BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NOS. 2005-22-T and 2004-240-T - ORDER NO. 2006-390

JUNE 16, 2006

IN RE:	Docket No. 2005-22-T – Request of Commission Staff for Investigation by the Office of Regulatory Staff of K&K Investments, Inc. d/b/a Apartment Movers, Etc. and America's Best Moving System.	) ORDER
	and	
	Docket No. 2004-240-T – Application of K&K Investments, Inc. d/b/a Apartment Movers, Etc. for a Rate Increase.	

INTRODUCTION

This matter comes before the South Carolina Public Service Commission ("Commission") pursuant to Commission Order No. 2005-52, entered on or about February 24, 2005, in which the Commission requested that the Office of Regulatory Staff ("ORS") investigate K&K Investments, Inc., d/b/a Apartment Movers, Etc. and America's Best Moving System ("K&K" or "Respondent"). Previously, in the hearing held on the Class E household goods application of Loofar Enterprises, LLC d/b/a Apartment Movers, Etc., Docket No. 2004-292-T, the testimony and evidence entered into the record raised issues with regard to whether K&K violated Commission Regulations through its equipment leasing arrangements, its use of the operating authority

granted to it pursuant to its Certificate of Public Convenience and Necessity, and its alleged franchising practices relationships with alleged franchisees. Contemporaneously with issuing its directive requesting the ORS investigation of K&K, the Commission held over K&K's request for a rate increase (Docket No. 2004-240-T) until the ORS investigation was completed and ruled on by the Commission.

By Petition dated May 31, 2005, the ORS notified the Commission of its findings and requested a hearing on this matter. By and through its Order No. 2005-317, dated June 17, 2005, the Commission granted the ORS's request for a hearing. On June 24, 2005, the ORS's Petition was served upon K&K, and K&K served its responsive pleading on August 1, 2005. The Commission set a hearing on the ORS Petition for October 6, 2005. On August 20, 2005, Loofar Enterprises, LLC d/b/a Apartment Movers, Etc. ("Loofar") petitioned the Commission to intervene in this docket. Thereafter, the Respondent filed and served a petition on August 22, 2005, seeking authority to implement a fuel surcharge. By Order No. 2005-473, dated September 7, 2005, the Commission held over the Respondent's request for a fuel surcharge to be addressed at the October 6, 2005 hearing.

On October 6, 2005 at 10:30 a.m., a public hearing was held in connection with the ORS petition and the results of the ORS investigation in the Commission's hearing room located at Synergy Business Park, 101 Executive Center Drive – Saluda Building, Columbia, South Carolina. The hearing was held before the Commission with Chairman Randy Mitchell presiding. Joseph M. Melchers, Esquire, Chief Counsel of the Commission, served as Legal Advisor to the Commission. Wendy B. Cartledge, Esquire,

represented the ORS. Scott Elliott, Esquire, represented K&K. John J. Pringle, Jr., Esquire, represented the Intervenor, Loofar.

At the outset of the hearing, Ms. Cartledge advised the Commission that the parties agreed the ORS petition needed to be amended as follows: K&K added a fuel/regulatory assessment (Petition, paragraph 7, line 3), and the Franchise Agreements were signed with KS Investments, Inc. ("KS Investments"), and royalties were paid to KS Investments (Petition, paragraphs 8, 9 and 10). Ms. Cartledge also advised the Commission that the parties agreed that the dockets in the following matters would be admitted into the record without objection: Docket No. 2004-120-T, Application of Big Five, LLC, d/b/a Apartment Movers, Etc. for a Class E Certificate of Public Convenience and Necessity; Docket No. 2001-261-T, Application of Trey Ingram d/b/a Apartment Movers, Etc. of Charleston for a Class E Certificate; Docket No. 2004-97-T, Application of Trega, LLC d/b/a Apartment Movers, Etc. for Class E (HHG) Certificate of Public Convenience and Necessity; Docket No. 2003-235-T, Application of K&K to Transfer Part of a Class E Certificate of Public Convenience and Necessity to Operate a Motor Vehicle; and Docket No. 2004-292-T, Application of Loofar Enterprises, LLC d/b/a Apartment Movers, Etc. for a Class E (HHG) Certificate of Public Convenience and Necessity.

