

**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)
Royce Varela d/b/a Varela Trucking,)
of Garden City, Kansas, Regarding the)
Violation of the Motor Carrier Safety)
Statutes, Rules and Regulations and the) Docket No. 24-TRAM-587-PEN
Commission's Authority to Impose)
Penalties, Sanctions and/or the)
Revocation of Motor Carrier Authority.)

ORDER SUSPENDING INTRASTATE MOTOR CARRIER OPERATIONS

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

I. JURISDICTION AND BACKGROUND

1. Pursuant to K.S.A. 66-1,108b, 66-1,111, 66-1,112, and 66-1,114b, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 40 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f, 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. 66-1,129a, 66-1,130, and 66-1,142b, 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. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-3f) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

II. FINDINGS OF FACTS

4. Royce Varela d/b/a Varela Trucking of Garden City, Kansas (Carrier) is a motor carrier as defined in 49 C.F.R. 390.5 as adopted in K.A.R. 82-4-3f, that operates commercial motor vehicle(s) in intrastate commerce.

5. Carrier operates under USDOT Number 2379357.

7. Transportation Staff (Staff) Special Investigators Penny Fryback and Erica Pargas conducted a compliance review of the carrier on January 24, 2024. During the compliance review, Staff discovered a number of major violations, including:

- a. Carrier did not possess interstate insurance.
- b. Carrier was operating interstate with an intrastate only USDOT number.

Carrier had been cited for the same violation during an investigation conducted on February 10, 2021 and penalized in a Penalty Order issued in Docket No. 21-TRAM-336-PEN on March 9, 2021.
- c. Carrier was operating intrastate without KCC for-hire authority. Carrier had been cited for the same violation during an investigation conducted on February 10, 2021 and penalized in a Penalty Order issued in Docket No. 21-TRAM-336-PEN on March 9, 2021.

- d. Carrier failed to provide investigators with maintenance files.
- e. Carrier provided investigators with fraudulent documents.
- f. Carrier failed to provide investigators with records of duty status, supporting documents for the loads hauled, or annual inspections for the vehicles operated.
- g. Carrier failed to conduct a random test on a driver, resulting in the driver being deemed a prohibited driver in the Federal Drug and Alcohol Clearinghouse.
- h. Carrier used drivers that had not been qualified.
- i. Carrier was found to be operating CMVs that had been placed out-of-service without making proper repairs.

6. On February 26, 2024, Commission Staff filed a Motion to Suspend Intrastate Motor Carrier Operations, requesting that such an action be taken because Carrier's continued operations pose a danger to the motoring public. Staff requested Carrier's intrastate motor carrier operations remain suspended until it complies with the applicable motor carrier safety rules and regulations and submits a corrective action plan (CAP) that meets Staff's approval.

III. CONCLUSIONS OF LAW

7. The Commission finds it has jurisdiction over Carrier as the Carrier is a motor carrier as defined in 49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.

8. The Commission finds Carrier is operating in violation of the applicable motor carrier safety rules and regulations.

9. The Commission finds Carrier's noncompliance with the applicable motor carrier safety rules and regulations poses a potential immediate threat to the safety and welfare of the public of the state of Kansas. Further, Carrier's noncompliance is intentional and therefore this Commission orders the Carrier to suspend all intrastate motor carrier operations other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 66-1,129, until such time as the carrier takes the necessary steps to become compliant.

THE COMMISSION THEREFORE ORDERS THAT:

A. Royce Varela d/b/a Varela Trucking of Garden City, Kansas is to be immediately suspended from all intrastate commercial motor carrier operations other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 66-1,129, until such time as Carrier submits a Corrective Action Plan that meets Staff's approval and comes into compliance with the applicable motor carrier safety rules and regulations. This Suspension of Intrastate Motor Carrier Operations Order may also attach and apply to the operations of successor entities, including any motor carrier entity or entities established or used to avoid the consequences of any Order to cease operations or suspending operating authority.

B. **Pursuant to K.S.A. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Secretary, at 1500 S.W. Arrowhead Road Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order.** Failure to timely request a hearing will result in a waiver of

CERTIFICATE OF SERVICE

24-TRAM-587-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 and electronic service on 02/29/2024.

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