

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

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

In the matter of the application of Quito, Inc.) Docket No: 22-CONS-3115-CMSC
(Operator) for an Operator's license renewal.)
) CONSERVATION DIVISION
)
_____) License No: 33594

**ORDER ON BRIEFING, AND REQUIRING
STAFF REPORT AND FURTHER INVESTIGATION**

The Commission rules as follows:

1. On September 2, 2021, the Commission denied Operator's June 1, 2020, license renewal application. On September 15, 2021, Operator timely requested a hearing. Various prehearing conferences were conducted between October 2021 and December 2021. On January 14, 2022, Commission Staff litigation counsel and Operator's counsel submitted stipulations of fact.

2. The Commission takes note of the stipulations of fact. In Commission dockets, the Commission itself acts in a quasi-judicial capacity, and, in contested dockets, Commission Staff acts as a party.¹ The Commission notes that, contrary to the submitted stipulations, the Commission has not stipulated and agreed to any material facts in this matter. Rather, Commission Staff and Operator have stipulated to such facts. Upon review of the stipulations of fact, the Commission finds legal briefing would be useful on two issues, which it would like briefed separately.

3. First, in its request for hearing, Operator stated the Commission's license denial order violated federal bankruptcy code.² The Commission would like legal briefing on whether the

¹ See K.A.R. 82-1-204(i).

² See Request for Hearing (Sep. 15, 2021). While Operator states the order violates 11 U.P.C. § 525(a), the Commission assumes Operator meant 11 U.S.C. § 525(a).

stipulated facts – or, if necessary, additional proposed facts – demonstrate a violation of federal bankruptcy code. **On this issue, Operator’s opening brief shall be due March 25, 2022, Staff’s responsive brief shall be due by April 15, 2022, and Operator’s reply brief shall be due by April 29, 2022. Operator is directed to attach to its opening brief all documents described in Paragraph 27 of the parties’ stipulations of fact.**

4. Second, in its request for hearing, Operator stated the Commission’s license denial order was based upon an incorrect construction of K.S.A. 55-155 – generally challenging the conclusion of law in Paragraph 7 of the Commission’s license denial order.³ The Commission would like legal briefing on whether the stipulated facts – or, if necessary, additional proposed facts – demonstrate denial of Operator’s license renewal application for the reasons described in Paragraph 7 of the Commission’s license denial order was based on an appropriate interpretation of K.S.A. 55-155(c)(4) and K.A.R. 82-3-120(g)(2). **On this issue, Staff’s opening brief shall be due March 25, 2022, Operator’s responsive brief shall be due by April 15, 2022, and Staff’s reply brief shall be due by April 29, 2022.**

5. The Commission also directs two more things occur. First, in its license denial order, the Commission stated that it had insufficient data to determine whether Operator is in compliance with all rules and regulations of the Commission.⁴ Such data is required for an operator to be able to obtain a license.⁵ Staff is directed to conduct a comprehensive review of Commission records and

³ Paragraph 7 read: “Operator’s application does not meet the requirements of K.S.A. 55-155(c)(4) and K.A.R. 82-3-120(g)(2), because Operator, not registered with the federal securities and exchange commission, has an officer, director, partner, or member who does not comply with all requirements of Chapter 55 of the Kansas Statutes Annotated and amendments thereto, all rules and regulations adopted thereunder, and all commission orders and enforcement agreements.”

⁴ See Order Denying Application for License, ¶ 8 (Sep. 2, 2021).

⁵ See K.S.A. 55-155.

Operator's leases and to file a thorough report in this docket regarding whether Operator is in compliance with all rules and regulations of the Commission. **Such report is due by April 29, 2022.**

6. Second, the Commission directs Staff to conduct all necessary discovery so that Staff may opine on whether the doctrine of alter ego or piercing the corporate veil may call for or allow Mr. McCann to be personally responsible for, in a manner that may impact Operator's license renewal under K.S.A. 55-155(c)(4), any prior action or inaction of MC C Oil Company in regard to the four unplugged wells on MC C Oil Company's license. If in Staff's opinion a discovery order would be useful, it is directed to appropriately notify Presiding Officer Myers; Staff is also directed to appropriately notify Presiding Officer Myers upon completion of such discovery.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair (Recused); Duffy, Commissioner; French, Commissioner

Dated: 03/08/2022



Lynn M. Retz
Executive Director

Mailed Date: 03/08/2022

JRM

CERTIFICATE OF SERVICE

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I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
electronic service on 03/08/2022.

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