

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

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

In the Matter of the Application of Duncan ) Docket No: 17-CONS-3429-CBSO  
Energy Company and Farleigh Oil Properties ) (177,932-C), (C-26,223)  
for an exception to certain regulations of this )  
Commission otherwise applicable to gas wells ) CONSERVATION DIVISION  
producing coalbed methane gas in Jackson, )  
Pottawatomie, Nemaha, Shawnee, Jefferson, ) License No: N/A  
Brown, and Osage Counties, Kansas. )

**ORDER CANCELLING NOVEMBER 27, 1991, COMMISSION ORDER CREATING  
RULES FOR COALBED METHANE WELLS IN SEVEN KANSAS COUNTIES**

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:

1. On November 27, 1991, the Commission issued an Order in Docket No. 177,932-C (C-26,223) (1991 spacing order) creating rules for coalbed methane wells drilled in Jackson, Pottawatomie, Nemaha, Shawnee, Jefferson, Brown, and Osage Counties, Kansas.

2. On December 27, 2016, Commission Conservation Staff (Staff) filed a Motion for the Designation of a Prehearing Officer and the Scheduling of a Prehearing Conference Regarding Cancellation of the “Eastern Kansas Counties/Coalbed Methane Order” (Motion). Staff stated its belief that the 1991 spacing order no longer serves any utility and should be cancelled.<sup>1</sup>

3. On May 2, 2017, Staff filed a Status Update in this proceeding, stating that it was “currently awaiting a determination from the Commission and is prepared to provide additional information necessary to proceed in this docket.”<sup>2</sup>

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<sup>1</sup> Motion for the Designation of a Prehearing Officer and the Scheduling of a Prehearing Conference Regarding Cancellation of the “Eastern Kansas Counties/Coalbed Methane Order,” ¶ 2 (Dec. 27, 2016).

<sup>2</sup> Staff’s Status Update, ¶ 3 (May 2, 2017).

4. On July 11, 2017, the Commission issued its *Order Setting Procedural Schedule*, setting an evidentiary hearing in this proceeding for October 19, 2017.<sup>3</sup>

5. On September 25, 2017, Staff filed testimony in this docket.<sup>4</sup> (Staff Direct). Staff reiterated its belief that “the spacing order in this docket is an appropriate candidate for cancellation. It no longer appears useful or necessary.”<sup>5</sup> Staff testified that the 1991 spacing order “was meant to exempt the applicants and their associated working interests from having to comply with a number of regulations which would have applied to coalbed methane gas wells they planned to drill in the seven counties listed in the caption,” but to Staff’s knowledge, neither of the applicants still exist.<sup>6</sup> Staff provided two reasons why the 1991 spacing order is no longer necessary: (1) “[T]he expected drilling activity never materialized,” and (2) “drilling activity is unlikely to ever occur” because bringing the gas into saleable form is uneconomical.<sup>7</sup>

6. According to Staff, cancellation of the Commission’s 1991 spacing order will simply allow the Commission’s general rules and regulations to control the field.<sup>8</sup> Staff noted that no protests have been lodged against the cancellation of the 1991 spacing order, and cancellation will not cause waste or lead to violations of correlative rights.<sup>9</sup>

7. In accordance with the Kansas Administrative Procedure Act (KAPA), the Commission held an evidentiary hearing on October 19, 2017, at its Wichita office.<sup>10</sup> Duncan Energy Company and Farleigh Oil Properties did not appear.<sup>11</sup> Staff and the general public appeared through Staff counsel, Jon Myers,<sup>12</sup> and Jim Hemmen was the only witness.<sup>13</sup> Mr. Hemmen

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<sup>3</sup> *Order Setting Procedural Schedule*, ¶ 2 (July 11, 2017).

<sup>4</sup> Pre-Filed Testimony of Jim Hemmen (Sept. 25, 2017).

<sup>5</sup> Staff Direct, p. 2, lines 21-22.

<sup>6</sup> Staff Direct, p. 2, lines 30-31 and p. 3, lines 1-11.

<sup>7</sup> Staff Direct, p. 3, lines 18-24 and p. 4, lines 1-2.

<sup>8</sup> Staff Direct, p. 3, lines 12-14.

<sup>9</sup> Staff Direct, p. 4, lines 3-7.

<sup>10</sup> Hearing Transcript, p. 1, lines 15-21. (Tr.).

<sup>11</sup> Tr., p. 2, lines 3-4.

<sup>12</sup> Tr., p. 4, lines 15-16.

<sup>13</sup> Tr., p. 3, line 3.

affirmed that he was “the same Jim Hemmen who prefiled testimony in this docket” and that he had no corrections or changes to make to his testimony.<sup>14</sup>

8. The Commission finds that Staff has provided substantial and well-reasoned evidence supporting cancellation of the 1991 spacing order. The Commission finds the 1991 spacing order no longer provides any legal or practical basis for its effectiveness, and thus, the Commission adopts Staff’s recommendation that the 1991 spacing order be cancelled.

**THEREFORE, THE COMMISSION ORDERS:**

A. The Commission’s November 27, 1991, Order in Docket No. 177,932-C (C-26,223) creating rules for coalbed methane wells drilled in Jackson, Pottawatomie, Nemaha, Shawnee, Jefferson, Brown, and Osage Counties, Kansas, is hereby cancelled.

B. Staff’s Motion to have Mr. Hemmen’s pre-filed testimony admitted into the record in this proceeding is hereby granted.

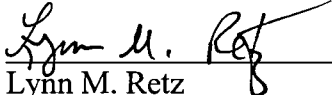
C. The parties have fifteen (15) days, plus three (3) days if mailed service, from the date this Order was served in which to petition for reconsideration.<sup>15</sup>

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

**BY THE COMMISSION IT IS SO ORDERED.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: NOV 21 2017

  
Lynn M. Retz  
Secretary to the Commission

Mailed Date: November 21, 2017

MJD

<sup>14</sup> Tr., p. 6, lines 9-14. Staff moved the Commission to admit Mr. Hemmen’s pre-filed testimony into the evidentiary record. (Tr., p. 6, lines 15-17). The Commission inadvertently did not do so at that time, but does so in this Order.

<sup>15</sup> K.S.A. 55-162; 55-606; K.S.A. 66-118b; K.S.A. 77-529(a)(1).

**CERTIFICATE OF SERVICE**

I certify that on 11/21/17, I caused a complete and accurate copy of this Order to be served electronically and via United States mail, with the postage prepaid and properly addressed to the following:

N/A

and delivered by e-mail to:

Jim Hemmen  
KCC Central Office

Jonathan R. Myers, Litigation Counsel  
KCC Central Office

Michael J. Duenes, Assistant General Counsel  
KCC Topeka Office

/s/ Paula J. Murray  
Paula J. Murray  
Legal Assistant  
Kansas Corporation Commission