

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

In the Matter of the Application of Merit)	Docket No. 20-CONS-3062-CUNI
Energy Company, LLC, for an Order)	
Authorizing the Unitization and Unit)	CONSERVATION DIVISION
Operation of the West Eubank North Unit)	
<u>to be located in Haskell County, Kansas</u>)	License No. 32446

MOTION FOR SUMMARY PROCEEDINGS

Merit Energy Company, LLC (“Merit”) respectfully requests that State Corporation Commission of the State of Kansas (“Commission”) use summary proceedings pursuant to K.S.A. 77-537 to grant the captioned application. No interested party objects to, or protests the application filed in this docket. The Commission possess the power and authority to utilize summary proceedings to grant the captioned applications, and doing so would be consistent with the Commission’s mandate to prevent physical and economic waste. In support of its motion, Merit states as follows:

BACKGROUND

1. On August 26, 2019, Merit filed an application (“Application”) for an order authorizing the unitization and unit operation of the West Eubank North Unit, Haskell County, Kansas, pursuant to K.S.A. 55-1301, *et seq.* A proposed plan of unit operations consistent with the requirements of K.S.A. 55-1305 is included with the Application.

2. Notice of the Application was mailed to all interested parties on August 26, 2019, and was published in the *Wichita Eagle* and the *Haskell County Monitor*, an official newspaper of Haskell County, Kansas, on August 28, 2019.

3. The time period to submit a written protest to the Application expired at the end of the day on September 13, 2019.

4. Merit has received no protest or objection to the Application, and none has been docketed by the Commission.

5. Merit is ready, willing and able to commence unit operations on the West Eubank North Unit upon the granting of the Application, and has been since the date the protest period expired.

6. On October 1, 2019, the Commission entered an order designating Jonathan R. Myers, Assistant General Counsel, Kansas Corporation Commission, as Prehearing Officer and scheduling a Prehearing Conference for Monday, October 14, 2019, at 10 a.m. by telephone. Notably, paragraph D of the Commission's order states that the prehearing conference may be converted into a summary proceeding for disposition of this matter, as provided by the Kansas Administrative Procedure Act ("KAPA").

LEGAL AUTHORITY

KAPA provides that the Commission may use summary proceedings in lieu of holding a formal hearing, if:

- (1) the use of the proceeding in the circumstance does not violate any provision of law;
- (2) the protection of the public interest does not require the Commission to give notice and an opportunity to participate to persons other than the parties;
- (3) the Commission believes in good faith that the disposition and approval of the application will be supported to the applicable standard of proof; and

(4) the disposition does not take effect until after the time for requesting a hearing has expired.¹

With respect to Merit's Application, all of the requirements to make summary proceedings available to the Commission under KAPA are met. First, the Commission has already ordered that summary proceedings are available, and the use of summary proceedings does not violate any provision of law.² Second, notice of the Application has already been provided to all interested parties and published in the manner required by law. As such, the public has already been provided an opportunity to participate. Moreover, the oversight provided on behalf of the public by Commission staff is sufficient to protect the public at large. Third, the Application is uncontested, and Merit has complied with all requirements for unitization; therefore, disposition and approval of the Application undoubtedly meets the Commission's applicable standard of proof. Fourth, the time to request a hearing expired now three weeks ago, making the Application ripe to be granted.

As all four requirements for the use of summary proceedings are met, Merit respectfully requests that the Commission utilize the powers afforded to it under KAPA to grant the Application. The use of summary proceedings would avoid the unnecessary cost and inconvenience of an uncontested evidentiary hearing and allow Merit to immediately commence unit operations, thereby preventing economic and physical waste.

Merit notes that the Commission could, consistent with paragraph D of the Prehearing Order, convert the Prehearing Conference scheduled for October 14, 2019, into a summary proceeding for purposes of granting the Application.³ It is certainly in the public's interest for the Commission to avoid spending resources on uncontested matters, such as this Application. In

¹ K.S.A. § 77-537(a) (2009).

² Order Designating Prehearing Officer and Setting Prehearing Conference, ¶ D (October 1, 2019).

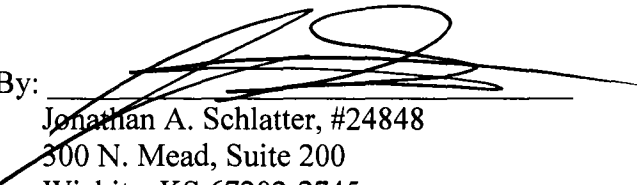
³ K.S.A. 77-506(a).

enacting KAPA, the legislature provided the Commission with the tool of summary proceedings to avoid holding unnecessary formal hearings on uncontested matters.

WHEREFORE, for the reasons set forth above, Merit respectfully requests that the Commission utilize the summary proceedings available under KAPA to grant Merit's Application, and to provide such further and other relief as the Commission deems just and proper.

Respectfully submitted,

MORRIS, LAING, EVANS, BROCK
& KENNEDY, CHARTERED

By: 
Jonathan A. Schlatter, #24848

300 N. Mead, Suite 200

Wichita, KS 67202-2745

Telephone: (316) 262-2671

Facsimile: (316) 262-6226

Email: jschlatter@morrislaing.com

Attorney for Merit Energy Company, LLC

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 4th day of October, 2019, I caused the original of this **Motion for Summary Proceedings** to be electronically filed with the Conservation Division of the State Corporation Commission of the State of Kansas, and caused a true and correct copy of the same be electronically served to the following parties:

Scott Alberg, District #1 Supervisor
Kansas Corporation Commission
District Office No. 1
210 E. Frontview, Suite A
Dodge City, KS 67801
Facsimile: (785) 271-3354
Email: s.alberg@kcc.ks.gov

Jake Eastes, Geologist Specialist
Kansas Corporation Commission
266 N. Main St., Suite 220
Wichita, KS 67202-1513
Facsimile: (785) 271-3354
Email: j.eastes@kcc.ks.gov

Robert Vincent, Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Rd
Topeka, KS 66604
Facsimile: (785) 271-3354
Email: r.vincent@kcc.ks.gov

Jonathan R. Myers, Assistant General Counsel
Kansas Corporation Commission
266 N. Main St., Suite 220
Wichita, KS 67202-1513
Facsimile: (346) 337-6211
Email: j.myers@kcc.ks.gov

Kelcey Marsh, Litigation Counsel
Kansas Corporation Commission
266 N. Main St., Suite 220
Wichita, KS 67202-1513
Facsimile: (346) 337-6211
Email: k.marsh@kcc.ks.gov



Jonathan A. Schlatter