

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

In the matter of the request to transfer wells) Docket Nos. 25-CONS-3236-CMSC
from Quito, Inc. to Emerson Operating, LLC.)
) CONSERVATION DIVISION
)
) License No. 33594 & 36165

**UNOPPOSED MOTION TO FILE OUT OF TIME THE PRE-FILED DIRECT AND
REBUTTAL TESTIMONY OF JOE HARPER FOR EMERSON OPERATING, LLC**

COMES NOW Emerson Operating, LLC (“Emerson”), by and through its counsel of record, and hereby provides the following Unopposed Motion to File Out of Time the Pre-filed Direct and Rebuttal Testimony of Joe Harper for Emerson Operating, LLC, accompanied by the referenced Pre-Filed Testimony of Joe Harper previously filed attached as “*Exhibit A*.” In support of this Motion, Emerson provides as follows:

1. On January 25, 2025, the Commission entered an Order Designating Presiding Officer and Setting Prehearing Conference in this matter. Paragraph D of that Order stated as follows:

Although a presiding officer is designated, parties are still required to file pleadings with the Commission, and filings shall be made with the Commission’s docket room. Any filing received after 5:00 p.m. shall be considered filed the next business day. In addition, any late filing shall be accompanied by a Motion to File Out-of-Time. . . .

2. Prehearing Conference was held with Presiding Officer Jonathan R. Myers on February 13, 2025.

3. On February 17, 2025, Presiding Officer Myers entered an Order Setting the Procedural Schedule, setting forth the following deadlines:

Commission Staff Pre-Filed Direct Testimony Due: April 11, 2025
Quito/Emerson Pre-Filed Direct & Rebuttal Testimony Due: May 2, 2025
Commission Staff Pre-Filed Rebuttal Testimony Due: May 23, 2025

4. Counsel for Emerson was out of the office the entirety of the days on Wednesday and Thursday, April 30-May 1, 2025. Thus, prior to leaving, counsel for Emerson reviewed the Procedural Scheduling Order and the information contained online on the Commission's website to determine if the Pre-Filed Testimony needed to be filed by a certain time on Friday, May 2, 2025, and did not see any such requirement. However, counsel for Emerson failed to return to the original Order Designating Presiding Officer and Setting Prehearing Conference where the 5:00 p.m. deadline was provided in Paragraph D.

5. Upon return to the office, counsel for Emerson filed the Pre-filed Direct and Rebuttal Testimony of Joe Harper on Friday, May 2, 2025, at 7:25 p.m. *See Exhibit A* and the KCC E-Filing Receipt, dated May 2, 2025, at 7:25:08 PM, attached as *Exhibit B*.

6. In addition to the e-filing, counsel for Emerson emailed the Pre-Filed Direct and Rebuttal Testimony of Joe Harper to Presiding Officer and all other counsel on Friday, May 2, 2025, at 7:58 p.m. *See* Email from Molly Aspan, dated May 2, 2025, at 7:58:42 PM, attached in part (without the email attachment) as *Exhibit C*.

7. As it was after 5:00 p.m. on Friday, May 2, 2025, the Testimony was not accepted as filed until the following Monday, May 5, 2025.

8. Commission staff filed rebuttal testimony on May 23, 2025.

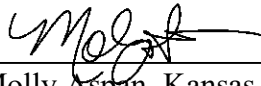
9. On May 28, 2025, Kelcey Marsh, Litigation Counsel for the Commission, sent an email to counsel for Emerson advising of the receipt of the late filing and stating the intention to object to Mr. Harper's testimony being admitted in its entirety "[i]f a copy of Mr. Harper's testimony accompanied by the appropriate Motion to File Out-of-Time is not promptly filed with the Commission." *See* Email from Kelcey Marsh, dated May 28, 2025, at 4:54:28 PM, attached as *Exhibit D*.

10. Prior to receipt and review of that email, counsel for Emerson was not aware that it was considered a late filing, as she was unaware of the 5:00 p.m. requirement from the original Order, had received a notification of the filing from the Commission on May 2, 2025, and had later received the rebuttal testimony.

11. Thus, upon review of that email, counsel for Emerson contacted Mr. Marsh, who agreed that he did not have any objection to this late filing of the Motion to File Out of Time, accompanied by the previously filed Direct and Rebuttal Testimony attached as ***Exhibit A***.

WHEREFORE and for the foregoing reasons, counsel for Emerson respectfully requests that the Presiding Officer permits the previously filed Pre-Filed Direct and Rebuttal Testimony of Joe Harper for Emerson Operating, LLC, attached as ***Exhibit A***, to be filed out of time.

