

Received  
on

MAY 21 2012

by  
State Corporation Commission  
of Kansas

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

In the Matter of the Investigation of **EEI, LLC** )  
**of Hotchkiss, Colorado**, Pursuant to the )  
Kansas Highway Patrol Issuance of a Notice of ) Docket No. 12-GIMM-012-KHP  
Violation for Violations of the Kansas Motor )  
Carrier Safety Statutes, Rules and Regulations. )

**STAFF'S MOTION TO DISMISS**

The Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) presents the above-captioned matter to the Commission for dismissal of the enforcement action, with prejudice, against EEI, LLC of Hotchkiss, Colorado. In support of its Motion, Staff states as follows:

1. On May 4, 2011, the Kansas Highway Patrol issued a Notice of Violation against EEI, LLC (Respondent) for alleged violations found during an April 27, 2011, routine motor carrier stop and inspection conducted by the Kansas Highway Patrol.
2. On July 11, 2011, Respondent's counsel, Jason P. Hoffman of Hoffman & Hoffman, filed a Request for Hearing on behalf of Respondent.
3. On July 12, 2011, Commission Staff (Staff) issued a Notice of Hearing which set the matter for hearing by the Commission on August 11, 2011, at 11:30 a.m., and established deadlines for prefiled testimony.
4. On July 27, 2011, Staff filed a Motion to Continue and on August 3, 2011, the Commission entered an order continuing the hearing to October 13, 2011.
5. On September 15, 2011, Staff filed a Second Motion to Continue and on September 22, 2011, the Commission entered an order continuing the hearing to February 2012.

6. On December 30, 2011, Staff filed a Third Motion to Continue and on January 6, 2012, the Commission entered an order continuing the hearing to April 12, 2012.

7. On March 21, 2012, Staff filed a Motion for Stay stating additional time is necessary to allow the criminal case against Respondent sufficient time to be decided. (District Court of Wabaunsee County, Kansas, Case No. 2011 CR 103.)

8. On May 11, 2012, Staff filed a Motion to Lift Stay stating that the criminal case has been concluded and recommended to the Commission that the stay in this docket be lifted for further proceedings.

9. On May 18, 2012, the Commission issued an order lifting the stay.

10. After further review of this matter, Staff recommends that the above enforcement action be dismissed with prejudice as Staff believes it has insufficient evidence to proceed at this time.

11. Staff further recommends that the above-referenced docket be closed.

WHEREFORE, for the reasons set forth above, Staff respectfully requests the Commission find that the above enforcement action against Respondent be dismissed with prejudice and that the docket be closed.

Respectfully submitted,




Amber Smith, S.Ct. #23911  
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For Commission Staff

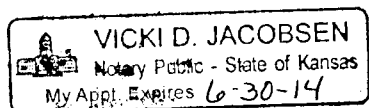
**VERIFICATION**

STATE OF KANSAS                    )  
  ) ss.  
COUNTY OF SHAWNEE            )

Amber Smith, of lawful age, being duly sworn upon her oath deposes and states that she is Assistant Litigation Counsel for the State Corporation Commission of the State of Kansas; that she has read and is familiar with the foregoing *Staff's Motion to Dismiss* and attests that the statements therein are true to the best of her knowledge, information and belief.

  
\_\_\_\_\_  
Amber Smith, S. Ct. 23911  
Litigation Counsel  
The State Corporation Commission  
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 14<sup>th</sup> day of May, 2012.



  
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Notary Public

My Appointment Expires: June 30, 2014


**CERTIFICATE OF SERVICE**

12-GIMM-012-KHP

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Staff's Motion to Dismiss was placed in the United States mail, postage prepaid, or hand-delivered this 22nd day of May, 2012, to the following:

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\*\*\*Hand Delivered\*\*\*

  
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Vicki Jacobsen