

Kansas Corporation Commission
Commission Meeting
February 14, 2019
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 10:01 a.m. on February 14, 2019 in the 1st floor hearing room of the Kansas Corporation Commission, 1500 Arrowhead, Topeka, Kansas.

Present: Chair Keen, Commissioner Emler and Commissioner Albrecht. The following were considered by the Commission:

1. **Consent Agenda:** Commissioner Emler moved for approval of the Items on the Consent Agenda dated February 14, 2019 containing pages one through five and are attached to these Minutes. Commissioner Albrecht seconded the motion.

The motion was approved.

2. **Noticed:**

- A. **Docket No. 19-SEPE-054-MER**

In the Matter of the Joint Application of Sunflower Electric Power Corporation and Mid-Kansas electric Company, Inc., for an order Approving the Merger of Mid-Kansas Electric Company, Inc. into Sunflower Electric Power Corporation.

Commissioner Emler moved for approval of order #19-0231 – Order on WKIEC’s Petition for Reconsideration Regarding Intervention. Commissioner Albrecht seconded the motion.

The motion was approved.

3. **Discussion Item(s):**

Proposed Revisions to the Bylaws of the State Corporation Commission of the State of Kansas approved on January 15, 2019.

Jonathan Myers, Assistant General Counsel presented concerns with the Bylaws adoption of the Kansas Code of Judicial Conduct in totality. Discussion centered on adoption of specific Cannons and Rules.

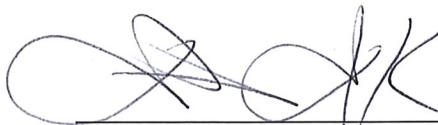
Commissioner Emler moved to shorten the 15 day requirement pursuant to the Bylaws, Article III to amend or rescind the Bylaws and to take action at the February 26, 2019 Business Meeting. The motion was unanimously approved.

There being no further matters before the Commission, Commissioner Albrecht moved for adjournment of the Commission meeting. Commissioner Emler seconded the motion. The motion was approved. The Commission adjourned the February 14, 2019 Commission Meeting at 10:32 a.m.

Respectfully submitted,



Lynn M. Retz
Secretary to the Commission



Dwight D. Keen, Chair



Shari Feist Albrecht, Commissioner



Jay Scott Emler, Commissioner



ITEMS OF Consent Agenda

Approval Date: Thursday, February 14, 2019

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 separately 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 Mercury Wireless Kansas, LLC for Designation as an Eligible Telecommunications Carrier for Purposes of Connect America Fund Phase II Support. <i>Order Granting Eligible Telecommunications Carrier Status</i>	19-MWKT-123-ETC	
2	In the Matter of the Application of Midstates Energy Operating, LLC to authorize injection of saltwater into the Squirrel formation at the Thrasher Wells #1-5, #1-4 and #1-3, and to increase the injection pressure on all wells encompassed by Permit E-31965, located in Section 25, Township 13 South, Range 20 East, Douglas County, Kansas. <i>Order Denying Judith Wells's February 6, 2019 Motion</i>	19-CONS-3173-CUIC	
3	In the Matter of the Application of Westar Energy for a Certificate of Public Convenience and Authority to Transact the Business of an Electric Public Utility Specifically in Portion of Section 28, 33, & 34, Township 4 & 5 South, South, Range 17 East, Brown County, Kansas <i>Order Assessing Costs</i>	19-WSEE-320-COC	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
4	In the Matter of the Application for Wisper ISP Inc. For Designation as an Eligible Telecommunications Carrier for Purposes of Receiving Federal Universal Service Support From the FCC Connect America Fund - Phase II <i>Order Granting Eligible Telecommunications Carrier Status</i>	19-WIIZ-225-ETC	
5	In the Matter of the Application of United Telephone Companies of Kansas Filing Tariff Revisions to Grandfather Essential Home Phone with Long Distance <i>Order Approving Tariff Revisions</i>	19-UTDT-281-TAR	
6	In the Matter of Rural Telephone Service Company, Inc. Filing Tariff Revisions to Increase Residential, Business and Video Services. <i>Order Approving Tariff Revisions and Refund</i>	19-RRLT-276-TAR	
7	In the Matter of the Application of Atmos Energy for Approval of the Commission for Gas System Reliability Surcharge per K.S.A. 66-2201 through 66-2204 <i>Order Granting CURB Intervention, Protective and Discovery Orders</i>	19-ATMG-307-TAR	
8	In the Matter of the Application of Gorham Telephone Company Filing Tariff Revisions to Business Service Rates <i>Order Assessing Costs</i>	19-GRHT-303-TAR	
9	In the Matter of the Application of Kansas City Power & Light Company for Approval to Modify Existing Tariffs for Residential Time of Use <i>Order Assessing Costs</i>	19-KCPE-318-TAR	
10	In the Matter of the Application of Gorham Telephone Company Filing Tariff Revisions to its Discount Bundle Services. <i>Order Approving Tariff Revisions</i>	19-GRHT-293-TAR	
11	In the Matter of the Application of Birch Telecom of Kansas, LLC Changing its Name to Fusion Telecom of Kansas, LLC (IXC) <i>Order Assessing Costs</i>	19-BTKC-316-CCN	
12	In the Matter of the Complaint Against Westar by Douglas Yoder <i>Order Dismissing Formal Complaint</i>	19-WSEE-212-COM	
13	In the Matter of a General Investigation into the Appropriateness of Certain Sections of the Kansas Corporation Commission's Electric and Natural Gas Billing Standards (Billing Standards) Related to On-Premises Collections. <i>Order Adopting Joint Procedural Schedule</i>	15-GIMX-344-GIV	
14	In the Matter of the Application of Birch Telecom of Kansas, LLC Changing its Name to Fusion Telecom of Kansas, LLC (CLEC) <i>Order Assessing Costs</i>	19-BTKT-315-CCN	
15	In the Matter of the Quality of Service Report Filings for Local Exchange Carriers. <i>Amended Order Assessing Costs</i>	14-GIMT-118-CPL	

