

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

Before Commissioners: Susan K. Duffy, Chair
Shari Feist Albrecht
Dwight D. Keen

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 Violation(s) and) Docket No. 20-GIMM-211-KHP
Invoice for the Violations of the Kansas Motor)
Carrier Safety Statutes, Rules and Regulations)

ORDER SETTING PROCEDURAL SCHEDULE

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 (Respondent), for alleged violations found during a September 13, 2019, routine motor carrier stop and inspection.¹ Respondent was assessed \$450 in civil fines, comprised of the following violations:

- a. \$150.00 fine for no or defective brake warning device, citing 393.51;
- b. \$150.00 fine for Tire-flat and/or audible air leak, citing 393.75A3; and
- c. \$150.00 fine for Inspection/repair and maintenance of parts & accessories, citing 396.3A1.²

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

² *Id.* at ¶ 3.

2. On October 15, 2019, Respondent challenged the Notice of Violations with the Kansas Highway Patrol (KHP).³

3. On October 22, 2019, the KHP denied Respondent's challenge and advised Respondent of the right to an administrative hearing before the Commission.

4. On November 3, 2019, Respondent requested a hearing.⁴

5. On December 31, 2019, the Commission issued its Order Designating Prehearing Officer and Setting Prehearing Conference, which set a Prehearing Conference for Thursday January 9, 2020, at 9:00 a.m.⁵ By agreement, the parties agreed to reschedule the Prehearing Conference for the following day, Friday January 10, 2020.

6. On January 10, 2020, the Prehearing Conference was held. At that conference, Commission Staff (Staff) and Respondent agreed that Staff would obtain dates from the Commission and then informally agree to a procedural schedule with Respondent.

7. On January 31, 2020, after conferring with Respondent regarding potential hearing dates, Staff submitted a Motion for Procedural Schedule wherein Staff proposed dates for key actions in this Docket.⁶ The Commission finds Staff's proposed Procedural Schedule to be reasonable. As such, the Commission adopts the following Procedural Schedule:

DATE	TIME	ACTION
Friday, March 20, 2020	5:00 p.m.	Staff's Pre-filed Testimony Due
Friday March 27, 2020	5:00 p.m.	Respondent's Pre-filed Testimony Due
Friday April 2, 2020	5:00 p.m.	Rebuttal Testimony Due

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.

⁵ Order Designating Prehearing Officer and Setting Prehearing Conference (Dec. 31, 2019).

⁶ Staff's Motion for Procedural Schedule (Jan. 31, 2020).

DATE	TIME	ACTION
Wednesday, April 15, 2020	10:00 a.m. – 11:00 a.m.	Evidentiary Hearing KCC Offices, 1 st Floor Hearing Room
Friday, May 15, 2020		Commission Order Due

8. The Commission notes the subject matter of this docket is limited only to the September 13, 2019, routine motor carrier stop and inspection and the violations resulting from that stop and inspection. The Commission expects the parties to limit their testimony and arguments only to that subject matter described above.

9. Failure to submit pre-filed testimony may result in the Commission restricting the right to testify and present evidence at the evidentiary hearing. At hearing, the Commission may limit the parties' direct and rebuttal testimony to the pre-filed testimony.

10. Any settlement agreement the parties wish to present for Commission consideration shall be due by April 3, 2020.

11. Any party who fails to attend or participate in the evidentiary hearing or in any other stage of this proceeding may be held in default under the Kansas Administrative Procedure Act.⁷

THEREFORE, THE COMMISSION ORDERS:

- A. The procedural schedule in paragraph 7 above is adopted.
- B. This Order will be served by electronic mail, with a note that no hard copy of this Order will follow. This Order is a procedural order and constitutes non-final agency action.⁸

⁷ K.S.A. 77-518(c)(8); K.S.A. 77-520.

⁸ K.S.A. 77-607(b)(2).

C. Parties have 15 days from the dates of electronic service of this Order in which to petition the Commission for reconsideration.⁹

D. The Commission retains jurisdiction over the subject matter and parties to enter further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 02/06/2020.



Lynn M. Retz
Executive Director

PZA

⁹ K.S.A. 66-1118b; K.S.A. 77-529(a)(1).

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 02/02/2020.

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/S/ DeeAnn Shupe

DeeAnn Shupe