

1500 SW Arrowhead Road
Topeka, KS 66604-4027



20230627105843
Kansas Corporation
Commission
Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

**NOTICE OF PENALTY ASSESSMENT
23-TRAM-933-PEN**

June 27, 2023

Zach's Equipment Repair LLC
PO Box 623
Ulysses, KS 67880

This is a notice of a penalty assessment against Zach's Equipment Repair LLC (Carrier) for violation of the Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered by Kansas Corporation Commission UCR Manager Verna Jackson. 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 2023 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. 2023 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: Susan K. Duffy, Chair
 Dwight D. Keen
 Andrew J. French

In the Matter of the Investigation of **Zach's**)
Equipment Repair LLC, of Ulysses, Kansas,)
Regarding the Violation(s) of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 23-TRAM-933-PEN
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 66-1,115, 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 13, 2023, Staff submitted a Report and Recommendation (R&R) regarding Zach's Equipment Repair LLC's (Carrier's) failure to pay its 2023 UCR fees. As part of the R&R, Staff recommended the Commission assess Carrier a penalty in the amount of \$300, to be paid through the Carrier's Kansas Trucking Regulatory Assistance Network (KTRAN) account, and require Carrier to pay its outstanding UCR fees for 2023 through the UCR website at www.ucr.gov. A copy of the R&R is attached hereto as **Attachment “A”** and incorporated herein by reference.

6. As noted in the R&R, Carrier has operating authority under United States Department of Transportation (USDOT) number 2637865. According to Carrier's USDOT

profile,¹ it designates itself as an interstate carrier, with its base as State as Kansas. Carrier owns 1 self-propelled vehicle(s) that meet the definition of the type of vehicle for which Carrier is required to pay annual UCR fees.²

7. According to Staff's R&R, multiple attempts were made to contact Carrier regarding its 2023 UCR fees. The National Registration System (NRS), which is maintained by the UCR Board, sent solicitation notices every 15 days beginning February 18, 2023. Additionally, on January 5, 2023, a letter was sent to Carrier.³

8. Litigation Counsel for Staff mailed a letter dated February 15, 2023, to Carrier informing it that it needed to pay its 2023 UCR fees within ten days. Staff advised in the letter that nonpayment of UCR fees could result in civil assessments, with a penalty of \$300 for each instance of non-compliance.⁴ To date, Commission records indicate that the Carrier has not paid its 2023 UCR fees.

9. Based on Carrier's failure to register its commercial motor vehicle(s) for registration year 2023 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 2023 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.

¹ See Exhibit 1 of Staff's R&R.

² 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.

³ See Exhibit 2 of Staff's R&R.

⁴ See Exhibit 3 of Staff's R&R.

11. The Commission finds Carrier committed one violation of K.S.A. 66-1,139 for failure to pay the 2023 UCR fees outlined in 49 C.F.R. Part 367.

THE COMMISSION THEREFORE ORDERS THAT:

A. Zach's Equipment Repair LLC of Ulysses, Kansas is hereby assessed a \$300 civil penalty for one violation of K.S.A. 66-1,139 for failure to pay the 2023 UCR fees outlined in 49 C.F.R. Part 367.

B. Zach's Equipment Repair LLC shall pay its outstanding 2023 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 less than \$500, a corporation may appear by a duly authorized representative of the corporation.⁵

⁵ 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 2023 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 2023 UCR fees may be made through the UCR website at www.ucr.gov.

F. Failure to pay the \$300 civil penalty and the outstanding 2023 UCR fees within thirty (30) days from the date of service of this Penalty Order,⁶ 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.

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 06/27/2023



Lynn M. Retz
Executive Director

AAL

⁶ See K.S.A. 66-1,105.

ATTACHMENT “A”

Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

**REPORT AND RECOMMENDATION
TRANSPORTATION DIVISION**

TO: Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

FROM: Mike Hoeme, Director of Transportation
Verna Jackson, UCR Manager

DATE: June 13, 2023

SUBJECT: **Docket No. 23-TRAM-933-PEN, Zach's Equipment Repair LLC**
Motor Carrier Penalty Order for Failure to Pay 2023 UCR Fees

EXECUTIVE SUMMARY:

Zach's Equipment Repair LLC (Carrier) is a carrier that has self-declared to be an interstate motor carrier 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 2023 UCR fees. The first attempt was on January 5, 2023 when a notice was sent a letter regarding the 2023 UCR fees. An additional letter dated February 15, 2023, 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, 2023 to any unregistered motor carriers. To date, Carrier's profile lists its UCR fees for 2023 as unpaid. Staff recommends Carrier 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 Carrier be required to pay the unpaid 2023 UCR fees.

BACKGROUND:

Zach's Equipment Repair LLC operates under USDOT number 2637865, domiciled in Kansas at 1586 S Rd L, Ulysses, Kansas. Staff UCR Manager Verna Jackson has been tasked with ensuring Kansas motor carriers conducting interstate operations have properly paid their UCR fees for the calendar year 2023. Based on UCR Manager Jackson's review of Carrier's USDOT profile, Zach's Equipment Repair LLC is self-declared to be conducting interstate operations. On its most recent USDOT Profile update, submitted May 25, 2022, the carrier lists 1 vehicle(s). However, its UCR fees for 2023 remain unpaid. A copy of the Carrier's most recent USDOT Profile update is attached hereto as Exhibit 1.

