

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

In the Matter of the Application of Merit)	Docket No. 20-CONS-3148-CUNI
Energy Company, LLC, for an Order)	
Authorizing the Unitization and Unit)	CONSERVATION DIVISION
Operation of the River Bend Chester Unit)	
<u>to be located in Finney County, Kansas)</u>	License No. 32446

MOTION FOR SUMMARY PROCEEDINGS

Merit Energy Company, LLC (“Merit”) respectfully requests that the State Corporation Commission of the State of Kansas (“Commission”) use summary proceedings pursuant to K.S.A. 77-537 to grant the captioned application. In support of its motion, Merit states as follows:

BACKGROUND

1. On November 14, 2019, Merit filed an application (“Application”) for an order authorizing the unitization and unit operation of the River Bend Chester Unit to be located in Finney County, Kansas, pursuant to K.S.A. 55-1301, *et seq.*

2. Notice of the Application was mailed to all interested parties on November 14, 2019, and was published in the *Wichita Eagle* and the *Garden City Telegram*, an official newspaper of Finney County, Kansas, on November 15, 2019.

3. The time period to submit a written protest to the Application expired at the end of the day on December 2, 2019.

4. Merit has received no protest or objection to the Application, and none has been docketed by the Commission.

5. Merit is ready, willing, and able to commence unit operations on the River Bend Chester Unit upon the granting of the Application.

6. On December 5, 2019, the Commission entered its Order (“PHC Order”) designating Jonathan R. Myers, Assistant General Counsel, Kansas Corporation Commission, as Prehearing Officer and scheduling a Prehearing Conference for Wednesday, December 18, 2019, at 4 p.m. by telephone. Notably, paragraph D. of the Commission’s order states that the prehearing conference may be converted into a summary proceeding for disposition of this matter, as provided by the Kansas Administrative Procedure Act (“KAPA”).

LEGAL AUTHORITY

The Commission possesses the power and authority to utilize summary proceedings to grant the Application. No interested person objects to or protests the Application, and utilizing summary proceedings in lieu of incurring the time and expense associated with an evidentiary hearing would prevent economic waste. The Application complies with all applicable statutes and regulations, and contains the factual information necessary for the Commission to enter its order. In that regard, the Commission may adopt the plan of unit operations presented in the Application because it is fair and reasonable, and otherwise contains all terms required under K.S.A. 55-1305.

Summary Proceedings are Available

The Commission may utilize summary proceedings to grant the Application upon notice and hearing pursuant to the Kansas Administrative Procedure Act (“KAPA”).¹ Under KAPA, the PHC Order constitutes the commencement of a noticed hearing pursuant to which an order

¹ K.S.A. 55-1304; K.S.A. 77-511 (“a hearing commences when the state agency or presiding office notifies a party that a prehearing conference . . . will be conducted.”); *see also* Docket No. 20-CONS-3062-CUNI, Order Granting Mot. for Summary Proceedings, ¶¶ 6-7 (Oct. 31, 2019).

granting the Application may be entered.² The Commission may utilize summary proceedings, in lieu of a formal hearing, to grant the Application, because:

- (1) the use of summary proceedings does not violate any provision of law;
- (2) the protection of the public interest does not require the Commission to give notice and an opportunity to participate to persons other than the parties;
- (3) the allegations and relevant facts show that the Application is supported to the applicable standard of proof; and
- (4) the order granting the Application can be made effective after the time for requesting a hearing has expired.³

First, no statute or other law prohibits the use of summary proceedings with respect to the subject matter of the Application. Second, in accordance with K.S.A. 55-1310, K.S.A. 55-605, and K.A.R. 82-3-135a, Merit has already provided notice of the Application to all interested parties and has published notice of the Application in the *Wichita Eagle* and *Garden City Telegram*, an official newspaper of Finney County, Kansas. No objections or protests have been received. Third, as explained in greater detail below, the Application satisfies the statutory requirements to compel a unit under K.S.A. 55-1301, *et seq.*, and prescribes a plan of unit operations that is fair and reasonable to all interested parties. To date, Commission staff, who represents the public at large, has indicated no concerns with the Application. Fourth, any order issued via summary proceedings can take effect upon the expiration of the time period to request a hearing, satisfying the final element of K.S.A. 77-537. For these reasons, summary proceedings are available to the Commission to grant the Application.

