

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

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Annie Kuether

In the Matter of the Investigation of **Herl Ag**)
Spraying LLC, of Grainfield, Kansas, Regarding)
the Violation of the Motor Carrier Safety Statutes,)
Rules and Regulations and the Commission's) Docket No. 25-TRAM-208-PEN
Authority to Impose Penalties, Sanctions and/or the)
Revocation of Motor Carrier Authority.)

ORDER REINSTATING INTRASTATE MOTOR CARRIER OPERATIONS

The above-captioned matter comes on for consideration and determination by the State Corporation Commission of the State of Kansas (Commission), on Transportation Staff's motion. The Commission, being fully advised in the premises, finds as follows:

I. JURISDICTION

1. Pursuant to K.S.A. 66-1,111, 66-1,112, and 66-1,114b, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. 390.5 and as 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, and amendments thereto, 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 K.S.A. 66-1,129(a)(7), no public motor carrier of property, household goods or passengers or private motor carrier of property shall operate, or allow the operation of, any commercial motor vehicle on any public highway in this state without following rules and regulations consistent with the federal motor carrier safety assistance program.

4. K.S.A. 66-1,108c states:

“The corporation commission shall have the authority to examine all accounts and records pertaining to its regulation of motor carriers. The agents, accountants, examiners or inspectors designated by the commission shall have authority under the direction of the transportation division to inspect and examine any and all books, accounts, papers, records, property and memoranda pertinent to its regulation of motor carriers.”

II. BACKGROUND

5. Herl Ag Spraying LLC of Wichita, Kansas (Carrier), is a motor carrier, as defined in 49 C.F.R. 390.5 adopted by K.A.R. 82-4-3f, that is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT Number 3439721.

6. On September 25, 2024, a Commission Staff (Staff) Special Investigator (SI) contacted Carrier to conduct a safety compliance investigation, pursuant to K.S.A. 66-1,108c. As of November 6, 2024, the Carrier had failed to contact the Staff SI.

7. On November 6, 2024, Commission Staff filed a Motion to Suspend Intrastate Motor Carrier Operations due to the carrier’s failure to respond to Staff’s communications regarding a safety compliance investigation under K.S.A. 66-1,108c.

8. On November 14, 2024, the Commission issued an Order Suspending Intrastate Motor Carrier Operations,¹ due to Carrier’s failure to respond and complete a safety compliance investigation.

¹Order Suspending Intrastate Motor Carrier Operations (Nov. 14, 2024).

9. On December 10, 2024, Carrier contacted the Staff SI and complied with the safety compliance investigation.

10. On December 12, 2024, Staff filed a Motion to Reinstate Intrastate Motor Carrier Operations on Carrier.

III. STAFF'S RECOMMENDATION

11. Based on Carrier's compliance with K.S.A. 66-1,108c, Staff recommends the Commission reinstate Carrier's Kansas motor carrier operations.

IV. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Carrier, because it is a motor carrier as defined in 49 C.F.R. 390.5 and as adopted by K.A.R. 82-4-3f.

13. Based on the facts set forth in the record and information that was submitted by Carrier to the KCC, the Commission finds that Herl Ag Spraying LLC has complied with K.S.A. 66-1,108c.

14. The Commission concludes Staff's recommendation to reinstate Herl Ag Spraying LLC's motor carrier operations is reasonable.

THE COMMISSION THEREFORE ORDERS THAT:

A. Herl Ag Spraying LLC's intrastate motor carrier authority is hereby reinstated.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 12/17/2024



Lynn M. Retz
Executive Director

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CERTIFICATE OF SERVICE

25-TRAM-208-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 12/17/2024.

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/S/ KCC Docket Room
KCC Docket Room