

# LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER T-35884

## LOUISIANA PUBLIC SERVICE COMMISSION VERSUS STATE TO STATE DELIVERY SERVICE LLC

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*Docket No. T-35884, In re: Cancellation of Common Carrier Certificate Number 8286 for failure to maintain the required insurance coverage on file with the Commission pursuant to General Orders dated May 04, 2017 and January 12, 1976.*

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(Decided June 9, 2021)

### ORDER

#### ***Background***

The Louisiana Public Service Commission (“Commission”) issued a citation to State to State Delivery Service LLC (“Carrier”) on March 3, 2021, directing the Carrier to show cause at a hearing to be held on May 6, 2021 why its Common Carrier Certificate Number 8286 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 May 4, 2017 and the Commission’s General Order dated January 12, 1976. At the request of the Carrier, the hearing was continued to June 3, 2021. When the hearing was convened on June 3, 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”;<sup>1</sup> 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.”<sup>2</sup> Companies engaged in the intrastate business of transporting household goods, passengers, or certain kinds of waste intrastate – non-hazardous oilfield wastes, non-hazardous industrial solid

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<sup>1</sup> La. R.S. 45:161.

<sup>2</sup> La. R.S. 45:163(A).

wastes, and hazardous wastes – are classified as “common carriers” subject to the Commission’s regulation.<sup>3</sup>

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. A carrier’s certificate may be revoked after notice and hearing for failing to comply with applicable law or Commission Order.<sup>4</sup>

The Commission’s General Order dated May 4, 2017 provides that household goods carriers must carry motor truck carriers cargo insurance, workers’ compensation insurance, and secure a surety bond in the amount of \$5,000.00 and file the same with the Commission. A carrier’s certificate may be revoked after notice and hearing for failing to comply with applicable law or Commission Order.<sup>5</sup>

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 of the Commission’s Transportation Division, whose job duties include overseeing the insurance desk that maintains and monitors insurance filings for regulated motor carriers. According to Ms. Burl’s testimony, the Commission requires regulated household goods carriers to submit an ACORD Certificate of Liability Insurance (“ACORD Certificate”), a Form H, Uniform Motor Carrier Cargo Certificate of Insurance (“Form H”), and a Form E, Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance (“Form E”) as proof of insurance. The Commission is notified of cancellation or expiration of a regulated carrier’s Form E or Form H insurance via a Form K Uniform Notice of Cancellation of Motor Carrier Insurance Policies (“Form K”); for workers’ compensation insurance, the Commission is notified through a pre-determined expiration date that is typically included on a surety bond.

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<sup>3</sup> See La. R.S. 45:162(5)(a).

<sup>4</sup> La. R.S. 45:166(A).

<sup>5</sup> La. R.S. 45:166(A).

Ms. Burl testified that, on November 15, 2019, the Commission received an ACORD Certificate from the Carrier's insurance agent, Moreman, Moore and Company, Inc., indicating an expiration date of November 7, 2020 for the Carrier's workers' compensation insurance. Ms. Burl further testified that, on October 16, 2020, the Commission received two Form K filings from Blue Hill Specialty Insurance Company: one for the Carrier's Form H filing cargo policy, which provided a cancellation date of November 18, 2020; and the other for the Carrier's Form E filing for liability insurance, which likewise provided a cancellation date of November 18, 2020.

According to Ms. Burl, the Commission's Transportation Division issued a notice of cancellation letter concerning the Carrier's worker's compensation policy on November 12, 2020, and subsequently issued separate notice of cancellation letters concerning the Carrier's cargo and auto liability policies on November 20, 2020. Ms. Burl testified that these letters were mailed to the Carrier at the address on file with the Commission via regular mail, and none were returned.

According to Ms. Burl, the Carrier did not submit proof of insurance coverage after the issuance of the notice of cancellation letters. Ms. Burl testified that, on January 15, 2021, the Commission mailed a tentative hearing letter to the Carrier at the address on file with the Commission via regular mail. This tentative hearing letter provided a deadline of February 12, 2021 for the Commission's Transportation Division to receive the Carrier's ACORD Certificate of liability insurance, Form H, and Form E. Copies of the three notice of cancellation letters were attached to the January 15, 2021 tentative hearing letter. According to Ms. Burl, the tentative hearing letter was not returned to the Commission as undeliverable for any reason.