Consent Agenda


ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
16	In the Matter of the Application For Southwestern Bell Telephone Company for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With MCC Telephony of the Midwest, LLC <i>Amended Order Assessing Costs</i>	19-SWBT-286-IAT	
17	In the Matter of the Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With HCI Telcom, Inc. <i>Amended Order Assessing Costs</i>	09-SWBT-609-IAT	
18	In the Matter of the Investigation of Enerfab Power & Industrial, Inc. of Kansas City, 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). <i>Penalty Order</i>	19-DPAX-304-PEN	
19	In the Matter of the Emergency Suspension of Operating Authority of Peer Enterprise, LLC of Wichita, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <i>Emergency Suspension of Operating Authority Order</i>	19-TRAM-311-OOS	
20	In the Matter of the Emergency Suspension of Operating Authority of Quality Roofing Installation, LLC of Wichita, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <i>Emergency Suspension of Operating Authority Order</i>	19-TRAM-312-OOS	
21	In the Matter of the Investigation of GTE LLC of Bucyrus, Kansas, Regarding the Violation(s) 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. <i>Penalty Order</i>	19-TRAM-306-PEN	
22	In the Matter of the Investigation of Integrated Employment Enterprises, Inc. of Ottawa, Kansas, Regarding the Violation(s) 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. <i>Penalty Order</i>	19-TRAM-308-PEN	
23	In the Matter of the Investigation of White's Construction Co., LLC of Kanopolis, Kansas, Regarding the Violation(s) 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. <i>Penalty Order</i>	19-TRAM-310-PEN	

Consent Agenda

ITEM NO.	DESCRIPTION	DOCKET NUMBER	REMOVED
24	In the Matter of the Emergency Suspension of Operating Authority of Express Trucking and Delivery LLC of Kansas City, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <i>Order Reinstating Motor Carrier Operating Authority</i>	18-TRAM-481-OOS	
25	In the Matter of the Emergency Suspension of Operating Authority of Supreme Hauling Inc of Overland Park, Kansas, for Failure to Comply With New Entrant Safety Requirements as Required by Motor Carrier Safety Statutes, Rules and Regulations. <i>Emergency Suspension of Operating Authority Order</i>	19-TRAM-317-OOS	
26	Transportation orders to be approved by the Commission on the Consent Agenda. <i>Transportation Economic Orders</i>	19-TRAM-5052-TRA	

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

For the Commission :


Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Jay Scott Emler, Commissioner

Attest:


Lynn M. Retz
Secretary to the Commission

BYLAWS of The State Corporation Commission of the State of Kansas

Preamble

The State Corporation Commission of the State of Kansas (Commission) is an independent state agency managed by three Commissioners who are each appointed by the Governor for a term of four years¹. The Commission has only the powers, duties, authority, and jurisdiction conferred upon it by the Kansas legislature.²

The Commission is subject to the Kansas Open Meetings Act,³ the Kansas Open Records Act,⁴ the Kansas Administrative Procedure Act,⁵ the Kansas Judicial Review Act,⁶ the Kansas Rules and Regulations Filing Act,⁷ the Governmental Ethics Act,⁸ and the Kansas Governmental Operations Accountability Law.⁹

In addition, the Commission adopts and incorporates by this reference the Kansas Code of Judicial Conduct (Code), attached to these Bylaws as Appendix I, as in effect on the date of the adoption of these Bylaws.