The Application Can Be Granted

The Commission has the authority to issue an order authorizing the unitization and unit operation of a pool or part thereof pursuant to K.S.A. 55-1301, *et seq.* Merit seeks to form the

² See Order Designating Prehearing Officer and Setting Prehearing Conference, ¶ D (Dec. 5, 2019); *see generally*, Docket No. 20-CONS-3062-CUNI, Order Granting Mot. for Summary Proceedings, ¶ 7.

³ K.S.A. 77-537(a); *see also* Docket No. 20-CONS-3062-CUNI, Order Granting Mot. for Summary Proceedings, ¶¶ 8-9.

River Bend Chester Unit, which would unitize a pool within the Chester formation beneath the following described lands ("Unit Area"):

Township 24 South, Range 32 West, Finney County, Kansas:

Section 26: Lot 1, Lot 7, W/2 SW/4, and the Arkansas River riverbed⁴ lying in the W/2 W/2
Section 27: Lot 1, and the Arkansas River riverbed
Section 34: E/2 NE/4, and SE/4
Section 35: W/2 NW/4.

The stratigraphic equivalent of the Chester formation underlying the Unit Area is shown on the logs for the River Bend #6 well (API No. 15-055-22505) to exist between the measured depths of 4,798' (-1,946' subsea TVD) and 4,835' (-1,983' subsea TVD).

The Application contains all of the requirements prescribed by K.S.A. 55-1303. The granting of the Application is necessary to prevent waste. The Application demonstrates that: (a) the unitized management, operation and further development of the pool or the part thereof sought to be unitized is economically feasible and reasonably necessary to prevent waste within the reservoir and thereby increase substantially the ultimate recovery of oil or gas; (b) the value of the estimated additional recovery of oil or gas substantially exceeds the estimated additional cost incident to conducting such operations; and (c) the proposed operation is fair and equitable to all interest owners.⁵ The Unit Agreement and Operating Agreement constituting the proposed plan of unit operations are attached to the Application as Exhibits B and C, and include the terms and conditions required by K.S.A. 55-1305, which terms and conditions are just and reasonable. The plan of unit operations has been approved in writing by those persons who will be required to pay 93.9% of the costs of the unit operation, and also by the owners of 85.56% of the production or proceeds thereof that will be credited to royalties, excluding overriding royalties or other like

⁴ Merit has obtained surveys of the Arkansas River riverbed as to that portion that traverses across parts of Section 26 and 27. The surveys are dated January 30, 2018, and can be provided upon request.

⁵ K.S.A. 55-1304(a)(2).

interests which are carved out of the leasehold estate. The consent percentages are well in excess of the minimum requirements set forth in K.S.A. 55-1305.

For these reasons, the Application contains all of the factual information required for the Commission to enter an order authorizing the unitization and unit operation of the River Bend Chester Unit pursuant to the plan of unit operations set forth therein. As such, the Application may be granted by Commission without incurring the unnecessary time and expense associated with an evidentiary hearing.

WHEREFORE, for the reasons set forth above, Merit respectfully requests that the Commission utilize the summary proceedings available under KAPA to grant Merit's Application, and to provide such further and other relief as the Commission deems just and proper.

Respectfully submitted,

MORRIS, LAING, EVANS, BROCK
& KENNEDY, CHARTERED

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VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

Jonathan A. Schlatter, being of lawful age and being first duly sworn upon his oath, deposes and says:

That he is the attorney for Merit Energy Company, LLC; he has read the above and forgoing Motion for Summary Proceedings and is familiar with its contents, and that the statements made therein are true and correct to the best of his knowledge and belief.


Jonathan A. Schlatter

SIGNED AND SWORN to before me this 17th day of December, 2019.


Notary Public

My Appointment expires: 11/05/2020



CERTIFICATE OF SERVICE

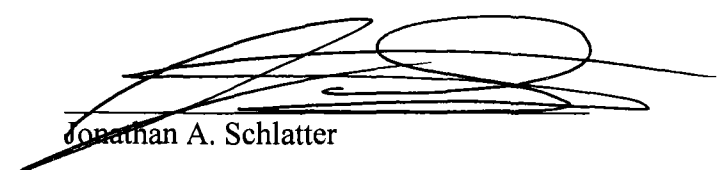
I, the undersigned, hereby certify that on the 17th day of December, 2019, I caused the original of this **Motion for Summary Proceedings** to be electronically filed with the Conservation Division of the State Corporation Commission of the State of Kansas, and caused a true and correct copy of the same be electronically served to the following parties:

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