Kansas Corporation Commission
Commission Meeting
October 20, 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 October 20, 2020, in the 1st floor hearing room of the Kansas Corporation Commission, 1500 Arrowhead, Topeka, Kansas.

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

1. **Consent Agenda**: Commissioner Keen moved for approval of the Items on the Consent Agenda dated October 20, 2020, containing pages one through three and are attached to these Minutes. Commissioner French seconded the motion.

   The motion was approved.

2. **Discussion Items:**

   A. Ahsan Latif, Litigation Counsel, presented to the Commission the language to be adopted as a temporary regulation K.A.R. 82-4-30a pending the permanent version.

      The Commissioners, by roll call vote, adopted by Certificate of Adoption, the following regulation as a temporary regulation – K.A.R. 82-4-30a.

   B. Cole Bailey, Litigation Counsel, presented to the Commission information regarding FERC Docket No. ER20-3025-000; Gridliance High Plains' Proposal to Review its Local Planning Process. Commissioner French moved the Commission authorize the D.C. counsel to file a Doc-less Motion to Intervene in FERC No. ER20-3025. Commissioner Keen seconded the motion.

      The motion was approved.

3. **Other Matters:**

   A. Chair Duffy moved to meet in Executive Session for a period of 60 minutes to discuss personnel matters of non-elected personnel, pursuant to KSA 75-4319(b)(1), to protect the privacy of the individuals involved. Also called into the Executive Session was Lynn Retz, Executive Director. Commissioner French seconded the motion. Chair Duffy stated the Commission would reconvene in the 1st Floor Hearing Room at 11:15 a.m. The motion was approved.

      The Commission moved into Executive Session at 10:15 a.m. and reconvened in Public session at 11:15 a.m.

      The Commission took no action subsequent to the Executive Session.

B. Commissioner French moved to continue the Executive Session for a period of 60 minutes to discuss personnel matters of non-elected personnel, pursuant to KSA 75-4319(b)(1), to protect the privacy of the individuals involved. Also called into the Executive Session was Lynn Retz, Executive Director. Chair Duffy seconded the motion. Chair Duffy stated the Commission would reconvene in the 1st Floor Hearing Room at 12:15 a.m. The motion was approved.

The Commission moved into Executive Session at 11:15 a.m. and reconvened in Public session at 12:15 p.m.

The Commission took no action subsequent to the Executive Session.

C. Commissioner French moved to continue the Executive Session for a period of 60 minutes to discuss personnel matters of non-elected personnel, pursuant to KSA 75-4319(b)(1), to protect the privacy of the individuals involved. Also called into the Executive Session was Lynn Retz, Executive Director. Commissioner Keen seconded the motion. Chair Duffy stated the Commission would reconvene in the 1st Floor Hearing Room at 1:15 p.m. The motion was approved.

The Commission moved into Executive Session at 12:15 p.m. and reconvened in Public session at 1:15 p.m.

The Commission took no action subsequent to the Executive Session.

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 October 20, 2020, Commission Meeting at 1:16 p.m.

Respectfully submitted,

Lynn M. Retz, Executive Director

Susan K. Duffy, Chair

Andrew J. French, Commissioner

Dwight D. Keen, Commissioner

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

Laura Kelly, Governor

Motion File Doc-Less Intervention to Protect Interests of Kansas Ratepayers
FERC Docket No. ER20-3025-000

Date: October 19, 2020
Docket No: ER20-3025-000; GridLiance High Plains' proposal to revise its Local Planning Process
Background:

On September 29, 2020, GridLiance High Plains filed at FERC, a proposal to revise its Local Planning Process to allow it to perform local transmission planning for non-FERC jurisdictional members of SPP. GridLiance High Plains currently has the ability to conduct transmission planning for the non-jurisdictional SPP members with which it has jointly owned assets or a contractual right to acquire assets. The proposal is to expand the ability to perform transmission planning to all non-jurisdictional members of SPP regardless of GridLiance High Plains' ownership of, or contractual right to acquire, assets.

