LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER T-35795

LOUISIANA PUBLIC SERVICE COMMISSION
VERSUS
MAD TOWING, LLC

Docket No. T-35795, In re: Cancellation of Common Carrier Certificate Number 8265 for failure to maintain the required insurance coverage on file with the Commission pursuant to Commission's General Order dated January 12, 1976.

(Decided January 11, 2021)

ORDER

The Louisiana Public Service Commission ("Commission") issued a citation to MAD Towing, LLC ("Carrier") on November 24, 2020, directing the Carrier to show cause at a hearing to be held on January 7, 2021 why its Common Carrier Certificate Number 8265 should not be canceled due to the Carrier's failure to maintain proof of required insurance coverage on file with the Commission, as required by the Commission's General Order dated January 12, 1976. When the hearing was convened on January 7, 2021, the Commission Staff appeared and presented its case. The Carrier did not appear at the hearing.

Applicable Law

Article IV, Section 21 of the Louisiana Constitution of 1974 mandates that the Commission:

> regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

Louisiana statutes more specifically describe the interest of the State and the powers of the Commission over motor carriers operating for hire in the transportation of persons, household goods, and waste over public highways and bridges of the State. The business of operating motor vehicles for hire is a "business affected with a public interest";[1] and "[t]he [C]ommission has the power and authority necessary to supervise, govern, regulate, and control motor carriers…which transport household goods, passengers, or waste intrastate and to fix reasonable and just rates, fares, tolls, or charges for the commodities furnished or services rendered by such motor carriers."[2] Companies engaged in the intrastate business of transporting household goods, passengers, or

[1] La. R.S. 45:161.
[2] La. R.S. 45:163(A).

certain kinds of waste intrastate – non-hazardous oilfield wastes, non-hazardous industrial solid wastes, and hazardous wastes – are classified as "common carriers" subject to the Commission's regulation.[3]

The Commission's General Order dated January 12, 1976 provides that intrastate carriers must maintain proof of required insurance coverage on file at the Commission through the filing of a Form E, Uniform Certificate of Insurance ("Form E").

Louisiana Revised Statute 45:166 permits the Commission to amend, suspend, or revoke a certificate, in whole or in part, if, after notice and hearing, it is determined that the carrier has failed to comply with statutory requirements or Commission orders, rules, or regulations.

The Commission's General Order dated June 7, 2006 authorizes the imposition of a $25.00 Citation Fee when a citation is issued to a Commission-jurisdictional motor carrier and that carrier is determined to have violated a Commission Order.

The Commission Staff's Case

The Commission Staff alleges that the Carrier failed to maintain proof of its liability insurance on file with the Commission. In support of this allegation, the Commission Staff presented the testimony of Tammy Burl, Transportation Administrator for the Commission's Transportation Division, whose job duties include supervising those who monitor regulated carriers for required insurance filings.

Ms. Burl testified that on August 28, 2020 the Commission received a Form K Uniform Notification of Cancellation of Motor Carrier Insurance Policies ("Form K"), advising that the Carrier's insurance would be canceled effective September 29, 2020. In response to the Form K notification, Ms. Burl stated that on September 29, 2020, the Transportation Division mailed the Carrier a letter advising that the Commission had received notification of the Carrier's insurance cancellation, effective September 29, 2020, and instructed the Carrier to cease operations immediately and to file proof of replacement insurance with the Commission. According to Ms. Burl, the letter was mailed to the Carrier at the address on file with the Commission, and was not returned to the Commission.

Having received no response to the September 29, 2020 letter, the Transportation Division issued another letter to the Carrier on October 28, 2020, advising the Carrier that it was tentatively scheduled to appear for an January 7, 2021 hearing, and that a citation would be issued if the

[3] *See* La. R.S. 45:162(5)(a).

Transportation Division did not receive a replacement insurance coverage by November 13, 2020. The October 28, 2020 mailing also included a copy of the September 29, 2020 letter. According to Ms. Burl, the October 28, 2020 letter was also mailed to the Carrier at its address on file with the Commission, and was not returned.

Ms. Burl further testified that after the Transportation Division did not receive the requested filings from the Carrier, a citation was sent to the Carrier at its address on file with the Commission, via certified and regular mail. Ms. Burl stated that a certified mail return receipt was returned to the Commission, signed by a person at the Carrier's address. Ms. Burl confirmed that the address on the citation, and the certified mail return receipt, match the Carrier's address on file with the Commission. According to Ms. Burl, as of the time of the hearing, the Carrier did not have a Form E on file with the Commission and had provided no documentation to close the authority of the Carrier.

In connection with the testimony of Ms. Burl, the Staff submitted the following documents into evidence:

Exhibit 1	A copy of a Form K, Uniform Notice of Cancellation of Motor Carrier Insurance Policies, issued by Blue Hill Specialty Insurance Company, reflecting an effective cancelation date of September 29, 2020, for an insurance policy or policies issued to MAD Towing, LLC;
Exhibit 2	A copy of correspondence on Commission Transportation Division letterhead, dated September 29, 2020, bearing the signature of Tammy Burl, Transportation Administrator, Louisiana Public Service Commission, to MAD Towing, LLC;
Exhibit 3	A copy of correspondence on Commission letterhead, dated October 28, 2020, bearing the signature of Shomona Voss, Enforcement Agent, to MAD Towing, LLC, notifying the Carrier of a tentative hearing date, with an attached copy of the September 29, 2020 letter (Exhibit 2);
Exhibit 4	A copy of the citation issued on November 24, 2020 to MAD Towing, LLC, in Docket Number T-35795, with attached copies of the October 28, 2020 (Exhibit 3) and September 29, 2020 letters (Exhibit 2); and
Exhibit 5	A copy of the certified mail receipt, and a copy of the front of a signed domestic return receipt for the citation issued via certified mail, bearing tracking number 7002 2030 0002 6571 5208.