Ms. Burl further testified that the Carrier did not submit its ACORD Certificate of liability insurance, Form H, or Form E by the deadline given in the tentative hearing letter. On March 3, 2021, the Transportation Division mailed a citation to the Carrier at the Carrier's address on file. The Citation provided the Carrier notice that a citation fee in the amount of twenty-five dollars (\$25.00) had been assessed to the Carrier's account, and that an order could be issued by the Commission canceling the Carrier's Common Carrier Certificate for failure to maintain the required insurance coverage on file with the Commission. The Citation further provided a hearing date of May 6, 2021. The Citation was sent via both regular mail and certified mail, return receipt requested, to the Carrier. According to Ms. Burl, the mailing sent via regular mail was not returned, and no return receipt from the certified mailing was received.

Ms. Burl testified that she then received an email from the Carrier's owner, John Johnson, which indicated Mr. Johnson's belief that the insurance had been filed. Ms. Burl further testified that, on April 7, 2021, the Commission received a copies of a Form H and a Form E from the Carrier's insurer. However, the Transportation Division marked these filings as "rejected": the filings had the incorrect name for the Carrier - i.e., a name contrary to the name listed in the Carrier's Common Carrier Certificate (specifically, "State to State Deliverys"); the filings also indicated a lapse in coverage from November 18, 2020 until April 5, 2021. Accordingly, the Transportation Division mailed a letter to the Carrier on April 8, 2021, informing the Carrier that its Form H and Form E were rejected. The letter also directed the Carrier to provide a notarized affidavit explaining the lapse of its insurance coverage between November 18, 2020 and April 5, 2021, and stating that the Carrier was not operating during the lapse. The letter further provided a May 6, 2021 deadline for the Commission to receive the Carrier's corrected Form H, corrected Form E, and notarized affidavit.

Ms. Burl then testified that Mr. Johnson contacted her, and again informed her that he thought that the Carrier's insurance underwriter made the proper filings and corrections. According to Ms. Burl, Mr. Johnson further informed her that he was unable to attend the scheduled hearing. Ms. Burl testified that the Carrier did not file the corrected Form H and Form E filings by the deadline given.

Ms. Burl explained that Mr. Johnson sent a letter on behalf of the Carrier, requesting that the May 6, 2021 hearing be rescheduled to June 3, 2021. The Tribunal granted this request and issued a ruling rescheduling the hearing to June 3, 2021. The ruling was mailed to the Carrier's address on file with the Commission.

As of the date of the hearing, the Carrier had not filed any proof of adequate, unexpired insurance with the Commission, nor had a representative of the Carrier filed the appropriate documents to relinquish the authority granted by its Common Carrier Certificate.

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

Staff Exhibit 1	A copy of an ACORD Certificate of Liability Insurance produced by Moreman, Moore & Company, Inc. showing a workers compensation and employers liability policy, 172070, issued to State to State Delivery Service, LLC, effective November 7, 2019 and expiring on November 7, 2020;
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- Staff Exhibit 2 A copy of a Form K, Uniform Notice of Cancellation of Motor Carrier Insurance Policies, reflecting an effective cancellation date of November 18, 2020, for a cargo insurance policy or policies issued by Blue Hill Specialty Ins. Co. to State to State Delivery Service LLC;
- Staff Exhibit 3 A copy of a Form K, Uniform Notice of Cancellation of Motor Carrier Insurance Policies, reflecting an effective cancellation date of November 18, 2020, for a “BI and PD” (bodily injury and property damage) insurance policy or policies issued by Blue Hill Specialty Ins. Co. to State to State Delivery Service LLC;
- Staff Exhibit 4 A copy of correspondence on Louisiana Public Service Commission Transportation Division letterhead, dated November 12, 2020, bearing the signature of Tammy Burl, Transportation Administrator, Louisiana Public Service Commission, addressed to State to State Delivery Service, LLC, “Re: CANCELLATION OF WORKMAN’S COMPENSATION INSURANCE FILING WITH THE COMMISSION”;;
- Staff Exhibit 5 A copy of correspondence on Louisiana Public Service Commission Transportation Division letterhead, dated November 20, 2020, bearing the signature of Tammy Burl, Transportation Administrator, Louisiana Public Service Commission, addressed to State to State Delivery Service LLC, “Re: CANCELLATION OF INSURANCE FILING WITH THE COMMISSION,” Form: H ;
- Staff Exhibit 6 A copy of correspondence on Louisiana Public Service Commission Transportation Division letterhead, dated November 20, 2020, bearing the signature of Tammy Burl, Transportation Administrator, Louisiana Public Service Commission, addressed to State to State Delivery Service, LLC, “Re: CANCELLATION OF INSURANCE FILING WITH THE COMMISSION,” Form: E;
- Staff Exhibit 7, *in globo* A copy of correspondence on Louisiana Public Service Commission letterhead, dated January 15, 2021, bearing the signature of Shomona Voss, Enforcement Agent 1, addressed to State to State Delivery Service, LLC, “RE: Insurance,” with attached copies of the letters admitted as Staff Exhibit 4, Staff Exhibit 5 and Staff Exhibit 6;
- Staff Exhibit 8, *in globo* A copy of a citation issued to State to State Delivery Service, LLC, with attached copies of the letters admitted as Staff Exhibit 4, Staff Exhibit 5, Staff Exhibit 6, and Staff Exhibit 7;
- Staff Exhibit 9, *in globo* Copies of the following documents:
- A Form H, Uniform Motor Carrier Cargo Certificate of Insurance, showing an insurance policy, CA 03472762, issued to “State to State Deliverys” [sic] by Blue Hill Specialty Ins. Co., effective from April 5, 2021; and
  - A Form E, Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance, showing an insurance policy, CA 03472762, issued to “State to State Deliverys” [sic] by Blue Hill Specialty Ins. Co., effective from April 5, 2021;
- Staff Exhibit 10 A copy of correspondence on Louisiana Public Service Commission letterhead, dated April 8, 2021, bearing the signature of Tanza Clark, Enforcement Agent, addressed to State to State Delivery Service LLC, “Re: Unacceptable Insurance Filings”;

