Kansas Corporation Commission
Commission Meeting
September 10, 2020
10:00 a.m. 1st floor hearing room
KCC Offices, 1500 Arrowhead, Topeka, Kansas

MINUTES

The Commission convened the regularly scheduled open meeting of the Commission at 10:00 a.m. on September 10, 2020, in the 1st floor hearing room of the Kansas Corporation Commission, 1500 Arrowhead, Topeka, Kansas.

Present: Chair Duffy and Commissioner Keen. Commissioner French was absent. The following were considered by the Commission:

1. **Consent Agenda**: Commissioner Keen moved for approval of the Items on the Consent Agenda dated September 10, 2020, containing pages one through four and are attached to these Minutes. Chair Duffy seconded the motion.

   The motion was approved.

2. **Noticed Item:**

   A. **Docket No. 20-PLCE-434-TAR**
   In the Matter of the Application of Prairie Land Electric Cooperative, Inc. Seeking Commission Approval to Update its Local Access Delivery Service Tariff Pursuant to the 34.5kV Formula Based Rate Plan Approved in Docket No. 16-MKEE-023-TAR.

   Commissioner Keen moved for approval of order #20-1603 – Order Approving Prairie Land Electric Cooperative, Inc.'s Application. Chair Duffy seconded the motion.

   The order is approved.

3. **Discussion Item:**

   Ahsan Latif, KCC Litigation Counsel, presented a proposed modification of Motor Carrier Rule K.A.R. 82-4-3a. The existing regulation adopts relevant portions of 49 C.F.R. Part 395, which establishes the hours of service requirements to be followed by motor carriers and their employees. The proposed changes include changes which will go into effect September 29, 2020, which relax certain aspects of the hours of service rules to accommodate driving practices that are now being recorded through ELD's.

   Commissioner Keen moved the Commission adopt the temporary regulation K.A.R. 82-4-3a. Chair Duffy seconded the motion.

   The Certificate of Adoption is attached to these Minutes.

There being no further matters before the Commission, Commissioner Keen moved for adjournment of the Commission meeting. Chair Duffy seconded the motion. The motion was approved. The Commission adjourned the September 10, 2020, Commission Meeting at 10:09 a.m.

Respectfully submitted,

Lynn M. Retz, Executive Director

Susan K. Duffy, Chair

Absent
Andrew J. French, Commissioner

Dwight D. Keen, Commissioner

Kansas Corporation Commission
Ahsan Latif: (785)271-3118, a.latif@kcc.ks.gov

Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget

K.A.R. 82-4-3a (Temporary Version)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt along with the following to the Division of the Budget.

I. Brief description of the proposed rule(s) and regulation(s).

This existing regulation adopts relevant portions of 49 C.F.R. Part 395, which establishes the hours of service requirements to be followed by motor carriers and their employees. The proposed changes include changes which will go into effect September 29, 2020 which relax certain aspects of the hours of service rules to accommodate driving practices that are now being recorded through ELD's.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. ***(If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)***

The adoption of this regulation is required by the federal government under 49 C.F.R. Part 350. Adoption of this regulation permits the Commission the ability to enforce the existing regulations as required by state and federal law. Adopting major changes to the regulations at the same time as other jurisdictions is important so that motor carriers face uniform enforcement as they travel throughout the country.

If periodic updates to the Kansas motor carrier regulations are not conducted, the Commission becomes non-compliant with its requirement to maintain substantial compliance with the Federal Motor Carrier Safety Regulations pursuant to 49 C.F.R. Part 350. This non-compliance would carry the following monetary consequences on both existing and future funding:

- All MCSAP Basic and Incentive funding would be suspended. No additional grant funds could be applied for; and
- Multiple state agencies (KDOR, KCC, KDOT, KHP) currently hold the following grants: MCSAP, CVISN, HP, PRISM, SaDIP and New Entrant. In addition to future applications being denied, any remaining money in these account balances would not be able to be vouchered against.