The Commission Staff requests, in light of the Carrier's failure to maintain the required insurance coverage, that the Commission cancel the Carrier's Common Carrier Certificate Number 8265 and order the Carrier to pay a $25.00 citation fee.

Findings of Fact and Conclusions of Law

From the testimony and evidence presented at hearing, we make the following findings of fact and conclusions of law:

Findings of Fact

1. The Carrier currently holds Common Carrier Certificate Number 8265.

2. The Commission received a Form K, Uniform Notice of Cancellation of Motor Carrier Insurance Policies, advising that the Carrier's "BI and PD" (liability) insurance was scheduled for cancelation on September 29, 2020.

3. On September 29, 2020, the Commission's Transportation Division sent a letter to the Carrier, advising the Carrier that the Commission had received a Form K notification that the Carrier's insurance would be canceled on September 29, 2020. The letter further advised the Carrier to provide proof of replacement coverage, effective as of the cancelation date of the previous policy, through the filing of a replacement Form E, and cease operations until proof of replacement coverage was filed. Finally, the letter advised that if a replacement Form E was not filed on the Carrier's behalf, proceedings would be instituted at the Commission for the purpose of canceling the Carrier's intrastate operating authority.

4. On October 28, 2020, after receiving no response from the Carrier, the Transportation Division mailed a follow-up letter advising that the Carrier's common carrier certificate had been flagged for failure to maintain the required insurance coverage on file with the Commission, as the Commission had not received a new Form E demonstrating replacement coverage. The letter also advised that if the Carrier did not comply, the Transportation Division would proceed to issue a citation, and that a hearing on the matter had been tentatively scheduled for January 7, 2021.

5. The Carrier did not file proof of replacement coverage, and on November 24, 2020, the Transportation Division issued a citation via regular and certified mail and directing the Carrier to appear at a hearing on January 7, 2021. The Commission received a certified mail return receipt, indicating that a person at the Carrier's address had received the citation.

6. The Carrier did not appear at the January 7, 2021 hearing, and as of the date of the hearing, the Commission had not received any documentation of replacement insurance coverage for the Carrier.

Conclusions of Law

1. At the hearing in this matter, the Commission Staff had the burden of proving its allegations against the Carrier. Because the Carrier did not appear at the hearing, the Staff also had the burden of demonstrating that the Carrier was provided fair notice of the hearing and the opportunity to present a defense. La. R.S. 45:166 provides that a certificate may be revoked "after *notice and hearing* for failure to comply with any provision of R.S. 45:161 through 45:172, or with any lawful order, rule or regulation of the commission." (Emphasis added).

2. Pursuant to constitutional and legislative mandate, the Commission has the authority to regulate intrastate motor carriers and to ensure that such companies maintain levels of insurance mandated by statute and by Commission General Orders. The Commission's General Order dated January 12, 1976 provides that intrastate motor carriers must maintain proof of required insurance coverage on file at the Commission through the filing of a Form E.

3. In this proceeding, the Staff established through testimony and evidence that the Carrier failed to file with the Commission proof that its insurance coverage had been extended beyond the September 29, 2020 cancellation date stated in the Form K. Thus, we find

that the Carrier failed to maintain proof of effective insurance coverage on file with the Commission as required by the Commission's General Order dated January 12, 1976.

4. Pursuant to its constitutional and statutory authority, the Commission has adopted Rules of Practice and Procedure. Pertinent to this proceeding, Commission Rules 7 and 19 provide for notice of non-criminal proceedings through publication in the Commission's Official Bulletin, as well as through service by certified mail to "the last known place or address of the person entitled to receive such notice." In this proceeding, the Commission's Transportation Division issued a citation to the Carrier by certified mail and demonstrated through evidence that a person at the address of the Carrier received the citation. Accordingly, we find that the Carrier received fair and sufficient notice of the hearing and the Staff's allegations and was given an opportunity to present a defense.

5. We conclude that the Carrier's failure to maintain proof of effective insurance coverage constitutes a failure to comply with applicable law and Commission Orders; thus, a revocation of the Carrier's authority is appropriate under La. R.S 45:166.

6. The Commission's General Order dated June 7, 2006 allows for the imposition of a $25 fee for the issuance of a citation by the Commission. Therefore, it is appropriate to require the Carrier to pay the $25 citation fee.

Conclusion

In accordance with the findings of fact and conclusions of law stated above:

IT IS HEREBY ORDERED that Common Carrier Certificate Number 8265, currently issued to MAD Towing, LLC be, and hereby is, CANCELED due to the failure of MAD Towing, LLC to maintain proof of insurance coverage on file with the Commission.

IT IS HEREBY FURTHER ORDERED that MAD Towing, LLC shall be required to pay to the Commission a $25 citation fee.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
January 12, 2021



/S/ MIKE FRANCIS
DISTRICT IV
CHAIRMAN MIKE FRANCIS

/S/ CRAIG GREENE
DISTRICT II
VICE CHAIRMAN CRAIG GREENE

/S/ FOSTER L. CAMPBELL
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

/S/ LAMBERT C. BOISSIERE, III
DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III

/S/ ERIC F. SKRMETTA
DISTRICT I
COMMISSIONER ERIC F. SKRMETTA

BRANDON M. FREY
SECRETARY