20200415133919
Filed Date: 04/15/2020
State Corporation Commission
of Kansas

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Investigation of **Smok'n Gun Trucking LLC of Osborne, Kansas**, Regarding the Violation of the Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority.	)	Docket No. 20-TRAM-359-PEN

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, files this Motion requesting the Commission issue an Order Amending Penalty Assessment reducing the penalty assessed to Smok'n Gun Trucking LLC (Smok'n Gun Trucking), fifty-percent (50%) less than the penalty assessed in the Penalty Order dated February 25, 2020. In support of its Motion, Staff states as follows:

1. On February 25, 2020, a Penalty Order was issued to Smok'n Gun Trucking assessing it a penalty of $4,100 for five (5) 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 on February 4, 2020, by Special Investigator Gregory Askren.

2. The Notice of Penalty Assessment advised Smok'n Gun Trucking it was a New Entrant carrier and may be 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 March 13, 2020, Smok'n Gun Trucking 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 Smok'n Gun Trucking a 50% reduced penalty of $2,050 and requesting it to comply with the following terms and obligations:

a. within thirty (30) days from the date of the Penalty Order dated February 25, 2020, Smok'n Gun Trucking shall send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance must been submitted to Litigation Counsel;

b. within eighteen (18) months of the Penalty Order, Smok'n Gun Trucking must submit to a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to set up the review; and

c. within thirty (30) days from the date of service of the Order Amending Penalty Assessment, Smok'n Gun Trucking must make the payment of $2050 in 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 Smok'n Gun Trucking LLC a reduced penalty of $2,050 and ordering it to comply with the proposed terms and obligations set out in paragraph 4 above.

Respectfully submitted,

/s/ Ahsan A. Latif
Ahsan A. Latif, S. Ct. #24709
Litigation Counsel
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Attorney for Commission Staff

VERIFICATION

20-TRAM-359-PEN

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.

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

SUBSCRIBED AND SWORN to before me this 15th day of April, 2020.

VICKI D. JACOBSEN
Notary Public - State of Kansas
My Appt. Expires 6-30-22

Vicki D. Jacobsen
Notary Public

My Appointment Expires: June 30, 2022

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Laura Kelly, Governor

Susan K. Duffy, Chair
Shari Feist Albrecht, Commissioner
Dwight D. Keen, Commissioner

REDUCED PENALTY AGREEMENT

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Smok'n Gun Trucking LLC (Smok'n Gun Trucking) hereby submits this Reduced Penalty Agreement for approval of a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated February 25, 2020. Smok'n Gun Trucking has agreed to comply with the following terms and obligations:

1. Smok'n Gun Trucking has submitted, within fifteen (15) days from the date of the Penalty Order this signed and dated Reduced Penalty Agreement to Litigation Counsel.

2. Smok'n Gun Trucking will, within thirty (30) days from the date of the Penalty Order, 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 to become eligible for the 50% reduced penalty.

3. Smok'n Gun Trucking will, within thirty (30) days from the date of the Penalty Order, 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. Smok'n Gun Trucking 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.

Smok'n Gun Trucking LLC understands that if approved, an Order Amending Penalty Assessment will be issued by the Commission assessing a reduced penalty of $2,050, and will set out the terms and conditions stated above. Once the Order Amending Penalty Assessment is issued by the Commission, Smok'n Gun Trucking will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this ~~FEB~~ ~~February~~ March day of Friday - 13th 2020.

Smok'n Gun Trucking LLC

Ryan Boden

(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

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I, the undersigned, certify that a true and correct copy of the above and foregoing Motion to Amend Penalty Assessment was served via electronic mail this 15th day of April, 2020, to the following:

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Vicki Jacobsen

Vicki Jacobsen