

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

Before Commissioners: Pat Apple, Chairman  
Shari Feist Albrecht  
Jay Scott Emler

In the matter of the Notice of Denial of License ) Docket No.: 17-CONS-3529-CMSC  
Renewal Application for Agricultural Energy )  
Services ) CONSERVATION DIVISION  
)  
) License No.: 34089

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**STAFF’S RESPONSE TO OPERATOR’S REQUEST FOR TRIAL OF ISSUES OF LAW**

Agricultural Energy Services (“Operator”) request for trial of issues of law should be denied because Kansas law does not provide a right to trial in a matter governed by the Kansas Administrative Procedure Act (“KAPA”). Operator has previously requested a hearing before the Commission which is sufficient under Kansas law to resolve the disputed license denial.

**BACKGROUND & DISCUSSION**

Operator timely submitted a license renewal application on March 21, 2017. Commission Staff denied Operator’s license renewal application on March 24, 2017, due to Staff’s belief that Operator is associated with First National Oil, Inc., License #6230 which is not in compliance with Commission statutes, regulations, and orders.<sup>1</sup> Operator filed a request for hearing on March 30, 2017. Operator subsequently filed a “request for trial of issues of law” on June 1, 2017.

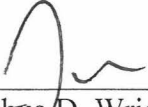
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<sup>1</sup> See, Notice of Denial of License Renewal Application, filed March 24, 2017.

Operator's request for a trial in addition to a Commission hearing should be denied. Commission regulations provide that a denial of a license renewal application is governed by KAPA.<sup>2</sup> Here, Operator seeks a "trial of issues of law" at the prehearing conference pursuant to K.A.R. 82-1-222 based on the mistaken belief that this matter is not subject to KAPA contrary to the language of the regulation which it cites.<sup>3</sup>

Wherefore, Staff respectfully requests the Commission deny Operator's Motion for a Trial of Issues of Law.

Respectfully submitted,



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<sup>2</sup> See, K.A.R. 82-3-120(i): "...[d]enial of a license application shall constitute a summary proceeding under K.S.A. 77-537, and amendments thereto."

<sup>3</sup> K.A.R. 82-1-222 provides in pertinent part "In any matter pending before the commission and *not governed by the KAPA* [...] may be directed by the [C]ommission [...] to consider [...] the trial of issues of law, the determination of which may eliminate or affect the trial of issues of fact." (emphasis added)

**CERTIFICATE OF SERVICE**

I certify that on 6/7/17, I caused a complete and accurate copy of this Response to be served via United States mail, with the postage prepaid and properly addressed to the following:

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