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March 15, 2021

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Filing Room  
Harrisburg, PA 17120

Re: Application of N & L Transportation Inc.; Docket Nos. A-00117568 and C-2020-3020021; **N & L TRANSPORTATION INC.'S PETITION FOR REINSTATEMENT AND REQUEST FOR EXPEDITED TREATMENT**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is N & L Transportation Inc.'s Petition for Reinstatement and Request for Expedited Treatment in the above-referenced matter.

Pursuant to the COVID-19 Suspension Emergency Order dated March 20, 2020 and ratified March 26, 2020, this petition is served electronically, and confidential Exhibits A and G will be emailed to [rchiavetta@pa.gov](mailto:rchiavetta@pa.gov).

Very truly yours,

Judith D. Cassel  
Mariah R. Turner

JDC/MRT  
Enclosures

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of N & L Transportation Inc.                   :                   :  
                                                                                  :                   :                   Docket Nos.           A-00117568  
                                                                                  :                   :                   C-2020-3020021

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**PETITION FOR REINSTATEMENT AND  
REQUEST FOR EXPEDITED TREATMENT**

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AND NOW, comes N & L Transportation Inc. (“N&L”), by and through its undersigned counsel, and pursuant to 52 Pa. Code § 5.41, respectfully requests that the Pennsylvania Public Utility Commission (“Commission”) grant this Petition for Reinstatement and Request for Expedited Treatment, regarding N&L’s Certificate of Public Convenience cancelled at C-2020-3020021 on January 13, 2021 for N&L’s failure to maintain evidence of Liability Insurance on file with the Commission, and reinstate N&L’s Certificate of Public Convenience as expeditiously as possible.<sup>1</sup> In support thereof, N&L avers as follows:

**I.           INTRODUCTION AND SUMMARY**

1.       N&L was issued a Certificate of Public Convenience on October 19, 2001 at A-00117568. Since 2001, N&L operated as a Commission certified motor common carrier of property.
2.       Through its insurance carrier, National Liability & Fire Insurance Company (“NICO”), N&L has continuously during the entire operation under its Certificate of Public

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<sup>1</sup> N&L also filed a Petition for Reconsideration from Staff Action and Request for Nunc Pro Tunc and Expedited Treatment at C-2020-3020021 contemporaneously with this Petition for Reinstatement and Request for Expedited Treatment.

Convenience, filed and maintained N&L's proof of Form E Liability insurance with the Commission.

3. On May 2, 2020, N&L renewed its liability insurance with NICO.

4. On May 5, 2020, NICO mailed N&L's Form E to the Commission via United States Postal Service (See attached Form E as submitted and NICO's affidavit attesting to same).

5. On May 12, 2020, the Bureau of Investigation and Enforcement instituted the above referenced Complaint against N&L for failure to maintain evidence of Liability Insurance on file with this Commission, a violation of 66 Pa. C.S. §512, 52 Pa. Code §32.2(c), 52 Pa. Code §32.12(a) and/or 52 Pa. Code §32.13(a).

6. On July 10, 2020, the Commission served the above referenced Complaint on N&L by email. N&L forwarded a copy of the Complaint to its insurance broker, Madison Risk Group ("MRG"), and received confirmation that NICO had in fact sent N&L's Form E to the Commission.

7. On July 13, 2020, AmWins confirmed via telephone with NICO that N&L's Form E filing was mailed to the Commission via United States Postal Service on May 5, 2020.

8. The Complaint was subsequently published in the PA Bulletin on November 3, 2020, with an answer due November 20, 2020.

9. By letter dated January 13, 2021, the Commission sustained the complaint, canceled N&L's Certificate of Public Convenience issued at A-0017568, and assessed N&L a \$500 fine.

10. Upon N&L's receipt of cancellation of Certificate of Public Convenience, NICO again submitted the Form E to the Commission via the NOR website on February 9, 2021. At that

time, Form E was rejected by the Commission due to the Certificate of Public Convenience having been cancelled.

11. On February 24, 2021, N&L sent a bank money order for \$500 via overnight delivery to the Commission to cover full payment of the civil penalty.