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The Commission's changes to this regulation create uniformity of enforcement between state and federal agencies.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

C. Businesses that would be directly affected by the proposed rule and regulation;

Motor carriers operating in Kansas would continue to be subject to the same hours of service as they do federally. The changes relax certain rules related to hours of service.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The regulation allows the Commission to enforce hours of service rules in conformity with the federal standards.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

$00.00

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

$00.00

Do the above total implementation and compliance costs exceed $3.0 million over any two-year period?

YES ☐ NO ☒

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The proposed regulation relaxes hours of service rules consistent with changes proposed by the Federal Motor Carrier Safety Administration.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed $3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES ☐ NO ☒

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

n/a

H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

The Commission's Transportation Division met with leaders of the Kansas Motor Carrier Association, Kansas Highway Patrol and Federal Motor Carrier Safety Administration officials in Kansas to discuss changes being made to this regulation.

I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

n/a

KANSAS CORPORATION COMMISSION

CERTIFICATE OF ADOPTION

I hereby certify that the Kansas Corporation Commission, by roll call vote of the required majority of Commissioners, adopted the following regulation as a temporary regulation on the 10th day of September, 2020.

K.A.R. 82-4-3a

This regulation is hereby filed for adoption, and the Economic Impact Statement is enclosed.

Roll Call Vote:

Person	KCC Position	Vote
Susan K. Duffy	Chair	Yes
Dwight D. Keen	Commissioner	Yes
Andrew J. French	Commissioner	Absent

Lynn M. Retz

Lynn M. Retz
Executive Director

10 September 2020

Date

Kansas
Corporation Commission

ITEMS OF
Consent Agenda

Approval Date: Thursday, September 10, 2020

NOTICE TO THE PUBLIC: There will be no separate discussion of Consent Agenda items as they are considered to be routine by the Kansas Corporation Commission. Unless removed from the website's Consent Agenda, the orders appearing on the Consent Agenda will become the Order of the full Commission at the Commission's regularly scheduled Business Meeting. If Commission staff or a Commissioner requests an item be removed from the Consent Agenda, the affected item may be considered seperately or placed on the earliest possible Business Meeting agenda for discussion.

