

4. Contractor’s request for hearing was not filed until November 17, 2023, and so its request is untimely. In its request for hearing, Contractor contends “Contractor received service of the Penalty Order by regular U.S. mail on or about October 25, 2023, as such its request for hearing is timely.”⁴ Under K.S.A. 77-531, however, service is complete upon mailing; it is not relevant when Operator received the Penalty Order.


5. As the Penalty Order stated at Ordering Clause C, “Failure to timely request a hearing will result in waiver of Contractor’s right to a hearing.” The deadline for requesting a hearing on a Commission Penalty Order is set by statute, the Commission does not have authority to alter a statutory deadline, and the Commission’s Penalty Order a final order.⁵ In light of these facts, the Commission finds dismissal of Contractor’s request for hearing is appropriate.

6. Contractor’s request for hearing is dismissed. Any party may file and serve a petition for reconsideration regarding this Order pursuant to the requirements and time limitations established by K.S.A. 77-529(a)(1).⁶

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 12/12/2023



Lynn M. Retz
Executive Director

Mailed Date: 12/12/2023
JRM

⁴ Request for Hearing, ¶ 2 (Nov. 17, 2023).

⁵ See K.S.A. 55-164(b), K.S.A. 77-501 *et seq.*

⁶ 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

24-CONS-3104-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 12/12/2023.

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