

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of the Failure of Benjamin M.) Docket No: 18-CONS-3057-CPEN
Giles (“Operator”) to comply with K.A.R.)
82-3-111 at the Paulsen #1 well in Butler) CONSERVATION DIVISION
County, Kansas.) License No: 5446

PREHEARING OFFICER ORDER GRANTING CONTINUANCE

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 Prehearing Officer makes the following findings:

1. On August 1, 2017, the Commission issued a Penalty Order against Benjamin M. Giles (Operator), finding the Operator in violation of K.A.R. 82-3-111, and assessing the Operator a \$100 penalty for the violation.¹
2. On September 5, 2017, the Operator filed a Request for Hearing.
3. On September 12, 2017, the Commission designated a Prehearing Officer and scheduled a Prehearing Conference.
4. On November 7, 2017, the Prehearing Officer convened the Prehearing Conference and the parties agreed to a procedural schedule.
5. On November 8, 2017, the Prehearing Officer issued an order establishing the procedural schedule.
6. On January 2, 2018, Commission Conservation Division Staff (Staff) filed a motion for a continuance of all procedural deadlines and the evidentiary hearing to allow Staff

¹ Penalty Order at 3 (Aug. 1, 2017).

and the Operator to explore settlement.² Staff provided and stated that the Operator was not opposed to the following proposed schedule:

Discovery Cut-Off	January 29, 2018
Staff's Pre-filed Direct Testimony	February 19, 2018
Operator's Pre-filed Direct Testimony	February 26, 2018
Rebuttal Testimony	March 5, 2018
Evidentiary Hearing	March 15, 2018 @ 10:00 a.m. 266 N. Main, Suite 220, Wichita, Kansas 67202 ³

7. On January 10, 2018, the Prehearing Officer granted the Motion and adopted the procedural schedule.

8. On January 25, 2018, the Operator filed a motion for continuance of the Discovery Cut-Off deadline to February 19, 2018 to continue exploring settlement.⁴ Staff is not opposed.⁵

9. Kansas law favors compromising and settling disputes.⁶ Therefore, for good cause shown, the Operator's motion is granted. The Prehearing Officer reminds the Parties that the previously issued discovery and protective orders remain in place.

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

11. Any person requiring special accommodations under the Americans with Disabilities Act should notify the Commission at least 10 days before the scheduled hearing date.

² Motion for Continuance of Procedural Deadlines and Evidentiary Hearing at 1 (Jan. 2, 2018).

³ *Id.*

⁴ Motion to Extend the Discovery Cut-Off Prescribed by the Procedural Schedule at 1-2 (Jan. 25, 2018).

⁵ *Id.*

⁶ *Bright v. LSI Corp.*, 254 Kan. 853, 858 (1994).

12. 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.⁷

THEREFORE, THE PREHEARING OFFICER ORDERS:

A. Operator's Motion is granted and the Discovery Cut-Off deadline shall be February 19, 2018.

B. The provisions of the Protective and Discovery Orders shall govern discovery procedures and the treatment and handling of confidential information in this docket.

C. Any Party affected by this Order may file with the Commission a petition for reconsideration pursuant to K.S.A. 2016 Supp. 77-529(a). The petition shall be filed within 15 days after service of this Order, plus three days if by mail service, and must state the specific grounds upon which relief is requested.⁸ The petition shall be addressed to the Commission and sent to 266 N. Main, Ste. 220, Wichita, Kansas 67202.

D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

Dated: January 26, 2018

DLK/sc

/s/ Dustin L. Kirk
Dustin L. Kirk, Deputy General Counsel
Prehearing Officer

⁷ K.S.A. 77-518(c)(8); K.S.A. 77-520.

⁸ K.S.A. 55-162; K.S.A. 55-606; K.S.A. 77-529(a)(1); *see* K.S.A. 66-118b.

CERTIFICATE OF SERVICE

I certify that on January 26, 2018, I caused a complete and accurate copy of this Order to be served electronically, addressed to the following:

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/s/ Paula Murray
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