

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Investigation of **Jorge**)
Ortiz-Leyva, d/b/a J D Express of Garden)
City, Kansas, Regarding the Violation of the)
Motor Carrier Safety Statutes, Rules and) Docket No. 18-TRAM-419-PEN
Regulations and the Commission's Authority)
to Impose Penalties, Sanctions and/or the)
Revocation of Motor Carrier Authority.)

ORDER AMENDING PENALTY ASSESSMENT

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

BACKGROUND

1. On April 10, 2018, this Commission issued a Penalty Order to Jorge Ortiz-Leyva, d/b/a J D Express (hereinafter J D Express), assessing it a civil penalty of \$1,000. The penalty was for one (1) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations.

2. J D Express was advised that it was a New Entrant motor carrier being reviewed for the first time, and may be eligible for a reduced penalty of fifty-percent (50%), as long as it complies with the terms and obligations described in the Notice of Penalty Assessment, the Reduced Penalty Agreement and as set out below.

3. On May 10, 2018, Staff filed a Motion for Order Amending Penalty Assessment, recommending the Commission assess J D Express a fifty-percent (50%) reduced penalty of \$500, and set out specific terms and obligations for J D Express's compliance.

4. Staff states that on April 25, 2018, J D Express timely submitted the signed Reduced Penalty Agreement. A copy of the Reduced Penalty Agreement was attached to Staff's Motion. The carrier further submitted a Corrective Action Plan (CAP), which has been approved by Transportation Staff.

FINDINGS OF FACT

5. The Penalty Order issued on April 10, 2018, assessed J D Express a civil penalty of \$1,000 for one (1) violation(s) of the motor carrier safety statutes, rules and regulations.

6. Staff recommended in its Motion that due to J D Express's agreement to comply with the terms and obligations for a fifty-percent (50%) reduced penalty and approval of its CAP, an Order Amending Penalty Assessment is recommended to be issued by the Commission assessing J D Express a reduced penalty of \$500, and setting out the terms and obligations as stated in its motion.

7. K.S.A. 66-1,142c authorizes the Commission to determine the amount of civil penalty and states in pertinent part:

“Any civil penalty may be compromised by the state corporation commission. In determining the amount of the penalty or the amount agreed in compromise, the appropriateness of the penalty to the size of the business, the gravity of the violation and the good faith of the person charged in attempting to achieve compliance, shall be considered.”

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The civil penalty of \$1,000 assessed to Jorge Ortiz-Leyva, d/b/a J D Express in the Penalty Order dated April 10, 2018, is hereby amended to \$500.

(B) This Order Amending Penalty Assessment was mailed on May 15, 2018, via certified mail, return receipt requested, Certified Receipt No. 70161970000105743472. Service is complete upon the date the carrier signs the Domestic Return Receipt.

(C) Payment of \$500 is due within thirty (30) days from the date of service of this Order Amending Penalty Assessment. Payment 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 an account through KTRAN to pay the penalty owed.

(D) J D Express is ordered to, within thirty (30) days from the date of the Penalty Order dated April 10, 2018, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and submit proof of attendance to Litigation Counsel.

(E) J D Express must submit to a follow-up compliance review within eighteen (18) months from the date of the Penalty Order. Transportation Staff will contact J D Express to schedule the review.

(F) If J D Express fails to pay the reduced fine of \$500 and/or fails to comply with the terms and conditions ordered above, the Commission may order J D Express additional sanctions, including enforcement of an out-of-service order, revoking its authority or any further sanctions as the Commission deems necessary.

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 05/15/2018



Lynn M. Retz
Secretary to the Commission

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CERTIFICATE OF SERVICE

18-TRAM-419-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on 05/16/2018.

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/S/ DeeAnn Shupe
DeeAnn Shupe