

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

Before the Commissioners: Dwight D. Keen, Chair
 Susan K. Duffy
 Andrew J. French

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.)

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

This matter comes before the State Corporation Commission of the State of Kansas (“Commission”). Having examined its pleadings and records, the Commission finds and concludes 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 (“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, \$150.00 for tire-flat and/or audible air leak, and \$150.00 for Inspection/repair and maintenance of parts & accessories.¹

2. On October 15, 2019, Lambeth mailed KHP a letter challenging the invoice received for the civil fines.²

¹ See, Notice and Invoice (November 5, 2019). Documents in this file that were created before November 8, 2019 were filed by Commission Litigation Counsel Ahsan Latif on November 5, 2019.

² See, KHP Challenge Letter (November 5, 2019).

3. On October 22, 2019, KHP denied Lambeth's challenge and advised him of his right to an administrative hearing with the Commission.³

4. On November 3, 2019, Lambeth requested a hearing before the Commission.⁴

5. On February 6, 2020, the Commission issued an Order Setting Procedural Schedule which set a hearing in this matter for April 15, 2020.⁵

6. On March 19, 2020, in response to Governor Laura Kelly's Emergency Declaration, the Commission issued an Emergency Order Staying all Dockets which stayed all open dockets and suspended all statutory deadlines in open dockets.⁶

7. On June 28, 2021, Commission Staff ("Staff") filed a Motion for Procedural Schedule requesting a hearing set for September 14, 2021.⁷

8. On July 23, 2021, Staff withdrew its motion for a procedural schedule due to Lambeth's ongoing health issues.⁸ Staff stated its intent to proceed in the future when Lambeth's health improved.⁹

9. On March 31, 2022, Staff filed a Motion to Waive Civil Fines, Dismiss Request for Hearing and Close Docket. Staff states that, due to the passage of time, the September 13, 2019 inspection no longer appears on Mr. Lambeth's motor vehicle record.¹⁰ Additionally, Staff pointed out that in Docket No. 17-GIMM-408-KHP ("17-408") the Commission suspended all of Mr. Lambeth's commercial motor carrier operations within the Commission's jurisdiction until such time as he paid a civil fine of \$550 and brought his motor carrier operation into compliance with

³ See, KHP Denial Letter (November 5, 2019).

⁴ See, Request for Hearing (November 5, 2019).

⁵ Order Setting Procedural Schedule (February 6, 2020).

⁶ See, Emergency Order Staying all Dockets in Docket No. 20-GIMX-393-MIS (March 19, 2020).

⁷ Staff's Motion for Procedural Schedule, pg. 3 (June 28, 2021).

⁸ Withdrawal of Staff's Motion for Procedural Schedule, pg. 1 (July 23, 2021).

⁹ *Id.*

¹⁰ Inspections "drop off" a motor carrier's profile after a period of two years. Staff's Motion to Waive Civil Fines, Dismiss Request for Hearing and Close Docket, pg. 3 (March 31, 2022).

motor carrier safety statutes, rules and regulations.¹¹ Lambeth has not complied with the Commission's Orders in the 17-408 Docket, therefore his operations continue to be suspended.¹²

10. Staff has determined that under this unique set of circumstances, the Commission should waive Lambeth's fine and dismiss this matter with prejudice.

11. Mr. Lambeth did not respond to Staff's motion.

12. The Commission agrees with Staff's assessment. Mr. Lambeth's operations are already suspended. However, the Commission would also caution Mr. Lambeth and other motor carriers that this result flows from a unique confluence of circumstances that were largely out of the parties' control. Mr. Lambeth and other carriers should not expect the same outcome under similar circumstances in the future.

THEREFORE, THE COMMISSION ORDERS:

A. Staff's Motion to waive civil fines, dismiss request for hearing and close docket is granted.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).¹³

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 07/14/2022



Lynn M. Retz
Executive Director

DGC

¹¹ See, Order Suspending Motor Carrier Operations in Kansas, pg. 4 (October 24, 2019), See also, Order Affirming Suspension of Intrastate Motor Carrier Operations, pg. 10 (February 6, 2020).

¹² Docket No. 17-GIMM-408-KHP, Order Affirming Suspension of Intrastate Motor Carrier Operations, pg. 10 (February 6, 2020).

¹³ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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 07/14/2022.

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/S/ DeeAnn Shupe

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