

**THE STATE CORPORATION COMMISSION**

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

In the matter of the failure of Great Plains ) Docket No: 20-CONS-3279-CPEN  
Petroleum, Inc. (“Operator”) to comply with )  
K.A.R. 82-3-111 at the Adams #1-16 in Meade ) CONSERVATION DIVISION  
County, Kansas. )  
\_\_\_\_\_ ) License No: 30163

**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:

**I. Jurisdiction**

1. 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 can file a written motion to vacate, stating the grounds relied upon.

**II. Findings of Fact**

2. On May 5, 2020, the Commission issued a Penalty Order against Great Plains Petroleum, Inc. (Operator) for one violation of K.A.R. 82-3-111 because the Adams #1-16 (Subject Well) had been inactive in excess of the time allowed by regulation without being plugged, returned to service, or approved for temporary abandonment status.<sup>1</sup> The Penalty Order found that Commission records indicated that on January 6, 2020, the Subject Well was out of compliance with K.A.R. 82-3-111, that Commission Staff had provided Operator a deadline of February 5,

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<sup>1</sup> See *Penalty Order*, ¶¶ 6, 10 (May 5, 2020).

2020, to bring the Subject Well into compliance, and that Operator had not done so.<sup>2</sup> The Penalty Order assessed a \$100 penalty and directed Operator to bring the Subject Well into compliance within 30 days to avoid license suspension.<sup>3</sup>

3. June 4, 2020, Operator requested a hearing.<sup>4</sup> In the request, Operator stated it did not contest the penalty and had paid the \$100, but wanted more time to bring the Subject Well into compliance because another operator had expressed interest in assuming operations of the well.<sup>5</sup>

4. On June 16, 2020, the Commission issued an order designating a prehearing officer and setting a July 2, 2020, prehearing conference.<sup>6</sup> The order stated “Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding may be held in default under the KAPA.”<sup>7</sup>

5. On July 2, 2020, Commission Staff appeared at the scheduled prehearing conference, but Operator did not. On July 7, 2020, Staff filed a Motion for Default Order, stating “Staff believes Operator was properly noticed and afforded an opportunity to attend and participate in the July 2, 2020, prehearing conference, but failed to do so. Therefore, Staff requests that a default order be issued against Operator.”<sup>8</sup>

6. On July 16, 2020, Rod A. Phares, president of Operator, filed a motion to reschedule the prehearing conference.<sup>9</sup> Mr. Phares stated he was not aware of the prehearing conference, but acknowledged that he had been served proper notice and that he had not opened an email regarding service of the order setting the prehearing conference.<sup>10</sup> Mr. Phares stated that

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<sup>2</sup> *Id.* at ¶¶ 7-8.

<sup>3</sup> *Id.* at Ordering Clauses A, B, D.

<sup>4</sup> *See* Letter Requesting Hearing (June 4, 2020).

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

<sup>6</sup> *Order Designating Prehearing Officer and Setting Prehearing Conference*, Ordering Clause B (Jun. 16, 2020).

<sup>7</sup> *Id.* at Ordering Clause D.

<sup>8</sup> Motion for Default Order, ¶ 6. (Jul. 7, 2020).

<sup>9</sup> Motion to Reschedule Prehearing Conference (Jul. 16, 2020).

<sup>10</sup> *Id.* at ¶¶ 2-4.

his failure to attend “was due to an overwhelming schedule of job and family obligations.”<sup>11</sup> Mr. Phares additionally stated that he had job obligations outside the office between July 10 and July 18, 2020, would not have access to mail service during that time, was not certain he would have email service during that period, and requested notice of Commission ruling on his motion by telephone if such ruling occurred prior to July 22, 2020.<sup>12</sup>

7. The Commission finds granting Staff’s motion for default to be appropriate. The KAPA explicitly provides for default when a party fails to attend a prehearing conference, and Operator admits service was proper. In motioning for rescheduling, Mr. Phares states that job obligations prevented him reviewing the Commission’s order setting the prehearing conference. This is inadequate rationale for two reasons. First, as president of Great Plains Petroleum, one of Mr. Phares’ job obligations is to ensure correspondence from regulatory bodies overseeing his company’s operations is reviewed. Second, Mr. Phares’ obligations, personal or otherwise, are no excuse for Great Plains Petroleum, Inc., the entity licensed with the Commission, failing to attend the prehearing conference. Review of such correspondence could have been delegated, and as the Commission’s Penalty Order stated, a corporation shall appear before the Commission by a Kansas licensed attorney; Mr. Phares has not indicated he is an attorney.

### **III. Conclusions of Law**

8. Pursuant to K.S.A. 77-520(a), the Commission concludes Operator’s failure to attend the July 2, 2020, prehearing conference constitutes default, and that the Commission should issue an order in accordance with its findings.

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<sup>11</sup> *Id.* at ¶ 5.

<sup>12</sup> *Id.* at ¶¶ 7-8.

**THEREFORE, THE COMMISSION ORDERS:**

A. Staff's motion for a default order is granted. Operator is in default in this proceeding. Mr. Phares' motion to reschedule the prehearing conference is denied.


B. Pursuant to K.S.A. 77-520(b), any party may file a written motion requesting this Default Order be vacated, 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. 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>13</sup>

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

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 07/30/2020

  
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Lynn M. Retz  
Executive Director

Mailed Date: 07/30/2020

JRM

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<sup>13</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**

20-CONS-3279-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of

first class mail and electronic service on 07/30/2020.

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/S/ DeeAnn Shupe

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