

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Investigation of Matthias W.)
Schroeder of Hunter, Kansas, Regarding the)
Violation(s) of the Motor Carrier Safety) Docket No. 19-TRAM-051-PEN
Statutes, Rules and Regulations and the)
Commission's Authority to Impose Penalties,)
Sanctions and/or the Revocation of Motor)
Carrier Authority.)

**ORDER CONTINUING EVIDENTIARY HEARING AND SCHEDULING
PREHEARING CONFERENCE**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds the following:

1. On August 9, 2018, the Commission issued a *Penalty Order* finding Matthias W. Schroeder (Respondent) committed seven (7) violations of Kansas law governing motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.¹ The Commission assessed a \$4,100 civil penalty against the Respondent; ordered a representative from the Respondent to attend a Commission-sponsored safety seminar within ninety days, providing Litigation Counsel with written proof of attendance; and ordered the Respondent to submit to a safety compliance review within eighteen months.²

¹ *Penalty Order*, ¶ 13 (Aug. 9, 2018).

² *Id.* at Ordering Clause E.

2. On November 13, 2018, Commission Transportation Staff (Staff) filed a Motion to Suspend Intrastate Motor Carrier Operations.³ Staff stated the Respondent had failed to comply with the requirements of the *Penalty Order*, and therefore, asked the Commission to issue an order suspending Respondent's intrastate motor carrier operations and requiring Respondent to attend a Commission-sponsored safety seminar within ninety days, providing written proof of attendance to Litigation Counsel.⁴

3. On November 20, 2018, the Commission issued an *Order Suspending Intrastate Motor Carrier Operations* by the Respondent due to Respondent's failure to comply with the requirements of the aforementioned *Penalty Order*.⁵

4. On December 11, 2018, the Respondent filed a Request for Hearing on the Out-of-Service Order, stating he is available for a hearing "probably in the middle of January 2019."⁶

5. On December 14, 2018, Staff filed a Motion for Order Setting Hearing, asking the Commission to set an evidentiary hearing for Thursday, January 17, 2019, with pre-filed testimony due on January 7, 2019.⁷

6. On December 20, 2018, the Commission issued an *Order Designating Prehearing Officer and Setting Hearing*, designating Michael J. Duenes as the Prehearing Officer and scheduling an evidentiary hearing for January 17, 2019.⁸

7. On January 7, 2019, Staff witnesses Gregory Askren and Gary Davenport pre-filed direct testimony in this matter.⁹

³ Motion to Suspend Intrastate Motor Carrier Operations (Nov. 13, 2018).

⁴ *Id.* at p. 2.

⁵ *Order Suspending Intrastate Motor Carrier Operations*, ¶ 13 (Nov. 20, 2018).

⁶ Request for Hearing on Out-of-Service Order, p. 2 (Dec. 11, 2018).

⁷ Staff's Motion for Order Setting Hearing, ¶ 9 (Dec. 14, 2018).

⁸ *Order Designating Prehearing Officer and Setting Hearing*, Ordering Clauses A & B (Dec. 20, 2018).

⁹ Askren Direct (Jan. 7, 2019); Davenport Direct (Jan. 7, 2019).

8. On January 8, 2018, the Prehearing Officer was informed via Respondent's "Request for Information – Kansas Open Records Act" that the Respondent asked for an extension on the hearing of two weeks from the date he receives the requested information.¹⁰

9. Although the Respondent's requested extension was not made through a formal motion, the Commission finds it has discretion to grant an extension and that such should be granted. However, the Respondent's request does not provide the Commission with any clarity on when the Respondent might receive his requested information, and thus, no clarity on a possible hearing date. Therefore, the Commission finds it prudent, for procedural economy and efficiency, to continue the evidentiary hearing and schedule a Prehearing Conference with the Prehearing Officer, Staff and the Respondent so that the parties might work out a procedural schedule and address any other procedural matters. Staff has indicated it does not oppose the scheduling of a Prehearing Conference.

THEREFORE, THE COMMISSION ORDERS:

A. The evidentiary hearing scheduled for January 17, 2019 is continued pending the issuance of a procedural schedule.

B. A Prehearing Conference is scheduled for **Thursday, February 14, 2019 at 9:00 a.m.** by telephone. The conference call information is: telephone number (866) 620-7326, Conference Code PIN: 7632914771#.

C. At the Prehearing Conference, parties shall be prepared to discuss deadlines for filing testimony, discovery procedures, scheduling of a hearing with the Commission, and any other issues that will promote the orderly and prompt resolution of this proceeding.

¹⁰ See Request for Information – Kansas Open Records Act, attached to this Order as Attachment "A".

D. At the Prehearing Conference, without further notice, this proceeding may be converted into a conference hearing or a summary proceeding for disposition of this matter as provided by the Kansas Administrative Procedure Act (KAPA). Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding may be held in default under the KAPA.¹¹

E. A corporation shall appear before the Commission by a Kansas licensed attorney.¹²

F. The attorney designated to appear on behalf of the agency in this proceeding is Ahsan Latif, Litigation Counsel, telephone number (785) 271-3110, a.latif@kcc.ks.gov.

G. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 01/15/2019



Lynn M. Retz
Secretary to the Commission

MJD

¹¹ K.S.A. 77-506; K.S.A. 77-516(c)(7)-(8).

¹² K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

CERTIFICATE OF SERVICE

19-TRAM-051-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail and electronic service on 01/15/2019.

MICHAEL DUENES, ASSISTANT GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
m.duenes@kcc.ks.gov

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
a.latif@kcc.ks.gov

MATTHIAS W. SCHROEDER, OWNER
MATTHIAS W. SCHROEDER
PO BOX 1
HUNTER, KS 67452
schroeder74j@gmail.com

/S/ DeeAnn Shupe

DeeAnn Shupe