

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

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Annie Kuether

In the matter of whether the license of Thor) Docket No: 24-CONS-3001-CSHO
Operating, LLC (Operator) should be revoked.)
) CONSERVATION DIVISION
)
_____) License No: 36020

In the matter of the failure of Quito, Inc.) Docket No: 24-CONS-3072-CPEN
(Operator) to comply with K.A.R. 82-3-120.)
) CONSERVATION DIVISION
)
_____) License No: 33594

In the matter of the failure of Quito, Inc. and/or) Docket No: 24-CONS-3086-CMSC
Thor Operating, LLC to comply with K.A.R.)
82-3-120 and K.A.R. 82-3-133.) CONSERVATION DIVISION
)
_____) License No: 33594 & 36020

ORDER GRANTING
MOTION TO COMPEL AND MOTION TO AMEND PROCEDURAL SCHEDULE
AND DENYING
MOTION TO QUASH AND MOTION IN LIMINE

On December 21, 2023, Commission Staff filed a motion to compel Thor Operating to respond to three data requests. On December 28, 2023, Thor Operating responded in opposition, motioned to quash various Staff discovery requests, and motioned in limine to exclude various evidence from these proceedings. On January 11, 2024, Staff responded in opposition to the motion to quash and motion in limine and moved to continue the procedural schedule. The Commission rules as follows:

1. These consolidated proceedings involve three dockets:
 - a. Docket 24-3001, where upon Staff’s motion, the Commission initiated a docket “to consider whether [Thor Operating’s] license should be revoked and whether [various

wells from Quito, Inc.] should be transferred to [Thor Operating's] license.”¹ Staff's stated concern regarding Thor Operating's license was based upon alleged associations between Scott Goetz, identified as a partner on Thor Operating's license, and Quito, Inc., whose license is revoked.²

- b. Docket 24-3072, where the Commission issued a Penalty Order assessing a \$500 penalty against Quito, Inc., finding Quito, Inc. violated K.A.R. 82-3-120 by having unplugged wells on an expired license.³
- c. Docket 24-3086, where the Commission issued a Shut-In and Show Cause Order, finding Quito, Inc. violated K.A.R. 82-3-120 and K.A.R. 82-3-133 by conducting oil and gas operations under an inactive and revoked license, and/or that Thor Operating violated K.A.R. 82-3-120 and K.A.R. 82-3-133 by conducting oil and gas operations on a well listed under Quito's inactive and revoked license. The Commission directed Thor Operating and Quito, Inc. to show cause why each should not be assessed a \$25,000 penalty.⁴

2. Staff focuses on three data requests in its motion to compel:⁵

- a. In its Request #8, Staff asked Thor Operating to provide a list detailing the hierarchy structure of Thor Operating employees and independent contractors.
- b. In its Request #10, Staff asked Thor Operating to list all royalty interest owners (including all overriding royalty owners) and the percentage of their interest in the eight leases at issue in Docket 24-3001 (and in part at issue in Docket 24-3086).

¹ See Docket 24-3001, Order Designating Presiding Officer and Setting Prehearing Conference, ¶ 2 (July 13, 2023).

² See Docket 24-3001, Mtn. for the Design. of a Presiding Officer and Sch. of a Prehrg. Conf., ¶ 1 (July 3, 2023).

³ See Docket 24-3072, Penalty Order (Sept. 26, 2023).

⁴ See Docket 24-3086, Shut-In and Show Cause Order (Oct. 3, 2023).

⁵ See Motion to Compel, Exhibit A (Dec. 21, 2023).

c. In its Request # 17, Staff asked Thor Operating to provide all written documents, including texts and emails, between Scott Goetz and (Quito, Inc. President) Mark McCann, Chris Williams, anyone else acting on behalf of Mr. McCann, or current or former employees/independent contractors of Quito, Inc., since November 2022.

3. In response to Staff's requests, Operator objected that the information was irrelevant or immaterial and not calculated to lead to the discovery of admissible evidence. Operator also stated the communications at issue in Request #17 could theoretically encompass a substantial and voluminous quantity of communications, requiring a significant time and effort to identify, locate and produce, at significant cost and expense.⁶

4. In its motion, Staff argues the requested data is directly relevant to the proceedings before the Commission. In regard to Request #8, Staff argues the purpose of Docket 24-3001 is to determine whether Thor Operating's license should be revoked based upon the potential connection between Thor Operating and Quito, Inc., and that a response to Request #8 would verify whether Thor Operating's employees or independent contractors were the same as Quito, Inc.'s. In regard to Request #10, Staff alleges Kansas Production Company, Inc., one of Mr. McCann's companies, has working interests in the leases at issue, and that knowledge of the exact interest Mr. McCann has would be beneficial. In regard to Request #17, Staff notes various connections between Mr. Goetz and Mr. McCann, and states Operator has not provided any reasoning why the request is burdensome.⁷

5. In its response to Staff's motion, Thor Operating raises arguments against the legal theories underlying Staff's apparent position – Thor Operating says that the connections are immaterial.⁸ The Commission, however, finds it appropriate to allow Staff to explore the connections between Thor Operating, Quito, Inc., Mr. Goetz, and Mr. McCann, as part of Staff's theory of the

⁶ See *id.* at Exhibit B.

⁷ See Motion to Compel.

⁸ See Reply to Motion to Compel (Dec. 28, 2023).

case(s) – such connections appear clearly relevant to Staff’s legal theories. The Commission itself notes that Mr. McCann apparently provided Thor Operating’s responses to Staff’s Requests # 8, #10, and #11;⁹ also, in its filing, Thor Operating did not pursue its argument that provision of the communications at issue in Request #17 would be burdensome. In short, the Commission believes it more appropriate to deal with Thor Operating’s legal arguments once all evidence has been presented.

6. This being the case, the Commission also finds it appropriate to deny Thor Operating’s motion to quash and motion in limine, and finds it appropriate to adjust the procedural schedule to accommodate resolution of this discovery dispute.

THEREFORE, THE COMMISSION ORDERS:

A. Staff’s Motion to Compel is granted. Thor Operating is directed to promptly provide responses to Staff’s Requests #8, #10, and #17.


B. Thor Operating’s Motion to Quash and Motion in Limine are denied.

C. Staff’s request to amend the procedural schedule is granted. The previous pre-filed testimony deadlines are void.¹⁰ After Operator provides the documentation requested by Staff, parties are directed to contact the Presiding Officer to re-establish a procedural schedule.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner (recused); Kuether, Commissioner

Dated: 02/08/2024


Lynn M. Retz
Executive Director

Mailed Date: 02/08/2024

JRM

⁹ See Motion to Compel at Exhibit B.

¹⁰ See Presiding Officer Order Adjusting Procedural Schedule (Dec. 7, 2023).

CERTIFICATE OF SERVICE

24-CONS-3001-CSHO, 24-CONS-3072-CPEN, 24-CONS-3086-CMSC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 02/08/2024.

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