

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In re Robert R. Logsdon, Director )  
of the Nebraska Public Service )  
Commission Transportation )  
Department, )

MOTOR CARRIER  
COMPLAINT  
MCC-3079

Complainant, )

vs. )

H & I Grain Company, South Sioux )  
City, Nebraska, )

Defendant. )

**FILED**

**OCT 1 1993**

EXECUTIVE DIRECTOR  
NEBRASKA PUBLIC SERVICE  
COMMISSION

COMES NOW Robert R. Logsdon, complainant in the above-captioned cause, pursuant to Neb. Rev. Stat. Section 75-322.02 (1990 Reissue), and for complaint against H & I Grain Company, defendant, alleges as follows:

1. Complainant is the Director of the Transportation Department of the Nebraska Public Service Commission (Commission) and is the custodian of the Commission's Motor Transportation Department documents and records.

2. Defendant, H & I Grain Company, operates as a motor carrier conducting for-hire intrastate carriage in the State of Nebraska. Examination of the Transportation Department's records and documents reveals that defendant does not have authority, either by certificate or permit, to conduct for-hire intrastate motor carriage, nor is defendant leased to any regulated intrastate motor carrier with the requisite authority.

3. On or about January 28, 1992, one of defendant's trucks was found to be hauling a regulated commodity for the Central Soya Company of South Sioux City, Nebraska. The driver was told to cease and desist from hauling regulated commodities without authority.

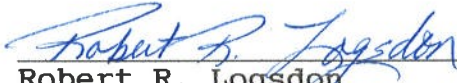
4. On July 31, 1992, a warning letter was sent to Mr. Duane Steffensen of the H & I Grain Company advising defendant to cease and desist from further transporting feed ingredients, fertilizer, or other regulated commodities in Nebraska intrastate commerce for hire. Defendant was warned in the letter that a second violation would result in the filing of a complaint and a potential fine assessment against the defendant.


5. On or about March 24, 1993, one of defendant's vehicles was stopped near Weeping Water, Nebraska, and found to be transporting feed ingredients destined for Central Soya in South Sioux City, Nebraska. At the time of this shipment, defendant still possessed no certificate of authority from the Commission, nor was defendant leased to a certificated motor carrier. Defendant billed Central Soya approximately \$186.45 for the shipment complained of, supra.

6. Defendant's shipment of feed ingredients, specifically product Dical, complained of above was in violation of Neb. Rev. Stat. Section 75-309, as amended, for operating as a common or contract carrier without a certificate or permit of authority issued by the Public Service Commission.

WHEREFORE, complainant prays the Commission for an order levying a civil penalty against the defendant pursuant to Neb. Rev. Stat. Section 75-322.02, as amended, and Title 291, Chapter 1, Rule 027.02 of the Commission's rules in an amount not less than five hundred dollars (\$500.00) and any other order the Commission deems appropriate and which is within its jurisdiction to render, including, but not limited to, an order that the defendant cease and desist from operating without authority in Nebraska intrastate commerce.

DATED this 1st day of October, 1993.

  
Robert R. Logsdon  
Complainant  
NPSC Transportation Department

  
Mark A. Ludwig #19207  
Attorney for Complainant  
P.O. Box 94927  
Lincoln, NE 68509  
(402) 471-3101

VERIFICATION

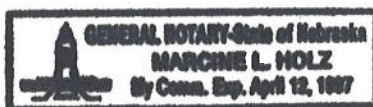
STATE OF NEBRASKA     )  
                                  ) ss.  
COUNTY OF LANCASTER )

Robert R. Logsdon, being first duly sworn on oath, deposes and says that he is the duly appointed and qualified Director of the Transportation Department of the Nebraska Public Service Commission; that he is the Complainant in the foregoing pleading; that he has read the allegations contained therein and understands them to be true to the best of his knowledge and belief.

  
Robert R. Logsdon, Complainant

Subscribed and sworn to before me this 1st day of October, 1993.

S E A L



  
Notary Public

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing complaint was served on the defendant, H & I Grain Company, 3804 Dakota Avenue, South Sioux City, Nebraska, 68776, by certified mail, return receipt requested, this 4<sup>th</sup> day of October, 1993.

  
Mark A. Ludwig

NOTICE

1. Pursuant to Title 291, Ch. 1, Rule 027.03A(5), defendant is hereby notified that the Commission will set a hearing date for this complaint and give notice to the defendant of said date and location of the hearing. Defendant is further notified that failure to file an answer to this complaint within twenty (20) days from the date of service will be construed as an admission of the allegations stated therein.
2. Failure by the defendant to file an answer or to appear at the hearing allows the Commission to (a) immediately enter an order assessing a civil penalty as provided for by law, or (b) to proceed with the hearing and receive evidence of the alleged violation(s) and thereby assess civil penalties as provided for by law.
3. Upon failure to pay any civil penalty determined by the Commission, such civil penalty unpaid shall constitute a debt to the State of Nebraska and be collectible by civil action in the District Court of Lancaster County, Nebraska.