BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the failure of Michael L. Smith ("Operator") to comply with K.A.R. 82-3-120.	))))))	Docket No.: 20-CONS-3160-CPEN CONSERVATION DIVISION License No.: 35520

MOTION FOR DEFAULT ORDER

The Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively), moves the Commission for a Default Order to be issued against the Operator. In support of its motion, Staff states as follows:

1. On December 17, 2019, the Commission issued a Penalty Order against the Operator in the captioned docket.[1]

2. On January 21, 2020, Operator filed a request for hearing.[2]

3. On January 28, 2020, an Order Designating Prehearing Officer and Setting Prehearing Conference was filed in this docket and set the Prehearing Conference for February 11, 2020.[3]

4. Counsel for Staff appeared at the pre-hearing conference on February 11, 2020, but the Operator failed to appear. Staff made a verbal Motion for Default at the prehearing conference. The Prehearing Officer requested the Motion be submitted in writing.

5. Pursuant to K.S.A. 77-520(a), "[i]f a party fails to attend or participate in a prehearing conference, hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order, including a statement of the grounds."

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[1] *Penalty Order*, ¶¶ 6, 10 (Dec. 17, 2019).
[2] Letter Requesting Hearing (Jan. 21, 2020).
[3] *Order Designating Prehearing Officer and Setting Prehearing Conference* (Jan. 28, 2020).

6.   Staff believes Operator was properly noticed and afforded an opportunity to attend and participate in the February 11, 2020, prehearing conference, but failed to do so. Therefore, Staff requests that a default order be issued against Operator.

WHEREFORE, for the reasons set forth above, Staff respectfully requests the Commission issue a default order against Operator for failure to appear and participate, and for any further relief as the Commission deems just and proper.

Respectfully submitted,

_____
Kelcey A. Marsh #28300
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VERIFICATION

STATE OF KANSAS   )
) ss.
COUNTY OF SEDGWICK   )

Kelcey A. Marsh, of lawful age, being duly sworn upon his oath deposes and states

that he is Litigation Counsel for the State Corporation Commission of the State of Kansas;

that he has read and is familiar with the foregoing *Motion,* and attests that the statements

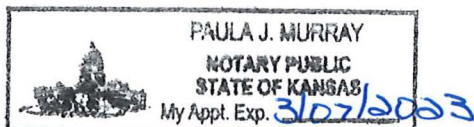therein are true to the best of his knowledge, information and belief.

Kelcey A. Marsh, S. Ct. #28300
Litigation Counsel
State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this _12_ day of _Feb_ , 2020.

Notary Public

My Appointment Expires: _3/07/2023_

PAULA J. MURRAY
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 3/07/2023

CERTIFICATE OF SERVICE

20-CONS-3160-CPEN

I, the undersigned, certify that a true copy of the attached Motion for Default Order has been served to the following by means of first class mail and electronic service on <u>February 12, 2020</u>.

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/S/ Paula J. Murray
Paula J. Murray