# THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Before Commissioners:	Dwight D. Keen, Chair Shari Feist Albrecht Susan K. Duffy	
In the Matter of the failure of Thunderb Construction Corp. ("Operator") to con K.A.R. 82-3-120.	,	Docket No.: 19-CONS-3400-CPEN
	)	CONSERVATION DIVISION
	)	License No.: 34551

## MOTION FOR DEFAULT ORDER

The Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively), moves the Commission for a Default Order to be issued against the Operator. In support of its motion, Staff states as follows:

- 1. On June 11, 2019, the Commission issued a Penalty Order against the Operator in the captioned docket.<sup>1</sup>
  - 2. On July 12, 2019, Operator filed a request for hearing.<sup>2</sup>
- 3. On July 25, 2019, an Order Designating Prehearing Officer and Setting

  Prehearing Conference was filed in this docket and set the Prehearing Conference for August 6,

  2019.<sup>3</sup>
- 4. At the August 6, 2019, prehearing conference, the parties agreed to set a new prehearing conference for August 27, 2019, with the anticipation that in the interim parties would discuss the possibility of a resolution prior to the development of a procedural schedule and to provide Operator an opportunity to obtain counsel if necessary.<sup>4</sup>

<sup>&</sup>lt;sup>1</sup> Penalty Order, № 6, 10 (June 11, 2019).

<sup>&</sup>lt;sup>2</sup> Letter Requesting Hearing (July 12, 2019).

<sup>&</sup>lt;sup>3</sup> Order Designating Prehearing Officer and Setting Prehearing Conference (July 25, 2019).

<sup>&</sup>lt;sup>4</sup> See Prehearing Officer Order Setting Prehearing Conference (Aug. 7, 2019).

5. Counsel for Staff appeared at the pre-hearing conference on August 27, 2019, but

the Operator failed to appear. Staff made a verbal Motion for Default at the prehearing

conference. The Prehearing Officer requested the Motion be submitted in writing.

Pursuant to K.S.A. 77-520(a), "[i]f a party fails to attend or participate in a

prehearing conference, hearing or other stage of an adjudicative proceeding, the presiding officer

may serve upon all parties written notice of a proposed default order, including a statement of the

grounds."

7.

6.

Staff believes Operator was properly noticed and afforded an opportunity to

attend and participate in the August 27, 2019, prehearing conference, but failed to do so.

Therefore, Staff requests that a default order be issued against Operator.

WHEREFORE, for the reasons set forth above, Staff respectfully requests the

Commission issue a default order against Operator for failure to appear and participate, and for

any further relief as the Commission deems just and proper.

Respectfully submitted,

Carly R. Masenthin, #27944

arly R. Masenthin

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# **VERIFICATION**

STATE OF KANSAS	)
	) ss
COUNTY OF SHAWNEE	)

Carly R. Masenthin, of lawful age, being duly sworn upon her oath deposes and states that she is Litigation Counsel for the State Corporation Commission of the State of Kansas; that she has read and is familiar with the foregoing *Motion*, and attests that the statements therein are true to the best of her knowledge, information and belief.

Corly R. Masenthin

Carly R. Masenthin, S. Ct. #27944 Litigation Counsel State Corporation Commission of the State of Kansas

SUBSCRIBED AND SWORN to before me this 28th day of August, 2019.

Notary Public - State of Kansas My Appt. Expires 4-30-22

Notary Public

My Appointment Expires: 6-30-22

## **CERTIFICATE OF SERVICE**

#### 19-CONS-3400-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on <u>August 28, 2019</u>.

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/S/ Paula J. Murray

Paula J. Murray