

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

In the matter of the failure of Nacogdoches) Docket No. 24-CONS-3177-CPEN
Oil & Gas, LLC (Operator) to comply with)
K.A.R. 82-3-120.) CONSERVATION DIVISION
)
_____) License No. 32042

REQUEST FOR HEARING

Nacogdoches Oil & Gas, LLC (“Operator”) respectfully requests a hearing in the referenced docket. In support of its request, Operator alleges and states:

1. On May 5, 2022, the Commission entered its Order Denying Application for License (“Order Denying License”) in Docket 22-CONS-3407-CMSC (“Docket 22-3407”). The Order Denying License found that Operator did not meet the requirements of K.S.A. 55-155(c)(4) and K.A.R. 82-3-120(g)(2), on the grounds that Operator was suspended for non-compliance with a Commission order.¹

2. Operator timely requested a hearing on the merits of the Order Denying License, specifically contesting whether it had actually violated a Commission Order.

3. Over the subsequent 18 months, the matter of Operator’s license renewal application was litigated, with the Commission entering orders affirming the Order Denying License, reconsidering that order, and then un-reconsidering that order.² That litigation, insofar as it is before the Commission, culminated with the Commission’s Order on Reconsideration.³

4. On December 7, 2023, Operator timely submitted its Petition for Judicial Review to the Labette County, Kansas, District Court, seeking review of the Commission’s orders denying

¹ Docket 22-CONS-3407-CMSC, Order Denying Application for License, ¶¶ 7 and A.

² See generally, Docket 22-CONS-3407-CMSC.

³ See *id.*, Order on Reconsideration, Denying Operator’s Proposed Amendment to Compliance Agreement, and Lifting Stay of Final Order (November 7, 2023).

its license renewal application in Docket 22-3407.⁴ That petition is currently pending before the District Court, which effectively means the Commission's orders entered in Docket 22-3407 are on appeal.

5. Notwithstanding that it no longer has jurisdiction over the matters at issue in Docket 22-3407, the Commission issued the Penalty Order alleging violations of K.A.R. 82-3-120. That is the regulation requiring an operator to obtain or renew a license before conducting oil and gas operations in the state of Kansas. This is the same regulation that was at issue in Docket 22-3407, and the same wells cited as non-compliant in the Penalty Order are the same wells at issue and on appeal in Docket 22-3407. Thus, the Penalty Order seeks to re-allege and re-enforce the legal and factual matters at issue in Docket 22-3407, which are now before the District Court on judicial review. That course of conduct is unlawful towards Operator.

6. Moreover, the Penalty Order is legally incongruent on its face. Specifically, the Penalty Order finds Operator has violated K.A.R. 82-3-120(a), which states in relevant part:

No operator . . . shall undertake any of the following activities without first obtaining or renewing a current license: (A) Drilling, completing, servicing, plugging, or operating any oil, gas, injection, or monitoring well.

The Penalty goes on to order that:

Operator has 30 days from the date of this Order to: (a) Transfer the Subject Wells to another operator by filing the appropriate forms with the Commission; or (b) Plug the Subject Wells.⁵

As stated above, the Commission has refused to renew Operator's license, and until it does Operator is expressly prohibited from plugging the Subject Wells pursuant the very Commission regulation Operator is found to have violated in the Penalty Order; yet the Commission expressly orders Operator to do that very thing. Such conclusions and orders are incoherent. Indeed,

⁴ Case 2023-CV-300014, District Court, Labette County, Kansas.

⁵ Penalty Order, ¶ C.

Operator would actually be committing a violation of K.A.R. 82-3-120(a) by following the Commission's order and plugging the Subject Wells. Operator's only other option under the Penalty Order is to transfer the Subject Wells to another Operator. That order would deprive Operator of its property without compensation, which the Commission cannot lawfully order. The Penalty Order goes on to threaten Operator with monetary fines if it does not abdicate its property rights to another party, further depriving Operator of its property rights. The Penalty Order cannot stand on its face.

7. It is not lost on Operator that legally and factually baseless findings made to justify the Final Order in Docket 22-3407 are the same fallacy that makes the Penalty Order unlawful as explained above. These matters are now before the District Court on judicial review, and will ultimately be decided by a Court of superior jurisdiction. The Commission should stay these proceedings until the legality of this particular issue are resolved, at which time the Penalty Order could very well become moot.

WHEREFORE, for the foregoing reasons Operator requests Commission stay these proceedings pending the disposition of Docket 22-3407 on judicial review, or, in the alternative, requests that a hearing be set in this docket, and for such further relief as the Commission deems necessary and proper.

Respectfully submitted,

MORRIS LAING LAW FIRM

By: _____


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VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

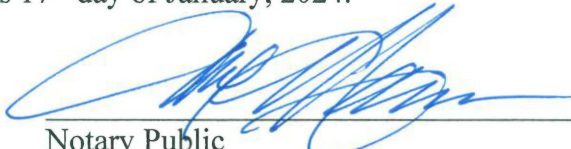
Jonathan A. Schlatter, being of lawful age and being first duly sworn upon his oath, deposes and says:

That he is the attorney for Nacogdoches Oil & Gas, LLC; he has read the above and forgoing Request for Hearing and is familiar with its contents, and that the statements made therein are true and correct to the best of his knowledge and belief.



Jonathan A. Schlatter

SIGNED AND SWORN to before me this 17th day of January, 2024.



Notary Public

My Appointment expires: 11/05/2024



CERTIFICATE OF SERVICE

I, Jonathan A. Schlatter, hereby certify that on this 18th day of January, 2024, I caused the original of the foregoing REQUEST FOR HEARING, KCC Docket No. 24-CONS-3177-CPEN to be electronically filed with the Conservation Division of the State Corporation Commission of the State of Kansas, and emailed true and correct copies of the same to the following individuals:

Kelsey Marsh, Litigation Counsel
Kansas Corporation Commission
Central Office
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Wichita, KS 67202-1513
k.marsh@kcc.ks.gov


Jonathan A. Schlatter