SUMMARY OF TESTIMONY

ORS presented the testimony of Patty Vowell, a transportation inspector for the ORS; L. George Parker, Jr., Manager of the Transportation Department at the ORS; and Reba Farris, an employee of Loofar who was subpoenaed by the ORS.

Inspector Vowell testified before the Commission concerning the compliance audits of K&K that she performed on April 20, 2005, and October 4, 2005. Inspector Vowell testified that according to the Commission Rules and Regulations, a Bill of Lading is required to contain the name of the issuing carrier, the date the shipment was received by the carrier, the name and address of the shipper/consignor, the point of origin of the move and the point of destination of the move, a signed Declaration of valuation clause and the Public Service Commission identification number. Inspector Vowell further testified that the Bills of Lading must be numbered consecutively at the time of printing and contain detailed information concerning the charges, items being moved, and the base liability amount of the carrier for its cargo. (Transcript, Page 13).

Inspector Vowell testified that during the April 20, 2005, compliance audit she found that the Bills of Lading were not numbered consecutively and that they did not have the PSC number on the Bills of Lading. (Transcript, Page 13). Inspector Vowell further testified that when she asked Mr. Swanson to explain the difference in the charges and why the charges would not calculate correctly, Mr. Swanson stated that a gas surcharge and assessment had been added to recoup part of their costs. Inspector Vowell testified that when she advised Mr. Swanson a fuel charge could not be added unless the Commission had approved it, Mr. Swanson stated that the problem would be corrected. (Transcript, Page 14). Finally, Inspector Vowell testified that Mr. Swanson cooperated fully with her requests. (Transcript, Page 15). The sample bills of lading from this audit were entered into evidence as Exhibit No. 2.

With respect to the second compliance audit completed on October 4, 2005, Inspector Vowell testified that the numbers "came out to a zero balance" when she analyzed the guaranteed price quotes and charges to customers. (Transcript, Page 17). Inspector Vowell further testified that the hourly moves she audited were also correct. (Transcript, Page 17). She also found that the PSC Certificate No. had been added to the Bills of Lading and that the Bills of Lading were numbered consecutively. (Transcript, Page 17). Inspector Vowell testified that she audited approximately 25 Bills of Lading and found them to be 100% in compliance with the Commission's Rules and Regulations. (Transcript, Page 17). Inspector Vowell also testified that Mr. and Mrs. Swanson cooperated fully with her. (Transcript, Page 17). Samples of the bills of lading from the October 4, 2005 audit were entered into evidence as Hearing Exhibit No. 3.

Mr. George Parker, Manager of the Transportation Department of the Office of Regulatory Staff, testified concerning the investigation completed by the Office of Regulatory Staff pursuant to Commission Order 2005-52. Mr. Parker testified that the Transportation Department investigated the franchisees and their operating practices in relationship to the franchisor, KS Investments, and reviewed the Bills of Lading, the employee records, the receivable records of the franchisees, the equipment, the equipment leases, and the basic operation of the franchisees. (Transcript, Page 33).

Mr. Parker and his staff prepared a notebook outlining the investigation and presented the notebook to the Commission. The notebook was entered into evidence as Hearing Exhibit No. 4. Mr. Parker testified that he had questions about the relationships between KS Investments and the franchisees and the franchisees operating under the

K&K Class E (HHG) Certificate of Public Convenience and Necessity prior to the issuance of certificates to the franchisees. Mr. Parker began his testimony with the Big Five investigation. Mr. Parker testified that Big Five signed a franchise agreement with KS Investments, Inc. on January 22, 2004, and a vehicle lease agreement on April 9, 2004. The vehicle lease agreement was effective from April 9, 2004, to November 1, 2004. The Big Five hearing took place on September 16, 2004. (Transcript, Page 34). The Certificate was issued by the Commission on October 12, 2004. (Transcript, Pages 34-35). Mr. Parker presented evidence that Big Five purchased trucks, opened a checking account, hired employees, and began moving household goods prior to the issuance of the certificate. (Transcript, Pages 35-37). Mr. Parker testified before the Commission that he analyzed the Bills of Lading, the checking account, the Weekly Sales & Royalty payments, the Bill of Sale for the vehicles, and the Master Lease Agreement. (Transcript, Pages 35-38).

