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

Before Commissioners:

Dwight D. Keen, Chair Susan K. Duffy Andrew J. French

In the matter of the application of Crypto Colo) Center Corp (Operator) to drill its proposed Bower #4B well in Jefferson County, Kansas.

Docket No: 23-CONS-3055-CMSC CONSERVATION DIVISION

License No: 35955

ORDER DESIGNATING PRESIDING OFFICER AND SETTING PREHEARING CONFERENCE

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The Commission rules as follows:

1. On August 24, 2022, Commission Staff motioned for the designation of a presiding officer and the scheduling of a prehearing conference in this matter. Staff identified a potential dispute between Operator and Southern Star Central Gas Pipeline, Inc., as basis for its motion, also stating Operator's proposed drilling target is below Southern Star's McLouth gas storage reservoir. Neither Operator nor Southern Star have responded to Staff's motion.

2. Under K.S.A. 77-551(c), the Commission finds a Presiding Officer should be designated in this proceeding to determine procedural matters that may arise prior to a hearing on the merits, including but not limited to conducting prehearing conferences.¹

3 The Commission finds a Prehearing Conference should be scheduled.

4. Under K.A.R. 82-1-228(d)(1), any party may either "appear before the Commission and be heard in person on that party's own behalf," or appear before the Commission through a licensed attorney. Because Operator and Southern Star are an artificial entities, they cannot appear in person.² Thus, Commission regulations require entities such as Operator and Southern Star to appear

¹ See also K.S.A. 77-516 and K.S.A. 77-517.

² See State ex rel. Stephan v. Williams, 246 Kan. 681, 691 (1990).

before the Commission via counsel.³ Even if Commission regulations did not require counsel in this matter, the Commission finds it would be in the public interest to require counsel via order.⁴

THEREFORE, THE COMMISSION ORDERS:

A. The Presiding Officer for prehearing matters in this proceeding shall be Jonathan R. Myers, Assistant General Counsel, Kansas Corporation Commission, 266 N. Main Street, Suite 220, Wichita, Kansas, 67202-1513, telephone number (316) 337-6245, email address j.myers@kcc.ks.gov. The Commission may designate other Staff members to serve in this capacity.

B. A Prehearing Conference is scheduled for **Thursday**, **September 29**, **2022**, **at 1:15 p.m.** by telephone. The conference call information is: telephone number (913) 227-1201, passcode 417418. <u>Operator and Southern Star must appear via a licensed attorney</u>. Prior to the <u>Prehearing Conference, each attorney must file an entry of appearance, comporting with the</u> pleading requirements of K.A.R. 82-1-219 and identifying the filer as a licensed attorney.

C. At the Prehearing Conference, parties shall be prepared to discuss deadlines for filing testimony and briefs, discovery procedures, scheduling of a hearing with the Commission, and any other issues that will promote the orderly and prompt resolution of this proceeding. At the Prehearing Conference, without further notice, this proceeding may be converted into a conference hearing or a summary proceeding for disposition of this matter as provided by the Kansas Administrative Procedure Act (KAPA). Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding may be held in default under the KAPA.⁵

D. Although a Presiding Officer is designated, parties are still required to file pleadings with the Commission, and filings shall be made with the Commission's Docket Room. Any filing

⁴ The administration of justice is efficiently furthered by requiring persons licensed to practice law and familiar with procedure to represent artificial entities. *See In re Arnold*, 274 Kan. 761, 770 (2002). *See also* K.S.A. 77-515(c) ("A state agency may require a corporation or other artificial person to participate by counsel."). ⁵ K.S.A. 77-506; K.S.A. 77-516(c)(7)-(8).

³ See also K.A.R. 82-1-228(d)(2) ("[A] corporation shall not be permitted to enter an appearance, except by its attorney."); Operator and Southern Star are a corporations.

received after 5:00 p.m. shall be considered filed the next business day. In addition, any late filing

shall be accompanied by a Motion to File Out-of-Time. The Commission directs electronic service

of all filings in the docket to include service on the Presiding Officer and mailed service of all

filings to be directed to the Presiding Officer's attention.

E. The attorney designated to appear on behalf of the agency in this proceeding is Kelcey

Marsh, Litigation Counsel, telephone number (316) 337-6200, k.marsh@kcc.ks.gov.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: <u>09/15/2022</u>

Lynn M. Ref

Lynn M. Retz Executive Director

Mailed Date: <u>09/15/2022</u> JRM

CERTIFICATE OF SERVICE

23-CONS-3055-CMSC

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 09/15/2022

REUBEN BURTON CRYPTO COLO CENTER CORP 105 GRAHAM HALL COURT WEDDINGTON, NC 28104-1002 KELCEY MARSH, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION CENTRAL OFFICE 266 N. MAIN ST, STE 220 WICHITA, KS 67202-1513 k.marsh@kcc.ks.gov

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> /S/ KCC Docket Room KCC Docket Room