12. Having paid the fine, N&L now files the instant petition seeking reinstatement of its Certificate of Public Convenience for motor common carrier of property in an expedited manner.

## II. COMMISSION STANDARD FOR REINSTATEMENT

13. The Commission has discretion to determine whether it will grant a petition for reinstatement. The Commission's discretion will only be reversed if it is found the Commission abused its discretion. *Hoskins Taxi Service v. Pa. PUC*, 486 A.2d 1030 (Pa. Cmwlth. 1985).

14. The Commission's well-established criteria for determining whether reinstatement is warranted<sup>2</sup> is as follows:

The Commission has identified five factors that are particularly relevant to the determination of a petition to reinstate: (1) the amount of time that elapsed between the cancellation of the certificate of public convenience and the filing of the petition to reinstate; (2) whether the petitioner has a record of habitually violating the Public Utility Code (Code); (3) the reasonableness of the excuse given for the violation that caused the certificate to be cancelled, *Re: Bishop*, 58 Pa. P.U.C. 519 (1984); (4) whether the petitioner has

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<sup>2</sup> See *Pa. PUC v. AI Limousine Service/Universal, Inc.*, Docket Nos. A-00123460 and C-2012-2314222 (Order entered August 15, 2013); *Pa. PUC v. Accurate Transportation, LLC*, Docket Nos. A-00120422 and C-2014-2450034 (Order entered September 3, 2015); *Pa. PUC v. Limo Today, Inc.*, Docket No. A-00124027 (Order entered August 27, 2020).

implemented procedures to prevent a recurrence of the circumstances giving rise to the subject complaint, *Pa. PUC v. Grimm Motors*, Docket No. A-00111048, *et al.* (Order entered May 1, 1998); and (5) whether the petitioner is in compliance with the requirement that all assessments must be current prior to reinstatement, *Re: M.S. Carriers, Inc.*, Docket No. A-00110601 (Order entered May 4, 1999).

15. To reach an equitable result, the Commission must examine all relevant factors. *Re Medical Transportation, Inc.*, 57 Pa. PUC 79 (1983).

16. As discussed below, the totality of the relevant factors presented herein demonstrate that reinstatement of N&L's Certificate of Public Convenience is appropriate. N&L respectfully requests that the Commission grant this petition.

### **III. ANALYSIS OF THE FIVE FACTORS**

#### **A. ELAPSED TIME**

17. The Commission first must review the amount of time elapsed between the cancellation of the certificate of public convenience and the filing of the petition to reinstate. In *Application of Michael LoRusso, t/d/b/a Elegance Limousine Service*, 1999 Pa. PUC Lexis 14, at 5 (1999), the Commission determined that reinstatement after a short period of dormancy can be treated as a matter solely between a petitioner and the Commission, whereas a longer period of dormancy will likely result in another carrier relying on permanent cancellation and formulating plans to fulfill the dormant service.

18. Here, the time elapsed between the January 13, 2021 Commission Secretarial Cancellation Letter and the filing of this petition is 2 months. Upon receipt of cancellation, N&L expeditiously and diligently pursued reinstatement of its motor common carrier of property

certificate of public convenience by paying the \$500 civil penalty, engaging the undersigned counsel to assist in this petition, and filing this petition.

19. As the Commission has held that four months is a short period of dormancy<sup>3</sup>, N&L submits that the time elapsed is reasonable and that the first factor weights in favor of reinstatement.

#### **B. HISTORY OF VIOLATIONS**

20. The second factor the Commission must review is whether the petition habitually violates the Commission's regulations and the Public Utility Code.

21. Aside from the instant complaint at C-2020-3020021, N&L has had no complaint proceedings docketed against it by the Commission and has otherwise operated in compliance with the Commission's rules and regulations since issued its certificate of public convenience in 2001, which is in excess of twenty years of compliance.

22. As this is its first docketed Complaint by the Commission, N&L submits that it is not a habitual violator of the Commissions regulations and the Public Utility Code. In this current instance, N&L has and continues to take action to cure the deficiency giving rise to the complaint, including the prompt payment of the civil penalty. For these reasons, N&L submits that its history of compliance merits reinstatement.

