

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

Before Commissioners: Dwight D. Keen, Chair
 Susan K. Duffy
 Andrew J. French

In the matter of non-compliance by Prairie) Docket No: 22-CONS-3349-CMSC
Gas Operating, LLC (Operator) with the)
Commission's Final Order in four) CONSERVATION DIVISION
consolidated dockets, regarding the Earl #1,)
Fecht D #1, and Watson #1 wells.) License No: 35442

**ORDER DESIGNATING PRESIDING OFFICER
AND SETTING PREHEARING CONFERENCE**

The Commission rules as follows:

1. On February 17, 2022, the Commission issued a Final Order in consolidated dockets 20-3129, 20-3144, 20-3220, and 21-3199, which stated in pertinent part:
 - A. Regarding the Earl #1, Fecht D #1, and Watson #1, within 30 days Operator shall either plug each well, or conduct a Staff-witnessed casing-integrity test upon each well in a manner prescribed or approved by an agent of the Commission. If Operator elects to conduct a casing integrity test, and in the opinion of Staff the test does not demonstrate the effectiveness of the casing, then within 30 days of the test, Operator shall either demonstrate the effectiveness of the casing to the satisfaction of Staff, or plug the well.
 - B. If Operator fails to comply with Ordering Clause A, then Staff is directed to file a report in a separate docket created for such purpose, describing the nature of the non-compliance, so that the Commission may contemplate the need for remedies, including monetary penalties.
2. On April 11, 2022, Commission Staff filed a report in the present docket, stating Operator has not complied with the Final Order as it pertains to the Earl #1, Fecht D #1, and Watson #1 wells, and describing the nature of the non-compliance.
3. The Commission finds it appropriate to contemplate the need for remedies, including monetary penalties. The Commission explicitly notes that it intends to contemplate the entire range of remedies available under statute, not merely Staff's recommendation in its report.

4. In anticipation of a hearing regarding such remedies, the Commission finds that under K.S.A. 77-551(c) a presiding officer should be designated in this proceeding to determine procedural matters that may arise prior to a hearing on the merits, including but not limited to conducting prehearing conferences.¹ The Commission also finds a Prehearing Conference should be scheduled.

5. Under K.A.R. 82-1-228(d)(1), any party may either “appear before the Commission and be heard in person on that party’s own behalf,” or appear before the Commission through a licensed attorney. Because Operator is an artificial entity, it cannot appear in person.² Thus, Commission regulations require artificial entities such as Operator to appear before the Commission via counsel. Even if Commission regulations did not require counsel in this matter, the Commission finds it would be in the public interest to require counsel via order.³

THEREFORE, THE COMMISSION ORDERS:

A. The Presiding Officer for prehearing matters in this proceeding shall be Jonathan R. Myers, Assistant General Counsel, Kansas Corporation Commission, 266 N. Main Street, Suite 220, Wichita, Kansas, 67202-1513, telephone number (316) 337-6245, email address j.myers@kcc.ks.gov. The Commission may designate other Staff members to serve in this capacity.

B. A Prehearing Conference is scheduled for **Thursday, June 2, 2022, at 1:30 p.m.** by telephone. The conference call information is: telephone number (913) 227-1201, passcode 625695.

Operator must appear via a licensed attorney. Prior to the Prehearing Conference, Operator’s attorney must file an entry of appearance, comporting with the pleading requirements of K.A.R. 82-1-219 and identifying the filer as a licensed attorney.

¹ See also K.S.A. 77-516 and K.S.A. 77-517.

² See *State ex rel. Stephan v. Williams*, 246 Kan. 681, 691 (1990).

³ The administration of justice is efficiently furthered by requiring persons licensed to practice law and familiar with procedure to represent artificial entities. See *In re Arnold*, 274 Kan. 761, 770 (2002). See also K.S.A. 77-515(c) (“A state agency may require a corporation or other artificial person to participate by counsel.”).

C. At the Prehearing Conference, parties shall be prepared to discuss deadlines for filing testimony and briefs, discovery procedures, scheduling of a hearing with the Commission, and any other issues that will promote the orderly and prompt resolution of this proceeding. At the Prehearing Conference, without further notice, this proceeding may be converted into a conference hearing or a summary proceeding for disposition of this matter as provided by the Kansas Administrative Procedure Act (KAPA). Any party that fails to attend or participate in the Prehearing Conference, hearing, or other stage of this proceeding may be held in default under the KAPA.⁴


D. 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. **The Commission directs electronic service of all filings in the docket to include service on the Presiding Officer and mailed service of all filings to be directed to the Presiding Officer's attention.**

E. The attorney designated to appear on behalf of the agency in this proceeding is Kelcey Marsh, Litigation Counsel, telephone number (316) 337-6200, k.marsh@kcc.ks.gov.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 05/10/2022



Lynn M. Retz
Executive Director

Mailed Date: 05/10/2022
JRM

⁴ K.S.A. 77-506; K.S.A. 77-516(c)(7)-(8).

CERTIFICATE OF SERVICE

22-CONS-3349-CMSC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 05/10/2022.

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/S/ DeeAnn Shupe

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