

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

Before Commissioners: Susan K. Duffy, Chair
Shari Feist Albrecht
Dwight D. Keen

In the Matter of the Investigation of **David)**
Milner, d/b/a Milner Hay & Cattle, of Welda,)
Kansas, Regarding the Violation of the Motor)
Carrier Safety Statutes, Rules and Regulations and) Docket No. 20-TRAM-138-PEN
the Commission's 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.A.R. 82-4-1b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined 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, 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), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-3f) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

II. BACKGROUND

4. David Milner, d/b/a Milner Hay & Cattle, of Welda, Kansas (Respondent), is a motor carrier as defined in K.A.R. 82-4-3f that operates commercial motor vehicles in intrastate commerce.

5. Respondent is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT Number 1250982.

6. On December 31, 2019, the Commission issued an Order suspending Respondent's intrastate motor carrier operations, other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 66-1,129, due to non-compliance with a Penalty Order issued in this docket on September 26, 2019. The Penalty Order also assessed Respondent a \$300 civil fine. The Commission's Penalty Order is incorporated herein by reference and made a part of this Order.

7. On February 7, 2020, Respondent submitted payment of the \$300 civil assessment. Transportation Staff (Staff) confirmed the payment had been made as of that date and determined the carrier was now in compliance with Kansas motor carrier safety statutes, rules and regulations pursuant to the above-referenced Penalty Order.

8. On February 10, 2020, Staff filed a Motion to Reinstate Intrastate Motor Carrier Operations on Respondent.

III. STAFF'S RECOMMENDATION

9. Based on Staff's Motion and Respondent's compliance, Staff recommends the Commission reinstate Respondent's Kansas motor carrier operations.

IV. CONCLUSIONS OF LAW

10. The Commission finds it has jurisdiction over Respondent because it is a motor carrier as defined in K.A.R. 82-4-3f.

11. Based on the available facts, the Commission finds that Staff's recommendation to reinstate David Milner, d/b/a Milner Hay & Cattle's motor carrier operations is reasonable.

THE COMMISSION THEREFORE ORDERS THAT:

A. David Milner, d/b/a Milner Hay & Cattle's intrastate motor carrier authority is hereby reinstated.

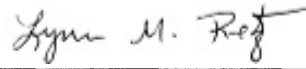
B. David Milner, d/b/a Milner Hay & Cattle remains obligated to attend a Commission-sponsored safety seminar within ninety (90) days, pursuant to paragraph (B) of the Penalty Order. Respondent must also provide Litigation Counsel with written proof of attendance.

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 02/13/2020



Lynn M. Retz
Executive Director

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CERTIFICATE OF SERVICE

20-TRAM-138-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/hand delivered on 02/014/2020.

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DAVID MILNER
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/S/ DeeAnn Shupe

DeeAnn Shupe