Mr. Parker testified that the focus of the audits was to determine who had exclusive possession and control of the vehicles. He quoted from paragraph 4 of the Big Five Lease Agreement which states, "Lessor shall have exclusive possession, control and use of the vehicles and shall keep the vehicles insured as required by the Public Service Commission" and that "rates to be charged for services shall be those approved for the Lessee by the Public Service Commission, and the Bills of Lading of the Lessee shall be used." (Transcript, Page 39). Mr. Parker testified that for the lease to be a proper document, it should have stated that the Lessee, which is K&K, would have exclusive possession, control, and use of the vehicles. Mr. Parker further testified that this was not

the case at the time ORS audited Big Five. (Transcript, Page 39). Mr. Parker testified that Big Five had purchased its own trucks and served the public with its own employees. (Transcript, Page 40).

Mr. Parker testified that attorney Jack Pringle (who appeared at the hearing representing the Intervenor, Loofar) notified Big Five that these operating problems needed to be corrected and that in an attempt to correct the problem, K&K Enterprises put the Big Five employees on the K&K payroll so that K&K could move toward exclusive possession and control of the trucks. K&K would pay the employees to book the moves, dispatch the trucks, collect the revenues, and deposit them in K&K's account.

Mr. Parker next testified with respect to the ORS investigation of Trega, LLC, from June 6, 2001, to December 18, 2001. The date of Trega's application was June 6, 2001. On August 28, 2001, the franchise agreement was signed. The hearing before the PSC took place on September 6, 2001, and the PSC issued the certificate on December 18, 2001 (Transcript, Page 40). Mr. Parker testified that some of the employees were hired by Carl's,[1] but that Trega paid the employees. (Transcript, Pages 41-42). Trega paid for the insurance on the vehicles and paid royalties to KS Investments prior to the issuance of the certificate (Transcript, Page 43).

Mr. Parker then testified concerning the Loofar investigation. On March 19, 2004, the franchise agreement was signed. The application was dated June 21, 2004, and subsequently filed with the Commission on October 12, 2004. The hearing was held on

[1] Carl's, Inc. is the name of the corporation that Kim Swanson owned and operated when she first received authority from the Commission to move household goods in September 1995. Carl's, Inc. received statewide authority from the Commission in 1997. KS Investments, Inc. sold the first franchise to Carl's, Inc. in 1998 (Transcript, Pages 99-107).

January 27, 2005, and the certificate was issued on March 29, 2005. Mr. Parker testified that Loofar employed its own employees and set up accounts prior to the issuance of the certificate. Mr. Parker also testified that the lease agreement from January 9, 2004, to January 9, 2005, was not a valid vehicle lease because the lessor and lessee were reversed in the lease agreement (Transcript, Pages 44-45).

Commission Regulation 103-220 (26 S.C. Code Ann. Regs. 103-220 (Supp. 2004)) allows a certificate holder to lease a vehicle from an individual or another company. Regulation 103-135 (26 S.C. Code Ann. Regs. 103-135 (Supp. 2004)) provides that if the applicant seeks to lease a certificate, a copy of the proposed lease agreement must be filed with the application and must contain the entire agreement between the parties. Only one entity may operate at a time per certificate. Mr. Parker testified that in violation of the Regulation, no lease agreements were filed with the Commission (Transcript, Pages 46-47).