Respectfully submitted,



Molly Aspan, Kansas Bar No. 21536

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ATTORNEY FOR EMERSON OPERATING, LLC

CERTIFICATE OF SERVICE

I hereby certify that on May 29, 2025, I transmitted the foregoing Unopposed Motion to File Out of Time the Pre-filed Direct and Rebuttal Testimony of Joe Harper for Emerson Operating, LLC by means of electronic service to the following:

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Molly Aspan

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

In the matter of the request to transfer wells) Docket Nos. 25-CONS-3236-CMSC
from Quito, Inc. to Emerson Operating, LLC.)
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PRE-FILED DIRECT AND REBUTTAL TESTIMONY
OF JOE HARPER FOR EMERSON OPERATING, LLC

1 Q Please state your name for the record.

2 A Joe Harper

3 Q What is your background?

4 A I joined the United States Army in 1972 when I was 18 years old. I have many
5 family members who were and have been in the service, including my father, my
6 grandfather, and several uncles. After my initial stateside training, I had orders for
7 Vietnam, but was diverted to Germany. I was in field artillery and stationed in
8 Germany on the border between East and West Germany for 26 months. I returned
9 stateside in November 1976 shortly after my mother passed away and my father
10 was in the hospital. Rather than return to the military, I started working in oil and
11 gas.

12 Q Thank you for your service. What did you begin doing in the oil and gas
13 industry after your military service?

14 A For two to three years I worked for an oil company in the area doing construction
15 work and providing equipment and materials to drillers and other companies. I then
16 continued doing that type of work as an independent contractor for many
17 companies, including Belport. I had a crew of approximately 6-7 employees who
18 worked for me doing well service work. I also owned a few leases under Harper
19 Construction, licensed in Oklahoma. I did this until 1997 when Belport hired me
20 and my crew to work with them exclusively as employees on a large project. At
21 that time, I either sold the leases to Belport or shut them down.

22 Q Who is Belport?

1 A Belport Oil was an oil and gas company in Tulsa. I worked for them until 2002 and
2 was the Field Superintendent in charge of everything outside the office, including
3 overseeing well service, construction, and everything else. We drilled and
4 completed about 400 wells during that period of time, and I scheduled every bit of
5 that work from staking locations to putting oil and gas in the lines. We laid in excess
6 of 100 miles of gas lines.

7 Q **At this point, had you met or were you aware of Mark McCann?**

8 A I had not met Mark until the very end of my time at Belport, when we plugged some
9 wells for him. I believe he was still working with his dad at the time. I did not have
10 a great impression of him then as he did not want to pay because he wanted the junk
11 that we would clean up around the wellsite. It just seemed like an excuse for him
12 not to pay or request reduction of the bill.

13 Q **What did you do after leaving Belport in 2002?**

14 A I put together a plugging crew of over 40 employees in 2002 and plugged
15 exclusively for the State of Oklahoma for 4 years. I then went back to doing contract
16 work, including some work for Belport. I had a crew of about 40 people during that
17 time, including my sons Matt and Gary. Business was good until 2008, when the
18 price of oil spiked and clients stopped paying their bills. Then, in 2009, my son
19 Matt was killed on a job. At that time, I backed out of work for a while and scaled
20 back quickly.

21 Q **I am so sorry to hear about your son. Did you have any interactions or**
22 **involvement with Mark during that time?**

23 A No, I had not had any interaction or involvement with him since my time at Belport.

1 Q **What did you do next?**

2 A We were still doing some work, but I shut down the big company at the end of 2010
3 and was just doing what I could do. My other son Gary and I were doing some
4 leases by ourselves. We were still doing some independent contractor work, and I
5 started J.H. Field Services to operate a few wells that I bought in around 2011 in
6 Oklahoma.

7 Q **How long did you work as J.H. Field Services?**

8 A I shut down J.H. Field Services in 2020 when I had surgery for prostate cancer. I
9 did not really do any work during that time. Gary then got his own bond for a
10 company doing business as J.H. Field Services about 3 years ago and operates some
11 of those leases and does work for the State of Oklahoma. People know me and still
12 call me, and Gary does the work.

13 Q **Did you have any interactions or involvement with Mark when you were**
14 **working as J.H. Field Services?**

15 A No. I did not hear from or have any interactions with Mark at all from the very end
16 of my employment at Belport in 2001-2002 until he contacted me in mid 2023 and
17 asked if I was still pulling wells. I then put a crew on a rig and worked for Mark
18 sporadically for about a year. Our deal was that as soon as a well was finished, he
19 had to pay. We had enough of him after about a year, let the crew go, and stopped
20 doing any work with him.

21 Q **When did you then hear again from Mark?**

1 A He called me last year and asked me to do MITs in Kansas. He also asked if I would
2 form a company in Kansas that could operate some wells for him because he was
3 having some difficulty operating them because of the KCC.

4 Q **Did you do the MITs?**

5 A I worked with Thad Triboulet to schedule MITs and had several of them done, but
6 Thad then told me he could not schedule any more of them. I emailed the KCC,
7 then someone called me and said he wasn't sure I had the finances to be able to do
8 it. I am not sure what he meant by that.

9 Q **Did you form a company in Kansas to attempt to operate some wells for Mark?**

10 A Yes, but only if Mark agreed to pay the costs and not haggle over the invoices.
11 Mark loved negotiating invoices with his contractors, and I wanted no part of that.
12 I also made it very clear with Mark that I would be operating the wells and have
13 full control. I said I want to start with one lease at a time, you tell me which wells
14 are the best ones and what problems do I need to resolve.

