

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

In the matter of the failure of Ace Energy,)	Docket No. 24-CONS-3189-CPEN
LLC (Operator) to comply with K.A.R.)	
82-3-407 at the Thornton #M 9 (C110) well)	CONSERVATION DIVISION
In Neosho County, Kansas.)	
)	License No. 34998
)	

REQUEST FOR HEARING

COMES NOW, Ace Energy, LLC (“Operator”), by and through counsel, Jackson C. Ely and Jonathan A. Schlatter of Morris, Laing, Evans, Brock & Kennedy, Chtd., and pursuant to K.S.A. 55-164(b) submits this Request for Hearing in the above captioned matter. Operator states and alleges to the Commission as follows:

1. Operator is a Kansas limited liability company whose registered office address is 4601 East Douglas Avenue, Suite 150, Wichita, Kansas 67218, and it is authorized to do business in the State of Kansas. Operator was issued oil and gas operator’s License No. 34998 by the Commission.

2. The Thornton #M 9 (C110) well (“Subject Well”) is a lawfully permitted injection well per Underground Injection Control Permit #E-08338, and is located in Section 25, Township 29 South, Range 17 East, Neosho County, Kansas.

3. Operator has been ordered in Docket No. 22-CONS-3124-CPEN (consolidated with 22-CONS-3150-CPEN and 22-CONS-3215-CPEN) to cease all oil and gas operations and to shut-in all of Operator’s wells pursuant to the purported suspension of Operator’s license, which Operator disputes and which is currently pending judicial review in Neosho County District Court Case No. NOC-2023-CV-000026.

4. Since Operator's license was suspended, Operator has continued to defend itself against numerous additional penalties, including Commission Dockets 23-CONS-3017-CPEN, 23-CONS-3029-CPEN, 23-CONS-3087-CPEN, 23-CONS-3135-CPEN, 23-CONS-3143-CMSC, 23-CONS-3195-CPEN, 23-CONS-3268-CPEN, 24-CONS-3081-CPEN, and this 24-CONS-3189-CPEN. The penalties are duplicative of prior enforcement actions pursued by Staff, and Operator's ability to generate revenue to perform operations is impossible as a result of its license suspension. Nothing further can be gained from continuing to penalize Operator.

5. KCC Legal Staff has adopted a regulatory interpretation of the terms "operations" and "operating" that is incredibly broad in nature.¹ The vague guidance KCC Legal Staff has provided is that: (1) "the use of the word 'operating' signifies that the regulation is meant to encompass more activities than injecting fluids"²; (2) "Commission regulations do not define the words 'operations' or 'operating'. Nevertheless, hooking up injection lines to a well and turning the valves to the open position certainly constitute conducting operations on a well."³; and (3) "[s]hutting in an injection well necessitates closing any open valves and disconnecting the injection lines to the well. If the regulation were only concerned with stopping the injection of fluid, then [the regulation] would likely require the operator to 'stop injecting fluids until compliance is achieved.'"⁴

6. K.A.R. 82-3-120 mandates that "[n]o operator or contractor shall undertake any of the following activities without first obtaining or renewing a current license: (A) [d]rilling, completing, servicing, plugging, or operating any oil, gas, injection, or monitoring well."⁵

¹ See, Docket 23-CONS-3017-CPEN (consolidated), *Post-Hearing Brief of Commission Staff*, ¶ 15-17 (Dec. 4, 2023).

² *Id.* at ¶ 15.

³ *Id.* at ¶ 16.

⁴ *Id.* at ¶ 17.

⁵ K.A.R. 82-3-120(a)(1)(A) (emphasis added).

7. Given that the standard procedure to MIT a well inherently requires hooking up injection lines and injecting nitrogen or brine into a well via turning valves to an open position, the interpretation adopted by KCC Legal Staff expressly prohibits MIT *operations* as the same *operations* the Commission has prohibited Operator from undertaking. Without further clarity from Legal Staff as to the extent of exactly how broad Legal Staff's interpretation is, Operator has been forced to draw the conclusion that Legal Staff's interpretation of the term "operations" includes hooking up wells and opening valves for MIT activity.

8. Operator feared that conducting MIT "operations" would have resulted in Staff asserting a violation of Commission regulations against Operator for operating on a purportedly suspended license pursuant to K.A.R. 82-3-120, resulting in another five figure fine. Accordingly, Operator could not conduct any MITs on the Subject Well because any MIT operations would have been in the furtherance of oil and gas operations and the latest direction from Legal Staff appears to expressly prohibit Operator from doing so. The Commission now seeks to penalize Operator for doing exactly what Operator was told to do and Operator has been placed in an impossible compliance position where it would be penalized regardless of what it did.

9. Further, the Subject Well is and is shut-in at all relevant times. The Subject Well is not in use and has never posed a threat to fresh water during this time.

10. This Request for Hearing is timely and proper pursuant to K.S.A. 55-164(b).

CONCLUSION

For the foregoing reasons, Operator submits this Request for Hearing and respectfully requests that the Commission grant the hearing which Operator is entitled to under K.S.A. 55-164(b).

[SIGNATURE BLOCK TO FOLLOW]

Respectfully submitted,

MORRIS, LAING, EVANS, BROCK
& KENNEDY, CHARTERED

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CERTIFICATE OF SERVICE

I, Jackson C. Ely, hereby certify that on this 14th day of February, 2024, I caused the original of the foregoing **Request for Hearing** to be electronically filed with the Conservation Division of the State Corporation Commission of the State of Kansas, and served to the following by means of electronic service:

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