

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners:                   Shari Feist Albrecht, Chairman  
  Jay Scott Emler  
  Dwight D. Keen

In the Matter of the Failure of Prairie Gas    )   Docket No: 18-CONS-3253-CPEN  
Operating, LLC (Operator) to Comply with    )  
K.A.R. 82-3-111 at the Wineinger<sup>1</sup> #1 well    )   CONSERVATION DIVISION  
in Greeley County, Kansas.                    )  
  )   License No: 35442  
\_\_\_\_\_)

**ORDER VACATING DEFAULT ORDER**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds and concludes as follows:

**Background:**

1. On January 5, 2018, the Commission issued a Penalty Order against the Operator for failure to comply with K.A.R. 82-3-111 at the Wineinger #1 well in Greeley County, Kansas.<sup>2</sup>
2. On March 27, 2018, the Prehearing Officer set the matter for a Status Conference on Monday, April 30, 2018 at 10:00 a.m.
3. On April 30, 2018, the Prehearing Officer convened the Status Conference. The Operator failed to attend and Commission Staff (Staff) verbally moved for default.
4. On May 3, 2018, the Commission issued a Proposed Default Order against the Operator for failure to attend the Prehearing Conference.<sup>3</sup>

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<sup>1</sup> Penalty Order – Prairie Gas Operations, LLC (Jan. 4, 2018).

<sup>2</sup> Penalty Order at 3 (Jan. 5, 2018).

<sup>3</sup> Proposed Default Order at 2 (May 3, 2018).

5. On May 4, 2018, the Operator filed a Motion to Vacate Default Order. The Operator stated that failure to attend the Prehearing Conference was solely the error of counsel and that the Operator should not be prejudiced by said error.<sup>4</sup> The Operator added that no discovery is anticipated and that the matter can be scheduled for hearing without further proceedings.<sup>5</sup> Further, the Operator stated that compliance with the regulation would be achieved prior to any scheduled hearing.<sup>6</sup> Staff did not file a response to the Motion to Vacate Default Order.

**Findings and Conclusions:**

6. Pursuant to K.S.A. 77-520(b), a Party against whom a proposed default was issued “may file a written motion requesting that the proposed default order be vacated and stating the grounds relied upon.” The Commission finds that the Operator has met the procedural burdens by timely filing a written motion stating said grounds.

7. The Commission finds that the Operator should not be prejudiced by the error of counsel in this instance but that future missed deadlines may not be excusable. Additionally, Kansas law favors compromising and settling disputes when the agreement is entered intelligently, and in good faith.<sup>7</sup> Because the Operator has made the assurance that this matter will be settled, the Commission finds that the Parties should be free to proceed toward such amicable resolution.

8. However, the Commission elects not to schedule the matter for hearing at this time based upon the guarantee of settlement. No Party should have to incur additional obligations in preparing for an unnecessary hearing. Rather, the Commission will re-schedule the matter for a Prehearing Conference and highly encourages the Parties to settle the matter prior thereto.

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<sup>4</sup> Motion to Vacate Default Order at 1 (May 4, 2018).

<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.*

<sup>7</sup> *Bright v. LSI Corp.*, 254 Kan. 853, 858 (1994).

**THEREFORE, THE COMMISSION ORDERS:**

A. The Operator's Motion to Vacate Default Order is granted.

B. A Prehearing Conference is scheduled for **Tuesday, July 3, at 8:30 a.m.** by telephone. The conference call information is: telephone number (866) 620-7326, Conference Code PIN: 7632914771#.

C. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).<sup>8</sup>

D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 06/07/2018



\_\_\_\_\_  
Lynn M. Retz  
Secretary to the Commission

Mailed Date: \_\_\_\_\_

DLK/sc

<sup>8</sup> K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

**CERTIFICATE OF SERVICE**

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I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 06/07/2018.

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/S/ DeeAnn Shupe

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