15 Q **What was the name of that company?**

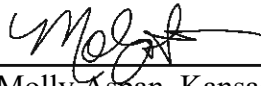
16 A Emerson Operating, LLC.

17 Q **There is testimony that Emerson and you would not be the "true operator" of**
18 **the lease, but that it would just be Mark by a different name. How would you**
19 **respond?**

20 A I would absolutely be the true operator of the lease. Mark may try to give me
21 direction, but I have almost 50 years of experience operating leases and we have
22 both always been very clear that Emerson would be the operator, not Mark.

23 Q **Do you have anything else you would like to add?**

Respectfully submitted,



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ATTORNEY FOR EMERSON OPERATING, LLC

CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2025, I transmitted the foregoing Pre-Filed Direct and Rebuttal Testimony of Joe Harper for Emerson Operating, LLC by means of electronic service to the following:

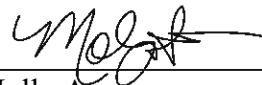
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Molly Aspan

From: do-not-reply@ks.gov
To: [Molly A. Aspan](#)
Cc: kcc.docket-room@ks.gov; paula.murray@ks.gov
Subject: KCC E-Filing Filing Received
Date: Friday, May 2, 2025 7:25:08 PM

The Kansas Corporation Commission (KCC) E-Filing system has received a filing.

Transaction Id: 20250502_itlwt

Date submitted: 05/02/2025

File Name: Prefiled Direct and Rebuttal Testimony of Joe Harper.pdf

Security: PUBLIC

Industry: Conservation

Filing Type: Testimony

Docket Number: 25-CONS-3236-CMSC

Caption: Pre-Filed Direct and Rebuttal Testimony of Joe Harper for Emerson Operating, LLC

You will receive a Confirmation of Receipt when the Docket Room processes your filing.

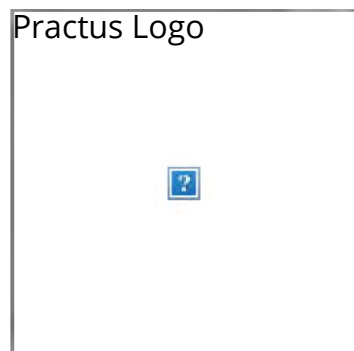
Kansas Corporation Commission



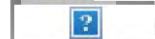
Docket Room 785-271-3266

From: [Molly A. Aspan](#)
To: [John Horst](#); [Kelcey Marsh](#); [Jon Myers \[KCC\]](#); [Deanna Garrison](#); [Kraig Stoll](#)
Subject: RE: Docket No. 25-CONS-3236-CMSC
Date: Friday, May 2, 2025 7:58:42 PM
Attachments: [Prefiled Direct and Rebuttal Testimony of Joe Harper.pdf](#)

Attached is the Pre-Filed Direct and Rebuttal Testimony of Joe Harper for Emerson Operating, LLC.

Molly A. Aspan ☐
Partner



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 [My Bio](#) | [Connect on LinkedIn](#)

From: John Horst <jrhorst48@yahoo.com>
Sent: Friday, May 2, 2025 1:40 PM
To: Kelcey Marsh <kelcey.marsh@ks.gov>; Jon Myers [KCC] <jon.myers@ks.gov>; Deanna Garrison <d.garrison@kcc.ks.gov>; Kraig Stoll <kraig.stoll@ks.gov>; Molly A. Aspan <molly.aspan@practus.com>
Subject: Docket No. 25-CONS-3236-CMSC

Attached is the Pre-Filed Direct and Rebuttal Testimony of Mark W. McCann.

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From: Kelcey Marsh [KCC]
To: Molly A. Aspan
Subject: KCC Docket: 25-CONS-3236-CMSC
Date: Wednesday, May 28, 2025 4:54:28 PM
Attachments: image001.png

Good afternoon,

Commission Staff noticed an issue in the referenced docket regarding the request to transfer wells from Quito to Emerson Operating regarding the testimony filed by Mr. Joe Harper which we would like to bring to your attention. The deadline to file the testimony was May 2, 2025. However, Mr. Harper's testimony was not filed until May 5, 2025. In the Commission's Order Designating Presiding Officer and Setting Prehearing Conference, Ordering Clause D provides, "Any filing received after 5:00 p.m. shall be considered filed the next business day. In addition, any late filing shall be accompanied by a Motion to File Out-of-Time." Here is a link to the Commission's Order for your reference: https://estar.kcc.ks.gov/estar/ViewFile.aspx/25-3236._Order_Designating_PO_and_setting_PHC.pdf?Id=560435bf-6cda-4ad9-b961-044139f5dfa8.

Since Mr. Harper's testimony was not timely filed and not accompanied by a Motion to File Out-of-Time, Staff believes that it would be inappropriate for the Commission to currently consider the testimony for the reasons provided above. If a copy of Mr. Harper's testimony accompanied by the appropriate Motion to File Out-of-Time is not promptly filed with the Commission, then Staff intends to object to Mr. Harper's testimony being admitted in its entirety. Please let me know if you have any questions.

Sincerely,

Kelcey Marsh
Litigation Counsel



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