Kansas Corporation Commission
Commission Meeting
December 22, 2020
10:00 a.m. 1st floor hearing room
KCC Offices, 1500 Arrowhead, Topeka, Kansas

Due to the COVID-19 Pandemic the Business Meeting was not open to the public. The Business Meeting was streamed on YouTube and could be accessed on the KCC webpage at kcc.ks.gov. Public Access to KCC offices is currently by appointment only to help reduce the spread of COVID-19.

MINUTES

The Commission convened the regularly scheduled open meeting of the Commission at 10:00 a.m. on December 22, 2020, in the 1st floor hearing room of the Kansas Corporation Commission, 1500 Arrowhead, Topeka, Kansas.

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

1. **Consent Agenda**: Commissioner French moved for approval of the Items on the Consent Agenda dated December 22, 2020, containing pages one through four and are attached to these Minutes. Commissioner Keen seconded the motion.

   The motion was approved.

2. **Noticed Item:**

   A. Docket No. 20-EKCE-356-COM
   In the Matter of the Complaint Against Evergy by Nicholas J. Beery

   Commissioner French moved for approval of order #20-2317 – Order on Formal Complaint. Commissioner Keen seconded the motion.

   The order is approved.

   B. Docket No. 21-KGSG-195-TAR
   In the Matter of Kansas Gas Service, a Division of ONE Gas, Inc.'s Ad Valorem Filing in Compliance with the Commission's July 14, 2004 Order in Docket No. 04-KGSG-1099-TAR.

   Commissioner Keen moved for approval of Order #20-2309 – Order Approving Property Tax Surcharge Rider. Commissioner French seconded the motion.

   The order is approved.

3. **Other Matters:**

   A. The Commission, by roll call vote, approved the permanent version of K.A.R. 82-4-3a. A copy is attached.

B. The Commission recognized the retirement of KCC employee Paula Artzer.

There being no further matters before the Commission, Commissioner French moved for adjournment of the Commission meeting. Commissioner Keen seconded the motion. The motion was approved. The Commission adjourned the December 22, 2020, Commission Meeting at 10:24 a.m.

Respectfully submitted,

Lynn M. Retz, Executive Director

Susan K. Duffy, Chair

Andrew J. French, Commissioner

Dwight D. Keen, Commissioner

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 permanent regulation on the 22nd day of December, 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	yes

Lynn M. Retz

Lynn M. Retz
Executive Director

22 December 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. 82-4-3a (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 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:

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

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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.

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The proposed regulation only features minor grammatical changes and a more precise reference to another regulation.

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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DIVISION OF THE BUDGET

Kansas
Corporation Commission

ITEMS OF
Consent Agenda

Approval Date: Tuesday, December 22, 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 Merit Energy Company, LLC, for an exception to the 10-year time limitation of K.A.R. 82-3-111 for its GCH 4-D36-26-32 well in the Southeast Quarter of the Northwest Quarter of the Northwest Quarter of Section 36, Township 26 South, Range 32 West, Finney County, Kansas. ***Order Granting Application***	20-CONS-3332-CEXC	
2	In the matter of application of F.G. Holl Company, L.L.C, for an order granting exception to the 10-year time limitation of K.A.R. 82-3-111 for its Sleeper OWWO 3-10 well located in the SW/4 of Section 10, Township 21 South, Range 11 West, Stafford County, Kansas. ***Order Granting Application***	21-CONS-3054-CEXC	
3	In the Matter of the Application of Southwestern Bell Telephone, L.P. for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With MCImetro Access Transmission Services, LLC. ***Order Approving Amended Interconnection Agreement***	06-SWBT-370-IAT	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
4	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 Bee Creek Substation Transmission Line Project in Montgomery County, Kansas. ***Order Granting Application for Transmission Rights Only Certificate of Convenience***	20-EKCE-259-COC	
5	In the Matter of the Joint Application of GridLiance High Plains LLC, GrdLiance GP, LLC and GridLiance Holdco, LP ("GridLiance") NextEra Energy Transmission, LLC ("NextEra Entities") for Approval of the Acquisition of GridLiance by the NextEra Entities. ***Order Approving Joint Motion to Modify Procedural Schedule***	21-GLPE-160-ACQ	
6	In the Matter of the Joint Application of GridLiance High Plains LLC, GrdLiance GP, LLC and GridLiance Holdco, LP ("GridLiance") NextEra Energy Transmission, LLC ("NextEra Entities") for Approval of the Acquisition of GridLiance by the NextEra Entities. ***Order Designating Presiding Officer***	21-GLPE-160-ACQ	
7	In the Matter of the Application of CMS Electric Cooperative, Inc. for a Certificate of Convenience and Authority to Transact the Business of a(N) Electric Public Utility in the State of Kansas. To Bury a New Underground 34.Kv Line in Seward County, Kansas. ***Order Assessing Costs***	21-CMSE-211-COC	
8	In the Matter of the Application of ONEOK NGL Pipeline, L.L.C. for an Order Approving an Amendment to the Pipeline Capacity Lease Agreement with Holly Frontier Refining & Marketing LLC ***Order Assessing Costs***	21-ONEP-214-CON	
9	In the Matter of the Application of Atmos Energy Seeking Commission Approval for 2021 Ad Valorem Tax Surcharge Rider Tariff. ***Orders Assessing Costs***	21-ATMG-216-TAR	
10	In the Matter of Blue Valley Tele-Communication Proposes to Revise the Exchange Boundary Between BLVT's Oketo Exchange and Windstream Nebraska's Liberty Exchange ***Order Assessing Costs***	21-BLVT-219-CXB	
11	In the Matter of the Investigation of Atmos Energy Corporation of Olathe, Kansas, 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-208-PEN	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
12	In the Matter of the Investigation of TPNA Express LLC of Bel Aire, 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-217-PEN	
13	In the Matter of the Investigation of Jose H. Jurado-Morales, d/b/a El Cowboy Trucking of Garden 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-218-PEN	
14	Transportation orders to be approved by the Commission on the Consent Agenda. ***Transportation Economic Orders***	21-TRAM-5041-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

