### THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Before Commissioners:

Shari Feist Albrecht, Chair Jay Scott Emler Dwight D. Keen

In the Matter of the Notice of Denial of License Renewal Application Issued to Dover Atwood Corporation. Docket No: 17-CONS-3653-CMSC

CONSERVATION DIVISION

License No: 35332

# **DEFAULT ORDER**

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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:

1. On May 1, 2017, Commission Conservation Staff (Staff) issued a Notice of Denial

of License Renewal Application to Dover Atwood Corporation (Operator).

- 2. On May 11, 2017, the Operator timely filed a hearing request.
- 3. On June 22, 2017, the Commission issued an Order Designating Prehearing

*Officer and Setting Prehearing Conference*, designating Samuel Feather as the Prehearing Officer.<sup>1</sup> Since that date the proceeding underwent numerous continuances.<sup>2</sup>

4. On January 10, 2018, the Prehearing Officer issued a Prehearing Officer Order scheduling a Status Conference for February 2, 2018.<sup>3</sup>

5. On April 10, 2018, Staff filed a Renewed Motion for Default Order, stating that the February 2, 2018, Status Conference was held, the Operator did not attend, and Staff made a verbal

<sup>&</sup>lt;sup>1</sup> Order Designating Prehearing Officer and Setting Prehearing Conference, Ordering Clause A (June 22, 2017).

<sup>&</sup>lt;sup>2</sup> See e.g. Prehearing Officer Order Rescheduling Prehearing Conference, Nov. 4, 2016; Prehearing Officer Order Setting Prehearing Conference, Feb. 2, 2018.

<sup>&</sup>lt;sup>3</sup> Prehearing Officer Order Setting Status Conference, Ordering Clause A (Jan. 10, 2018).

motion for a Default Order.<sup>4</sup> Staff stated that "Prehearing Officer Feather accepted Staff's verbal motion for default but no order has been issued."<sup>5</sup>

6. K.S.A. 77-520 provides that if a party fails to attend any stage of an adjudicative proceeding, the agency may issue a default order with a statement of the grounds. Within seven days after service of a proposed default order, the party against whom it was issued has seven days to file a written motion to vacate, which shall state the grounds relied upon.

7. Pursuant to K.S.A. 77-520(a), the Commission finds the Operator's failure to attend the Prehearing Conference constitutes default. Thus, Staff's request for a Default Order is granted

#### THEREFORE, THE COMMISSION ORDERS:

A. Staff's Renewed Motion for Default Order is granted.

B. Pursuant to K.S.A. 77-520(b), any party may file a written motion requesting that this Default Order be vacated and stating the grounds relied upon, within seven calendar days after service of this Order, with three additional days added to account for service by mail.

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

## BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: \_\_\_\_\_\_2018

Lynn M. Ref

Lynn M. Retz Secretary to the Commission

Mailed Date: 06/29/2018

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<sup>&</sup>lt;sup>4</sup> Renewed Motion for Default Order, ¶ 4 (Apr. 10, 2018) (Renewed Motion).

<sup>&</sup>lt;sup>5</sup> Renewed Motion, ¶ 4.

#### **CERTIFICATE OF SERVICE**

17-CONS-3653-CMSC

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 06/28/2018

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/S/ DeeAnn Shupe

DeeAnn Shupe