

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

Before the Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

In the Matter of Delmer Towns d.b.a.)
Towns Riverview to Show Cause Whether)
it Should Not be Required to Obtain a)
Certificate of Public Convenience and)
Necessity to Operate as a Potable Water)
Utility.)
20-DTRW-120-SHO

RESPONSE TO ORDER TO SHOW CAUSE

In response to the Order To Show Cause issued herein on or about
9/26/2019, Respondent Delmer Towns states as follows:

1. Respondent has, after developing the County subdivisions where
the water users described in the order reside, for decades furnished water to
these users, generally at a financial loss.
2. Respondent has at all times material held a permit to supply
water and an operator's certificate, both issued to Respondent by the State of
Kansas through the Kansas Department of Health and Environment (KDHE).
3. It has never before been alleged that Respondent is a Public
Utility subject to the jurisdiction of the KCC, not by the KDHE or any other
person or entity, to Respondent's knowledge and belief. Respondent has at
all times operated openly, lawfully and with the proper permits/certificates
to his knowledge and belief.

4. The events leading to the switch from Respondent's wells to water from the City of Garden City are generally reported in the Show Cause Order.

5. The water users and developments in question are within 3 miles of the corporate city limits of Garden City, Kansas.

6. It seems that because the law of Kansas allows a City to sell water to customers outside the city limits without becoming a separate public utility subject to KCC jurisdiction, and that is what is happening here, that perhaps Respondent is not a public utility and the water distribution falls under the jurisdiction of the City under these specific circumstances.

7. That said, it is Respondent's intention to cooperate fully with the efforts of the KCC to investigate this matter and Respondent's accountant has been in contact with the KCC staff and Respondent has directed his accountant to gather all of the documents and information described in Exhibit JTG-3 to the Show Cause Order and this will be shipped to the KCC the very moment the accountant completes the work and gets it to Respondent.

8. Respondent and his counsel wish to reserve the right to supplement this response and further wish to maintain an open line of communication with KCC staff and counsel.

9. After sharing information, research and opinions, it is possible and favorable that a consensus be reached which will conclude this matter by agreement.

10. In the meantime, Respondent wishes to cooperate and assist in every way feasible to keep the process moving toward resolution.

Respectfully submitted,

/s/ John M. Lindner
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CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 27th day of November, 2019 he did serve a true and correct copy of the above and foregoing response upon Mr. Cole Bailey, KCC Litigation counsel, c.bailey@kcc.ks.gov.

/s/ John M. Lindner
JOHN M. LINDNER