Mr. Parker testified that Mr. and Mrs. Swanson immediately made arrangements to correct the violatons by transferring Loofar employees to K&K and ensuring that exclusive possession and control would be exercised by K&K after Big Five's attorney recommended they do so in September of 2004 (Transcript, Pages 47, 63-64). Finally, Mr. Parker stated that no complaints against K&K have been filed with the Consumer Services division of ORS.

The ORS next presented the testimony pursuant to subpoena of Reba Louise Farris, one of the owners of Loofar. Ms. Farris testified that she and her husband purchased the franchise in March 2004 and conducted the first move around July 2004

(Transcript, Page 51). Ms. Farris testified that she was concerned about the lease agreement because it seemed backwards to her. She further testified that she was led to believe that Loofar could legally operate under KS Investments or K&K authority (Transcript, Page 52). Ms. Farris testified that Loofar conducted moves, purportedly under the authority granted to K&K, from July 2004 until February 2005, when Loofar received its own authority (Transcript, Page 52).

Testifying for the Respondent K&K Investments, Inc. were Ken Swanson, owner of K&K Investments, and his wife, Kim Swanson, the owner and operator of KS Investments.

Ms. Swanson testified that beginning in 1998, KS Investments developed a business as a franchisor of moving businesses. Ms. Swanson testified that, at that time, she retained South Carolina counsel to assist her in designing a franchise system that complied with state regulatory law. Ms. Swanson testified that she hired Charleston attorney Billy C. Killough, who developed the first franchise agreement between KS Investments and Carl's, Inc., a Charleston mover (Transcript Pages 104-105). Ms. Swanson testified that in 2000, KS Investments had entered into franchise agreements in Louisville, Kentucky and subsequently entered into franchise agreements with Trey Ingram in Charleston in 2001; with Trega in 2003; with Big Five in Myrtle Beach in 2004; and with Loofar in Beaufort in 2004. Ms. Swanson testified that KS Investments has not entered any franchise agreements since that time (Transcript, Pages 106-107, 109).

Ms. Swanson testified that each franchise contained a provision that KS Investments would not sell another franchise in the same geographical territory sought by a franchisee. The franchisee would then apply to the Commission for a service territory. Ms. Swanson testified that at no time did KS Investments attempt to dictate to the Commission the service territory to be approved for its franchisees (Transcript, Pages 110-111).

Ms. Swanson testified that, prior to entering the business of franchising movers, she operated Carl's, Inc., a certificated mover. Carl's, Inc. was originally certificated in 1995 with limited territory. Carl's, Inc. specialized in small moves; Ms. Swanson testified that she developed a computerized pricing system that enabled her to quote prices for her customers and guarantee her price quotes. Subsequently, the Commission authorized Carl's, Inc. to expand its territory statewide. (Transcript, Pages 99-103). Carl's, Inc. operated primarily out of Charleston, and Ms. Swanson testified that when she moved from the Charleston area, she sold the Charleston franchise to Trey Ingram, who continued to operate from the Charleston area. Carl's, Inc. was subsequently dissolved.

Ms. Swanson testified that with every important decision made with respect to her moving business or franchise business, she endeavored to ascertain the statutes, rules, and regulations governing her businesses (Transcript, Page 114). She testified that she worked with legal counsel and the PSC in an effort to attempt to operate within the law, and provided testimony regarding various instances of those endeavors.

Ken Swanson testified that he owned K&K Investments, and that his duties included scheduling, supervision of moves and general supervision of the Greenville, South Carolina moving operation (Transcript, Page 134). Mr. Swanson testified as to the accuracy of the computerized pricing system and the company's practice of giving guaranteed pricing. Mr. Swanson testified that the customers were given an opportunity to accept the guaranteed price quote or a move on an hourly basis and that the overwhelming number of his customers chose the guaranteed price quote (Transcript, Pages 134-135). Mr. Swanson testified that the majority of his business was commercial, and that his commercial contracts included the Greenville County School System and Clemson University (Transcript, Pages 136-137). Mr. Swanson testified that he no longer had leases with any other franchisees of KS Investments and had no intentions of entering such leases in the future (Transcript, Pages 137-138).

