

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Petition of Daylight Petroleum, )  
LLC to Open a Docket Pursuant to K.S.A. 55-605(a). ) Docket No. 25-CONS-3040-CMSC

**SECOND MOTION FOR EXTENSION OF TIME TO FILE  
OPERATOR PRE-FILED DIRECT AND REBUTTAL TESTIMONY**

Daylight Petroleum, LLC ("Daylight") by and through its attorney, Keith A. Brock, moves for an order from the Kansas Corporation Commission ("Commission") modifying the Presiding Officer Order Setting Procedural Schedule entered herein on September 24, 2024 and modified by the Presiding Officer on December 6, 2024 to extend the date on which Daylight's final witness Justin Wintjen may file Direct Testimony until January 17, 2025. In support of its motion, Daylight states as follows:

1. Three expert witnesses are necessary in this Docket in order to present Daylight's position to the Commission.
2. Daylight submitted Pre-Filed Direct and Rebuttal Testimony for two of its witnesses on December 13, 2024.
3. Pre-Filed Direct and Rebuttal Testimony for the two witnesses that Daylight has already filed cover all subjects that Staff's Pre-Filed Direct Testimony had addressed. Thus, these two witnesses cover all of the areas which are expected to be in dispute in this Docket.
4. The final witness will testify about the following:
  - a. The economic cost to tear down and rebuild the commercial building at issue in this Docket; and
  - b. The operational challenges and risks that would be involved if portions of the building were taken down and subsequently replaced.
5. Daylight retained an expert witness to testify regarding the above referenced issues.

However, just days before the initial deadline for Daylight to file Direct and Rebuttal Testimony, said witness withdrew from the engagement without providing any opinions or conclusions at all. Daylight obtained an extension of time to file Direct Testimony for this witness until December 20, 2024 and retained a second expert witness to testify in this Docket on such issues. The second expert witness agreed to the engagement, and orally conveyed his opinions and the substance of his testimony to counsel for Daylight. This witness further agreed to perform the work necessary to estimate the cost of tearing down and replacing the commercial building and insert those numbers into his testimony once it was converted to written form. Daylight caused this testimony to be converted into written form and provided in draft to said expert witness. However, this second expert witness has now failed to respond to any communications from Daylight for over a week, and has not provided any comments to the draft of his testimony or provided the cost estimates he agreed to provide.

6. Due to the above referenced circumstances which are outside of Daylight's control, Daylight must request a second extension of time in which to file Direct Testimony for its third witness. Daylight began urgently searching for a replacement expert witness yesterday, and officially retained such expert this morning. Daylight's third expert witness will be Justin Wintjen, who is a partner with Hofer & Hofer located in Humboldt, Kansas. He holds a B.S. in Technology and Construction Management from Pittsburg State University and has been a project manager and estimator since 2000. Mr. Wintjen has agreed to perform the necessary work to form his expert opinions and have his Direct Testimony filed by January 17, 2025 (i.e. the earliest date he felt comfortable agreeing to in light of holiday schedules). Therefore, Daylight requests an extension until January 17, 2025 to file pre-filed direct testimony for Justin Wintjen.

7. Daylight understands that Staff wishes to expedite this Docket, and is sympathetic to that desire. However, the requested extension will in all likelihood not delay the disposition of this Docket at all. Assuming KCC Staff has not retained an independent expert witness to rebut the limited

opinions which will be provided by Mr. Wintjen it is unlikely that any rebuttal testimony will be filed for this witness. Therefore, in order to expedite this Docket, Staff could proceed with filing rebuttal testimony for Daylight's other two witnesses at the same time Daylight is finalizing the testimony for Mr. Wintjen and all testimony which is presently expected would be fully submitted by January 17, 2025. However, to avoid any potential for prejudice to Staff, Daylight will consent to as much or as little time as Staff would like to file rebuttal testimony for Mr. Wintjen.

8. For the reasons set forth herein, no party will be prejudiced by the extension requested herein and the ultimate disposition of this Docket will not be materially delayed by the granting of this motion.

9. Daylight has attempted to consult with Staff concerning this motion but the parties have not been able to directly speak about this matter likely due to the impending Christmas holiday. Therefore, Daylight does not know whether Staff opposes this motion or not.

WHEREFORE, for the reasons set forth herein, Daylight requests that the Presiding Officer Order Setting Procedural Schedule entered herein on September 24, 2024 and modified by the Presiding Officer on December 6, 2024 be amended to extend the date on which Daylight's final witness Justin Wintjen may file Pre-Filed Direct Testimony until January 17, 2025.



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Attorneys for Daylight Petroleum, LLC

**VERIFICATION**

STATE OF KANSAS, COUNTY OF FRANKLIN, ss:

Keith A. Brock, of lawful age, being first duly sworn on oath, states that he is attorney for Daylight Petroleum, LLC; that he has read the above and foregoing Second Motion for Extension of Time to File Operator Pre-Filed Direct and Rebuttal Testimony, and the statements contained therein are true.

  
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Keith A. Brock

SUBSCRIBED AND SWORN to before me this 20<sup>th</sup> day of December, 2024.



  
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Notary Public

Appointment/Commission Expires:

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing was sent via electronic mail this 20<sup>th</sup> day of December, 2024, addressed to:

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Keith A. Brock