Provided, however, that the Commission adopts and incorporates the Code solely to ratify the general ethical principles it wishes to observe when acting in its quasi-judicial capacity, and not to establish any specific right or legal duty. Further, the Commission excludes the following rules, not because it disagrees with their purpose, but because of various issues that would arise in application compared to the Commission's statutory powers and duties: Rules 2.9, 2.11, 3.2, 3.4, 3.8 through 3.11, 3.13 through 3.15, and all of Canon IV.

In addition to the duties authorized under K.S.A. 74-601 *et seq.*, the Chairperson of the Commission is responsible for performing the functions articulated in the Kansas statutes and Commission regulations as described in Appendix II to these Bylaws.

¹ K.S.A. 74-601 *et seq.*

² *Id.*

³ K.S.A. 75-4317 *et seq.*

⁴ K.S.A. 45-215 *et seq.*

⁵ K.S.A. 77-501 *et seq.*

⁶ K.S.A. 77-601 *et seq.*

⁷ K.S.A. 77-415 *et seq.*

⁸ K.S.A. 46-215 *et seq.*

⁹ K.S.A. 74-7283 *et seq.*

Article I

Organizational Structure Authority

Pursuant to K.S.A. 74-629, the Commission is authorized to organize its office as it deems most efficient so long as it is not in conflict with Kansas or federal law.

Article II

Creation of Bylaws

The Commission hereby establishes these Bylaws to govern the internal organization and operation of the Commission. Pursuant to K.S.A. 77-438, these Bylaws are designated as a guidance document stating how and when the Commission will exercise its discretion under K.S.A. 74-629. These Bylaws shall be binding only upon the Commission itself and its employees.

Article III

Amendments to Bylaws

These Bylaws may be amended or rescinded at any business meeting of the Commission by majority vote of the Commission, provided that notice of the proposed action has been provided to all commissioners at least 15 days before the business meeting at which the action is to be taken. A shorter notice period for amending or rescinding the Bylaws may be approved by unanimous vote of the Commission.

Article IV

Organizational Structure of the State Corporation Commission

The Commission shall be organized into statutorily-recognized divisions and offices, which include: Utilities; Conservation; Transportation; Public Affairs and Consumer Protection; General Counsel; and executive director, each of which is managed by a director or officer appointed pursuant to K.S.A. 74-601 *et seq.* The Commission shall include within its organization the Office of Energy, the director of which shall manage the energy program mandated by K.S.A. 74-616 *et seq.* The directors of the statutorily-recognized divisions and offices shall report directly to the Commission and shall be referred to collectively as the Management Team.

The Commission shall include within its organization the Office of Litigation Counsel, which shall provide legal support to the Utilities, Conservation, and Transportation divisions. The chief litigation counsel shall report directly to the Commission and is a member of the Management Team.

The Commission shall also include organizational units that provide administrative support services as follows: Docketing Services; Fiscal Services; Human Resources; and Information Technology. The managers of the administrative support units shall report directly to the director of administrative services and governmental affairs, who is also a member of the Management Team. The director of administrative services and governmental affairs shall report to the executive director. In the event the director of administrative services and government affairs position shall at any time be unfilled, the managers of the administrative support units shall report directly to the executive director.

Directors, officers, and managers may organize their respective work units in the most efficient manner they deem appropriate. Nothing shall prohibit any commissioner from working or communicating directly with Commission employees subject to the provisions and limitations of K.S.A. 77-545, as applicable.

The Organizational Hierarchy of the Commission is illustrated in Appendix III, attached to these Bylaws.

Article V

Executive Director

The executive director shall aid the Commission in the administration and execution of Commission business. The executive director shall not use this authority to direct or control any substantive policy of any statutorily-recognized division of the Commission or create Commission policy or to interfere with communications between the Commission and any Commission employees or contractors. The executive director shall carry out any other functions as prescribed by law or as directed by the Commission.

Specifically, the executive director shall perform such duties and exercise such powers as are delegated by the Commission;¹⁰ serve as the secretary to the Commission;¹¹ sign and approve certain motor carrier certificates;¹² receive communication, confidential information and requests for confidential information on behalf of the Commission;¹³ receive filings made with the Commission;¹⁴ assign docket numbers and captions;¹⁵ affix the official signature of the Commission;¹⁶ receive notice of termination relevant to gas gathering systems on behalf of the Commission;¹⁷ submit a copy of distribution system

¹⁰ K.S.A. 74-629.