Mr. Swanson testified that Maria Walker of the Commission audited his records regularly and that he made every effort to cooperate with the Commission fully. Mr. Swanson testified that Inspector Vowell of the ORS had audited K&K in April 2004. When Inspector Vowell advised Mr. Swanson that K&K was improperly charging surcharges on certain moves, he did not dispute her assertions and made the changes to his billing to eliminate the surcharges (Transcript, Pages 139-140).

Finally, Mr. Swanson testified that he and K&K worked diligently to satisfy their customers. Mr. Swanson testified that he had had no complaints through the Better Business Bureau nor had he had any complaints through the PSC or the ORS. Mr.

Swanson testified as to the importance of complying with all regulations pertaining to the moving business (Transcript, Page 142).

FINDINGS OF FACT

After thorough consideration of the entire record in the hearing, including the testimony and all exhibits, and the applicable law, the Commission makes the following findings of fact and conclusions of law:

1. K&K holds a Class E (HHG) Certificate of Public Convenience and Necessity to transport household goods, Certificate Number 9668-C as authorized by Order No. 2005-12 pursuant to Docket No. 2003-166-T, and is subject to the jurisdiction of the Commission pursuant to S. C. Code Ann. § 58-5-10, et. seq. (Supp. 2004). K&K has not acted and does not act as a franchisor of moving businesses.

2. KS Investments is the franchisor and entered into franchise agreements with Carl's, Inc., Big Five, Trega, and Loofar. KS Investments does not hold a Class E (HHG) Certificate of Public Convenience and Necessity.

3. The Commission is a state agency constituted pursuant to the laws of the State of South Carolina with its business offices located in Columbia, South Carolina and is responsible for the regulation of motor vehicle carriers operating for compensation as set forth in S.C. Code Ann. §58-23-10 et. seq. (Supp. 2004).

4. The ORS is a state agency charged with the duty and responsibility to "represent the public interest of South Carolina before the Commission." S.C. Code Ann. § 58-4-10 et. seq. (Supp. 2004).

5. On February 24, 2005, the Commission issued Order No. 2005-52, requesting ORS to perform an investigation of K&K's franchising practices, the dealings of K&K with potential franchisees, the relationship of those practices to K&K's operating authority, service, and related matters. The Order further provided that ORS perform an audit of K&K, including an audit of K&K's books and that ORS determine whether K&K was in compliance with Commission Rules and Regulations.

6. ORS completed its audit and presented the results of the audit to the Commission at the hearing held on October 6, 2005, at the Commission's office. The audit results revealed multiplel deficiencies and violations of the Commission's Rules and Regulations.

7. K&K's bills of lading did not meet the standards of the Commission's Rules and Regulations as set forth in 26 S.C. Code Ann. Regs. 103-159 (Supp. 2004). Bills of Lading must contain, among other things, the name of the issuing carrier; the date the shipment was received by the carrier; the name and address of the consignor/shipper; the points of origin and destination; the name and address of the consignee/receiver; the Public Service Commission identification number; the number of the bill of lading, as numbered consecutively in each motor carrier's own series at the time of printing; any accessorial or additional service charges in detail; and base liability amount of the carrier for its cargo. See 26 S.C. Code Ann. Regs. 103-159. Inspector Patty Vowell, Transportation Inspector for the ORS, testified that she performed compliance audits of K&K on April 20, 2005, and October 4, 2005. During the first audit, Inspector Vowell testified that the Bills of Lading were not numbered consecutively and that the PSC

number was not present on the Bills of Lading. (Transcript, Page 13). K&K did not dispute the finding of the ORS (Transcript, Pages 139-140). As of the second compliance audit completed on October 4, 2005, Inspector Vowell testified that K&K had changed its bills of lading to include the PSC Certificate No. and that the Bills of Lading were numbered consecutively. (Transcript, Page 17).

