

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

Before Commissioners:                      Pat Apple, Chairman  
   Shari Feist Albrecht  
   Jay Scott Emler

In the matter of the Complaint of Atmos	)	Docket No.: 17-CONS-3509-CMSC
Energy Against Endeavor Energy Resources,	)	
L.P. Relating to the Stegmeir #23-1 Well	)	CONSERVATION DIVISION
Located in the SW/4 SW/4 SW/4 of Section	)	
23, Township 33 South, Range 17 East,	)	License No.: 31769
Labette County, Kansas.	)	

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**STAFF’S RESPONSE TO ENDEAVOR’S MOTION TO DISMISS**

Endeavor Energy Resources, L.P.’s (“Endeavor”) motion to dismiss the complaint filed by Atmos Energy (“Atmos”) should be granted because under K.S.A. § 55-1210(d) the Commission lacks jurisdiction to provide the relief Atmos requests.

**Procedural Posture**

1. In a complaint filed March 2, 2017, Atmos Energy Corporation (“Atmos”) seeks injunctive relief pursuant to K.S.A. § 55-1210 to cease natural gas production of the Stegmeir #23-1 well (“subject well”) owned and operated by Endeavor located in Labette County, Kansas.
2. Atmos further seeks an order to have the subject well tested to determine ownership of the gas produced.<sup>1</sup>

**Background**

3. Atmos stores gas in the Squirrel Sand underground formation which is located between 420-470 feet below the surface (“Liberty Facility”). Atmos argues in its complaint that the underground gas storage facility is located within the same geographic boundary as

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<sup>1</sup> Complaint, ¶ 11-14; *also see* Motion for Order to Test Well pursuant to K.S.A. 55-1210(c)(2), filed March 2, 2017.

the subject well owned and operated by Endeavor.<sup>2</sup> Atmos seeks an order from the Commission which might resolve a dispute as to the ownership of the gas being produced from the subject well.

4. Endeavor filed a Motion to Dismiss on March 13, 2017 in response to Atmos' complaint and motion for order to test well. Endeavor contends that while the subject well was once completed in the Squirrel formation, it was subsequently plugged back to the Summit-Mulky formation.<sup>3</sup> Endeavor denies that the subject well was completed in the Squirrel formation during any period when the Liberty Facility has been in operation.

5. Endeavor asserts that the Commission does not have jurisdiction over the matters set forth in the complaint, nor does it have authority to order the remedies and relief sought by Atmos.<sup>4</sup>

6. Furthermore, Endeavor contends the complaint filed by Atmos is based upon factual misstatements regarding the boundaries of the field, the formation which the subject well produces and Endeavor's willingness to respond to inquiries from Atmos.<sup>5</sup> Finally, Endeavor seeks an award of attorney fees.<sup>6</sup>

### **Discussion**

7. The Commission lacks jurisdiction to grant relief. Endeavor is correct in stating that the Commission does not have jurisdiction or authority under K.S.A. § 55-1210 to determine a party's property rights as to minerals produced from subsurface formations nor to order testing of the subject well.<sup>7</sup> As explicitly stated in K.S.A. § 55-1210(d), the remedy

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<sup>2</sup> Complaint, ¶ 3; *see also* ¶ 7

<sup>3</sup> Endeavor Motion to Dismiss, ¶ 2-3.

<sup>4</sup> *Id.*, at ¶ 8.

<sup>5</sup> *Id.*, at ¶ 11-12

<sup>6</sup> *Id.*, at ¶ 13-14

<sup>7</sup> *See* K.S.A. § 55-1201

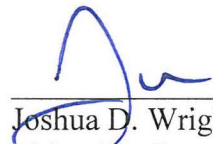
sought by Atmos is properly litigated in a court of competent jurisdiction.<sup>8</sup> The Commission is not a court of law.

8. Staff takes no position on alleged factual misstatements or any request for attorney fees.

### **Conclusion**

Wherefore, Staff respectfully requests the Commission grant Endeavor's motion to dismiss for the reason stated above.

Respectfully submitted,



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<sup>8</sup> See K.S.A. § 55-1210(d): "[t]he injector, such injector's heirs, successors and assigns shall have the right to compel compliance with this section by injunction or other appropriate relief by application to a court of competent jurisdiction."

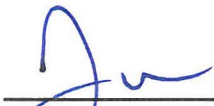
**CERTIFICATE OF SERVICE**

I certify that on 3-22-17, I caused a complete and accurate copy of this Response to be served via United States mail, with the postage prepaid and properly addressed to the following:

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