¹¹ K.S.A. 74-630.

¹² K.S.A. 66-1,114b.

¹³ K.A.R. 82-1-206 and K.A.R. 82-1-221a.

¹⁴ K.A.R. 82-1-215.

¹⁵ K.A.R. 82-1-219.

¹⁶ K.A.R. 82-1-232.

¹⁷ K.A.R. 82-3-804.

incident reports to the United States Department of Transportation;¹⁸ and receive applications for video service authorization certificates on behalf of the Commission.¹⁹

The executive director shall be responsible for the annual development and implementation of a Commission-wide strategic plan. This planning process shall encompass a planning period of at least the next five fiscal years; solicit and consider suggestions and input from the directors of all statutorily-recognized divisions of the Commission and from the commissioners; and, shall include budget and non-budget considerations specifically including, among other matters, the development of employee cross-training procedures and key employee job-specific succession planning.

In the event the executive director position is unfilled at any time, these duties may be temporarily performed by the secretary to the Commission or another employee as authorized by the Commission. The executive director or secretary shall report directly to the Commission and is a member of the Management Team.

Article VI

General Counsel

The general counsel of the Commission shall provide legal advice to the Commission on matters pending before the Commission under the jurisdiction and authority granted to the Commission by the Kansas legislature and shall defend the orders of the Commission on appeal under the Kansas Judicial Review Act. The general counsel shall act on the Commission's behalf in other matters pending in state or federal courts²⁰ or before other state or federal agencies in which the Commission is named as a party. The general counsel shall represent the Commission on matters of employment or other matters arising out of the day-to-day operations of the Commission and shall advise the Commission on the adoption of policies under which the Commission operates. The general counsel shall report directly to the Commission and is a member of the Management Team.

Article VII

Action on Personnel Matters

Decisions relating to the employment of any employee who reports directly to the Commission as provided in Articles IV, V, and VI above, may only be made by the Commission after consultation and discussion among the commissioners in an executive session. The Commission may vote to authorize the chairperson to take personnel action necessary to resolve the employment matter. Any Commission vote taken to facilitate

¹⁸ K.A.R.82-11-5.

¹⁹ K.A.R. 82-15-1.

²⁰ Includes coordinating with the Kansas Attorney General's office as necessary.

personnel actions shall protect the privacy of the affected employee to the extent possible. The Director of Human Resources shall notify all commissioners of any changes in the employment status of any Commission employee. Nothing in these Bylaws shall limit or restrict the Commission's ability to address employment matters.

Article VIII

Commissioners as Representatives

(1) Southwest Power Pool (SPP) Representative

The Commission shall designate one commissioner to serve as the representative for the SPP Regional State Committee (RSC).²¹ The SPP representative may be designated or ratified at any business meeting of the Commission by majority vote of the Commission. A Commission employee selected by the Utilities division director shall serve as technical advisor to the SPP representative and participate in SPP meetings, as required. An attorney from the Commission shall attend SPP RSC meetings, as required, and provide status reports from those meetings to the other commissioners. In addition, the attorney or the Utilities division employee shall provide the commissioners with a regular report on the Commission's SPP activity at least quarterly.

(2) Kansas Water Authority Representative

The Chairperson shall serve as an *ex officio* member of the Kansas Water Authority.²²

(3) Interstate Oil and Gas Compact Commission Representative

Subject to appointment by the Governor,²³ a commissioner may serve as the official state representative to the Interstate Oil and Gas Compact Commission.

Article IX

Budget Planning

1. On or before April 1st of each year, Fiscal Services shall timely initiate and develop a detailed, date-specific, step-by-step scheduled budget timeline that provides for a consistent reporting format for review and approval by the heads of the statutorily-recognized divisions and offices and by the commissioners.
2. On or before June 1st each year, heads of the statutorily-recognized divisions and offices shall submit to the Commission any request for capital expenditures

²¹ K.S.A. 74-633.

²² K.S.A. 74-2622.

²³ K.S.A. 55-865.

(inclusive of proposed vehicle purchases) and salary increases (inclusive of possible promotions) in their respective budgets for the next budget cycle and shall provide justification for the proposed changes to be considered by the Commission in preparing the annual agency budget submission.

