THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair

Jay Scott Emler Dwight D. Keen

In the Matter of the Failure of Patrick Development)	Docket No: 18-CONS-3356-CPEN
Corporation ("Operator") to Comply with K.A.R.)	
82-3-407 at the Grandon #NO 9 in Miami County,)	CONSERVATION DIVISION
Kansas.)	
)	License No. 6279

ORDER SETTING PROCEDURAL SCHEDULE

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 the following:

- 1. On April 5, 2018, the Commission issued a *Penalty Order* against Patrick Development Corporation (Operator) for a violation of K.A.R. 82-3-407.¹
 - 2. On April 25, 2018, the Operator filed a request for hearing.
- 3. On May 10, 2018, the Commission issued an *Order Designating Prehearing Officer* and Setting Prehearing Conference, scheduling a Prehearing Conference for July 12, 2018.²
- 4. On July 12, 2018, a Prehearing Conference was held. Staff appeared by counsel, but the Operator did not attend. Staff counsel verbally moved for default.
 - 5. On July 19, 2018, Staff filed a Motion for Default Order.
- 6. On July 27, 2018, the Operator filed a letter requesting a re-hearing stating that "[t]he only reason that I didn't attend the Hearing was due to the Fact that I suffered a Tear and/ or Dissection of the Aorta of my Heart on June 1 and that for with the various complications from

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¹ Penalty Order, ¶ 13 (Apr. 5, 2018).

² Order Designating Prehearing Officer and Setting Prehearing Conference, Ordering Clause B (May 10, 2018).

it, I spent most of the month in the Cardio-Thoracic ICU." The Operator further stated that "[o]n the date of the Hearing, I was in KU Med and I was in no Medical Condition to attend the Hearing."

7. On August 23, 2018, the Prehearing Officer scheduled a Status Conference for September 27, 2018.⁵ A Status Conference was held on that date, wherein the parties agreed to the following procedural schedule:

Staff Pre-filed Direct Testimony
Operator Pre-filed Direct Testimony
Rebuttal Testimony
Evidentiary Hearing before the Commission
266 Main, Suite 220, Wichita, Kansas 67202

Due: November 19, 2018
Due: December 3, 2018
Due: December 20, 2018, 10:00 a.m.

the parties' direct and rebuttal testimony to the pre-filed testimony.

- 8. Failure to submit pre-filed testimony may result in the Commission restricting the right to testify and present evidence at the evidentiary hearing. At the hearing, the Commission may limit
- 9. Any settlement agreement the parties wish to present for Commission consideration shall be due by November 19, 2018.
- 10. Any person requiring special accommodations under the Americans with Disabilities Act (ADA) should notify the Commission at least 10 days before the scheduled hearing date.
- 11. Any party who fails to attend or participate in the evidentiary hearing or in any other stage of this proceeding may be held in default under the Kansas Administrative Procedure Act.⁶
- 12. <u>A corporation, including Patrick Development Corporation, shall appear before the Commission by a Kansas licensed attorney.</u>

³ Letter Requesting a Re-hearing, p. 1 (July 26, 2018).

⁴ Letter Requesting a Re-hearing, p. 1.

⁵ Prehearing Officer Order Scheduling Status Conference, Ordering Clause A (Aug. 23, 2018).

⁶ K.S.A. 77-518(c)(8); K.S.A. 77-520.

⁷ K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

THEREFORE, THE COMMISSION ORDERS:

- A. The procedural schedule set forth in paragraph 7 above is adopted.
- B. 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).8
- C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Kee	
Dated:10/02/2018	Lynn M. Reg
	Lynn M. Retz
	Secretary to the Commission
Date Mailed:	
MID	

⁸ 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

18-CONS-3356-CPEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of		
electronic service on10/02/2018		
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/S/ DeeAnn Shupe DeeAnn Shupe