

**NOTICE OF PENALTY ASSESSMENT
24-TRAM-817-UCR**

June 13, 2024
Don Kotapish
2517 8th Rd
Blue Rapids, KS 66411

This is a notice of a penalty assessment against Don Kotapish (Carrier) for violation of the Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered by Kansas Corporation Commission Transportation Staff. Penalty amounts are assessed in accordance with the Commission-approved Uniform Penalty Assessment Matrix. For a full description of the penalty and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: Carrier has been assessed a \$300 penalty for failure to pay Unified Carrier Registration (UCR) fees. If you have questions regarding UCR fees please contact the Transportation Division at 785-271-3145. You have thirty (30) days from the date of service of this Penalty Order to pay the penalty. Please remit payment of \$300 through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Network (KTRAN) located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a Personal Identification Number (PIN) for use with your KTRAN account, please contact the Division at 785-271-3145. You must have an account through KTRAN to pay the penalty.

Additionally, if your 2024 UCR fees are still outstanding, those fees must be paid within thirty (30) days from the date of service of this Penalty Order to avoid additional penalties being assessed. 2024 UCR fees may be paid through the UCR website at www.ucr.gov.

IF YOU CONTEST THE PENALTY ORDER: You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Carrier must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and must mail a service copy of the request to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$300 within thirty (30) days from the date of service of the Penalty Order, or failure to comply with the terms of the Order or, in the alternative, failure to provide a timely written request for a hearing, will result in the attached Penalty Order becoming final and may result in additional sanctions including suspension and/or revocation of your motor carrier operating authority.

Respectfully,

/s/ Ahsan A. Latif
Litigation Counsel
(785) 271-3118

**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 **Don**)
Kotapish, of Blue Rapids, Kansas, Regarding)
the Violation(s) of the Motor Carrier Safety)
Statutes, Rules and Regulations and the) Docket No. 24-TRAM-817-UCR
Commission’s Authority to Impose Penalties,)
Sanctions and/or the Revocation of Motor Carrier)
Authority.)

PENALTY ORDER

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

I. JURISDICTION

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 49 C.F.R. Part 390.5 and 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 49 U.S.C. § 14504a, the Unified Carrier Registration (UCR) Act is a federally mandated commercial motor vehicle registration program administered by individual States for motor carriers self-designating their operations as interstate commerce. Kansas administers the UCR Act pursuant to K.S.A. 66-1,139 which requires motor carriers to “register their motor vehicles in their base state pursuant to federal statutes.” 49 U.S.C. § 14504a(i)(4) expressly authorizes States the ability to issue citations and impose reasonable fines and penalties “pursuant to the applicable laws and regulations of the State on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to ...pay the fees required.”

4. UCR fees are set annually by the Federal Motor Carrier Safety Administration (FMCSA). The Commission enforces this registration requirement as outlined in the Uniform Penalty Assessment Matrix (Penalty Matrix), reviewed each year by July 1 and subsequently approved by the Commission. The Penalty Matrix establishes the structure of penalties for failure to pay the required UCR fees.

II. FINDINGS OF FACT

5. On June 6, 2024, Staff submitted a Report and Recommendation (R&R), attached hereto as Attachment “A” and is hereby incorporated by reference, recommending a penalty of \$300 to be issued to Don Kotapish’s (Carrier’s). As stated in the R&R, Staff has identified one (1) violation, accounting for one (1) count, of the Motor Carrier Safety Regulations (MCSRs), which carry a penalty according to the FY2024 Uniform Penalty Assessment Matrix¹ for the Carrier’s failure to pay its 2024 UCR fees.

6. Additionally, Staff recommends that the Carrier be required to pay its outstanding UCR fees for 2024 through the UCR website at www.ucr.gov.

¹ Order Designating Guidance Document and Approving Staff’s Use of the Transportation Division’s Uniform Penalty Assessment Table, pp. 11 – 26 (Jun. 29, 2023) (“Penalty Matrix”).

7. As noted in the R&R, Carrier has operating authority under United States Department of Transportation (USDOT) number 784705. According to Carrier's USDOT profile,² it designates itself as an interstate carrier, with its base State as Kansas. Carrier owns 2 self-propelled vehicle(s) that meet the definition of the type of vehicle for which Carrier is required to pay annual UCR fees.³

8. According to Staff's R&R, multiple attempts were made to contact Carrier regarding its 2024 UCR fees.⁴ To date, Commission records indicate that the Carrier has not paid its 2024 UCR fees.

