THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Dwight D. Keen Annie Kuether

In the matter of the failure of Legacy Drilling, LLC (Contractor) to comply with K.A.R. 82-3-)	Docket No: 24-CONS-3104-CPEN
120 by drilling wells without a current license.)	CONSERVATION DIVISION
)	License No: 35640

ORDER DISMISSING REQUEST FOR HEARING

The Commission rules as follows:

- 1. On October 12, 2023, the Commission issued a Penalty Order in this matter against Contractor for violation of K.A.R. 82-3-120.
 - 2. On November 17, 2023, Contractor requested a hearing.
- 3. The Commission's Penalty Order was issued pursuant to K.S.A. 55-164, which provides 30 days for a person "to make written request to the Commission for a hearing." Accordingly, upon initial calculation, Contractor's request for hearing was due Saturday, November 11, 2023. But the Penalty Order was also an order in summary proceedings under the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, which means that under K.S.A. 77-503, deadlines falling on a Saturday run until the end of the next day that is not a Saturday, Sunday, or legal holiday. This pushes the calculation of Contractor's deadline to Monday, November 13, 2023. Finally, under K.S.A. 77-531(b), three days must be added to the deadline. So, Contractor's final deadline to submit a written request for hearing in this matter was Thursday, November 16, 2023.

² See K.S.A. 55-162, K.S.A. 55-164, K.S.A. 77-503, K.S.A. 77-537

¹ See K.S.A. 55-164(b).

³ If it is correct to apply K.S.A. 77-531(b) before applying K.S.A. 77-503, then Contractor's deadline was earlier – Tuesday, November 14, 2023.

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." Under K.S.A. 77-531, however, service is complete upon mailing; it is not relevant when

Operator received the Penalty Order.

As the Penalty Order stated at Ordering Clause C, "Failure to timely request a hearing 5.

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. 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. Red

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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/S/ KCC Docket Room

KCC Docket Room