#### **C. REASONABLENESS OF EXCUSE**

23. The third factor is the reasonableness of the excuse given for the violation that caused the certificate to be cancelled. The Commission cited N&L's cancellation on failing to maintain evidence of liability insurance on file with the Commission. N&L maintains that it had continuous insurance coverage at all relevant times and that the insurance carrier did file the Form

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<sup>3</sup> *Al Limousine Service*, slip op. at 5.

E to the PUC.<sup>4</sup> Attached as **Exhibit A (CONFIDENTIAL)** is N&L's insurance coverage policy and summary, effective from May 2, 2020 through May 2, 2021.

24. As discussed in Section I above, N&L used its insurance carrier to file and maintain N&L's proof of Form E Liability insurance with the Commission.

25. N&L's insurance carrier, NICO, confirmed it filed the Form E with the Commission on May 5, 2020 (before receiving the Complaint from the Commission on July 8, 2020). Attached as **Exhibit B** is the insurance carrier's first May 2020 Form E submission of N&L's liability insurance.

26. In response to the Complaint, N&L contacted MRG to request that the insurer provide proof of liability insurance to the Commission. Evan Morris of MRG emailed a copy of the insurance carrier's Certificate of Insurance relative to the Commercial Auto Trucking and Umbrella/Excess Liability Insurance policies insuring N&L on July 10, 2020. Attached as **Exhibit C** is a copy of the email by Mr. Morris attempting to provide proof of insurance coverage in response to the Complaint.

27. On August 24, 2020, NICO filed with the US Department of Transportation, Federal Motor Carrier Safety Administration a second copy of N&L's insurance coverage. Attached as **Exhibit D** is the federal filing showing the August 2020 federal filing, evidencing N&L's continuous insurance coverage from May 2020 and August 2020.

28. Upon receiving the January 13, 2021 cancellation letter, N&L's insurance provider again submitted the Form E via the NOR website on February 9, 2021 and confirmed filing of such

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<sup>4</sup> N&L's insurance provider sent the Form E filings via United States Postal Service ("USPS"). Unfortunately, the USPS has experienced unprecedented delays due to COVID-19 since 2020 and is continuing into 2021. See <https://www.npr.org/2021/01/22/959273022/theres-no-end-in-sight-mail-delivery-delays-continue-across-the-country>; <https://www.pennlive.com/news/2021/02/theres-no-end-to-this-mail-slowdown-continues-under-trump-era-honcho.html>

to N&L. Attached as **Exhibit E** is the February 9, 2021 filing summary with the May 5, 2020 Form E.

29. On February 12, 2021, N&L's insurance broker representative, Sarah Garner, filed a cancellation dispute averring that N&L has complied with the Commission by maintaining and filing liability insurance and that the insurance company confirmed the filings on several occasions from the first submission in May 2020. Attached as **Exhibit F** is Ms. Garner's objection to cancellation filing attesting to N&L's compliance.

30. N&L did not fail to maintain evidence of liability insurance on file with the Commission but rather relied on its insurance company, broker, and the U.S. Mail to affirmatively complete its compliance obligation. N&L's insurance provider and insurance broker made several assurances that the Form E filings were made on N&L's behalf, including providing confirmations of filings from May 2020, an email containing proof of insurance, and the filing of an objection to cancellation. Based on these assurances, N&L believed the Commission had in its possession the required proof of N&L's liability insurance.

31. N&L agrees with Vice Chairman Sweet that motor carriers often lose their Certificate of Public Convenience for failure to provide proof of current insurance based on "inadequate documentation by [the] insurer" or "inadequate communication [between] the insurer and the Commission" that could be a result of the difficulties of the United States Postal Service or other electronic communication issues. Audio Recording: Public Meeting, held by the Pennsylvania Public Utility Commission (Mar. 11, 2021) (on file with author) at minutes 9:47-11:54 (stating "communication issues could well be rooted in the pandemic situation, since we all know the postal services difficulties and the occasional slip that occurs through purely electronic communications."). N&L maintains that the Form E filings were made, and that any

miscommunication resulted from the United States Postal Service's difficulties during the pandemic.

