

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

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

In the Matter of the Application of Dolphin ) Docket No.: 17-CONS-3503-CEXC  
Energy LLC for an Exception to K.A.R. 82-3- )  
120(j) to Allow Issuance of an Operator's ) CONSERVATION DIVISION  
License Less Than One Year Subsequent to )  
Revocation of Previous License. ) License No.: 33165

**ORDER GRANTING APPLICATION**

For the following reasons, the Commission grants the application of Dolphin Energy LLC ("Applicant"), requesting an exception to Commission regulations to permit Applicant to reapply for an operator's license.

**I. JURISDICTION**

1. K.A.R. 82-3-100(b) provides:

An exception to the requirements of any regulation in this article may be granted by the commission, after considering whether the exception will prevent waste, protect correlative rights, and prevent pollution. Each party requesting an exception shall file an application with the conservation division. The applicant shall publish notice of the application pursuant to K.A.R. 82-3-135a and notice of any hearing pursuant to K.A.R. 82-3-135.

2. K.A.R. 82-1-202 provides that the requirements of Commission regulations may be waived if good cause is shown and if it is in the public interest to do so.

3. K.A.R. 82-3-120(i) provides:

An application or renewal application shall be denied if the applicant has not satisfied the requirements of this regulation. Denial of a license application shall constitute a summary proceeding under K.S.A. 77-537, and amendments thereto. A denial pursuant to K.S.A. 55-155(c)(3) or (4), and amendments thereto, shall be considered a license revocation.

4. K.S.A. 55-155(e) and K.A.R. 82-3-120(j) both provide that no new license shall be issued to any applicant who has had a license revoked until the expiration of one year from the date of such revocation.

## **II. FINDINGS OF FACT**

5. Applicant was last issued a license to conduct oil and gas operations in Kansas on December 15, 2015. The license expired December 30, 2016.

6. On December 5, 2016, Applicant filed a license renewal application, which was denied December 7, 2016, pursuant to K.S.A. 55-155(c)(4) due to the affiliation of a principal of Applicant with Ramco Energy Corporation, which was found responsible for an unplugged well (“the subject well”) in Barton County in Docket 16-CONS-383-CSHO.

7. Applicant did not appeal the license denial, so pursuant to statute and regulation Applicant’s license was revoked on or about December 30, 2016.

8. On February 2, 2017, Applicant caused the subject well to be properly plugged in accordance with the Commission regulations. Furthermore, subsequent to its license revocation, Applicant ceased operating in Kansas and engaged an unaffiliated licensed Kansas operator to operate Applicant’s wells in compliance with Commission regulations.

9. On February 28, 2017, Applicant filed an amended application for an exception to K.A.R. 82-3-120(j), which states that upon revocation, no new license shall be issued to an applicant for one year. Applicant has confirmed that publication and notice have been made pursuant to K.A.R. 82-3-135 and K.A.R. 82-3-135a. No protests were received.

10. The Commission notes that Applicant specifically requested an exception to K.A.R. 82-3-120(j). While the Commission can grant an exception to its regulations, it cannot grant an exception to a statute. K.S.A. 55-155(e) essentially states the same thing as K.A.R. 82-3-120(j), that upon revocation, no new license shall be issued to an applicant for one year. Thus,

while the Commission could grant an exception to K.A.R. 82-3-120(j), it would not do Applicant any good. Pursuant to K.S.A. 55-155(e), Applicant would still be barred from obtaining a license for a period of one year.

11. The Commission further notes, however, that while K.A.R. 82-3-120(i) states that a denial pursuant to K.S.A. 55-155(c)(4) shall be considered a license revocation, there is no statute that mandates that such a denial must be considered a revocation. Thus, if the Commission were to instead grant Applicant an exception to K.A.R. 82-3-120(i), Applicant's license would no longer be considered revoked, and a new license application could be granted at any time. Thus, an exception to K.A.R. 82-3-120(i), not K.A.R. 82-3-120(j), would achieve Applicant's stated aim.

12. The Commission takes administrative notice of a lack of previous violations by Applicant, and finds that it is in the public interest to allow Applicant, who has remedied its underlying compliance issue, to return to good standing. Thus, the Commission shall interpret Applicant's filing as a request for an exception to K.A.R. 82-3-120(i).

### **III. CONCLUSIONS OF LAW**

13. The Commission considers K.A.R. 82-3-100(b) and finds an exception to K.A.R. 82-3-120(i) will neither promote nor prevent waste, will neither protect nor harm correlative rights, and will neither cause nor prevent pollution. The Commission also considers K.A.R. 82-1-202 and finds that good cause has been shown, and it would be in the public interest, to grant an exception to K.A.R. 82-3-120(i).

14. The Commission grants Applicant an exception to K.A.R. 82-3-120(i). The uncontested denial of Applicant's December 5, 2016, license renewal application shall no longer be considered a revocation of Applicant's license.

**THEREFORE, THE COMMISSION ORDERS:**

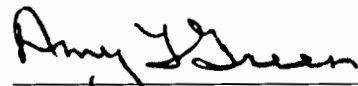
A. Applicant is granted an exception to K.A.R. 82-3-120(i). Rather than require Applicant to resubmit its December 5, 2016, license renewal application, Staff shall process the application administratively after completing its standard review of such applications.

B. Any party affected by this Order may file a petition for reconsideration pursuant to K.S.A. 77-529(a). The petition shall be filed within 15 days after service of this Order. If service of this Order is by mail, three days are added to the deadline. The petition for reconsideration shall be addressed to the Commission and sent to 266 N. Main, Suite 220, Wichita, Kansas 67202. Pursuant to K.S.A. 55-606, K.S.A. 66-118b, and K.S.A. 77-529(a), reconsideration is prerequisite for judicial review of this Order.

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

Apple, Chair; Albrecht, Commissioner; Emler, Commissioner

Dated: APR 13 2017



Amy L. Green  
Secretary to the Commission

Mailed Date: April 13, 2017

JDW

**CERTIFICATE OF SERVICE**

I certify that on 4/13/17, I caused a complete and accurate copy of this Order to be served via United States mail, with the postage prepaid and properly addressed to the following:

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