

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

In the Matter of the Investigation of Heavy)
Equipment Service Inc. of Salina, Kansas,)
Regarding the Violation of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 18-TRAM-121-PEN
Commission's Authority to Impose Penalties,)
Sanctions and/or the Revocation of Motor)
Carrier Authority.)

MOTION FOR ORDER AMENDING PENALTY ASSESSMENT

The Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively), by and through its counsel Ahsan A. Latif, file this Motion requesting the Commission issue an Order Amending Penalty Assessment reducing the penalty assessed to Heavy Equipment Service Inc. (Heavy Equipment Service), fifty-percent (50%) less than the penalty assessed in the Penalty Order dated September 14, 2017. In support of its Motion, Staff states as follows:

1. On September 14, 2017, a Penalty Order was issued to Heavy Equipment Service assessing it a penalty of \$1,650 for four (4) 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. The violations were found during a Safety Compliance Review conducted by Special Investigator(s) Gregory Askren on July 27, 2017.

2. The Notice of Penalty Assessment advised Heavy Equipment Service it was a New Entrant carrier and was eligible for a fifty-percent (50%) reduced penalty if it submitted a signed and dated Reduced Penalty Agreement within fifteen (15) days from the date of the Penalty Order, stating it will comply with the reduced penalty option terms and obligations stated therein.

3. On September 21, 2017, Heavy Equipment Service submitted the Reduced Penalty Agreement. The Corrective Action Plan was submitted by the carrier and has been approved by Transportation Staff. The Reduced Penalty Agreement is attached hereto and is hereby incorporated by reference.

4. Staff recommends the Commission issue an Order Amending Penalty Assessment assessing Heavy Equipment Service a 50% reduced penalty of \$825 and requesting it to comply with the following terms and obligations:

- a. within thirty (30) days from the date of the Penalty Order dated September 14, 2017 Heavy Equipment Service shall send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance must be submitted to Litigation Counsel;
- b. within eighteen (18) months of the Penalty Order dated September 14, 2017, Heavy Equipment Service must submit to a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to set up the review; and
- c. within (30) days from the date of service of the Amended Penalty Order, Heavy Equipment Service must make the payment of \$825 through the KTRAN system located at <https://puc.kcc.ks.gov/ktran/>.

WHEREFORE, for the reasons set forth herein, Staff requests an Order Amending Penalty Assessment be issued by the Commission assessing Heavy Equipment Service Inc. a reduced penalty of \$825 and ordering it to comply with the proposed terms and obligations set out in paragraph 4 above.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Latif', is written over a horizontal line.

Ahsan A. Latif, S. Ct. #24709

Litigation Counsel

Kansas Corporation Commission

1500 S.W. Arrowhead Road

Topeka, Kansas 66604-4027

Phone: 785-271-3118

Fax: 785-271-3167

Email: a.latif@kcc.ks.gov


Attorney for Commission Staff

VERIFICATION

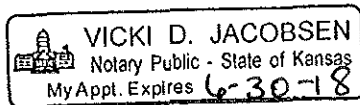
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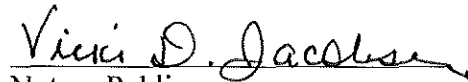
STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

Ahsan A. Latif, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Motion for Order Amending Penalty Assessment*, and attests that the statements therein are true and correct to the best of his knowledge, information and belief.


Ahsan A. Latif, S. Ct. #24709
Litigation Counsel
The State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 29th day of September, 2017.




Vicki D. Jacobsen
Notary Public

My Appointment Expires: June 30, 2018

1500 SW Arrowhead Road
Topeka, KS 66604-4027



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

Pat Apple, Chairman
Shari Feist Albrecht, Commissioner
Jay Scott Emler, Commissioner

Sam Brownback, Governor

REDUCED PENALTY AGREEMENT
18-TRAM-121-PEN

Heavy Equipment Service Inc. (Heavy Equipment Service) hereby submits this Reduced Penalty Agreement to become eligible for a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated September 14, 2017. Heavy Equipment Service has agreed to comply with the following terms and obligations:

1. Heavy Equipment Service has submitted, within fifteen (15) days from the date of the Penalty Order issued on September 14, 2017, this signed and dated Reduced Penalty Agreement to Litigation Counsel at the above address.

2. Heavy Equipment Service will, within 30 days from the date of the Penalty Order dated September 14, 2017, submit to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) and describing specific and detailed information explaining its efforts and concrete steps taken to ensure the violation(s) do not occur in the future. I understand the CAP must be approved by Transportation Staff before my company can be eligible for the 50% reduced penalty.

3. Heavy Equipment Service will, within thirty (30) days from the date of the Penalty Order dated September 14, 2017, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance will be submitted to the Litigation Counsel.

4. Heavy Equipment Service will be available within eighteen (18) months from the date of the Penalty Order for a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

Heavy Equipment Service Inc. understands that if approved, Transportation Litigation Counsel will file a Motion for Amended Penalty Order with this Agreement attached to the motion. The Amended Penalty Order will assess Heavy Equipment Service a fifty-percent (50%) reduced penalty of \$825, and set out the terms and conditions stated above. Once the Amended Penalty Order is issued by the Commission, Heavy Equipment Service will have thirty (30) days from the date of service of the Amended Order to pay the reduced penalty assessed.

Dated this 21 day of September, 2017.

Heavy Equipment Service Inc.


Mark Redden
President

(This Agreement can be mailed via U.S. Mail to the address above to the attention of Ahsan Latif, Litigation Counsel, or sent via e-mail to v.jacobsen@kcc.ks.gov and alatif@kcc.ks.gov.)

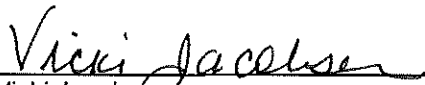
CERTIFICATE OF SERVICE

18-TRAM-121-PEN

I, the undersigned, certify that a true and correct copy of the above and foregoing Motion for Order Amending Penalty Assessment was served via electronic service this 29th day of September, 2017, to the following:

MARK REDDEN, PRESIDENT
HEAVY EQUIPMENT SERVICE INC
1100 W GRAND AVE STE B
SALINA, KS 67401-1863
Fax: 785-404-2344
mredden1@eaglecom.net

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Vicki Jacobsen