32. As discussed below in Section III.D., N&L believes it has implemented procedures to prevent this from recurring in the future and assures timely future compliance with Commission directives and regulations. For these reasons, N&L submits that its excuse is reasonable and weighs in favor of reinstatement.

#### **D. IMPLEMENTATION OF PREVENTATIVE PROCEDURES**

33. The fourth reinstatement factor the Commission reviews is whether the petitioner implement procedures to prevent recurrent of the circumstances giving rise to the subject complaint.

34. As discussed above in Section III.C., N&L maintains that the liability insurance was maintained and filed with the Commission through its insurance broker and insurance carrier. Any failure to maintain liability insurance was based on previous mentioned assurances. However, to avoid any similar future scenarios, N&L implemented electronic reminders and alerts in its own systems for key dates relative to Commission-issued deadlines for filings and submissions. Regarding these reminders and alerts, N&L will require company personnel to send a reminder to the insurance broker and insurance carrier two weeks before and the day before the submission deadline. On the submission date, N&L will also require the insurance broker and insurance carrier to send a preview of the filing for approval, a plan for submission (to ensure Commission procedures are followed), and an immediate confirmation of submission with evidence of same.

35. By implementing these procedures, N&L believes it corrected the conditions that led to cancellation and prevent any recurrence of the alleged violations. N&L submits that this corrective action plan weighs in favor of reinstatement.

**E. COMPLIANCE WITH ASSESSMENTS AND FINES**

36. The final factor the Commission must review is whether the petitioner is current with all assessments and fines.

37. In conjunction with this Petition, N&L mailed payment in the amount of \$500 via UPS overnight delivery to pay the civil penalty of \$500 imposed by the Commission. The fine was delivered on Friday, February 26, 2021. Attached as **Exhibit G (CONFIDENTIAL)** is a copy of check No. 3071073 for payment of the fine and the tracking slip to the Commission.

38. N&L is unaware of any other outstanding and unpaid assessments or civil penalties and, therefore, submits that it is current with all assessments and fines. N&L's payment of the only known fine weighs in favor of reinstatement.

**IV. CONCLUSION**

N&L submits that the Commission's review of the five factors weighs in favor or reinstatement. N&L maintained the requisite liability insurance coverage, the duration between the cancellation letter and this Petition is two months; other than the instant matter, N&L has a history of compliance with the Commission regulations and Public Utility Code; the cancellation resulted from failure in the U.S mail, which N&L implemented procedures and policies to avoid future reoccurrences; and N&L paid the \$500 fine, making it current on all assessments and fines.

WHEREFORE, N & L Transportation Inc. respectfully requests that the Commission grant this Petition for Reinstatement and issue a Certificate of Public Convenience to N & L Transportation Inc. for motor common carrier of property at A-00117568 in an expedited manner.

Respectfully submitted,



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Judith D. Cassel, PA ID No. 209393  
Mariah R. Turner, PA ID No. 327840  
Hawke, McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
Tel: (717) 236-1300  
[jdcassel@hmslegal.com](mailto:jdcassel@hmslegal.com)  
[mrtturner@hmslegal.com](mailto:mrtturner@hmslegal.com)

Dated: March 15, 2021

*Counsel for N&L Transportation Inc.*

# **EXHIBIT B**



# **EXHIBIT C**

## N&L Exhibit C

----- Forwarded message -----

From: **Certs** <[certs@mrg-ins.com](mailto:certs@mrg-ins.com)>

Date: Fri, Jul 10, 2020 at 11:29 AM

Subject: Certificate of Insurance-N&L Transportation, Inc.

