# THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Andrew J. French, Chairperson

Dwight D. I Annie Kuet		
In the matter of the application of Gateway Resources U.S.A., Inc. (Operator) for an	,	Docket No: 24-CONS-3114-CMSC
Operator's License Renewal.	)	CONSERVATION DIVISION
	_ )	License No: 32353

# ORDER DESIGNATING PRESIDING OFFICER AND SETTING PREHEARING CONFERENCE

The Commission rules as follows:

Before Commissioners:

- 1. On October 19 2023, the Commission an order denying Operator's July 18, 2023, license renewal application. On October 30, 2023, Operator requested a hearing.
- 2. Under K.S.A. 77-551(c), the Commission finds 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.<sup>1</sup>
  - 3. The Commission finds a prehearing conference should be scheduled.
- 4. 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.<sup>2</sup> 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.<sup>3</sup>

<sup>2</sup> See State ex rel. Stephan v. Williams, 246 Kan. 681, 691 (1990).

<sup>&</sup>lt;sup>1</sup> See also K.S.A. 77-516 and K.S.A. 77-517.

<sup>&</sup>lt;sup>3</sup> 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.").

### 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 others to serve in this capacity.

B. A prehearing conference is scheduled for **Thursday**, **November 16**, **2023**, **at 2:00 p.m.** by telephone. The conference call information is: telephone number (253) 205-0468, Meeting ID 5248125436.<sup>4</sup> **Operator must appear via a licensed attorney.** 

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.<sup>5</sup>

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.

<sup>&</sup>lt;sup>4</sup> If prompted, there is no Participant ID; just press pound to continue.

<sup>&</sup>lt;sup>5</sup> K.S.A. 77-506; K.S.A. 77-516(c)(7)-(8).

E.	The attorney designated to appear on behalf of the agency in this proceeding is Kelcey
Marsh, Li	tigation Counsel, telephone number (316) 337-6200, k.marsh@kcc.ks.gov.
BY THE	COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commission	ner; Kuether, Commissioner
Dated: 11/07/2023	Lynn M. Ref
	Lynn M. Retz
	Executive Director
Mailed Date: <u>11/07/2023</u> JRM	

### **CERTIFICATE OF SERVICE**

#### 24-CONS-3114-CMSC

I, the undersigned, certify that a true copy	of the attached (	Order has been	served to the f	following by	means of
first class mail and electronic service on _	11/07/2023				

A. BLAINE HANKS
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/S/ KCC Docket Room

KCC Docket Room