- Staff Exhibit 11            A copy of correspondence from John Johnson of State to State Delivery Service LLC, dated May 3, 2021, addressed to the Louisiana Public Service Commission's Administrative Hearings Division, "DOCKET NUMBER T-35884 LPSC vs. State to State Delivery Service LLC – request to continue hearing"; and
- Staff Exhibit 12            A copy of the Ruling on Motion to Continue and Notice of Rescheduled Hearing Date, issued on May 5, 2021 by the Administrative Hearings Division of the Louisiana Public Service Commission.

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 8286 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 8286.
2. On October 16, 2020, the Commission received two Form K (Uniform Notice of Cancellation of Motor Carrier Insurance Policies) filings. One Form K advised that the Carrier's "BI and PD" (liability) insurance was scheduled for cancellation on November 18, 2020. The second Form K informed that the Carrier's cargo insurance was also scheduled for cancellation on November 18, 2020.
3. The Carrier's ACORD Certificate of Liability Insurance reflects that the Carrier's workers' compensation insurance policy expired on November 7, 2020.
4. On November 12, 2020, the Transportation Division sent a letter to the Carrier, advising the Carrier that its ACORD Certificate on file with the Commission indicated that its workers' compensation policy had expired. On November 20, 2020, the Commission's Transportation Division sent two letters to the Carrier. The first letter notified the Carrier that the Commission received a notice canceling the Carrier's Form H (Uniform Motor Carrier Cargo Certificate of Insurance) filing effective November 18, 2020. The second letter advised the Carrier that the Commission received a notice canceling the Carrier's Form E (Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance) filing effective November 18, 2020. All three letters advised the Carrier that if proof of replacement coverage was not filed with the Commission, proceedings would be instituted at the Commission for the purpose of canceling the Carrier's intrastate operating authority. These letters were mailed via regular mail to the Carrier's address on file with the Commission at the time, and none were returned to the Commission.
5. On January 15, 2021, after receiving no response from the Carrier in response to the letters, 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 no proof demonstrating replacement cargo, liability, or workers' compensation insurance coverage. The letter stated that if the Carrier did not come into full compliance by February 12, 2021, the Commission would proceed to issue a citation, and that a hearing on the matter had been tentatively scheduled for April 1, 2021.