To: [RA-PCCmplntResp@pa.gov](mailto:RA-PCCmplntResp@pa.gov) <[RA-PCCmplntResp@pa.gov](mailto:RA-PCCmplntResp@pa.gov)>

Cc: [nltransport42@hotmail.com](mailto:nltransport42@hotmail.com) <[nltransport42@hotmail.com](mailto:nltransport42@hotmail.com)>, [gjones@nawarhorse.com](mailto:gjones@nawarhorse.com) <[gjones@nawarhorse.com](mailto:gjones@nawarhorse.com)>, [jwalker@nawarhorse.com](mailto:jwalker@nawarhorse.com) <[jwalker@nawarhorse.com](mailto:jwalker@nawarhorse.com)>, Sarah Garner <[sgarner@mrg-ins.com](mailto:sgarner@mrg-ins.com)>, Certs <[certs@mrg-ins.com](mailto:certs@mrg-ins.com)>, Katie Wesemann <[kwesemann@mrg-ins.com](mailto:kwesemann@mrg-ins.com)>

Hello,

I am reaching out on behalf of my client N&L Transportation and with regard to the attached notices.

Please find the attached certificate of insurance for our insured.

Kindly confirm if anything further is required to satisfy this matter.

Thank You,

**Evan Morris**

**Madison Risk Group**

**Direct: 484-655-1918**

**Cell: 267-664-9370**

**N&L Exhibit C**

**Fax: 484-655-1949**

**[emorris@mrg-ins.com](mailto:emorris@mrg-ins.com)**

**[www.mrg-ins.com](http://www.mrg-ins.com)**

**620 Freedom Business Center Drive**

**Suite 115**

**King of Prussia, PA 19406**



**Defining the Standard of Excellence in  
Construction Risk Management...Delivering It To  
Our Clients**

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# **EXHIBIT D**



# N&L Exhibit D

**Log Off**

## Active/Pending Insurance

<b>US DOT:</b>	855470	<b>Docket Number:</b>	MC00408109
<b>Legal Name:</b>	N & L TRANSPORTATION, INC.		

Form	Type	Insurance Carrier	Policy/Surety	Posted Date	Coverage From	Coverage To	Effective Date	Cancellation Date
91X	BIPD/Primary	<a href="#">NATIONAL LIABILITY &amp; FIRE INS CO.</a>	73TRB003529	08/24/2020	\$0	\$1,000,000	08/24/2020	
91X	BIPD/Primary	<a href="#">NATIONAL LIABILITY &amp; FIRE INS CO.</a>	73TRB003529	05/04/2020	\$0	\$1,000,000	05/02/2020	09/11/2020
34	CARGO	<a href="#">HARTFORD FIRE INSURANCE COMPANY</a>	44 MS VG1183	03/04/2020	\$0	\$5,000*	08/12/2019	09/16/2020

\* If a carrier is in compliance, the amount of coverage will always be shown as the required Federal minimum (\$5,000 per vehicle, \$10,000 per occurrence for cargo insurance, \$75,000 for bond/trust fund insurance for brokers and freight forwarders). The carrier may actually have higher levels of coverage.

| [Carrier Details](#) | [Rejected Insurance](#) | [Insurance History](#) | [Authority History](#) | [Pending Application](#) | [Revocation](#) |

August 24, 2020



# **EXHIBIT E**

**N&L Exhibit E**

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<b>Insurer #</b>	
<b>State MC ID</b>	A00117568
<b>Legal Name</b>	N & L TRANSPORTATION INC
<b>DBA</b>	
<b>Address</b>	1000 DUNHAM DR
<b>City</b>	DUNMORE
<b>State</b>	PA
<b>Zip</b>	18512
<b>Country</b>	
<b>Notes</b>	

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**Motor Carrier Information - Non-Electronic Filing States**

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No non-electronic filing states submitted.

Create Another Filing

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Version 4.5.0

## N&L Exhibit E

You have submitted the following insurance filings. **Your account will be billed \$ 5.50 .**

Electronic forms are sent to the corresponding state agency automatically. To submit paper filings, please print the form and mail/fax to the state. *Paper filings are not submitted to states via NIC Insurance Filings.*

# Filing Summary

## Insurance Information

Insurance Company	National Liability & Fire Insurance Company
Authorized Signature	Connie Pribyl
Insurance Agent ID	
Form Type	Form E
Reinstate	No

## Certificate of Insurance

Policy Number	73TRB003529
USDOT #	None
FMCSA #	None
Liability Limit	1,000,000.00
Contact Email Address	djward@nationalindemnity.com
Effective Date	05/13/2020
Type Of Authority	Paratransit