The Motion to Intervene, as well as comments or protests, are due today, Tuesday October 20th. Staff has discussed this docket with our D.C. Counsel and we recommend the Kansas Corporation Commission ("Commission") file a Doc-less Motion to Intervene in the matter. Filing a Doc-less Motion to Intervene ensures this Commission remains informed of the docket's developments, and further preserves this Commission's ability to protect the interest of Kansas ratepayers.

I recommend the Commission authorize our D.C. counsel to file a Doc-less Motion to Intervene in FERC Docket No. ER20-3025.

Respectfully,

Cole Andrew Bailey

Motion:

I move the Commission authorize our D.C. Counsel to file a doc-less intervention on behalf of the KCC in FERC Docket No. ER20-3025-000.

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 20th day of October, 2020.

K.A.R. 82-4-30a

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

Roll Call Vote:

Person	KCC Position	Vote
Susan K. Duffy	Chairman	yes
Dwight D. Keen	Commissioner	yes
Andrew J. French	Commissioner	yes

Lynn M. Retz

Lynn M. Retz
Executive Director

20 October 2020

Date

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. 82-4-30a (permanent 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 federal regulations for Unified Carrier Registration that allow the State to collect registration fees under the revised Federal Unified Carrier Registration Agreement. Kansas is required to adopt by reference the UCR fee schedule to remain in compliance with the Unified Carrier Registration System. Adoption of the latest amendments to 49 C.F.R. 367.60 allows the KCC to adopt the fee schedule into 2021. The fees remain the same as those in 2020.

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.

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;

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The change adopts and updates references to most recent version of the federal statute and regulation, allowing the state of Kansas to enforce updates to the Unified Carrier Registration Agreement into 2021.

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 change allows for more clarity of enforcement and compliance with the regulation. The fee structure has consistently reduced as more carriers pay into the fund. From 2020 to 2021 the fees will remain the same.

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

Carriers operating in interstate commerce that are based in Kansas.

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

The change allows for more clarity of enforcement and compliance with the regulation. The KCC will be able to enforce the current fee structure into 2021.

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, UCR fees decreased from 2019 to 2020 and will remain the same for 2021.

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 ☒

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

There is not a substantial change in the obligations placed on motor carriers by adoption of the proposed regulation. The proposed regulation would allow the KCC's Transportation Division to continue to enforce UCR registration as it currently does.

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

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82-4-30a. Applications for interstate registration. (a)(1) For the purposes of this regulation, ''base state'' shall have one of the following meanings:

(A) The meaning assigned to ''base-state'' in 49 U.S.C. 14504a(a)(2), as adopted in paragraph (a)(2) of this regulation; or

(B) if an entity does not have a principal place of business, office, or operating facility in any participating state, the participating state chosen by the entity that is nearest to the location of the entity's principal place of business or any participating state within the entity's FMCSA region.

(2) 49 U.S.C. 14504a~~(a)(2)~~, as in effect on ~~July 6, 2012~~ January 14, 2019, is hereby adopted by reference~~.~~, except for the following portions:

(A) In 49 U.S.C. 14504a(a), the following:

(i) The phrase "and section 14506 (except as provided in paragraph (5))";

(ii) 49 U.S.C. 14504a(a)(3);

(iii) 49 U.S.C. 14504a(a)(5)(B); and

(iv) 49 U.S.C. 14504a(a)(6) through (7);

(B) 49 U.S.C. 14504a(c) through (e);

(C) In 49 U.S.C. 14504a(f), 49 U.S.C. 14504a(f)(1)(B) through (E); and

(D) 49 U.S.C. 14504a(g) through (j).

(3) Each interstate motor carrier designating Kansas as the carrier's base state and operating in interstate commerce over the highways of this state under authority issued by the relevant federal agency shall file the uniform application for registration issued by the relevant federal

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agency. The carrier shall file this application for registration with the transportation division of the state corporation commission.