3. On or before July 15th each year, the Commission shall conduct a work study session to review the proposals from each head of the statutorily-recognized divisions and offices regarding any requested capital expenditures and salary increases.
4. On or before August 15th each year, heads of the statutorily-recognized divisions and offices shall submit to the Fiscal Services manager and the Commission all requests for expenditures or proposed amendments to their respective budgets for the next budget cycle and shall provide justification for any proposed changes from the previous budget cycle to be considered by the Commission in preparing the annual agency budget submission.
5. On or before August 15th each year, or more frequently if necessary, the Conservation Division director and the Fiscal Services manager shall jointly report to the Commission the revenue and expenditure assessment for the Conservation Division. A recommendation to the Commission to either increase, decrease, or maintain the Conservation Fee Fund assessment rates for the next budget cycle will be included in the report to the Commission. A Conservation Division Fiscal Working Group shall be formed in coordination with the Oil and Gas Advisory Committee to elicit, receive, and consider input regarding the content and proposed budgetary expenditures for the Conservation Division for the next budget cycle. The report and recommendation to the Commission shall also include any input received from the Conservation Division Fiscal Working Group.
6. On or before August 15th each year, the Fiscal Services manager shall report to the Commission on the status of the Commission's vehicle fleet. Commission approval is required prior to purchasing or replacing vehicles that were not included in the approved budget.
7. At the end of each month of the fiscal year, the Fiscal Services manager shall provide the directors of all statutorily-recognized divisions and the commissioners with such fiscal reports as they shall request, specifically including a monthly report detailed by budget line item indicating the expenditures during the fiscal year to the date of the report and indicating the dollar amount of the budget allocation for each line item that remains unspent and available for expenditure or encumbrance for the remainder of the fiscal year.

Article X

Action on FERC Dockets

In the event that less than a majority of commissioners is present to approve time-sensitive matters for filing at the Federal Energy Regulatory Commission (FERC), the Chairperson may approve interventions in FERC dockets, subject to ratification at the next Commission business meeting.

Article XI

Commission Use of Outside Entities and Agencies

In action taken at any business meeting, the Commission may contract with the Kansas Office of Administrative Hearings for a presiding officer pursuant to the Kansas Administrative Procedures Act.

DRAFT

Article XII

Commission Meetings

Unless otherwise directed by the Commission, the following meetings shall occur weekly on the following days:

1. Business Meetings – Tuesday and Thursday
2. Work Study Sessions – as necessary
3. Administrative Meetings – Thursday

Deadlines to request items to be placed on the agenda of Commission business meetings and/or to submit proposed orders for consideration at Commission business meetings shall be as follows:

Tuesday business meetings: The deadline for the Tuesday business meeting shall be 4:00 p.m. on the immediately preceding Thursday.

Thursday business meetings: The deadline for the Thursday business meeting shall be 4:00 p.m. on the immediately preceding Monday.

The deadline to submit a request for an item to be considered for a work study session shall be 4:00 p.m., one week before the proposed meeting date.

Administrative meetings are for the purpose of facilitating discussion between the Commission and its employees.

The Commission may call a meeting, other than a regularly scheduled business meeting, to discuss and take action on a particular item(s) before the Commission so long as twenty-four hours' public notice is provided. Such a meeting may be called unilaterally by the Chairperson, or by a majority vote of the Commission.

The Commission may call an emergency meeting to discuss and take action upon serious or imminent threats to entities or interests under the Commission's jurisdiction, or any other matters where time is of the essence. In the event an emergency meeting is called, the Commission shall strive to provide three hours' public notice. However, if that is not practicable, the Commission shall provide reasonable notice in accordance with the Kansas Open Meetings Act, K.S.A. 75-4317 through 75-4320a and amendments thereto.

The Commission may cancel any previously scheduled meeting at any time prior to the meeting. The Commission may adjust the time of a specific meeting, regardless of the type of meeting, so long as reasonable public notice is provided and any adjustment is limited to unique circumstances and evaluated on a case-by-case basis.

Any meeting outlined above shall be conducted in accordance with the Kansas Open Meetings Act, K.S.A. 75-4317 *et seq.* and Robert's Rules of Order Newly Revised, 11th Edition.

Article XIII

Organization and Planning of Commission Schedule

On the Thursday following the second Monday of January of each year, the Commission shall hold an organizational meeting in the Commission's Topeka office immediately following the regularly scheduled business meeting. During the organizational meeting, the Commission shall:

- (1) Review and approve the schedule of Commission meetings for the current calendar year;
- (2) Review these Bylaws;
- (3) Review the fiscal year-to-date budget report;
- (4) Review and approve an updated Commission organizational chart and internal operating policies and plans;
- (5) Elect a commissioner to serve as the Chairperson; and
- (6) Receive a legislative update.