### Motor Carrier Information - Electronic Filing States

## Pennsylvania



# **EXHIBIT F**



**MADISON RISK GROUP**  
LLC  
INSURANCE BROKERS, CONSULTANTS AND RISK MANAGERS

February 12, 2021

Commonwealth of Pennsylvania – Public Utility Commission  
PA Department of Transportation  
400 North Street  
Harrisburg, PA 17120

**RE: N&L Transportation, Inc. – DOCKET NO. C-2020-3020021**  
**Certificate of Public Convenience Cancellation Dispute**


Dear Sir or Madam:

- 1) I am contacting you on behalf of my client, N&L Transportation, Inc. I am the licensed insurance agent representing the insured. The purpose of this letter is to confirm that my client has complied with the insurance requirements with no lapse in coverage for their Certificate of Public Convenience, as of May 2, 2020.
- 2) Their insurance carrier, National Liability & Fire Insurance Company, has confirmed on several occasions the required filings have been submitted with the PUC via the NOR website since May 2, 2020. The filing is attached for your review.
- 3) Please confirm receipt and reinstate my client's Certification.

I, Sarah Garner, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 pa.C.S. 4909.

If you have any further questions or require any additional documentation, please do not hesitate to contact me at 717-330-0892.

Sincerely,

DocuSigned by:  
  
BB40616D74C5485...

Sarah Garner, CRIS  
Account Executive  
Madison Risk Group

**N&L Exhibit F**

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<b>Insurer #</b>	
<b>State MC ID</b>	A00117568
<b>Legal Name</b>	N & L TRANSPORTATION INC
<b>DBA</b>	
<b>Address</b>	1000 DUNHAM DR
<b>City</b>	DUNMORE
<b>State</b>	PA
<b>Zip</b>	18512
<b>Country</b>	
<b>Notes</b>	

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**Motor Carrier Information - Non-Electronic Filing States**

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No non-electronic filing states submitted.

Create Another Filing

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**N&L Exhibit F**

You have submitted the following insurance filings. **Your account will be billed \$ 5.50 .**

Electronic forms are sent to the corresponding state agency automatically. To submit paper filings, please print the form and mail/fax to the state. *Paper filings are not submitted to states via NIC Insurance Filings.*

## Filing Summary

### Insurance Information

<b>Insurance Company</b>	National Liability & Fire Insurance Company
<b>Authorized Signature</b>	Connie Pribyl
<b>Insurance Agent ID</b>	
<b>Form Type</b>	Form E
<b>Reinstate</b>	No

### Certificate of Insurance

<b>Policy Number</b>	73TRB003529
<b>USDOT #</b>	<i>None</i>
<b>FMCSA #</b>	<i>None</i>
<b>Liability Limit</b>	1,000,000.00
<b>Contact Email Address</b>	djward@nationalindemnity.com
<b>Effective Date</b>	05/13/2020
<b>Type Of Authority</b>	Paratransit

#### Motor Carrier Information - Electronic Filing States

## Pennsylvania





STATE OF NEBRASKA    )  
                                          ) ss.:  
COUNTY OF DOUGLAS    )

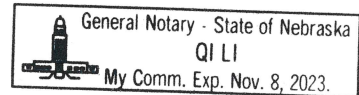
I, Qi Li, a Notary Public, do hereby certify that on this    day of March, 2021, personally appeared before me Robert E. Clemens, II, personally known to me to be the individual whose name is subscribed to the foregoing affidavit and acknowledged to me that he executed the same in his capacity, and that by his signature on the affidavit, the individual executed the instrument.

Sworn and subscribed before me this   12<sup>th</sup>   day of   March  , 2021.

Qi Li  
\_\_\_\_\_  
Notary Public

Printed Name: Qi Li  
Commission Expires: 11/08/2023

(Notary Seal)

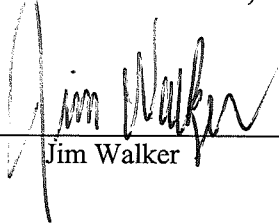




## VERIFICATION

I, Jim Walker, hereby state the facts set forth herein above are true and correct to the best of my knowledge, information, and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: March 9, 2021



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Jim Walker