(b) Each interstate motor carrier designating Kansas as the carrier's base state shall pay a fee to the state corporation commission through the national registration system. This fee shall be in accordance with the fee schedule in 49 C.F.R ~~367.30~~ 367.60, as in effect on October 1, ~~2015~~ 2019 and as amended by 85 fed. reg. 8198 (2020), which is hereby adopted by reference.

(c) An interstate regulated motor carrier shall not operate in interstate commerce over the highways of this state unless the carrier is registered in the carrier's base state as defined in paragraph (a)(1). (Authorized by K.S.A. 66-1,112; implementing K.S.A. 66-1,108b, 66-1,116, and 66-1,139; modified, L. 1981, ch. 424, May 1, 1981; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; amended Jan. 31, 2003; amended, T-82-10-8-07, Oct. 8, 2007; amended, T-82-12-10-07, Dec. 10, 2007; amended July 18, 2008; amended, T-82-5-12-10, May 12, 2010; amended Oct. 8, 2010; amended July 26, 2019; amended, T-_____,_____; amended P-_____.)

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Kansas
Corporation Commission

ITEMS OF
Consent Agenda

Approval Date: Tuesday, October 20, 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 the Application of Enterra Resources, LLC for an Order Authorizing Unitization and Unit Operation of the Will-Bros Morrow Unit in Morton and Stanton Counties, Kansas. ***Order Designating Presiding Officer and Setting Prehearing Conference***	21-CONS-3039-CUNI	
2	In the Matter of the Application of Berexco LLC for an Order Authorizing Unitization and Unit Operation of the Missionary Unit in Lane and Gove Counties, Kansas. ***Order Designating Presiding Officer and Setting Prehearing Conference***	21-CONS-3070-CUNI	
3	In the Matter of the Application of Pantera Energy Company, for an Order Authorizing the Unitization and Unit Operation of the Koenig Waterflood Unit to be located in Haskell County, Kansas. ***Order Designating Presiding Officer and Setting Prehearing Conference***	21-CONS-3085-CUNI	
4	In the Matter of An Investigation to Determine the Assessment Rate for the Twenty-Fourth Year of the Kansas Universal Service Fund, Effective March 1, 2020. ***Order Approving Traffic Factors for Twin Valley Communications, Inc.***	20-GIMT-086-GIT	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
5	In the Matter of the Application of The Empire District Electric Company's Proposed Tariff Revision of the Credit/Debit Card Transaction Amounts ***Order Granting CURB's Petition to Intervene, Discovery Order, Protective Order, Suspension Order***	21-EPDE-134-TAR	
6	In the Matter of the Application of Evergy Kansas Central, Inc. for a Certificate of Public Convenience and Authority to Transact the Business of an Electric Public Utility Defined as County Line to Arnold 115 K Transmission Line Project from Jefferson County, Kansas to Atchison County, Kansas ***Order Assessing Costs***	21-EKCE-147-COC	
7	In the Matter of the Application of Evergy Kansas Central, Inc. for Authority to Transact the Business of an Electric Public Utility Specifically, in a Portion of Section 22, Township 04 South, Range 06 East, Marshall County, Kansas ***Order Assessing Costs***	21-EKCE-148-COC	
8	In the Matter of the Investigation of Donald & Beverly Leach, d/b/a Don Leach Truck Line of Hiawatha, 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. ***Penalty Order***	21-TRAM-130-PEN	
9	In the Matter of the Investigation of B&G Services LLC of Liberal, 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. ***Penalty Order***	21-TRAM-142-PEN	
10	In the Matter of the Investigation of Jonathan Kelly, d/b/a Its Your Move of Parsons, 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. ***Penalty Order***	21-TRAM-144-PEN	
11	In the Matter of the Investigation of B & E Waste Systems, Inc. of Dodge City, 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. ***Penalty Order***	21-TRAM-145-PEN	
12	In the Matter of the Investigation of Reinhold Electric, Inc. of St. Louis, Missouri, Regarding Violation(s) of the Kansas Underground Utility Damage Prevention Act (KUUDPA) (K.S.A. 66-1801, et seq., and K.A.R. 82-14-1 through 82-14-6), and the Commission's Authority to Impose Penalties and/or Sanctions (K.S.A. 66-1,151). ***Penalty Order***	21-DPAX-146-PEN	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
13	In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees. ***2019 UCR Penalty Orders***	21-TRAM-149-PEN	
14	Transportation orders to be approved by the Commission on the Consent Agenda. ***Transportation Economic Orders***	21-TRAM-5027-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

