

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In re Robert R. Logsdon, Director)
of the Nebraska Public Service)
Commission Transportation)
Department,)
Complainant,)
vs.)
Kremer Implement Co., Milford,)
Nebraska,)
Defendant.)

MOTOR CARRIER
COMPLAINT
MCC-3082

FILED

JUN 21 1993


EXECUTIVE DIRECTOR
NEBRASKA PUBLIC SERVICE
COMMISSION

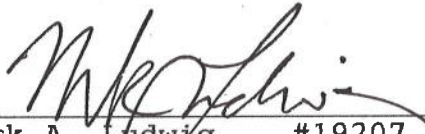
COMES NOW Robert R. Logsdon, complainant in the above-captioned cause, pursuant to Neb. Rev. Stat. Section 75-322.02 (1990 Reissue), and for complaint against Kremer Implement Co., defendant, alleges as follows:

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, Kremer Implement Co. (Kremer), operates as a motor carrier conducting for-hire intrastate transportation of property 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 necessary authority.
3. On or about August 25, 1992, Commission Inspector Robert Spires personally counseled defendant's owner, Bernard Kremer, in Milford, Nebraska, with regard to Commission rules, regulations and statutes pertaining to for-hire intrastate transportation of regulated commodities. The visit by Inspector Spires was in follow-up to an investigation initiated by Inspectors Manning, Mahoney, and Harrison with regard to defendant's transportation of fertilizer from the Hoag Plant near Beatrice, Nebraska, to Cambridge, Nebraska, on August 11 and August 18, 1992.
4. Thereafter, on or about May 6, 1993, one of defendant's vehicles driven by Alfred Buman was stopped at the junction of Highways 34 and 50 near Weeping Water, Nebraska, and found to be transporting pelletized lime destined for Dorchester Farmers Coop in Dorchester, Nebraska. The driver was unable to produce any leases, nor were any leases on file with the Public Service Commission at the time of the vehicle stop. Defendant was paid \$243.36 by the Dorchester Farmer's Cooperative for this haul.
5. Defendant's shipment of Pel-lime fertilizer 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 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 further operating without authority in Nebraska intrastate commerce.

DATED this 21st day of JUNE, 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 21st day of June, 1993.




Notary Public

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing complaint was served on the defendant, Kremer Implement Co., RR 2, Milford, Nebraska, 68405, by certified mail, return receipt requested, this 21st day of June, 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.