In June, the Commission shall review the business meetings planned for the remainder of the calendar year and make any appropriate revisions. Nothing herein shall limit the Commission's ability or authority to amend the business meeting schedule as the Commission deems necessary throughout the year.

Article XIV

Any amendment to these Bylaws shall supersede the previous version of the Bylaws.

**KANSAS CODE
OF
JUDICIAL CONDUCT**

DRAFT

Rule 601B

KANSAS CODE OF JUDICIAL CONDUCT

Grateful recognition is due the Commission on Judicial Qualifications for its assistance in the extensive analysis and study that preceded the adoption of Rule 601B. The Commission members were: Chairman, Hon. Robert J. Fleming, District Court Judge, Parsons, Kansas; Vice-Chairman, Nancy S. Anstaett, Attorney, Overland Park, Kansas; Secretary, Carol G. Green, Appellate Court Clerk, Topeka, Kansas; Hon. J. Patrick Brazil, Court of Appeals Chief Judge, Retired, Topeka, Kansas; Bruce Buchanan, Lay Member, Hutchinson, Kansas; Dr. Mary Davidson Cohen, Lay Member, Leawood, Kansas; Hon. Theodore B. Ice, District Court Judge, Retired, Newton, Kansas; Hon. Jennifer L. Jones, Municipal Judge, Wichita, Kansas; Hon. David J. King, District Court Chief Judge, Leavenworth, Kansas; Jeffery A. Mason, Attorney, Goodland, Kansas; Christina Pannbacker, Lay Member, Washington, Kansas; Mikel L. Stout, Attorney, Wichita, Kansas; William B. Swearer, Attorney, Hutchinson, Kansas; Carolyn Tillotson, Lay Member, Leavenworth, Kansas; Hon. Thomas L. Toepfer, District Court Judge, Hays, Kansas; and former member participating in this Code revision, Hon. Lawrence E. Sheppard, District Court Judge, Olathe, Kansas.

The revised Model Code of Judicial Conduct adopted by the House of Delegates of the American Bar Association on February 12, 2007, as hereinafter modified, is adopted as a rule of this Court to be designated the Kansas Code of Judicial Conduct. The Kansas Code of Judicial Conduct as hereinafter set forth shall be effective as of March 1, 2009. All alleged violations committed before March 1, 2009, shall be subject to Rule 601A (2008 Kan. Ct. R. Annot. 645).

APPENDIX I

PREAMBLE

[1] An independent, fair and impartial judiciary is indispensable to our system of justice. Our legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

[2] Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

[3] The Kansas Code of Judicial Conduct establishes standards for the ethical conduct of judges and judicial candidates. It is not intended as an exhaustive guide for the conduct of judges and judicial candidates, who are governed in their judicial and personal conduct by general ethical standards as well as by the Code. The Code is intended, however, to provide guidance and assist judges in maintaining the highest standards of judicial and personal conduct, and to provide a basis for regulating their conduct through disciplinary procedures.

SCOPE

[1] The Kansas Code of Judicial Conduct consists of four Canons, numbered Rules under each Canon, and Comments that generally follow and explain each Rule. Scope and Terminology sections provide authoritative guidance in interpreting and applying the Code. An Application section establishes when the various Rules apply to a judge or judicial candidate.

[2] The Canons state general principles of judicial ethics that all judges must observe.

[3] The Rules of the Kansas Code of Judicial Conduct are rules of reason that should be applied consistent with constitutional requirements, statutes, other court rules, and decisional law, and with due regard for all relevant circumstances. The Rules should not be interpreted to impinge upon the essential independence of judges in making judicial decisions.

[4] The Comments that accompany the Rules serve two functions. First, they provide authoritative guidance regarding the purpose, meaning, and proper application of the Rules. They contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. Comments neither add to nor subtract from the binding obligations set forth in the Rules. Second, the Comments identify aspirational goals for judges. To implement fully the principles of this Code as articulated in the Canons, judges should strive to exceed the standards of conduct established by the Rules, holding themselves to the highest ethical standards and seeking to achieve those aspirational goals, thereby enhancing the dignity of the judicial office.

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APPENDIX I

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[5] When this Code uses "shall" or "shall not," binding obligations are imposed, the violation of which can result in disciplinary action. When "should" or "should not" is used, the text is cautionary and a statement of what is or is not appropriate conduct but not a binding rule under which a judge may be disciplined. "May" denotes permissible discretion or, depending on the context, action that is not covered by specific proscriptions.