An initial letter was sent to the Carrier by Staff on January 5, 2023 informing it of its responsibility to pay UCR fees. A copy of the initial letter is attached hereto as Exhibit 2. Another letter dated February 15, 2023, was sent by Litigation Counsel for Staff also reminding Carrier that its 2023 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 Carrier be assessed a civil penalty for failure to pay 2023 Unified Carrier Registration (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 Carrier to pay its UCR fees for 2023 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 commercial motor vehicle registration program administered by individual states for motor carriers 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 motor carrier safety programs.

UCR fees are collected from all motor carriers 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 motor carriers 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 Commercial Motor Vehicle (CMV) is defined as: a self-propelled vehicle used on the highways in commerce principally to transport passengers or cargo (as defined under 49 U.S.C. Section 31101), if the vehicle:

- (1) Has a gross vehicle weight rating or gross combination weight rating or gross vehicle weight or gross combination weight of at least 10,001 pounds, whichever is greater;
- (2) Is designed to transport more than 10 passengers including the driver; or
- (3) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. Section 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary.

The operation of certain non-CMV vehicles still qualify it 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 2022, the UCR fee schedule was established in 49 C.F.R. 367.30 as follows:

TABLE 1 TO [§ 367.30](#) - FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEAR 2023 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	\$41	\$41
B2	3-5	121	
B3	6-20	242	
B4	21-100	844	
B5	101-1,000	4,024	
B6	1,001 and above	39,289	

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 within the calendar year that such fees apply, it 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, Carrier designated itself as an interstate carrier, with 1 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 Zach's Equipment Repair LLC in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix. This penalty is based on the carrier's USDOT profile, which lists the carrier as an interstate motor carrier. As discussed above, numerous attempts were made to contact the motor carrier and notify it of its obligation to pay the UCR fee. To date the 2023 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 outlines in 49 C.F.R. 367.

Additionally, Staff requests the Commission require the Carrier to pay its outstanding UCR fees for 2023 through the UCR website at www.ucr.gov.



REASON FOR FILING (Check Only One)

☐ NEW APPLICATION ☒ BIENNIAL UPDATE OR CHANGES ☐ OUT OF BUSINESS NOTIFICATION ☐ REAPPLICATION (AFTER REVOCATION OF NEW ENTRANT)

Expiration Date: 07/31/2012

January 5, 2023

USDOT 2637865
ZACH'S EQUIPMENT REPAIR LLC
ZACHS EQUIPMENT REPAIR
PO BOX 623
ULYSSES KS 67880

RE: 2023 UCR Registration

Our records indicate your Unified Carrier Registration (UCR) fees have not been paid for the period noted. Payment of this fee 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. **Nonpayment of UCR fees may result in Civil Assessments and a Commission-issued Penalty Order, resulting with a minimum penalty of \$300 for each instance of non-compliance.**

To process the UCR registration, please sign in to the National Registration System (NRS) at <https://www.ucr.gov>. Follow the instructions as directed. Please register for each required year.

If you are no longer an active carrier, a written notice must be provided indicating your desire for the inactivation of the USDOT number and the reason for the inactivation request. Please provide the USDOT number, name of the motor carrier, your name and affiliation with the motor carrier on the written notice. The request may be emailed to transportation@kcc.ks.gov or mailed to the Kansas Corporation Commission, Division of Transportation, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027. NOTE: You will need to inactivate the USDOT number even if you have inactivated the Federal motor carrier authority (MC#). These are two separate actions required to inactivate your operations. Also, if you do not move forward with completing the motor carrier authority application, you will need to inactivate the USDOT number or you will continue to be responsible for following the regulations as required.

For additional motor carrier requirements and information, please visit our website at www.kcc.ks.gov. By clicking on Transportation, several links are available for reference.

Kansas Corporation Commission
Transportation Division
Email: Transportation@kcc.ks.gov
Phone: 785-271-3145 Fax: 785-271-3124



EXHIBIT 3

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

February 15, 2023

Zach'S Equipment Repair Llc
Po Box 623
Ulysses, KS 67880

Re: Unregistered 2023 Unified Carrier Registration (UCR) – USDOT NO. 2637865

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 2023 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. **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 \$ 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 2023 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 Verna Jackson, UCR Manager for the Transportation Division at the Kansas Corporation Commission at 785-271-3104 or email her at v.jackson@kcc.ks.gov.

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

CERTIFICATE OF SERVICE

23-TRAM-933-PEN

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 06/27/2023.

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

Zachery Rupp, OWNER
Zach's Equipment Repair LLC
PO Box 623
Ulysses, KS 67880
zrupp@zachsequipmentrepair.com

/S/ KCC Docket Room
KCC Docket Room