Andrew J. French, Commissioner

Attest:

Lynn M. Retz
Executive Director

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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-5027-TRA

Order Number	Description	Removed
20201014144925	*In the Matter of the Application of SILVERSPRYTE LLC of OLATHE KS for a Private Carrier Permit. DocketID=0A243069-ACDC-4BE5-9D6E-95B435DC70CC* USDOT #3321450 SILVERSPRYTE LLC of OLATHE KS - Order Granting Application for a Private Carrier Permit	
20201015122322	*In the Matter of the Application of BMF TRANSPORT LLC of ALTENBURG MO for Authority for a Certificate of Public Service. DocketID=0A243069-ACDC-4BE5-9D6E-95B435DC70CC* USDOT #3470133 BMF TRANSPORT LLC of ALTENBURG MO - Order Granting Application for Certificate of Public Service	

Total # of Orders: 2

End of Report

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Susan K. Duffy, Chair
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Andrew J. French, Commissioner

Laura Kelly, Governor

Transportation Orders By Docket Number
21-TRAM-149-PEN

Order Number	Description	Removed
20-1818	*Order for Docket 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* *Docket No. '21-TRAM-149-PEN'* *Synopsis: 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* 2019 UCR Penalty Order - Bruce Ayers, d/b/a Countyline Farms	
20-1820	*Order for Docket 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* *Docket No. '21-TRAM-149-PEN'* *Synopsis: 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* 2019 UCR Penalty Order - Cedar Crest Farms LLC	
20-1822	*Order for Docket 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* *Docket No. '21-TRAM-149-PEN'* *Synopsis: 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* 2019 UCR Penalty Order - Cheney Door Co Inc	
20-1827	*Order for Docket 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* *Docket No. '21-TRAM-149-PEN'* *Synopsis: 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* 2019 UCR Penalty Order - Cargo Solution LLC	
20-1830	*Order for Docket 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* *Docket No. '21-TRAM-149-PEN'* *Synopsis: 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* 2019 UCR Penalty Order - Chris Dvorsky Construction Inc	

Transportation Orders By Docket Number
21-TRAM-149-PEN

Order Number	Description	Removed
20-1832	*Order for Docket 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* *Docket No. '21-TRAM-149-PEN'* *Synopsis: 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* 2019 UCR Penalty Order - Combine Rental.Com LLC	
20-1834	*Order for Docket 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* *Docket No. '21-TRAM-149-PEN'* *Synopsis: 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* 2019 UCR Penalty Order - Craig L Bauman dba Bauman Farms	
20-1836	*Order for Docket 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* *Docket No. '21-TRAM-149-PEN'* *Synopsis: 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* 2019 UCR Penalty Order - Craig Pringle dba Pringle Farms	
20-1838	*Order for Docket 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* *Docket No. '21-TRAM-149-PEN'* *Synopsis: 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* 2019 UCR Penalty Order - Cress Farms LLC	
20-1846	*Order for Docket 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* *Docket No. '21-TRAM-149-PEN'* *Synopsis: 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* 2019 UCR Penalty Order - D & K Oilfield Services LLC	
20-1848	*Order for Docket 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* *Docket No. '21-TRAM-149-PEN'* *Synopsis: 'In the Matter of the Investigation into Certain Motor Carriers for Failure to Pay 2019 UCR Fees.'* 2019 UCR Penalty Order - Daryl L Kopriva	

Total # of Orders: 11

End of Report