

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

Before Commissioners:                    Andrew J. French, Chairperson  
   Dwight D. Keen  
   Susan K. Duffy

In the matter of resolving K.A.R. 82-3-111 issues )	Docket Nos: 20-CONS-3129-CPEN
associated with Prairie Gas Operating, LLC )	20-CONS-3144-CPEN
(Operator) in four consolidated dockets, regarding )	20-CONS-3220-CPEN
wells in Greeley and Hamilton Counties, Kansas. )	21-CONS-3199-CPEN
)	
)	CONSERVATION DIVISION
)	
)	License No: 35442

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**PRESIDING OFFICER ORDER DENYING MOTION TO CONSOLIDATE DOCKETS  
AND TO AMEND PROCEDURAL SCHEDULE**

Earlier today, Operator motioned for the captioned dockets to be consolidated with Docket 22-CONS-3098-CMSC (Docket 22-3098), and for the procedural schedule in the captioned dockets to be amended pending a ruling on consolidation. The Presiding Officer rules as follows.

Under K.A.R. 82-1-224, two or more dockets may be consolidated for hearing on a common record if in the public interest. The Presiding Officer finds that ruling upon consolidation of Commission dockets is within the ambit of things a Presiding Officer may do.<sup>1</sup> Two issues remain in the captioned dockets: (1) whether the Earl #1, Fecht D #1, and Watson #1 wells need to have casing integrity tests conducted upon them and/or be repaired or plugged, and (2) all matters related to the Penalty Order in Docket 21-3199 and Operator's request for a hearing thereon.<sup>2</sup> The Penalty Order in Docket 21-3199 involves Operator's alleged violations of K.A.R. 82-3-111, the Commission's temporary abandonment regulation, at twenty-seven wells.<sup>3</sup> The captioned dockets have been

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<sup>1</sup> See K.S.A. 77-517(b); K.S.A. 77-551(c).

<sup>2</sup> See Presiding Officer Order Consol. Dkts., Clarifying Remaining Issues, and Setting Proc. Sch., p. 2 (May 28, 2021).

<sup>3</sup> See Penalty Order, Docket 21-3199 (Apr. 13, 2021).

consolidated since May 2021.<sup>4</sup> Staff timely submitted pre-filed direct testimony on August 20, 2021; Operator’s direct and rebuttal testimony is due on September 17, 2021; Staff’s rebuttal testimony is due on October 8, 2021.<sup>5</sup> The date of the evidentiary hearing has not yet been determined.<sup>6</sup>

On August 25, 2021, in Docket 22-3098, Staff motioned for the designation of a presiding officer and the scheduling of a prehearing conference, asking for Commission “overview” of Operator’s pending March 31, 2021 license renewal application, and, presumably, ultimately a determination regarding whether the application should be approved.<sup>7</sup> In its motion, Staff alleged that it is currently conducting lease inspections on all of Operator’s leases, and that the inspections “have revealed a multitude of potential regulatory violations, such as, but not limited to, temporary abandonment, casing integrity, and conducting oil and gas operations under a suspended license,” and that it has “extended the temporarily [*sic*] expiration date of Operator’s license.”<sup>8</sup> Operator did not reply to the motion, and the Commission has not ruled upon the motion.

In its motion to consolidate Docket 22-3098 with the captioned dockets, in regard to Staff’s motion in Docket 22-3098, Operator states that it is currently “unable to respond to the ‘potential’ regulatory violations, the litany of exemplars, and the allegation of operating while under a suspended license – all without any specification or notice of violation or opportunity for formal hearing being afforded,” and that “Staff’s extension of the temporary expiration of Operator’s license is appropriate and would appear to militate in favor of informal discussions and factual exchanges.”<sup>9</sup> Operator posits Staff’s allegations in Docket 22-3098 are “sufficiently broad so as to affect production from hundreds

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<sup>4</sup> See Presiding Officer Order Consol. Dkts., Clarifying Remaining Issues, and Setting Proc. Sch. (May 28, 2021).

<sup>5</sup> See Pre-Filed Direct Testimony of Michael Maier; Pre-Filed Direct Testimony of Ken Jehlik; Presiding Officer Order Adjusting Procedural Schedule (Jul. 21, 2021).

<sup>6</sup> See *id.*

<sup>7</sup> See Motion for the Designation of Presiding Officer and the Scheduling of a Prehearing Conference, Docket 22-3098 (Aug. 25, 2021).

<sup>8</sup> *Id.*

<sup>9</sup> Motion for Consolidation of Dockets and to Amend Adjusted Procedural Schedule, ¶¶ 5, 6 (Sept. 14, 2021).

of wells in western Kansas,” and that the scope of the allegations are “surely co-extensive with the issues raised” in the captioned dockets so as to “clearly overlap, if not subsume” them.<sup>10</sup> Operator further asserts that at a minimum it is “entitled to some notice or specification of the potential regulatory violations at issue in order to determine how such investigation might affect, or even preempt, any ruling on the [captioned] dockets.”<sup>11</sup>

The Presiding Officer finds the captioned dockets have clearly-identified issues and set pre-filed testimony deadlines, one of which has already elapsed; Operator states Staff’s allegations in Docket 22-3098 militate in favor of informal discussions and factual exchanges. Simply put, these dockets are not in the same procedural stance – the captioned dockets are, but for the already-scheduled and partially-completed submission of pre-filed testimony, ready for evidentiary hearing, while Docket 22-3098 is at a preliminary stage. In addition, the issues in the captioned dockets ultimately originate in alleged K.A.R. 82-3-111 violations at 30 specific wells, while Staff’s allegations in Docket 22-3098 involve many types of potential violations affecting hundreds of wells. Further, Staff investigations cannot preempt Commission rulings, and to the extent any investigations affect Commission rulings in contested matters, such must be in evidence. Staff filing a motion in a different docket, to which Operator did not respond and upon which the Commission has not ruled, does not necessitate or call for delay in this docket.

Operator’s motion to consolidate Docket 22-3098 with the captioned dockets is denied, as is its request to amend the procedural schedule in the captioned dockets.

**BY THE PRESIDING OFFICER IT IS SO ORDERED.**

Dated: September 14, 2021

/s/ Jonathan R. Myers  
Jonathan R. Myers  
Presiding Officer

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<sup>10</sup> *Id.* at ¶¶ 7, 8, 10.

<sup>11</sup> *Id.* at ¶ 10.

## **CERTIFICATE OF SERVICE**

20-CONS-3129-CPEN, 20-CONS-3144-CPEN, 20-CONS-3220-CPEN, 21-CONS-3199-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 09/14/2021.

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