[6] Although the black letter of the Canons and Rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. Whether discipline should be imposed should be determined through a reasonable and reasoned application of the Canons and Rules, and should depend upon factors such as the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the judicial system or others.

[7] The Code is not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

APPENDIX I

TERMINOLOGY

Terms defined below are noted in *italics* in the Canons and Rules where they appear.

“Appropriate authority” means the authority having responsibility for initiation of disciplinary process in connection with the violation to be reported. See Rules 2.14 and 2.15.

“Candidate” See “Judicial Candidate.”

“Contribution” means both financial and in-kind contributions, such as goods, professional or volunteer services, advertising, and other types of assistance, which, if obtained by the recipient otherwise, would require a financial expenditure. See Rules 3.7, 4.1, and 4.4.

“De minimis,” in the context of interests pertaining to disqualification of a judge, means an insignificant interest that could not raise a reasonable question regarding the judge’s impartiality. See Rule 2.11.

“Domestic partner” means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married. See Rules 2.11, 2.13, 3.13, 3.14, and 3.15.

“Economic interest” means ownership of more than a de minimis legal or equitable interest. Except for situations in which the judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

- (1) an interest in the individual holdings within a mutual or common investment fund;
- (2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge’s spouse, domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant;
- (3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or
- (4) an interest in the issuer of government securities held by the judge.

See Rules 1.3 and 2.11.

“Fiduciary” includes relationships such as executor, administrator, trustee, or guardian. See Rules 2.11, 3.2, and 3.8.

“Harassment” See Rule 2.3, Comment [3].

“Impartial,” “impartiality,” and “impartially” mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in

1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Jay Scott Emler, Commissioner

Laura Kelly, Governor

Transportation Orders By Docket Number 19-TRAM-5052-TRA

Order Number	Description	Removed
20190205095957	<i>In the Matter of the Application of DONS AUTO BODY LLC of BURR OAK KS for the Abandonment of Certificate of Public Service.</i> USDOT #1023709 DONS AUTO BODY LLC of BURR OAK KS - Order Granting Request for Abandonment for Certificate of Public Service	
20190205101137	<i>In the Matter of the Application of DIGGS TRANSPORT LLC of SILVER LAKE KS for the Abandonment of Certificate of Public Service.</i> USDOT #2843086 DIGGS TRANSPORT LLC of SILVER LAKE KS - Order Granting Request for Abandonment for Certificate of Public Service	
20190205102105	<i>In the Matter of the Application of PETER FARM SERVICE LLC of GOODLAND KS for a Private Carrier Permit.</i> USDOT #3236965 PETER FARM SERVICE LLC of GOODLAND KS - Order Granting Application for a Private Carrier Permit	
20190205104617	<i>In the Matter of the Application of HOMESTEAD CUSTOM CABINETS INC of WAMEGO KS for a Private Carrier Permit.</i> USDOT #951977 HOMESTEAD CUSTOM CABINETS INC of WAMEGO KS - Order Granting Application for a Private Carrier Permit	
20190205123242	<i>In the Matter of the Application of K TRANSPORT LLC of CHASE KS for the Abandonment of Certificate of Public Service.</i> USDOT #2273747 K TRANSPORT LLC of CHASE KS - Order Granting Request for Abandonment for Certificate of Public Service	
20190206154746	<i>In the Matter of the Application of E&J TRANSPORT LLC of WICHITA KS for Authority for a Certificate of Public Service.</i> USDOT #3083762 E&J TRANSPORT LLC of WICHITA KS - Order Granting Application for Certificate of Public Service	
20190208111533	<i>In the Matter of the Application of EPP&#039;S SERVICE INC of ELBING KS for a Private Carrier Permit.</i> USDOT #670364 EPP'S SERVICE INC of ELBING KS - Order Granting Application for a Private Carrier Permit	

