

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the complaint filed by the	)	
<b>MICHIGAN PUBLIC SERVICE COMMISSION</b>	)	
<b>STAFF</b> against <b>D&amp;D TRUCKING, INC.,</b>	)	Case No. T-1815
as assigns, successors, and other d/b/a's and	)	
assumed names of the above-referenced entity.	)	

In the matter of the complaint filed by the	)	
<b>MICHIGAN PUBLIC SERVICE COMMISSION</b>	)	
<b>STAFF</b> against <b>D&amp;D TRUCKING, INC.,</b>	)	Case No. T-1831
as assigns, successors, and other d/b/a's and	)	
assumed names of the above-referenced entity.	)	

At the March 21, 2007 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chairman  
Hon. Laura Chappelle, Commissioner  
Hon. Monica Martinez, Commissioner

**ORDER**

Case No. T-1815

After receiving notice that D&D Trucking, Inc. (D&D), had failed to maintain personal liability and property damage (PL/PD) insurance as required by law, the Commission Staff (Staff) served the carrier with an informal conference notice to provide an opportunity for D&D to show compliance with the Commission's Motor Carrier Rules, 1999 AC, R 460.18101 *et seq.* D&D failed to appear at the February 22, 2006 informal conference.

On March 20, 2006, the Staff received verification that D&D had obtained the required PL/PD insurance effective March 15, 2006 from National Casualty Company. By comparing the date of the cancellation notice with the effective date of the replacement policy, the Staff determined that there had been an insurance lapse of 76 days.

On June 23, 2006, the Staff filed and served a formal complaint against D&D. Subsequently, an evidentiary hearing was scheduled for the purpose of giving the Staff an opportunity to establish the truthfulness of its allegations and to allow D&D to show compliance with the Commission's Motor Carrier Rules.

On October 10, 2006, Administrative Law Judge Mark D. Eyster (ALJ) held an evidentiary hearing. The Staff presented one witness and five exhibits were admitted into evidence. D&D did not appear for the hearing. The evidence at the hearing showed that D&D's PL/PD insurance was cancelled on December 28, 2005 and was not replaced until March 15, 2006. There was no evidence that D&D filed an application for permanent or temporary discontinuance with the Commission.

The ALJ issued an oral Proposal for Decision (PFD) at the end of the hearing. The ALJ found and recommended the following:

(a) D&D violated Motor Carrier Rules R 460.19101-R 460.19104 by failing to obtain, file proof of, and maintain effective PL/PD insurance with the Commission while its intrastate authority remained active.

(b) D&D's intrastate operating authority, intrastate vehicle registrations, and 72-hour special identification cards should be revoked.

(c) D&D should pay an administrative assessment of \$500.00 and the carrier should not file another application for a grant of intrastate motor carrier authority before the assessment is paid in full.

(d) D&D should cease and desist from all further violations of the Motor Carrier Act and Commission Rules.

On November 3, 2006, the Staff served notice of the PFD on D&D, providing the carrier with an opportunity to file exceptions on or before November 17, 2006. D&D did not file exceptions.

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On June 22, 2006, D&D's PL/PD insurance was again cancelled. The Staff served the carrier with another informal conference notice to provide an opportunity for D&D to show compliance with the Commission's Motor Carrier Rules, 1999 AC, R 460.18101 *et seq.* D&D failed to appear at the July 27, 2006 informal conference.

On August 23, 2006, the Staff filed and served a formal complaint against D&D. Subsequently, an evidentiary hearing was scheduled for the purpose of giving the Staff an opportunity to establish the truthfulness of its allegations and to allow D&D to show compliance with the Commission's Motor Carrier Rules.

On November 8, 2006, Administrative Law Judge Daniel E. Nickerson, Jr., (ALJ) held an evidentiary hearing. The Staff presented one witness and four exhibits were admitted into evidence. D&D did not appear for the hearing. The evidence at the hearing showed that D&D's PL/PD insurance was cancelled on June 22, 2006 and was not replaced. There was no evidence that D&D filed an application for permanent or temporary discontinuance with the Commission.

The ALJ issued an oral Proposal for Decision (PFD) at the end of the hearing. The ALJ found and recommended the following:

(a) D&D violated Motor Carrier Rules R 460.19101-R 460.19104 by failing to obtain, file proof of, and maintain effective PL/PD insurance with the Commission while its intrastate authority remained active.

(b) D&D's intrastate operating authority, intrastate vehicle registrations, and 72-hour special identification cards should be revoked.

(c) D&D should pay an administrative assessment of \$500.00 and the carrier should not file another application for a grant of intrastate motor carrier authority before the assessment is paid in full.

(d) D&D should cease and desist from all further violations of the Motor Carrier Act and Commission Rules.

On December 5, 2006, the Staff served notice of the PFD on D&D, providing the carrier with an opportunity to file exceptions on or before December 15, 2006. D&D did not file exceptions.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1933 PA 254, as amended, MCL 475.1 *et seq.*; 1939 PA 3, as amended, MCL 460.1 *et seq.*; 1969 PA 306, as amended, MCL 24.201 *et seq.*; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 *et seq.*

b. The PFD in Case No. T-1815 is supported by the record and the law and should be adopted, with one exception.

c. The PFD in Case No. T-1831 is supported by the record and the law and should be adopted, with one exception.

THEREFORE, IT IS ORDERED that:

A. With one exception, the findings and recommendations in the Proposal for Decision are adopted. The exception involves reducing each of the recommended administrative assessments from \$500.00 per violation to \$250.00 per violation.

B. D&D Trucking, Inc., is required to pay a \$250.00 administrative assessment within 30 days associated with the findings and recommendations in Case No. T-1815 and a second \$250.00 administrative assessment within 30 days associated with the findings and recommendations in Case No. T-1831 for a total administrative assessment of \$500.00.

C. D&D Trucking, Inc.'s operating authority, intrastate vehicle registrations, and 72-hour special identification cards are revoked.

D. D&D Trucking, Inc., shall not file an application for intrastate motor carrier authority before the \$500.00 administrative assessment is paid in full.

E. D&D Trucking, Inc., shall cease and desist from violating the Motor Carrier Act and Commission rules.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark  
Chairman

( S E A L )

/s/ Laura Chappelle  
Commissioner

/s/ Monica Martinez  
Commissioner

By its action of March 21, 2007.

/s/ Mary Jo Kunkle  
Its Executive Secretary

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

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Chairman

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Commissioner

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Commissioner

By its action of March 21, 2007.

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Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated March 21, 2007 adopting the findings and recommendations in the Proposal for Decision, and ordering D&D Trucking, Inc., to pay a \$500.00 assessment, as set forth in the order.”