

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

In the matter of the failure of Prairie Gas Operations, LLC ("Operator") to comply with K.A.R. 82-3-111 at the Clift #1, Sell A #1 and Hazlett #2 wells in Greeley and Hamilton County, Kansas.)))))	Docket No.: 18-CONS-3125-CPEN CONSERVATION DIVISION License No.: 35442
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In the matter of the failure of Prairie Gas Operations, LLC ("Operator") to comply with K.A.R. 82-3-111 at the Hoffman G #32-1 in Greeley County, Kansas.)))))	Docket No.: 18-CONS-3128-CPEN CONSERVATION DIVISION License No.: 35442
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**STAFF'S RESPONSE IN OPPOSITION TO MOTION TO VACATE OR AMEND
DEFAULT ORDER**

Commission Staff (Staff) of the State Corporation Commission of the state of Kansas (Commission) files this Response, wherein Staff opposes Operator's motion to vacate the Commission's default order. In support of its Response, Staff states as follows:

I. BACKGROUND

1. On August 31, 2017, the Commission issued a Penalty Order against Operator in both the captioned dockets. On October 3, 2017, Operator filed timely appeals. On November 9, 2017, the Commission issued an order consolidating the dockets and setting this matter for a December 5, 2017, prehearing conference, which was then continued to January 16, 2018.

2. Counsel for Staff appeared at the pre-hearing conference on January 16, 2018, but Operator failed to appear. Operator was properly noticed and afforded an opportunity to attend and participate in the January 16, 2018, prehearing conference, but failed to do so.

3. Staff filed a Motion for Default on January 22, 2018, which was served on the Operator the same date. Operator failed to respond. Operator then retained counsel, who entered his appearance on February 23, 2018.

4. On February 27, 2018, the Commission issued a Default Order. On March 1, 2018, the Commission issued a Nunc Pro Tunc Order.

5. On March 6, 2018, Operator filed a motion requesting the Commission to vacate or amend their Default Order, to which Staff presently responds.

II. ARGUMENT

6. Operator's motion should be denied. Operator requested a hearing in this matter and had ample opportunity to timely, adequately participate in this docket to avoid the issuance of a default order, but elected not to do so. Although Operator appears to question the Commission's service of its proposed default order,¹ any alleged issue with service is moot, as Operator filed a timely motion in response to it. Staff notes that in its motion, Operator explicitly "consents to a final default order in the form of the proposed order"² This being the case, Operator's motion to vacate the proposed order makes no sense.

7. Further, there is no need for any amendment to "specify the precise state of the record as to compliance and the amount of the fine"³ or to "confirm all prior representations made by Staff."⁴ The Commission's proposed default order grants Staff's uncontested motion to hold Operator in default for failure to participate in a docket. Being the case, the default order is not an appropriate forum for discussing Operator's present compliance or lack thereof, or any representations made to Operator regarding compliance.

8. If Operator is held in default, then the underlying penalty orders become final orders. At that point, if Operator has not complied with those orders, then it is subject to the consequences in those orders for failure to have complied. The underlying penalty orders state

¹ *Motion to Vacate or Amend Proposed Default order*, ¶5.

² *Id.* at unnumbered concluding prayer for relief.

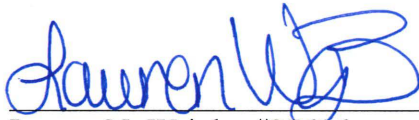
³ *Id.*

⁴ *Id.* at ¶6.

exactly what Operator needed to do to bring itself in compliance in this matter, and Staff has told Operator's counsel exactly what remains to be done - Operator must pay the \$400 owed in the manner described in the penalty orders. Commission clarification from this procedural stance is both unnecessary and inappropriate, and merely delays the immediate need to make such payment to resolve this matter.

WHEREFORE, Staff opposes Operator's motion to vacate or amend the proposed default order, and requests that such motion be denied.

Respectfully submitted,

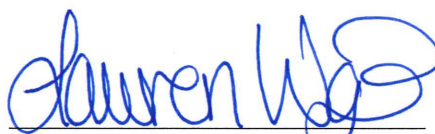


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VERIFICATION

STATE OF KANSAS)
) ss.
COUNTY OF SEDGWICK)

Lauren N. Wright, of lawful age, being duly sworn upon her oath deposes and states that she is Litigation Counsel for the State Corporation Commission of the State of Kansas; that she has read and is familiar with the foregoing *Motion*, and attests that the statements therein are true to the best of her knowledge, information and belief.



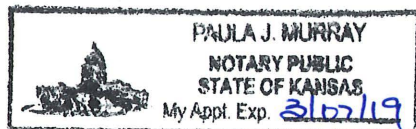
Lauren N. Wright, S. Ct. #27616
Litigation Counsel
State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 16 day of Mar, 2018.



Notary Public

My Appointment Expires: 3/07/19



CERTIFICATE OF SERVICE

I certify that on 3/16/18, I caused a complete and accurate copy of this Motion to be served electronically to the following:

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