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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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-5041-TRA

Order Number	Description	Removed
20201216092933	*In the Matter of the Emergency Suspension of Authority of WILLIAMS TOWING INCORPORATED of EMPORIA KS for the Failure to Maintain Insurance Coverage as Required by Motor Carrier Safety Statutes, Rules and Regulations.* USDOT #3056898 WILLIAMS TOWING INCORPORATED of EMPORIA KS - Order Rescinding Emergency Order Suspending Authority for Failure to Maintain Insurance Coverage	
20201216103153	*In the Matter of the Application of MIGUEL FLORES SALAZAR of GARDEN CITY KS for Authority for a Certificate of Public Service.* USDOT #3519715 MIGUEL FLORES SALAZAR of GARDEN CITY KS - Order Granting Application for Certificate of Public Service	
20201216103222	*In the Matter of the Application of PATRIOT CARRIER LLC of NESS CITY KS for Authority for a Certificate of Public Service.* USDOT #3495462 PATRIOT CARRIER LLC of NESS CITY KS - Order Granting Application for Certificate of Public Service	
20201216103259	*In the Matter of the Application of B & A SHED HAULING LLC of WICHITA KS for Authority for a Certificate of Public Service.* USDOT #3513389 B & A SHED HAULING LLC of WICHITA KS - Order Granting Application for Certificate of Public Service	
20201216103302	*In the Matter of the Application of B & A SHED HAULING LLC of WICHITA KS for a Private Carrier Permit.* USDOT #3513389 B & A SHED HAULING LLC of WICHITA KS - Order Granting Application for a Private Carrier Permit	
20201216142327	*In the Matter of the Application of LUCKY K LLC of MCPHERSON KS Seeking Authority for a Certificate of Public Service.* USDOT #3024599 LUCKY K LLC of MCPHERSON KS - Order Dismissing Application for Certificate of Public Service	
20201216142357	*In the Matter of the Emergency Suspension of Authority of LARRY SHOWALTER of HUTCHINSON KS for Failure to Maintain Insurance Coverage as Required by the Motor Carrier Safety Statutes, Rules and Regulations.* USDOT #387389 LARRY SHOWALTER of HUTCHINSON KS - Emergency Order Suspending Authority	

Transportation Orders By Docket Number
21-TRAM-5041-TRA

Order Number	Description	Removed
20201217111118	*In the Matter of the Application of LIVE MEDIA LLC of OTTAWA KS for a Private Carrier Permit.* USDOT #3522330 LIVE MEDIA LLC of OTTAWA KS - Order Granting Application for a Private Carrier Permit	
20201217113708	*In the Matter of the Application of COOK FLATT & STROBEL ENGINEERS PA of TOPEKA KS for a Private Carrier Permit.* USDOT #3530221 COOK FLATT & STROBEL ENGINEERS PA of TOPEKA KS - Order Granting Application for a Private Carrier Permit	
20201217140348	*In the Matter of the Application of DELIVERY & MOVING SERVICES LLC of MANHATTAN KS for a Private Carrier Permit.* USDOT #2127253 DELIVERY & MOVING SERVICES LLC of MANHATTAN KS - Order Granting Application for a Private Carrier Permit	
20201217140349	*In the Matter of the Application of DELIVERY & MOVING SERVICES LLC of MANHATTAN KS for Authority for a Certificate of Public Service.* USDOT #2127253 DELIVERY & MOVING SERVICES LLC of MANHATTAN KS - Order Granting Application for Certificate of Public Service	
20201217140523	*In the Matter of the Application of JORGE B MARQUEZ-GONZALEZ of ULYSSES KS for Authority for a Certificate of Public Service.* USDOT #2410590 JORGE B MARQUEZ-GONZALEZ of ULYSSES KS - Order Granting Application for Certificate of Public Service	
20201217140614	*In the Matter of the Application of I AM LBC TRUCKING LLC of HOLTON KS for Authority for a Certificate of Public Service.* USDOT #3530429 I AM LBC TRUCKING LLC of HOLTON KS - Order Granting Application for Certificate of Public Service	
20201217140637	*In the Matter of the Application of LINDSAY REGINA HATFIELD of WELLINGTON KS for Authority for a Certificate of Public Service.* USDOT #3330915 LINDSAY REGINA HATFIELD of WELLINGTON KS - Order Granting Application for Certificate of Public Service	
20201217140831	*In the Matter of the Application of AMERICAN AG & AUTO LLC of GLEN ELDER KS for Authority for a Certificate of Public Service.* USDOT #2481114 AMERICAN AG & AUTO LLC of GLEN ELDER KS - Order Granting Application for Certificate of Public Service	
20201217142432	*In the Matter of the Application of LUNCH MONEY TRUCKING LLC of GALVA KS for Authority for a Certificate of Public Service.* USDOT #3522737 LUNCH MONEY TRUCKING LLC of GALVA KS - Order Granting Application for Certificate of Public Service	

Total # of Orders: 16

End of Report