

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of a General Investigation to)	
Examine the Legal Issues Pertaining to the)	Docket No. 18-CONS-3224-CINV
Notice Requirements for Applications, Filed)	
Between October 2008 and the Present,)	CONSERVATION DIVISION
Seeking Underground Injection of Salt Water)	
Pursuant to K.A.R. 82-3-402)	

ORDER CLARIFYING DEADLINES

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having reviewed the pleadings and record, and being fully advised in the premises, the Commission makes the following findings:

Background

1. On November 21, 2017, the Commission opened a general investigation to examine the legal issues pertaining to the notice requirements for applications, filed between October 2008 and the present, seeking underground injection of salt water pursuant to K.A.R. 82-3-402.¹ The Order opening the general investigation provided “affected operator[s]” forty-five (45) days from the issuance of Commission Conservation Staff’s (Staff) Report and Recommendation (R&R) to enter an appearance and file a responsive legal brief,² that date being April 5, 2018.³ The Order provided “interested parties who are granted intervention” the same forty-five (45) days to file a responsive legal brief⁴ and gave “members of the general public” until April 5, 2018, to submit public comments.⁵

¹ *Order Opening General Investigation* (Nov. 21, 2017).

² *Id.*, ¶ 9.

³ *Id.*, ¶ 15.

⁴ *Id.*, ¶ 11.

⁵ *Id.*, ¶ 13.

2. On February 19, 2018, Staff filed its R&R, stating it would serve the R&R on all members of the Oil and Gas Advisory Committee simultaneously with the filing of the Notice of Filing of Staff's Report and Recommendation.⁶ Staff also stated its intent to "serve all operators for whom applications for injection authority were approved, going back to October 2008, where the applicant's publication notice informed persons that they only had 15 days from publication to file an objection or protest."⁷ Given the logistics of serving a large number of operators, Staff suggested "that the Commission-ordered deadlines for entries of appearance, petitions for intervention, and submission of briefs commence with the filing of Staff's follow-up notice that such service is complete."⁸

3. On March 7, 2018, Staff filed a Notice and Explanation of Service, noting that the Commission's *Order Opening General Investigation*, Staff's R&R, and the Notice and Explanation of Service "have today been served by Staff upon every operator currently listed as an operator of an unplugged well with a permit in" Exhibit B attached to Staff's Notice and Explanation of Service.⁹ Staff renewed its suggestion that the Commission-ordered deadlines from the *Order Opening General Investigation* commence with the March 7, 2018, filing of the Notice and Explanation of Service.¹⁰

4. On March 22, 2018, the Eastern Kansas Oil & Gas Association (EKOGA) filed a Motion for an Order Clarifying Deadlines. EKOGA stated that it "concurs with Staff that affected operators should be allowed 45 days after SERVICE of Staff's Report and Recommendation herein in order to enter their appearance and submit briefs, consistent with the intent of Paragraph 9 of

⁶ Notice of Filing of Staff's Report and Recommendation, ¶ 5 (Feb. 19, 2017).

⁷ *Id.*, ¶ 6.

⁸ *Id.*

⁹ Notice and Explanation of Service, ¶ 6 (Mar. 7, 2018).

¹⁰ *Id.*, ¶ 7.

the Order Opening General Investigation.”¹¹ According to EKOGA, forty-five (45) days from service of Staff’s R&R would put the due date for affected operators to enter their appearances and file briefs at April 23, 2018.¹²

Findings

5. Given the general investigation’s purpose of creating a record on the legal questions pertaining to publication notice for underground injection well applications described in the *Order Opening General Investigation* and the Commission’s desire to have broad input on the understanding of those legal questions,¹³ the Commission finds it prudent to begin the forty-five (45) day period for entries of appearance and filing of legal briefs on March 7, 2018, leading to a deadline of April 23, 2018.

6. Although EKOGA’s Motion only mentions “interested parties” in passing,¹⁴ the Commission’s *Order Opening General Investigation* also gave “interested parties who are granted intervention . . . 45 days from Staff’s filing of its Report and Recommendation to file legal briefs.”¹⁵ Thus, the Commission finds that interested parties who have been granted intervention shall also have until April 23, 2018, to file their briefs.

7. The Commission also extends the public comment period for “members of the general public” to April 23, 2018.¹⁶ Thus, the Commission’s Public Affairs and Consumer Protection (PACP) division shall have until April 30, 2018, to file its report in the docket summarizing the public comments received by April 23, 2018.

¹¹ Motion for an Order Clarifying Deadlines, ¶ 6 (Mar. 22, 2018).

¹² *Id.*, ¶ 7.

¹³ See *Order Opening General Investigation*, ¶ 16.

¹⁴ See Motion for an Order Clarifying Deadlines, ¶ 5.

¹⁵ *Order Opening General Investigation*, ¶ 11.

¹⁶ See *Id.*, ¶ 13.

8. Staff's deadline for filing its Legal Brief in this matter,¹⁷ which had been set for June 4, 2018, shall now be June 22, 2018.

THEREFORE, THE COMMISSION ORDERS:

A. April 23, 2018, is the deadline for affected operators to enter appearances and file responsive legal briefs, for interested parties who have been granted intervention to file responsive legal briefs, and for the general public to submit public comments.

B. Staff's brief shall be due on June 22, 2018.

C. The parties have fifteen (15) days from the date of electronic service of this Order in which to petition for reconsideration.¹⁸

D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: 03/27/2018



Lynn M. Retz
Secretary to the Commission

MJD

¹⁷ See *Id.*, ¶ 14.

¹⁸ K.S.A. 55-162; 55-606; K.S.A. 66-118b; K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

18-CONS-3224-CINV

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of
electronic service on 03/27/2018.

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