

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

6. On March 13, 2018, Staff filed a Motion to Approve Settlement Agreement, attached to which is a proposed Settlement Agreement. The proposed Settlement Agreement is type-written, but in the section entitled, “Terms of the Settlement Agreement,” there are handwritten notations in the margins and between two lines. In the margins beside paragraphs 12, 14, and 16, it appears the words “not clear” are handwritten and then crossed out. In the first line of paragraph 12, the word “shall” is crossed out, but the words, “This is O.K., U.H.,” appear above the type-written line. Paragraph 3 of Staff’s Motion says: “Staff notes that the Commission should disregard the Operator’s handwritten notations, which are not substantive.”

7. The Commission finds it cannot “disregard the Operator’s handwritten notations” because the notations render uncertain the terms to which both parties have agreed, and whether, indeed, they have both freely agreed to such terms. The fact that the Operator initialed one of the terms he crossed out demonstrates he was capable of initially *all* the terms he crossed out. However, the Operator’s initials do not appear next to any of the places where the handwritten words “not clear” are crossed out. Thus, the Commission is unable to determine with certainty whether the Operator crossed out the words or whether the Operator was agreeing to something that was unclear to him. “In order for parties to form a binding contract, there must be a meeting of the minds as to all essential terms.”³ The Commission finds a “meeting of the minds” between Staff and the Operator doubtful, and thus, the Commission cannot approve the proposed Settlement Agreement as presented.

8. However, the Commission’s denial of the proposed Settlement Agreement is without prejudice. Should the parties wish to re-submit a clean proposed Settlement Agreement, the Commission is willing to consider it for approval.

³ *Sidwell Oil & Gas Co. v. Loyd*, 230 Kan. 77, 79, 630 P.2d 1107, 1110 (1981).

THEREFORE, THE COMMISSION ORDERS:

A. Staff's Motion to Approve Settlement Agreement is denied, without prejudice.

B. Parties have fifteen (15) days, plus three (3) days if mailed service, in which to petition the Commission for reconsideration.⁴

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: 03/22/2018



Lynn M. Retz
Secretary to the Commission

Mailed Date: 03/23/2018

MJD

⁴ K.S.A. 55-162; K.S.A. 55-606; K.S.A. 66-118b; K.S.A. 77-529(a)(l).

CERTIFICATE OF SERVICE

18-CONS-3190-CPEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties
by means of U.S. mail or electronic service on 03/22/2018.

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