8. K&K failed to meet the standards established by the Commission's Rules and Regulations by imposing and charging rates or charges different from the rates and charges in K&K's approved tariff. Inspector Vowell testified that during the audit of the bills of lading from the April 20, 2005, audit there was a discrepancy between the amounts charged to customers as contained on the bills of lading and the amounts calculated using the approved tariff. When the charges would not calculate correctly, Mr. Swanson told her a gas surcharge/assessment had been added to recoup part of the money. 26 S.C. Code Ann. Regs. 103-198 (Supp. 2004) prohibits a motor carrier from charging, demanding, or collecting a greater, lesser, or different compensation for services rendered than the rates and charges specified in the lawfully applicable tariffs in effect. Inspector Vowell testified that when she advised Mr. Swanson that a gas surcharge/assessment could not be added unless the Commission approved it, Mr. Swanson did not dispute her and stated that he would correct the problem. (Transcript, Page 14). Inspector Vowell further testified that during her return audit on October 4, 2005, she audited approximately 25 Bills of Lading and found them to be in full compliance with the Commissions Rules and Regulations. She testified that Mr. and Mrs. Swanson cooperated fully with her (Transcript, Page 17).

9. We find that K&K's lease agreements failed to meet the standards of the Commission's Rules and Regulations which had the effect of allowing the franchisees to conduct moves prior to being certificated by the Commission.

Mr. George Parker, Manager of the ORS Transportation Department, presented the results of the ORS investigation to the Commission. Mr. Parker testified that the Transportation Department investigated the franchisees (Big Five, Trega and Loofar) and their operating practices prior to the issuance of the Class E (HHG) Certificates of Public Convenience and Necessity. With respect to Big Five, Mr. Parker presented evidence that Big Five purchased trucks, opened a checking account, hired employees and began moving household goods prior to the issuance of the certificate (Transcript, Pages 35-37). Mr. Parker further testified that that Big Five lease agreement stated that "Lessor shall have exclusive possession, control and use of the vehicles and shall keep the vehicles insured as required by the Public Service Commission" and that "rates to be charged for services shall be those approved for the Lessee by the Public Service Commission." (Transcript, Page 39). Mr. Parker testified that for the lease to be a proper document, it should have stated that the Lessee (K&K) would have exclusive possession, control, and use of the vehicle. Big Five, however, purchased the trucks, had possession and control of the vehicles, and served the public with its employees. (Transcript, Page 40). Mr. Parker testified that K&K corrected these problems after an attorney representing Big Five notified Big Five about these problems after the hearing.

With respect to Trega, Mr. Parker testified that Trega paid for the insurance on the vehicles, conducted moves, and paid royalties to KS Investments prior to the issuance of

the Class E (HHG) certificate. Mr. Parker testified that the lease between K&K and Trega was proper. (Transcript Pages 40-43).

With respect to Loofar, Mr. Parker testified that Loofar employed its own employees and set up accounts prior to the issuance of the Class E (HHG) certificate. However, K&K effected the transfer of Loofar's employees to K&K's employ when the need to do so was brought to its attention. (Transcript, Pages 47, 63-64). Mr. Parker also testified that the lease agreement was not a valid vehicle lease because the lessor and lessee were reversed in the agreement (Transcript, Pages 44-45). Mrs. Reba Farris testified that she was concerned about the lease agreement because it seemed backwards to her. She also thought that Loofar was operating legally under the authority granted to K&K when moves were conducted from July 2004 until February 2005. In February, 2005, Loofar received its own authority. (Transcript, Page 52).

Mr. Parker testified that, in violation of 26 S.C. Code Ann. Regs. 103-220 and 103-135, no lease agreements between KS Investments and the franchisees had been filed with the Commission. (Transcript, Pages 46-47). The evidence of record reflects the Swansons' flawed efforts to meet the Commission's standards of compliance concerning these leases. The leases were terminated prior to the Commission's directive to the ORS to establish this docket, and K&K does not anticipate the further use of these leases.