Transportation Orders By Docket Number

19-TRAM-5052-TRA

Order Number	Description	Removed
20190208111535	<i>In the Matter of the Application of EPP&#039;S SERVICE INC of ELBING KS for Authority for a Certificate of Public Service.</i> USDOT #670364 EPP'S SERVICE INC of ELBING KS - Order Granting Application for Certificate of Public Service	
20190208124532	<i>In the Matter of the Application of BEN EDELMAN of SABETHA KS for a Private Carrier Permit.</i> USDOT #2784207 BEN EDELMAN of SABETHA KS - Order Granting Application for a Private Carrier Permit	
20190208142450	<i>In the Matter of the Application of CAT CANS PORTABLE SERVICES OF MANHATTAN LLC of MANHATTAN KS for Authority for a Certificate of Public Service.</i> USDOT #2299619 CAT CANS PORTABLE SERVICES OF MANHATTAN LLC of MANHATTAN KS - Order Granting Application for Certificate of Public Service	
20190208150126	<i>In the Matter of the Application of SHOP QUIK STORES L L C of MANHATTAN KS for a Private Carrier Permit.</i> USDOT #526185 SHOP QUIK STORES L L C of MANHATTAN KS - Order Granting Application for a Private Carrier Permit	
20190208150129	<i>In the Matter of the Application of SHOP QUIK STORES L L C of MANHATTAN KS for Authority for a Certificate of Public Service.</i> USDOT #526185 SHOP QUIK STORES L L C of MANHATTAN KS - Order Granting Application for Certificate of Public Service	
20190208150322	<i>In the Matter of the Application of A-1 PUMP & JET SERVICES INC of EMPORIA KS for a Private Carrier Permit.</i> USDOT #2477954 A-1 PUMP & JET SERVICES INC of EMPORIA KS - Order Granting Application for a Private Carrier Permit	
20190211111942	<i>In the Matter of the Application of TM TRANSPORT LLC of DODGE CITY KS for Authority for a Certificate of Public Service.</i> USDOT #3204804 TM TRANSPORT LLC of DODGE CITY KS - Order Granting Application for Certificate of Public Service	
20190211151738	<i>In the Matter of the Emergency Suspension of Authority of MULLER AUTO TRANSPORT LLC of PAXICO KS for Failure to Maintain Insurance Coverage as Required by the Motor Carrier Safety Statutes, Rules and Regulations.</i> USDOT #884531 MULLER AUTO TRANSPORT LLC of PAXICO KS - Emergency Order Suspending Authority	
20190211151738	<i>In the Matter of the Emergency Suspension of Authority of PAGE TRANSPORTATION INC of WEEDSPORT NY for Failure to Maintain Insurance Coverage as Required by the Motor Carrier Safety Statutes, Rules and Regulations.</i> USDOT #211745 PAGE TRANSPORTATION INC of WEEDSPORT NY - Emergency Order Suspending Authority	
20190211151738	<i>In the Matter of the Emergency Suspension of Authority of CLARENCE NELSON of CHASE KS for Failure to Maintain Insurance Coverage as Required by the Motor Carrier Safety Statutes, Rules and Regulations.</i> USDOT #2257764 CLARENCE NELSON of CHASE KS - Emergency Order Suspending Authority	

Transportation Orders By Docket Number

19-TRAM-5052-TRA

Order Number	Description	Removed
20190211151738	<i>In the Matter of the Emergency Suspension of Authority of INTERSTATE BATTERY SYSTEM OF WESTERN KANSAS INC of DODGE CITY KS for Failure to Maintain Insurance Coverage as Required by the Motor Carrier Safety Statutes, Rules and Regulations.</i> USDOT #279190 INTERSTATE BATTERY SYSTEM OF WESTERN KANSAS INC of DODGE CITY KS - Emergency Order Suspending Authority	
20190211151738	<i>In the Matter of the Emergency Suspension of Authority of THE PARTY EXPRESS LLC of WICHITA KS for Failure to Maintain Insurance Coverage as Required by the Motor Carrier Safety Statutes, Rules and Regulations.</i> USDOT #1513917 THE PARTY EXPRESS LLC of WICHITA KS - Emergency Order Suspending Authority	
20190211151738	<i>In the Matter of the Emergency Suspension of Authority of HNOS ESCOBEDO TRUCKING LLC of WICHITA KS for Failure to Maintain Insurance Coverage as Required by the Motor Carrier Safety Statutes, Rules and Regulations.</i> USDOT #2959945 HNOS ESCOBEDO TRUCKING LLC of WICHITA KS - Emergency Order Suspending Authority	
20190211151738	<i>In the Matter of the Emergency Suspension of Authority of ROCKWELL COLLINS INC of WICHITA KS for Failure to Maintain Insurance Coverage as Required by the Motor Carrier Safety Statutes, Rules and Regulations.</i> USDOT #983475 ROCKWELL COLLINS INC of WICHITA KS - Emergency Order Suspending Authority	
20190211151739	<i>In the Matter of the Emergency Suspension of Authority of FLOCK TRUCKING LLC of LARNED KS for Failure to Maintain Insurance Coverage as Required by the Motor Carrier Safety Statutes, Rules and Regulations.</i> USDOT #3148823 FLOCK TRUCKING LLC of LARNED KS - Emergency Order Suspending Authority	

Total # of Orders:

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End of Report