

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

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

In the matter of the application of Quito Inc. for    )    Docket No: 21-CONS-3274-CEXC  
an exception to the 10-year time limitation of    )  
K.A.R. 82-3-111 for its Soloman #2 well located    )    CONSERVATION DIVISION  
in the SE/4 of Section 18, Township 35 South,    )  
Range 12 East, Chautauqua County, Kansas.       )    License No: 33594  
\_\_\_\_\_ )

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

The Commission rules as follows:

1.        On April 27, 2021, Quito, Inc. (Operator) filed an application as described by the above caption. On August 17, 2021, Commission Staff motioned for the designation of a presiding officer and the scheduling of a prehearing conference.
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

---

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

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

via counsel.<sup>3</sup> 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>4</sup>

**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, September 9, 2021, at 2:30 p.m.** by telephone. The conference call information is: telephone number (866) 620-7326, Conference Code PIN: 3902542751. **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.**

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

---

<sup>3</sup> See also K.A.R. 82-1-228(d)(2) (“[A] corporation shall not be permitted to enter an appearance, except by its attorney.”); Operator is a corporation.

<sup>4</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.”).

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

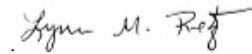
received after 5:00 p.m. shall be considered filed the next business day. In addition, any late filing shall be accompanied by a Motion to File Out-of-Time. **The Commission directs electronic service of all filings in the docket to include service on the Presiding Officer and mailed service of all filings 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.**

French, Chairperson; Keen, Commissioner (Recused); Duffy, Commissioner

Dated: 08/24/2021



Lynn M. Retz  
Executive Director

Mailed Date: 08/24/2021

JRM

## **CERTIFICATE OF SERVICE**

21-CONS-3274-CEXC

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 08/24/2021.

KELCEY MARSH, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
CENTRAL OFFICE  
266 N. MAIN ST, STE 220  
WICHITA, KS 67202-1513  
k.marsh@kcc.ks.gov

JONATHAN R. MYERS, ASSISTANT GENERAL COUNSEL  
KANSAS CORPORATION COMMISSION  
266 N. Main St., Ste. 220  
WICHITA, KS 67202-1513  
j.myers@kcc.ks.gov

TROY RUSSELL  
KANSAS CORPORATION COMMISSION  
DISTRICT OFFICE NO. 3  
137 E. 21ST STREET  
CHANUTE, KS 66720  
t.russell@kcc.ks.gov

MARK W. MCCANN  
QUITO, INC.  
1613 W 6th Street  
Bartlesville, OK 74003  
mccanncompanies@yahoo.com

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe