

**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 Failure of Patrick Development) Docket No: 19-CONS-3045-CPEN
Corporation ("Operator") to report activity that)
occurred during the 2017 calendar year in) CONSERVATION DIVISION
compliance with K.A.R. 82-3-409.)
_____) License No. 6279

ORDER ON OPERATOR'S APPEAL OF 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:

1. On August 9, 2018, the Commission issued a *Penalty Order*, finding that Patrick Development Corporation (Operator) committed one violation of K.A.R. 82-3-409.¹
2. On August 16, 2018, the Operator requested a hearing.
3. On September 6, 2018, the Commission issued its *Order Designating Prehearing Officer and Setting Prehearing Conference*, scheduling a Prehearing Conference for October 11, 2018.²
4. On October 11, 2018, a Prehearing Conference was held. Staff appeared at the Prehearing Conference, but the Operator did not.
5. On October 19, 2018, Staff filed a Motion for Default Order (Motion for Default), stating that "Staff believes Operator was properly noticed and afforded the opportunity to attend and

¹ *Penalty Order*, ¶ 9 (Aug. 9, 2018).

² *Order Designating Prehearing Officer and Setting Prehearing Conference*, Ordering Clause B (Sept. 6, 2018).

participate in the October 11, 2018, prehearing conference, but failed to do so. Therefore, Staff requests that a default order be issued against Operator.”³

6. On October 30, 2018, the Commission issued a *Default Order* granting Staff’s Motion for Default Order.⁴ The *Default Order* stated that “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.”⁵

7. On October 30, 2018, the Operator filed “Patrick Development Corporation to Appeal the Default Order.”⁶ The Operator stated he wished to appeal the Default Order due to “serious health problems” and an error in the U3C computer program.⁷ The Operator stated:

I don’t mean to be contentious but I sent it in as N-3 mistakenly with all of the correct information for PDC #3 and KOLAR as it had when the program changed and I made dozens of mistakes did kick back to me a N-3 as being a mistake.

So I resubmitted it as N-3, KOLAR never mentioned that N-3 should have been written as PDC-#3, it took N-3 as being correct so along with all of the other U3C Reports after so many rejections due to filing mistakes, it should have been kicked back to me and I would have written the correct title as PDC #3 instead of N-3.

All of the information for N-3 is correct as it applies to PDC-#3, so since KOLAR did not kick back it to me as it did all of the other mistakes that I had made, KOLAR told me that it had been submitted correctly. The only disagreement is that it should have been called PDC-#3 instead of N-3.⁸

8. Pursuant to K.S.A. 77-520(c), and based upon the Operator’s prima facie allegations in its Appeal of Default Order, the Commission vacates its October 30, 2018 *Default Order*. The Commission finds that a new Prehearing Conference shall be scheduled.

³ Motion for Default, ¶ 5.

⁴ *Default Order*, Ordering Clause A (Oct. 30, 2018).

⁵ *Id.* at Ordering Clause B.

⁶ Patrick Development Corporation to Appeal the Default Order (Oct. 30, 2018).

⁷ *Id.* at pp. 1-2.

⁸ *Id.*

THEREFORE, THE COMMISSION ORDERS:

A. The Operator's Appeal of Default Order is granted.

B. A Prehearing Conference is scheduled for **Thursday, January 10, 2019, at 9:30 a.m.** by telephone. The conference call information is: telephone number (866) 620-7326, Conference Code PIN: 7632914771#.

C. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).⁹

D. 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: 11/29/2018



Lynn M. Retz
Secretary to the Commission

Mailed Date: _____

MJD/sc

⁹ K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

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 electronic service on 11/29/2018.

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