

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the Matter of Initiating a Show Cause)
Proceeding Against Sundowner, Inc. to)
Obtain a Certificate of Public Convenience)
and Necessity to Operate as a Water Utility) Docket No. 24-SUNW-590-SHO
and to Enforce Cold Weather Rules for Meter)
Disconnections within Sundowner, Inc.'s)
Water Distribution System.)

**ORDER GRANTING SECOND EXTENSION TO RESPOND TO SHOW CAUSE
ORDER**

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its pleadings and records, the Commission concludes the following:

1. On February 26, 2024, Commission Staff (Staff) filed a Report and Recommendation, requesting the Commission issue a Show Cause Order to Sundowner, Inc. Sundowner, which operates a water system serving two private home subdivisions in Saline County, Kansas, has been the subject of numerous complaints.¹ In investigating the complaints, Staff discovered that Sundowner does not have a Certificate of Convenience and Necessity (COC) to operate as a public utility.² While the evidence suggests that Sundowner is operating a public utility, Staff has found no record of Sundowner applying for a COC as a water utility or seeking

¹ Staff Report and Recommendation, Feb. 23, 2024, p. 1.

² *Id.*

approval of its rates or charges.³ Accordingly, Staff sought a Commission order directing Sundowner to Show Cause why it should not be required to file an application for a COC.⁴

2. Based on Staff's belief that as a public utility, Sundowner is in violation of Commission Billing Standards including the Cold Weather Rule (CWR), it sought a Commission order directing Sundowner to comply with provisions of the CWR.⁵ To ensure compliance with the CWR, Staff believes that within 2 days of receiving a request from Staff, Sundowner should be required to provide Staff: (1) a list of all disconnected meters since November 1, 2023; and (2) documentation establishing whether disconnections were made in accordance with Billing Standards.⁶ Within 24 hours of notification, Staff believes Sundowner should be required to restore service for all disconnected meters until it can justify disconnection.⁷ Staff suggests requiring Sundowner to provide sufficient documentation prior to future disconnections and that Sundowner is not entitled to reconnection fees for unjustified disconnections.⁸

3. Staff also recommended the Commission direct Sundowner to file information to allow Staff to investigate the reasonableness of its rates.⁹

4. On March 5, 2024, the Commission issued a Show Cause Order giving Sundowner 30 days to explain why it should not be required to apply for a COC,¹⁰ directing Sundowner to: (1) notify its customers in writing that their current rates are considered interim and subject to refund,¹¹ (2) provide necessary documentation to Staff to review existing rates within 30 days of

³ *Id.*, p. 4.

⁴ *Id.*, p. 1.

⁵ *Id.*, p. 2.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Show Cause Order, Mar. 5, 2024, ¶ 4.

¹¹ *Id.*, ¶ 5.

the issuance of the Show Cause Order,¹² and (3) restore service for all disconnected meters within 24-hours of receiving a request from Staff.¹³

5. On April 3, 2024, Sundowner filed a Motion for Extension of Time requesting on a twenty-one (21) day extension to respond to the Show Cause Order. On April 11, 2024, the Commission granted an extension until April 25, 2024.

6. On April 25, 2024, Sundowner filed a second Motion for Extension of Time, seeking until May 9, 2024 to respond to the Show Cause Order. Sundowner explains it has been in regular communication with Staff to provide documentation to address Staff's concerns.¹⁴ Sundowner explains granting the requested extension will not negatively impact its customers, because it has already restored service to all customers who were disconnected at the time the Show Cause Order was issued.¹⁵ Sundowner also advises Staff does not object to the requested extension.¹⁶

7. K.A.R. 82-1-217(b) allows the Commission to extend any deadline for good cause. Since the requested extension will not negatively impact customers and is uncontested, the Commission finds good cause exists to grant an extension until May 9, 2024.

THEREFORE, THE COMMISSION ORDERS:

A. The Motion for an Extension of Time is granted. Sundowner's Response to the Show Cause Order is due 5:00 p.m. on May 9, 2024.

B. This Order is procedural and constitutes non-final agency action.¹⁷

¹² *Id.*

¹³ *Id.*, ¶ 7.

¹⁴ Motion for Extension of Time, Apr. 25, 2024, ¶¶ 8-9.

¹⁵ *Id.*, ¶ 14.


¹⁶ *Id.*, ¶ 13.

¹⁷ K.S.A. 77-607(b)(2).

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 05/02/2024



Lynn M. Retz
Executive Director

BGF

CERTIFICATE OF SERVICE

24-SUNW-590-SHO

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 05/02/2024.

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