the date scheduled for service. Any electronic service received after the deadline set forth in the procedural schedule, or any filing made after 5:00 p.m. on the date scheduled for services, shall be accompanied by a Motion to File Out-of-Time.

THEREFORE, THE COMMISSION ORDERS:

A. The Prehearing Officer in this proceeding shall be Phoenix Anshutz, Assistant General Counsel, Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4021, telephone number (785) 271-3198, email address p.anshutz@kcc.ks.gov. The Commission may designate other Staff members to serve in this capacity. **The Commission directs all filings in the docket to include service on the Prehearing Officer and mailed service of all filings to be directed to the Prehearing Officer's attention.**

B. A Prehearing Conference is scheduled for **Thursday, January 9, 2020, at 9:00 a.m.** by telephone. The conference call information is: telephone number (866) 620-7326, Conference PIN: 7632914771#.

⁵ Staff's Motion to Set Prehearing Conference (Nov. 8, 2019).

C. At the Prehearing Conference, parties shall be prepared to discuss deadlines for filing testimony and briefs, discovery procedures, scheduling of a hearing with the Commission, and any other issues that will promote the orderly and prompt resolution of this proceeding.

D. At the Prehearing Conference, without further notice, this proceeding may be converted into a conference hearing or a summary judgment proceeding for disposition of this matter as provided by the Kansas Administrative Procedure Act (KAPA). Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding may be held in default under the KAPA.⁶


E. The attorney designated to appear on behalf of the agency in this proceeding is Ahsan Latif, Litigation Counsel, telephone number (785) 271-3118, a.latif@kcc.ks.gov.

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

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 12/31/2019



Lynn M. Retz
Executive Director

PZA

⁶ K.S.A. 77-506; K.S.A. 77-516(c)(7)-(8).

CERTIFICATE OF SERVICE

20-GIMM-211-KHP

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 12/31/2019.

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/S/ DeeAnn Shupe

DeeAnn Shupe