

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

In the matter of whether the license of Thor) Docket No. 24-CONS-3001-CSHO
Operating, LLC (Operator) should be revoked.)
) CONSERVATION DIVISION
)
) License No. 36020

In the matter of the failure of Quito, Inc.) Docket No. 24-CONS-3072-CPEN
(Operator) to comply with K.A.R. 82-3-120.)
) CONSERVATION DIVISION
)
) License No. 33594

In the matter of the failure of Quito, Inc. and/or) Docket No. 24-CONS-3086-CMSC
Thor Operating, LLC to comply with K.A.R.)
82-3-120 and K.A.R. 82-3-133.) CONSERVATION DIVISION
)
) License No. 33594 & 36020

RESPONSE TO OPERATOR'S MOTION FOR RECONSIDERATION

Staff of the Kansas Corporation Commission (Staff and Commission, respectively) submits its response to the *Motion for Reconsideration* (Motion) filed on behalf of Quito Inc. (Quito) and Thor Operating, LLC (Thor) on December 5, 2024.

1. On November 21, 2024, the Commission issued a Final Order in the captioned dockets. First, in Docket 24-CONS-3072-CPEN (Docket 24-3072) the Commission determined the Penalty Order for unplugged wells remaining on Quito's expired license should be affirmed.¹ Second, in Docket 24-CONS-3086 (Docket 24-3086), the Commission determined that it was appropriate to assess a \$25,000 penalty against Thor for operating wells that were on Quito's expired, revoked license.² Third, in Docket 24-CONS-3001-CSHO (Docket 24-3001) the

¹ Final Order, ¶8 (Nov. 21, 2024).

² *Id.* at ¶15.

Commission declined to revoke Thor's license, and determined that the Request for Change of Operator (T-1) forms at issue should not be processed.³

2. On December 5, 2024, the Motion was filed on behalf of Quito and Thor requesting that the Commission reconsider its Final Order in the captioned dockets and set aside the penalties issued and allow the T-1 forms to be processed after Commission Staff has received satisfactory financial assurance from Thor. First, in reference to Docket 24-3072, the Motion argues that Quito did not voluntarily allow its license to expire, and the license was involuntarily non-renewed and suspended by the Commission.⁴ Second, in reference to Docket 24-3001 and 24-3086, the Motion argues that a current or former employee of Quito, Inc. or another entity owned or controlled by Mark W. McCann does not fall within the proscriptions of K.S.A. 55-155(c)(4)(D).⁵ Additionally, the Motion argues the factual determinations made by the Commission in paragraphs 10-13 of its Final Order exceed the statutory authority granted by the legislature and are not relevant to the transfer of operatorship in this consolidated docket.⁶

3. The facts found in the Commission's Final Order are supported by the evidentiary record and the Commission properly applied the law based upon the evidence presented. In Docket 24-3072, the evidence clearly shows that unplugged wells would have been remaining on Quito's inactive license regardless of whether the T-1 forms were processed or not. The Commission's general rules and regulations state that each operator in physical control of any oil, gas, injection, or monitoring well shall maintain a current license even if the well is shut-in or idle.⁷

³ *Id.* at ¶19.

⁴ Motion for Reconsideration, ¶1 (Dec. 5, 2024).

⁵ *Id.* at ¶9.

⁶ *Id.* at ¶12.

⁷ *See* K.A.R. 82-3-120(a).

4. Petitions for reconsideration must inform the Commission and other parties where mistakes of law and fact were made.⁸ Here, the Motion fails to cite where the Commission's Final Order has made a mistake of fact or law pertaining to its findings for Docket 24-3072. The Motion argues that the volition of an operator is implicit in the regulatory language of K.A.R. 82-3-120.⁹ Staff disagrees. The regulation does not provide any language that would indicate an operator needs to voluntarily let its license expire for the Commission to issue a penalty order for unplugged wells remaining on an expired license. Instead, the Commission's rules and regulations clearly indicate that a license needs to be current if there are unplugged wells associated with that license regardless of whether an operator has let the license expire voluntarily or not. In this matter Quito failed to take the actions necessary to have a current license and unplugged wells remain on the now expired license. Thus, the penalty in Docket 24-3072 should be affirmed.

5. In Docket 24-3086, Quito and Thor were required to appear before the Commission to show why each should not be assessed a \$25,000 penalty pursuant to K.A.R. 82-3-120 and K.A.R. 82-3-133 for conducting oil and gas operations on a well listed on Quito's inactive, revoked license. At the hearing, there was no dispute that Thor had conducted oil and gas operations on wells under Quito's inactive, revoked license. In the Final Order, the Commission determined that Thor should be assessed a \$25,000 penalty. The Motion fails to provide any details about how the Commission has made a mistake of fact or law pertaining to its findings for Docket 24-3086. The Motion argues that Staff's motion to open Docket 24-3001 did not expressly state or reasonably imply that Thor should cease operating wells previously transferred to it.¹⁰ However, if Staff is requesting that the transfer of wells from Quito to Thor be denied, then Staff believes it is clear

⁸ See *Citizens' Util. Ratepayer Bd. v. State corp. Comm'n of the State of Kan.*, 24 Kan. App. 2d 222, 228 (1997); affirmed in part, reversed in part at 264 Kan. 363 (1998).

⁹ Motion at ¶1.

¹⁰ *Id.* at ¶10.

that the wells at issue remained on the expired, revoked license of Quito and should not have been in operation. Thor also had the ability to go onto KOLAR at any time to determine the status of the T-1 forms. Thus, the penalty assessed in Docket 24-3086 should be affirmed.

6. In Docket 24-3001, the Commission declined to revoke Thor's license but determined that the T-1 forms at issue should not be processed. The Motion argues that the factual determination made by the Commission in paragraphs 10-13 of the Final Order exceed the statutory authority granted by the legislature and are not relevant to the transfer of operatorship.¹¹ Paragraphs 10-13 of the Final Order discuss what is essentially a non-existent difference between Quito and Thor. Staff believes the connections described in paragraphs 10-13 of the Final Order satisfy the preponderance of the evidence standard needed to deny the T-1 forms between Quito and Thor. Otherwise, if the T-1 forms were processed, then the State of Kansas would have lost this game of whack-a-mole while Mr. McCann could continue operating wells in Kansas through Thor.

WHEREFORE, for the reasons stated above, Staff respectfully requests the Commission deny the Motion filed on behalf of Quito and Thor.

Respectfully submitted,

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¹¹ Id. at ¶12.

CERTIFICATE OF SERVICE

24-CONS-3001-CSHO, 24-CONS-3072-CPEN, 24-CONS-3086-CMSC

I, the undersigned, certify that a true and correct copy of the attached Response has been served to the following by means of first class mail and electronic service on December 16, 2024.

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