

**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 Application of Joe Brake dba) Docket No: 18-CONS-3262-CMSC
Brake Inc. (“Operator”) for an Operator’s)
License Renewal.) CONSERVATION DIVISION
)
_____) License No. 31074

DEFAULT ORDER

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 and concludes as follows:

I. Jurisdiction

1. K.S.A. 77-520 provides that if a party fails to attend any stage of an adjudicative proceeding, the agency may issue a default order with a statement of the grounds. Within seven days after service of a proposed default order, the party against whom it was issued has seven days to file a written motion to vacate, which shall state the grounds relied upon.

II. Findings of Fact

2. On January 18, 2018, the Commission issued its *Order Denying Application for License* in this matter.

3. On February 1, 2018, Joe Brake dba Brake Inc. (Operator) requested a hearing.

4. On April 26, 2018, the Commission issued its *Order Designating a Prehearing Officer and Setting Prehearing Conference*, scheduling a Prehearing Conference for May 10, 2018.¹

¹ *Order Designating a Prehearing Officer and Setting Prehearing Conference*, Ordering Clause B (Apr. 26, 2018).

5. On May 10, 2018, a Prehearing Conference was held. Staff appeared at the Prehearing Conference, but the Operator did not.

6. On June 4, 2018, Staff filed a Motion for Default Order (Motion for Default), stating that “Staff verbally motioned [at the Prehearing Conference] for a default order to be issued, but upon the [P]rehearing [O]fficer’s request agreed to file a written motion for a default order.”² Staff stated its belief that the “Operator was properly noticed and afforded an opportunity to attend and participate in the May 10, 2018, prehearing conference, but failed to do so.”³

III. Conclusions of Law

7. Pursuant to K.S.A. 77-520(a), the Commission finds the Operator’s failure to attend the Prehearing Conference constitutes default. Thus, Staff’s request for a Default Order is granted.


THEREFORE, THE COMMISSION ORDERS:

- A. Staff’s request for a Default Order is granted.
- B. Pursuant to K.S.A. 77-520(b), any party may file a written motion requesting that this Default Order be vacated and stating the grounds relied upon, within seven calendar days after service of this Order, with three additional days added to account for service by mail.
- C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering additional orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 06/12/2018



Lynn M. Retz
Secretary to the Commission

Mailed Date: 06/13/2018

MJD

² Motion for Default, ¶ 4 (June 4, 2018).

³ Motion for Default, ¶ 5.

CERTIFICATE OF SERVICE

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I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail and electronic service on 06/12/2018.

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/S/ DeeAnn Shupe

DeeAnn Shupe