

**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 **F&C Trucking**      )  
**and Sons LLC, of Lewis, Kansas**, Regarding the      )  
Violation(s) of the Motor Carrier Safety Statutes,      )  
Rules and Regulations and the Commission's      ) Docket No.23-TRAM-1009-PEN  
Authority to Impose Penalties, Sanctions and/or the      )  
Revocation of Motor Carrier Authority.      )

**ORDER GRANTING STAFF'S MOTION TO VACATE PENALTY ORDER**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

**I. JURISDICTION AND BACKGROUND**

1. Pursuant to K.S.A. 66-1,111, 66-1,112 and 66-1,114b, 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 in 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.

## **II. FINDINGS OF FACTS**

3. F&C Trucking and Sons LLC (Carrier) is a motor carrier, as defined in 49 C.F.R. 390.5 and as adopted in K.A.R. 82-4-3f, which operates commercial motor vehicles in interstate commerce under the USDOT Number 3491145.

4. On July 11, 2023, the Commission issued a Penalty Order in this docket assessing a \$300 civil penalty against Carrier for failure to pay its 2023 UCR fees.

5. Carrier contacted Staff after the issuance of the Penalty Order stating that Carrier is no longer operating and requested inactivation of its USDOT Number.

6. Staff inactivated the Carrier's USDOT Number. Additionally, after reviewing available records, Staff could not find evidence the carrier was found operating in interstate commerce. Staff therefore determined the Penalty Order issued for not paying their 2023 UCR fees should be vacated.

7. On November 6, 2023, Transportation Staff filed its Motion to Vacate Penalty Order recommending the Commission vacate the Penalty Order.

## **III. CONCLUSIONS OF LAW**

8. The Commission finds it has jurisdiction over F&C Trucking and Sons LLC because Carrier is a motor carrier as defined in 49 C.F.R. 390.5 and as adopted in K.A.R. 82-4-3f.

9. The Commission further finds that Carrier does not operate in interstate commerce.

10. Therefore the Commission concludes it is appropriate to vacate the Penalty Order issued July 11, 2023.

### **THE COMMISSION THEREFORE ORDERS THAT:**

A. The Penalty Order issued to F&C Trucking and Sons LLC on July 11, 2023 is hereby vacated.

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).<sup>1</sup>

**BY THE COMMISSION IT IS SO ORDERED.**

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 11/09/2023



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Lynn M. Retz  
Executive Director

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<sup>1</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

## **CERTIFICATE OF SERVICE**

23-TRAM-1009-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 11/09/2023.

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/S/ KCC Docket Room  
KCC Docket Room