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
1	In the matter of application of F.G Holl Company, LLC for an order granting exception to the 10-year time limitation of K.A.R. 82-3-111 for its Cross W.B. B #4-17 well located in the SE/4 of Section 17, Township 24 South, Range 17 West, Edwards County, Kansas. ***Order Granting Application***	21-CONS-3014-CEXC	
2	In the matter of the failure of Roger M. Wheeler, Jr. dba Wheeler Oil Company (Operator) to comply with K.A.R. 82 3 111at the Simmons #1-10 and Simmons #4-10 in Morton County, Kansas. ***Order Denying Request for Hearing***	21-CONS-3021-CPEN	
3	In the matter of the application of Prairie Energy LC for an exception to the 10-year time limitation of K.A.R. 82-3-111 for its Campbell #2 gas well located in the NW/4 of Section 36, Township 22, South, Range 38 West, and its Dannebohm #3 gas well located in the SE/4 of Section 2, Township 23 South, Range 38 West, Kearny County, Kansas. ***Order Granting Application***	21-CONS-3030-CEXC	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
4	In the matter of the failure of Carmen Schmitt, Inc. (Operator) to comply with K.A.R. 82-3-602 at the Wetzel #2 well in Edwards County, Kansas. ***Penalty Order - 21-CONS-3058-CPEN***	21-CONS-3058-CPEN	
5	In the matter of the failure of Redtail Investments LLC (Operator) to comply with K.A.R. 82 3-107 and K.A.R. 82-3-130 at the Redtail #1 in Cowley County, Kansas. ***Penalty Order - Redtail Investments LLC***	21-CONS-3060-CPEN	
6	In the matter of the failure of Red Oak Energy, Inc. (Operator) to comply with K.A.R. 82-3-117 at the GTD Land #1-30 well in Greeley County, Kansas. ***Penalty Order - Red Oak Energy, Inc.***	21-CONS-3061-CPEN	
7	In the matter of the failure of Arcadian Resources, LLC (Operator) to comply with K.A.R. 82-3-602 at the Liam #2-19 well in Thomas County, Kansas. ***Penalty Order - Arcadian Resources, LLC***	21-CONS-3062-CPEN	
8	In the matter of the failure of Northstar Investments, Inc. (Operator) to comply with K.A.R. 82 3 111 at the Thill A #1, Thill A #4 and Schauf B #9 in Barton County, Kansas. ***Penalty Order - Northstar Investments, Inc.***	21-CONS-3063-CPEN	
9	In the Matter of a General Investigation Regarding the Possible Implementation of a Separate Schools-Only Tariff in Kansas City Power & Light's Service Territory ***Order Granting Joint Motion to Set Deadline for Evergy Response***	19-GIME-504-GIE	
10	In the Matter of the Complaint Against KCP&L, Inc. (Evergy Metro) by Carol Foulds. ***Order Granting Complainant's Dismissal and Closing Docket***	20-EKME-341-COM	
11	In the Matter of the Investigation into the Agreement Between Evergy and Elliott Management to Consider a Modified Standalone Plan or Merger Transaction. ***Order Granting Intervention to Midwest Energy, Inc.***	20-EKME-514-GIE	
12	In the Matter of United Telephone Companies of Kansas d/b/a CenturyLink Filing Tariff Revisions to Increase Late Payment Charge ***Order Granting Withdrawal and Closing Docket***	21-UTDT-053-TAR	
13	In the Matter of the Application of United Telephone Companies of Kansas d/b/a CenturyLinkFiling Tariff Revisions to Remove EAS Route Per RLEC request. ***Order Approving Tariff Revisions***	21-UTDT-087-TAR	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
14	In the Matter of the Investigation into the Sustainability Transformation Plan of Evergy Metro, Inc., Evergy Kansas Central, Inc. and Evergy South, Inc. (collectively, Evergy). ***Order Designating Prehearing Officer; Protective and Discovery Order***	21-EKME-088-GIE	
15	In the Matter of the Application of United Telephone Companies of Kansas d/b/a CenturyLink Filing Tariff Revisions to Add Language for Kari's Law Indemnification. ***Order Approving Tariff Revisions***	21-UTDT-089-TAR	
16	In the Matter of the Application of Velocity, The Greatest Phone Company Ever, Inc. Changing its Name to Velocity, A Managed Service Company Inc. (CLEC) ***Order Approving Name Change***	21-VTGT-092-CCN	
17	In the Matter of the Application of Velocity, The Greatest Phone Company Ever, Inc. Changing its Name to Velocity, A Managed Service Company Inc. (IXC) ***Order Approving Name Change***	21-VTGT-093-CCN	
18	In the Matter of Southwestern Bell Telephone Company filing Tariff Revisions to Update Language in the Access Service Tariff ***Order Assessing Costs***	21-SWBT-098-TAR	
19	In the Matter of Southwestern Bell Telephone Company filing Tariff Revisions to Update Language in the Access Service Tariff ***Order Closing Docket***	21-SWBT-098-TAR	
20	In the Matter of the Application of Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy to Reduce Rates Due to State Income Tax Exemption ***Order Assessing Costs***	21-BHCG-099-RTS	
21	In the Matter of the Application of Atmos Energy Corporation for Approval of a Credit to Customers to Comply with House Bill 2585 ***Order Assessing Costs***	21-ATMG-100-TAR	
22	In the Matter of the Application of The Empire District Electric Company for Approval of a Credit to Customers to Comply with House Bill 2585 ***Order Assessing Costs***	21-EPDE-101-TAR	
23	In the Matter of the 2020 Wolf Creek Triennial Decommissioning Financing Plan ***Order Assessing Costs***	21-WCNE-103-GIE	
24	In the Matter of the United Telephone Companies of Kansas d/b/a CenturyLink Local Filing Tariff Revisions to Increase Monthly Rates for all Business Flat Rate Access Lines and Certain Residential and Business Key Trunks ***Order Assessing Costs***	21-UTDT-104-TAR	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
25	In the Matter of the Investigation of Sodicco Transport LLC of Abilene, Kansas, Regarding the Violation(s) of the Kansas Motor Carrier Safety Statutes, Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority. ***Order Amending Penalty Assessment***	21-TRAM-078-PEN	
26	***Transportation Economic Orders***	21-TRAM-5017-TRA	