9. Based on Carrier's failure to register its commercial motor vehicle(s) for registration year 2024 and pay the appropriate UCR fees as established in 49 C.F.R. 367, there is sufficient evidence to demonstrate that the Carrier is in violation of K.S.A. 66-1,139 in conjunction with K.A.R. 82-4-30a, and that a fine in the amount of \$300 is warranted. Additionally, Carrier is still obligated to pay its 2024 UCR fees through the UCR website at www.ucr.gov.

III. CONCLUSIONS OF LAW

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

11. The Commission finds Carrier committed one violation of K.S.A. 66-1,139 for failure to pay the 2024 UCR fees outlined in 49 C.F.R. Part 367.

² See Exhibit 1 of Staff's R&R.

³ 49 U.S.C. § 14504a requires UCR fees be paid for all commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder.

⁴ See Staff's R&R, p. 1 (Jun. 6, 2024).

THE COMMISSION THEREFORE ORDERS THAT:

A. Don Kotapish of Blue Rapids, Kansas is hereby assessed a \$300 civil penalty for one violation of K.S.A. 66-1,139 for failure to pay the 2024 UCR fees outlined in 49 C.F.R. Part 367.

B. Don Kotapish shall pay its outstanding 2024 UCR fees through the UCR website at www.ucr.gov.

C. Pursuant to K.S.A. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Carrier's right to a hearing, and this Penalty Order will become a Final Order.

D. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest.⁵ For civil penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation.⁶

⁵ . K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

⁶ K.S.A. 66-1,142b(e) and amendments thereto.

E. If you do not request a hearing, the payment of the civil penalty of \$300 as well as payment of the 2024 UCR fees is due in thirty (30) days from the date of service of this Order. Payment of \$300 must be made through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have a KTRAN account to pay the penalty through KTRAN. Payment of the 2024 UCR fees may be made through the UCR website at www.ucr.gov.

F. Failure to pay the \$300 civil penalty and the outstanding 2024 UCR fees within thirty (30) days from the date of service of this Penalty Order,⁷ may result in suspension of Carrier's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not be limited to, additional monetary sanctions, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 06/13/2024



Lynn M. Retz
Executive Director

AAL

⁷ See K.S.A. 66-1,105.

ATTACHMENT “A”

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

Laura Kelly, Governor

REPORT AND RECOMMENDATION TRANSPORTATION DIVISION

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Mike Hoeme, Director of Transportation

DATE: June 6, 2024

SUBJECT: Docket No. 24-TRAM-817-UCR, Don Kotapish
Motor Carrier Penalty Order for Failure to Pay 2024 UCR Fees

EXECUTIVE SUMMARY:

Don Kotapish (Carrier) is a carrier that has self-declared to be an interstate motor carrier (MC) on its USDOT profile. Interstate motor carriers are required to pay annual Unified Carrier Registration (UCR) fees. Staff has attempted, without success, to contact Carrier regarding its 2024 UCR fees. The first attempt was on March 7, 2024 when a notice was sent to the MC regarding the unregistered 2024 UCR fees. An additional letter dated April 3, 2024, was sent by Litigation Counsel for Staff. Also, the National Registration System (NRS), which is maintained by the UCR Board, sent solicitation notices every 15 days beginning February 18, 2024 to any unregistered MC. To date, the MC's UCR record lists its fees for 2024 as unregistered. Staff recommends the MC be assessed a penalty for failure to complete its federal registration as required by K.S.A. 66-1,139, as outlined in the applicable Uniform Penalty Assessment Matrix. Additionally Staff recommends the MC be required to pay the unregistered 2024 UCR fees.

BACKGROUND:

Don Kotapish operates under USDOT number **784705**, domiciled in Kansas at **2517 8th Rd, Blue Rapids**, Kansas. Staff has been tasked with ensuring Kansas MCs conducting interstate operations have properly paid their UCR fees for the calendar year 2024. Based on Staff's review of the MC's USDOT profile, **Don Kotapish** is self-declared to be conducting interstate operations. On its most recent USDOT Profile update, the MC lists **2** vehicle(s). However, its UCR fees for 2024 remain unregistered. A copy of the MC's most recent USDOT Profile update is attached hereto as Exhibit 1.

An initial letter was sent to the MC by Staff on March 7, 2024 informing the MC of its responsibility to register with UCR. A copy of the initial letter is attached hereto as Exhibit 2. Another letter dated April 3, 2024, was sent by Litigation Counsel for Staff also reminding the MC that its 2024 UCR fees were outstanding, and warning that nonpayment would result in the issuance of a penalty order. A copy of this letter is attached hereto as Exhibit 3.

