

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Petition of Daylight Petroleum,)
LLC to Open a Docket Pursuant to K.S.A. 55-605(a).) Docket No. 25-CONS-3040-CMSC

RESPONSE TO STAFF'S MOTION TO ADMIT AFFIDAVIT

Daylight Petroleum, LLC ("Daylight"), by and through its attorney, Keith A. Brock, responds in opposition to Staff's Motion to Admit Affidavit ("Staff's Motion") filed herein on August 6, 2025.

1. Staff's Motion seeks to introduce testimony from an individual who was not called as a witness in this matter and has not filed pre-filed direct or rebuttal testimony herein. Thus, even if the affidavit were admitted into the record, fundamental due process entitles Daylight to cross examine such witness and to challenge or rebut any purported testimony from such witness.

2. Kansas courts have long held that "[t]he right to the cross-examination of witnesses in quasi-judicial or adjudicatory proceedings is one of fundamental importance and is generally, if not universally, recognized as an important requirement of due process." *Adams v. Marshall*, 212 Kan. 595, 599-600 (1973).

3. K.S.A. 77-523 (b) and (c) expressly require the pre-hearing officer in agency proceedings to permit cross examination of witnesses and for all parties to be given an opportunity to challenge or rebut any oral or written statements.

4. Therefore, Staff's Motion must as a matter of law be denied.

5. Moreover, the affidavit Staff attempts to introduce does not warrant just cause to reopen the hearing held in this matter. Rob Tinsley Properties, LLC had previously given Daylight permission to take various actions on and about its property to search for the source of the breakout. However, Rob Tinsley Properties, LLC has now filed a lawsuit against Daylight claiming "interruption

of Tinsley's business operations causing lost income and wear and tear to equipment that Tinsley has been forced to store outside for extended periods of time." Rob Tinsley Properties, LLC's position that it has given Daylight permission to access its property and will continue to grant certain permissions is completely inconsistent with the above described damages sought by Rob Tinsley Properties, LLC in said litigation. Until the rights and responsibilities of the parties have been fully determined in the subject litigation, Daylight cannot continue performing operations upon the subject property.

WHEREFORE, for the reasons set forth herein, Daylight requests that the Presiding Officer issue an order denying Staff's Motion to Admit Affidavit in its entirety.

/s/ Keith A. Brock

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was sent via electronic mail this 13th day of August, 2025, addressed to:

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/s/ Keith A. Brock

Keith A. Brock