

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

In the Matter of the Investigation of **Danny G.)
Lambeth, d/b/a Truck Wholesale of Wellsville,)
Kansas,** Pursuant to the Kansas Highway Patrol) Docket No. 20-GIMM-211-KHP
Issuance of a Notice of Violation(s) and Invoice for the)
Violations of the Kansas Motor Carrier Safety Statutes,)
Rules and Regulations.)

**STAFF'S MOTION TO WAIVE CIVIL FINES, DISMISS REQUEST FOR HEARING
AND CLOSE DOCKET**

The Staff of the State Corporation Commission of the State of Kansas (“Staff” and “Commission,” respectively), by and through its counsel, Ahsan A. Latif, hereby files its Motion to Waive Civil Fines, Dismiss Request for Hearing and Close Docket (Motion). In support, Staff states as follows:

1. On September 20, 2019, the Kansas Highway Patrol (KHP) issued a Notice of Violation(s) against Danny G. Lambeth d/b/a Truck Wholesale (Mr. Lambeth), for alleged violations found during a September 13, 2019 routine motor carrier stop and inspection, Driver/Vehicle Inspection Report No. KSHP04200689. Lambeth was assessed \$450 in civil fines, comprised of the following violations: \$150.00 for No or defective brake warning device, citing 393.51; a \$150.00 for Tire-flat and/or audible air leak, citing 393.75A3; and \$150.00 for Inspection/repair and maintenance of parts & accessories, citing 396.3A1.
2. On October 15, 2019, Mr. Lambeth initiated a formal challenge with the KHP.
3. On October 22, 2019, the KHP denied Mr. Lambeth’s challenge and advised Mr. Lambeth of his right to an administrative hearing before the Commission.

4. In a letter hand delivered on November 3, 2019, Mr. Lambeth requested a hearing before the Commission.

5. On February 6, 2020, the Commission issued an Order Setting Procedural Schedule which set a hearing in this matter for April 15, 2020.

6. On March 12, 2020, Governor Laura Kelly issued an emergency declaration for the State of Kansas in response to COVID-19.

7. March 19, 2020, the Commission, via emergency proceedings pursuant to K.S.A. 77-536(b), generally stayed all open dockets and suspended all deadlines in all Commission dockets.¹ On April 9, 2020, the Commission modified its March 19, 2020 emergency order, extending all deadlines by 30 days.² On April 14, 2020, the Commission clarified its modification, stating that all filing and regulatory deadlines in place on March 23, 2020, would be extended an additional 30 days from the lifting of stay-at-home restrictions, or until the Commission directed otherwise.³

8. On June 15, 2021, the Governor rescinded executive orders related to the state Kansas' emergency response to the COVID-19 pandemic. Subsequently, the Commission reopened its offices to the public.

9. On June 28, 2021, Staff filed its Motion for Procedural Schedule, requesting a September 14, 2021 evidentiary hearing in this matter.

10. On July 23, 2021, Staff filed its Withdrawal of Staff's Motion for Procedural Schedule, in light of ongoing health issues being experienced by Mr. Lambeth.

¹See Emergency Order Staying All Dockets (Mar. 19, 2020) (issued in this docket).

²See Amended Emergency Order Staying All Docket (Apr. 9, 2020).

³See Order Clarifying Amended Emergency Order Staying All Dockets (Apr. 14, 2020).

11. On March 14, 2022, the Office of General Counsel (OGC) contacted the parties inquiring about a potential date for a hearing as the Commission had begun scheduling in-person hearings again.

12. As a result of the inquiry from OGC, Staff conducted internal discussions regarding this docket. A review of motor carrier data bases showed that, due to the passage of time, the September 13, 2019 inspection no longer appears on Mr. Lambeth's motor vehicle record. Typically, inspections drop off a motor carrier's profile after a period of two years. Because it has been more than two years since the time of the September 2019 KHP inspection, Mr. Lambeth's profile no longer reflects the referenced inspection.

13. Additionally, in Docket No. 17-GIMM-408-KHP (17-408 Docket), the Commission issued its *Order Affirming Suspension of Intrastate Motor Carrier Operations* on February 6, 2020. In that Order, the Commission affirmed that Mr. Lambeth's motor carrier operations within the state of Kansas will be suspended until such time as he pays \$550 in fines related to a January 3, 2017 inspection. To date this \$550 in fines remains unpaid, and Mr. Lambeth's motor carrier operations remain suspended.

14. In light of the fact that Mr. Lambeth's motor carrier authority is already and continues to be suspended, and because the inspection Mr. Lambeth has challenged in this docket has already dropped off of his motor vehicle record due to the passage of time, Staff requests the Commission waive the \$450 in fines related to the September 13, 2020 inspection. Mr. Lambeth's motor carrier operations within the state of Kansas should remain suspended until the outstanding \$550 in fines is paid pursuant to the Commission's February 6, 2022, Order in the 17-408 Docket.

15. Staff further requests that Mr. Lambeth's hearing request in this docket be dismissed and this docket be closed with prejudice.

WHEREFORE, Staff respectfully requests the Commission issue an order waiving the \$450 in fines, dismissing Mr. Lambeth's request for hearing and closing this docket.

Respectfully submitted,

/s/ Ahsan Latif

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CERTIFICATE OF SERVICE

20-GIMM-211-KHP

I, the undersigned, certify that a true and correct copy of the above and foregoing motion was placed in the United States mail, postage prepaid, and electronically delivered this 31st day of March, 2022, to the following:

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* Denotes those receiving the Confidential version