Therefore, Staff recommends MC be assessed a civil penalty for failure to pay 2024 UCR fees as required. This is a violation of K.S.A. 66-1,139 for failure to “register their motor vehicles in their base state pursuant to federal statutes,” namely 49 USC 14504a. Additionally, Staff requests the Commission require the MC to pay its UCR fees for 2024 through the UCR website at www.ucr.gov.

DISCUSSION AND ANALYSIS:

K.S.A. 66-1,139 requires “all interstate regulated public motor carriers of property, of household goods, or of passengers who operate a motor vehicle in Kansas shall register their motor vehicles in their base state pursuant to federal statutes” unless otherwise exempted. The UCR Act, pursuant to 49 USC 14504a, establishes the registration requirements for motor carriers operating in interstate commerce.

The UCR Act is a federally mandated CMV registration program administered by individual states for MCs self-designating their operations as interstate or are discovered to be operating in interstate commerce through roadside inspections or an accident. UCR funds are used by states for administration of the UCR program and enforcement of MC safety programs.

UCR fees are collected from all MCs or other entities required to obtain an Interstate USDOT number and/or is required to register with the Federal Motor Carrier Safety Administration (FMCSA). There are six fee categories and the registration fees are based on the number of commercial motor vehicles operated in interstate commerce.

Kansas based MCs can register UCR by logging into the NRS portal at www.ucr.gov and paying the UCR fees.

For the purposes of determining UCR fees, a CMV is defined as: a self-propelled vehicle used on the highways in commerce principally to transport passengers or cargo (as defined in the UCR handbook), if the vehicle:

- (1) Has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater, or when connected to trailing equipment has a gross combination weight rating or gross combination weight of at least 10,001 pounds, whichever is greater, or
- (2) Carries placarded amounts of hazardous materials, regardless of the vehicle’s weight, or
- (3) Is designed to carry more than 10 passengers, including the driver.

The operation of certain non-CMV vehicles still qualify the MC for UCR fees, but at the lowest UCR fee bracket. For example, for lightweight passenger vehicles that do not meet the above

definition of CMV (1 less than 10 passengers including the driver), the fleet size for the UCR purposes would be zero and the carrier would register and pay the lowest fee bracket.

In 2023, the UCR fee schedule was established in 49 C.F.R. 367.40 as follows:

TABLE 1 TO § 367.40 - FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEAR 2024 AND EACH SUBSEQUENT REGISTRATION YEAR THEREAFTER

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0-2	\$37	\$37
B2	3-5	\$111	
B3	6-20	\$221	
B4	21-100	\$769	
B5	101-1,000	\$3,670	
B6	1,001 and above	\$35,836	

The UCR Agreement applies to the following types of interstate operations of passenger and property:

- (1) Motor carrier;
- (2) Motor private carrier of property;
- (3) Freight forwarder;
- (4) Broker;
- (5) Leasing company; and
- (6) CMV registered with IRP plates cannot be excluded from the UCR vehicle count.

UCR Exempt Operations include:

- (1) Wholly intrastate CMV; and
- (2) Private Motor Carriers of Passengers.

If a carrier designates itself as an interstate carrier on its USDOT profile and fails to pay UCR fees by the January 1 enforcement date, the MC is in violation of the UCR Agreement as enforced by the state of Kansas and subject to the appropriate fine based on the number of vehicles that should have been registered. Here, the MC designated itself as an interstate carrier, with two (2) vehicle(s) operating in interstate commerce.

Each year, the Commission approves a Uniform Penalty Assessment Matrix, which establishes the fee schedule used by Staff for penalties. With regard to violations of K.S.A. 66-1,139 for failure to pay the fees outlined in 49 CFR 367, the matrix establishes the following fee schedule for standard violations:

Regulation / Statute	Standard				
49 C.F.R. § 367	0– 5 Vehicles	6 – 20 Vehicles	21-100 Vehicles	101-1000 Vehicles	1000+ Vehicles
	\$300.00	\$500.00	\$700.00	\$900.00	\$1,000.00

RECOMMENDATION:

Transportation Staff recommends a penalty of \$300 be assessed against Don Kotapish in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix. This penalty is based on the MC’s USDOT profile, which lists the MC as an interstate MC. As discussed above, numerous attempts were made to contact the MC and notify the MC of its obligation to pay the UCR fee. To date the 2024 UCR fee remains unpaid. This is a violation K.S.A. 66-1,139 for failure to comply with the UCR Act, 49 U.S.C. 14504a, by not paying the applicable UCR fees outlined in 49 C.F.R. 367.

Additionally, Staff requests the Commission require the MC to pay its outstanding UCR fees for 2024 through the UCR website at www.ucr.gov.