10. After it became apparent that the business practices of KS Investments and K&K were violative of applicable state Regulations in a number of respects, K&K cooperated with ORS and conformed its Bills of Lading and Vehicle Lease Agreements to comply with Commission Rules and Regulations.

11. K&K's record of service to its customers is without evidence of customer complaints.

CONCLUSIONS OF LAW

1. K&K is responsible for knowing the statutes, rules and regulations of the Commission and for complying with these requirements. It is a well established principle of law in South Carolina that those who engage in a particular business bear the responsibility of familiarizing themselves with the applicable statutes and regulations governing the industry. S.C. Wildlife & Marine Resources Dept. v. Kunkle, 287 SC 177, 336 S.E.2d 468 (1985).

2. K&K's practices with respect to the leasing of equipment, its Bills of Lading, and its attempt to impose an unauthorized fuel assessment did not meet the standards of the Commission's Rules and Regulations. K&K, upon notification of violations of the Commission's Rules and Regulations, undertook remedial action to comply with the requirements of the Commission.

3. Although K&K, as a motor carrier operating pursuant to a Certificate of Public Convenience and Necessity issued by the Commission, is required to know and comply with the laws and regulations governing its operations, the Commission concludes that K&K has, for purposes of the instant proceeding only, shown and demonstrated sufficient mitigation of the reported violations of the Commission's Rules and Regulations for the Commission to conclude that revocation of K&K's Certificate of Public Convenience and Necessity is not required or necessary at this time. K&K's

action in correcting the violations and deficiencies demonstrated a willingness to comply with the laws governing its operations.

4. The Commission further concludes that a clear admonition is warranted, and K&K is hereby admonished that the Commission does not, and will not, tolerate continued violations of the law governing for-hire motor carriers. K&K has undertaken to provide for-hire, regulated transportation services within the State of South Carolina. In submitting to the jurisdiction of this Commission, K&K has, through its owners and agents, sworn to operate in compliance with the laws of this State. K&K is engaged in a business that is regulated by the State of South Carolina. Compliance with the laws governing that business is mandatory.

5. As the investigation of K&K ordered by the Commission in Order No. 2005-52 has been completed by ORS and as the results of the investigation have been presented to the Commission, the Commission concludes that the relief sought by K&K, including its application for a rate increase and for a fuel surcharge, should be granted. However, in light of the serious nature of the violations of law and regulations revealed by ORS in its investigation and determined by the Commission in this proceeding, the Commission finds that further monitoring to ensure continued compliance with applicable law is warranted. Accordingly, while the Commission herein grants the relief requested by K&K, it also requests that ORS continue monitoring K&K's conduct for a six-month period and issue a follow-up report to the Commission as to its continued compliance with the law. K&K should consider this a probationary period in which it

should demonstrate to this Commission that it can maintain compliance with its laws and procedures.

IT IS THEREFORE ORDERED THAT:

1. The Commission takes no action against K&K's Certificate of Public Convenience and Necessity.

2. K&K shall comply with all statutes, rules and regulations of the Commission.

3. K&K shall file timely reports for gross receipts, annual reports, and any other reports required by the Commission or ORS.

4. K&K shall fully cooperate with any and all ORS audits.

5. K&K shall not allow any motor carrier applicants to operate under K&K's certificate.

6. Any future vehicle lease agreements shall be prepared in compliance with the Commission's rules and regulations and shall be filed with the Commission.

7. All proposed tariffs, requests for rate increases, fuel surcharge/assessments, or other requests for changes to K&K's rates and charges shall be filed with the Commission, and K&K shall obtain written Commission approval before any new tariffs, rate increases, fuel surcharge/assessments, or other changes in rates and charges are collected.

8. The Commission requests that ORS monitor the conduct of K&K for six months following the entry of this Order to ensure continued compliance with

Commission Regulations, and that at the close of the six-month probationary period, ORS issue a report to the Commission on its findings.

9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Randy Mitchell, Chairman

ATTEST:

O' Neal Hamilton, Vice Chairman

(SEAL)