The above-captioned matter(s) were approved by the Commission, unless noted as removed.

For the Commission :

Susan K. Duffy, Chair

Dwight D. Keen, Commissioner

Absent

Andrew J. French, Commissioner

Attest:

Lynn M. Retz
Executive Director

1500 SW Arrowhead Road
Topeka, KS 66604-4027

Kansas
Corporation Commission

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Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

Transportation Orders By Docket Number
21-TRAM-5017-TRA

Order Number	Description	Removed
20-1621	*In the Matter of the Application of ELLIS BUS LLC for Authority for a Certificate of Convenience and Necessity.* USDOT #2846066 ELLIS BUS LLC - Order Granting Application for Certificate of Convenience and Necessity	
20-1622	*In the Matter of the Application of DANIELS MIDWEST TRUCKING LLC for Certificate of Public Service.* USDOT #3399945 DANIELS MIDWEST TRUCKING LLC - Order Granting Application for Certificate of Public Service	
20-1624	*In the Matter of the Application of SANTIAGO TENA MEZA for a Certificate of Public Service.* USDOT #3439052 SANTIAGO TENA MEZA - Order Granting Application for Certificate of Public Service	
20-1626	*In the Matter of the Application of CESAR ADRIAN VITAL CARO for a Certificate of Public Service.* USDOT #3468160 CESAR ADRIAN VITAL CARO - Order Granting Application for Certificate of Public Service	
20-1630	*In the Matter of the Application of FIELDS & IVY BREWING COMPANY LLC for a Certificate of Private Authority.* USDOT #3475025 FIELDS & IVY BREWING COMPANY LLC - Order Granting Application for Certificate of Private Authority	
20-1631	*In the Matter of the Application of LONGHORN TRUCKING LLC for a Certificate of Public Service.* USDOT #3468117 LONGHORN TRUCKING LLC Order Granting Application for Certificate of Public Service	
20-1636	*In the Matter of the Application of VENTURA MIDWEST TRANSPORT LLC for a Certificate of Public Service.* USDOT #3457309 VENTURA MIDWEST TRANSPORT LLC -Order Granting Application for Certificate of Public Service	

Transportation Orders By Docket Number
21-TRAM-5017-TRA

Order Number	Description	Removed
20-1639	*In the Matter of the Application of BJD KUSTOM HAULERS LLC for a Certificate of Public Service.* USDOT #3450383 BJD KUSTOM HAULERS LLC - Order Granting Application for Certificate of Public Service	
20-1640	*In the Matter of the Application of MARIO ARROYO CARNERO for a Certificate of Public Service.* USDOT #3453517 MARIO ARROYO CARNERO - Order Granting Application for Certificate of Public Service	
20-1641	*In the Matter of the Application of THE RIGHT MOVES & HAULS LLC for a Certificate of Convenience and Necessity.* USDOT #3445866 THE RIGHT MOVES & HAULS LLC - Order Granting Application for Certificate of Convenience and Necessity	
20-1642	*In the Matter of the Application of S & D TRANSPORT LLC for a Certificate of Public Service.* USDOT #863541 S & D TRANSPORT LLC - Order Granting Application for Certificate of Public Service	
20-1643	*In the Matter of the Application of NAJ TRUCKING LLC for a Certificate of Public Service.* USDOT #3125011 NAJ TRUCKING LLC - Order Granting Application for Certificate of Public Service	

Total # of Orders: 12

End of Report