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Kansas Corporation Commission

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair
Jay Scott Emler
Dwight D. Keen

In the Matter of the Application of Midstates Energy Operating, LLC to authorize injection of saltwater into the Squirrel formation at the Thrasher #10 enhanced recovery well, located in Section 25, Township 13 South, Range 20 East, Douglas County, Kansas.	)	Docket No: 18-CONS-3196-CUIC CONSERVATION DIVISION License No. 35503

ORDER AMENDING PROCEDURAL SCHEDULE

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being fully advised in the premises, the Commission finds the following:

BACKGROUND:

1. On October 12, 2017, Midstates Energy Operating, LLC (Midstates) filed an Application with the Commission seeking a permit to authorize the injection of saltwater into the Squirrel formation at the Thrasher #10 well, located in Section 25, Township 13 South, Range 20 East, Douglas County, Kansas.[1]

2. On March 27, 2018, the Commission issued its *Order Setting Procedural Schedule, Protective Order, and Discovery Order*.

3. On April 23, 2018, Protestants James and Patricia Bondurant filed Information Request No. 1. The Information Request stated that the requested information was needed by May 1, 2018.[2]

[1] Midstates Energy Operating, LLC, Application for Injection Well, p. 1 (Oct. 12, 2017) (Application).
[2] James and Patricia Bondurant Information Request No. 1, p. 1 (Apr. 23, 2018).

4. On May 7, 2018, Midstates responded to the Bondurants' Information Request No. 1 via email.[3]

5. On May 14, 2018, Protestants James and Patricia Bondurant filed a Motion to Compel Midstates and to Provide Additional Time for Direct Written Testimony (Motion to Compel).

6. On May 23, 2018, Midstates filed a Response to Motion to Compel Midstates and to Provide Additional Time for Direct Written Testimony (Midstates' Response).

7. On May 24, 2018, Commission Conservation Staff (Staff) filed its Response in Opposition to Motion to Compel Midstates and to Provide Additional Time for Direct Written Testimony (Staff's Response).

8. On May 29, 2018, the Prehearing Officer scheduled a Discovery Conference with Midstates, Staff, and the Bondurants, for May 31, 2018. The Conference was held with these parties on that date.

DISCUSSION:

9. The Commission's March 27, 2018 *Order Setting Procedural Schedule, Protective Order, and Discovery Order* set a May 15, 2018, deadline for Protestants to pre-file direct testimony[4] and provided discovery procedures to govern discovery in this docket.[5]

10. On the one hand, the Bondurants did not pre-file direct testimony by May 15, 2018, alleging that Midstates' lack of complete and accurate discovery responses prevented them from doing so.[6] Moreover, according to Midstates, the Bondurants never engaged

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[3] E-mail from Keith Brock, counsel for Midstates, to James and Patricia Bondurant, Allison Kort, Bradley Finkeldei, John Bullock, Jon Myers, Lauren Wright, and Michael Duenes (May 7, 2018, 4:16 CST).
[4] *Order Setting Procedural Schedule, Protective Order, and Discovery Order*, ¶ 15 (Mar. 27, 2018).
[5] *Order Setting Procedural Schedule, Protective Order, and Discovery Order*, Ordering Clause B.
[6] *See* Motion to Compel, p. 2.

Midstates in discovery resolution discussions or negotiations prior to filing their Motion to Compel.[7]

11. On the other hand, Midstates failed to raise its objections to answering some of the Bondurants' data requests within five days of those requests, as required by the *Discovery Order*.[8]

12. Staff took no position on the discovery issue raised by the Motion to Compel, but asserted that approval of the Motion to Compel would unnecessarily delay the proceedings without sufficient justification having been provided for such a delay,[9] and therefore, asked that the Motion to Compel be denied.[10]

13. At the May 31, 2018, Discovery Conference, and after acknowledgement of certain failures by Midstates and the Bondurants to adhere to the *Discovery Order's* provisions, Midstates, the Bondurants and Staff agreed on the following procedural resolution:

a. Midstates will provide renewed responses to the Bondurants' Information Request No. 1, in accordance with the provisions of the *Discovery Order*;
b. The Bondurants will have until June 18, 2018, to pre-file testimony, which will encompass their direct case-in-chief and their response to Midstates' and Staff's pre-filed direct testimony already filed in the docket;
c. Midstates and Staff will waive pre-filed rebuttal testimony (which was due June 12, 2018),[11] with the proviso that they may address at the hearing any new information the Bondurants might raise in their pre-filed testimony; and
d. The June 26, 2018, evidentiary hearing will remain in place as scheduled.[12]

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[7] Midstates' Response, ¶¶ 3-4.
[8] *Order Setting Procedural Schedule, Protective Order, and Discovery Order*, ¶ 35.
[9] Staff's Response, ¶ 7.
[10] Staff's Response, ¶ 7.
[11] *See Order Setting Procedural Schedule, Protective Order, and Discovery Order*, ¶ 15.
[12] *Id.*

14. Midstates further agreed to send its renewed discovery responses to the Bondurants via email.

FINDINGS:

15. The Commission finds the resolution accepted by Midstates, the Bondurants, and Staff in paragraph 13 above is reasonable and in the public interest. Thus, the Commission finds that provisions a. through d. of paragraph 13 shall be adopted and followed by the parties. Midstates shall provide its discovery responses to the Bondurants as soon as possible.

THEREFORE, THE COMMISSION ORDERS:

A. Midstates, the Bondurants, and Staff shall follow provisions a. through d. of paragraph 13 of this Order.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).[13]

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; Keen, Commissioner

Dated: 06/07/2018

Lynn M. Retz
Secretary to the Commission

Mailed Date: 06/08/2018

MJD

[13] K.S.A. 55-162; K.S.A. 55-606; K.S.A. 55-707; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

18-CONS-3196-CUIC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail and electronic service on 06/07/2018.

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