

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

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Susan K. Duffy

In the matter of the failure of Fuel Source Inc.) Docket No: 22-CONS-3046-CPEN
(Operator) to comply with K.A.R. 82-3-120.)
) CONSERVATION DIVISION
)
_____) License No: 34380

**ORDER DESIGNATING PRESIDING OFFICER
AND SETTING PREHEARING CONFERENCE**

The Commission rules as follows:

1. On August 3, 2021, the Commission issued a Penalty Order against Fuel Source Inc. (Operator) for violation of K.A.R. 82-3-120.¹
2. On August 31, 2021, Operator requested a hearing.²
3. Under K.S.A. 77-551(c), the Commission finds a Presiding Officer should be designated in this proceeding to determine procedural matters that may arise prior to a hearing on the merits, including but not limited to conducting prehearing conferences.³
4. The Commission finds a Prehearing Conference should be scheduled.
5. Under K.A.R. 82-1-228(d)(1), any party may either “appear before the Commission and be heard in person on that party’s own behalf,” or appear before the Commission through a licensed attorney. Because Operator is an artificial entity, it cannot appear in person.⁴ Thus, Commission regulations require artificial entities such as Operator to appear before the Commission

¹ See Penalty Order, ¶ 8 (Aug. 3, 2021).

² See Request for Hearing (Aug. 31, 2021).

³ See also K.S.A. 77-516 and K.S.A. 77-517.

⁴ See *State ex rel. Stephan v. Williams*, 246 Kan. 681, 691 (1990).

via counsel.⁵ Even if Commission regulations did not require counsel in this matter, the Commission finds it would be in the public interest to require counsel via order.⁶

THEREFORE, THE COMMISSION ORDERS:

A. The Presiding Officer for prehearing matters in this proceeding shall be Jonathan R. Myers, Assistant General Counsel, Kansas Corporation Commission, 266 N. Main Street, Suite 220, Wichita, Kansas, 67202-1513, telephone number (316) 337-6245, email address j.myers@kcc.ks.gov. The Commission may designate other Staff members to serve in this capacity.

B. A Prehearing Conference is scheduled for **Thursday, September 23, 2021, at 2:30 p.m.** by telephone. The conference call information is: telephone number (866) 620-7326, Conference Code PIN: 3902542751. **Operator must appear via a licensed attorney.**

C. At the Prehearing Conference, parties shall be prepared to discuss deadlines for filing testimony and briefs, discovery procedures, scheduling of a hearing with the Commission, and any other issues that will promote the orderly and prompt resolution of this proceeding. At the Prehearing Conference, without further notice, this proceeding may be converted into a conference hearing or a summary proceeding for disposition of this matter as provided by the Kansas Administrative Procedure Act (KAPA). Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding may be held in default under the KAPA.⁷

D. Although a Presiding Officer is designated, parties are still required to file pleadings with the Commission, and filings shall be made with the Commission's Docket Room. Any filing received after 5:00 p.m. shall be considered filed the next business day. In addition, any late filing shall be accompanied by a Motion to File Out-of-Time. **The Commission directs electronic service**

⁵ See also K.A.R. 82-1-228(d)(2) (“[A] corporation shall not be permitted to enter an appearance, except by its attorney.”); Operator is a corporation.

⁶ The administration of justice is efficiently furthered by requiring persons licensed to practice law and familiar with procedure to represent artificial entities. See *In re Arnold*, 274 Kan. 761, 770 (2002). See also K.S.A. 77-515(c) (“A state agency may require a corporation or other artificial person to participate by counsel.”).

⁷ K.S.A. 77-506; K.S.A. 77-516(c)(7)-(8).


of all filings in the docket to include service on the Presiding Officer and mailed service of all filings to be directed to the Presiding Officer's attention.

E. The attorney designated to appear on behalf of the agency in this proceeding is Kelcey Marsh, Litigation Counsel, telephone number (316) 337-6200, k.marsh@kcc.ks.gov.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 09/09/2021



Lynn M. Retz
Executive Director

Mailed Date: 09/09/2021

JRM

CERTIFICATE OF SERVICE

22-CONS-3046-CPEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 09/09/2021.

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/S/ Desirae Mayfield

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