Transportation Division
1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3145
Fax: 785-271-3124
<http://kcc.ks.gov/>

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

Laura Kelly, Governor

MARCH 7, 2024

USDOT 784705
DON KOTAPISH
2517 8TH ROAD
BLUE RAPIDS, KS 66411

Re: U4 - Non-payment of Unified Carrier Registration (UCR) 2024 Final Notification

Dear DON KOTAPISH,

Records indicate DON KOTAPISH's Unified Carrier Registration (UCR) fees for 2024 have not been paid. The UCR fee is required per Federal and State Regulations for Carriers that operate in interstate commerce. Based on your USDOT profile, you are listed as an active Interstate motor carrier.

Operating a commercial motor vehicle after declaring interstate commerce on your MCSA-1 form and prior to paying UCR fees is in violation of 49 C.F.R. 367 and K.A.R. 82-4-30a, failure to comply will result in a Penalty Order and fine assessed against DON KOTAPISH in the amount of \$300.00. Motor carriers operating commercial vehicles with IRP registration are required to include all IRP registered commercial motor vehicles in their UCR count.

UCR can ONLY be paid at www.ucr.gov . Any website help with UCR needs to be addressed with the UCR Help Desk at 1-833-827-7526 or helpdesk@ucr.gov .

If you are no longer an active motor carrier, please sign-in to the Federal Motor Carrier Safety Administration (FMCSA) Unified Registration System (URS) at: <https://www.fmcsa.dot.gov/registration/unified-registration-system> and update your MCSA-1 form to an inactive motor carrier. Examples of an inactive motor carrier are; "out of business", "in business but no longer own or use a commercial motor vehicle", etc.

As a service to Kansas carriers and carriers traveling through Kansas, information is provided on the KCC website at www.kcc.ks.gov. By clicking on motor carriers from the list on the left side of the page, several links will be available for reference at any time questions may arise.

For general questions please contact the KCC using the messaging feature in KTRAN or send an email to transportation@kcc.ks.gov.

Kansas Corporation Commission
1500 SW Arrowhead Rd
Topeka, KS 66604
785-271-3145

1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

Laura Kelly, Governor

April 3, 2024

Don Kotapish
2517 8Th Road
Blue Rapids, KS 66411

Re: Unregistered 2024 Unified Carrier Registration (UCR) – USDOT NO. 784705

Dear Motor Carrier Representative:

I am an attorney with the Kansas Corporation Commission (KCC) writing to you regarding your unpaid 2023 Unified Carrier Registration (UCR) fees. The KCC is given full power, authority and jurisdiction to supervise and control motor carriers - as defined in the Kansas statutes - doing business or procuring business in Kansas, and may do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

Our records indicate your UCR fees for 2024 have not been paid. Payment of these fees is required by Federal and State Regulations for Carriers that transport in commerce between two states (interstate commerce). Farms, ranches, custom harvesters, tow trucks, construction and passenger carriers are **not** exempt from this requirement. Possession of an active USDOT number necessitates your compliance with these regulations. Based on your USDOT profile, you are listed as an active, interstate carrier. Operating a commercial motor vehicle in interstate commerce prior to paying UCR fees is a violation of 49 C.F.R. 367 and K.A.R. 82-4-30a. Additionally, payment of unpaid 2024 UCR fees is also required. **Nonpayment of UCR fees within ten days of the date of this letter will result in Civil Assessments and a Commission-issued Penalty Order, with a penalty of \$300 for each instance of non-compliance.**

Our Staff has made attempts to notify you regarding your unpaid UCR fees. Deliberate avoidance of registering your applicable vehicles for UCR is a violation of the above-stated law and authority.

You can pay your UCR fees for 2024 at <https://www.ucr.gov>.

If you are no longer an active carrier, a written notice must be provided indicating your desire for the inactivation of your USDOT number and the reason for the inactivation request. Please mail your notification along with your USDOT# and company name to Kansas Corporation Commission, Division of Transportation, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027 or send by email to transportation@kcc.ks.gov.

Thank you for your cooperation. If you have any further questions, you may contact the Transportation Division at the Kansas Corporation Commission at 785-271-3145 or at transportation@kcc.ks.gov.

Sincerely,
/s/ Ahsan A. Latif
Ahsan A. Latif
Litigation Counsel

CERTIFICATE OF SERVICE

24-TRAM-817-UCR

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 06/13/2024.

Don Kotapish, OWNER
Don Kotapish
2517 8th Road
Blue Rapids, KS 66411

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
a.latif@kcc.ks.gov

/S/ KCC Docket Room
KCC Docket Room