6. The Carrier did not file proof of replacement coverage, and the Transportation Division issued a citation via regular and certified mail, directing the Carrier to appear at a hearing on May 6, 2021. The citation sent by regular mail was not returned. The Commission did not receive a return receipt for the citation sent via certified mail.
7. On April 7, 2021, the Transportation Division received a Form H, Uniform Motor Carrier Cargo Certificate of Insurance, indicating that “State to State Deliverys” has a cargo insurance policy effective from April 5, 2021. The Transportation Division also received a Form E, Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance, indicating that “State to State Deliverys” has a liability insurance policy effective from April 5, 2021. Because the company name on the Form H and Form E does not match the name listed in the Carrier’s Common Carrier Certificate, and because there was a lapse of coverage between November 18, 2020 and April 5, 2021, the Transportation Division rejected these filings.
8. On April 8, 2021, the Transportation Division sent a letter to the Carrier, advising the Carrier to file a corrected Form H and Form E to the Commission before May 6, 2021 to avoid having to appear at a hearing on May 6, 2021. The letter also stated that, because there was a lapse in coverage, the Carrier must file a notarized affidavit stating the dates in lapse of coverage, the reason for lapse in insurance coverage, and that the Carrier was not operating during the period of lapsed coverage.
9. On May 4, 2021, the Commission received a letter from Mr. John Johnson, the owner of the Carrier. The letter requested that the May 6, 2021 hearing be rescheduled, and confirmed Mr. Johnson’s understanding that he would be required to appear at the June 3, 2021 hearing. The Tribunal granted Mr. Johnson’s request and issued a ruling to that effect on May 5, 2021.
10. The Carrier did not appear at the June 3, 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 Commission 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 permit 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. Per the Commission’s General Order dated May 4, 2017, household goods carriers must carry cargo and workers’ compensation insurance.
3. In this proceeding, we find that the Commission Staff established through testimony and evidence that State to State Delivery Service LLC failed to file adequate proof with the Commission that its liability and cargo insurance coverage had been extended beyond the November 18, 2020 expiration dates stated in the two Form K notices received on October 16, 2020. Although the Transportation Division received a Form E and Form H showing liability and cargo coverage, respectively, beginning on April 5, 2021, these forms indicated coverage for “State to State Deliverys,” and were rejected by the Transportation Division. At the time of the hearing, the Commission had not received a Form E or Form H showing that State to State Delivery Service LLC had liability and cargo insurance effective after the November 18, 2020 expiration date.

4. The Commission Staff has also established through testimony and documentary evidence that the Carrier failed to file with the Commission proof that its workers' compensation insurance coverage had been extended beyond the November 7, 2020 expiration date stated on its ACORD Certificate of Liability Insurance. Thus, we find that the Carrier has failed to present proof to the Commission that it has secured and maintained workers' compensation insurance coverage pursuant to the Commission's General Order dated May 4, 2017.
5. 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 and the Commission's General Order dated May 4, 2017. Thus, we find it appropriate under these circumstances to cancel Common Carrier Certificate Number 8286, issued to State to State Delivery Service LLC, pursuant to Louisiana Revised Statute 45:166. We further find it appropriate to impose a citation fee in the amount of twenty-five dollars (\$25.00) on State to State Delivery Service LLC, pursuant to the Commission's General Order dated June 7, 2006.
6. Pursuant to its constitutional and statutory authority, the Commission has adopted Rules of Practice and Procedure. 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 accordance with those Commission rules, the Commission's Transportation Division issued a citation to the Carrier by certified mail to the address of the Carrier that is on file with the Commission.

The copy of the citation sent via regular mail was not returned, and the Commission did not receive a return receipt for the citation sent via certified mail. The Carrier's owner, John Johnson, mailed a letter to the Commission's Administrative Hearings Division, wherein he requested that the May 6, 2021 hearing be continued to June 3, 2021 and confirmed his understanding that that he would be required to appear at the June 3, 2021 hearing. The Tribunal granted this request and issued a Ruling on Motion to Continue and Notice of Rescheduled Hearing Date, which was mailed to the Carrier's address on file with the Commission.

We find that the record, taken as a whole, demonstrates that the Commission Staff provided fair notice to the Carrier of the hearing date, and that the Carrier was provided a fair opportunity to present a defense at the hearing.

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**Conclusion**

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

**IT IS HEREBY ORDERED** that Common Carrier Certificate Number 8286, currently issued to State to State Delivery Service LLC be, and hereby is, CANCELED due to the failure of State to State Delivery Service LLC to maintain proof of insurance coverage on file with the Commission.

**IT IS HEREBY FURTHER ORDERED** that State to State Delivery Service LLC shall be required to pay to the Commission a \$25 citation fee.

**BY ORDER OF THE COMMISSION**  
**BATON ROUGE, LOUISIANA**  
June 9, 2021



*/S/ CRAIG GREENE*  
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**DISTRICT II**  
**CHAIRMAN CRAIG GREENE**

*/S/ ERIC F. SKRMETTA*  
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**DISTRICT I**  
**VICE CHAIRMAN ERIC F. SKRMETTA**

*/S/ FOSTER L. CAMPBELL*  
\_\_\_\_\_  
**DISTRICT V**  
**COMMISSIONER FOSTER L. CAMPBELL**

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

*/S/ MIKE FRANCIS*  
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**DISTRICT IV**  
**COMMISSIONER MIKE FRANCIS**

A handwritten signature in blue ink that reads "Brandon M. Frey" followed by a stylized flourish.

**BRANDON M. FREY**  
**SECRETARY**