

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

In the Matter of the Application of Gateway)	Docket No. 24-CONS-3114-CMSC
Resources U.S.A., Inc. (Operator) for an)	
Operator's License Renewal.)	CONSERVATION DIVISION
)	
)	License No. 32353

PRE-FILED TESTIMONY OF

NANCY BORST

ON BEHALF OF COMMISSION STAFF

JANUARY 2, 2024

1 **Q. What is your name and business address?**

2 A. Nancy D. Borst, 266 N. Main St., Suite 220, Wichita, KS 67202

3 **Q. By whom are you employed and in what capacity?**

4 A. I am employed by the Conservation Division of the Kansas Corporation Commission as an
5 Administrative Specialist in the Licensing and Legal departments.

6 **Q. Would you please briefly describe your background and work experience?**

7 A. I worked as the Communications Coordinator and Public Information Officer for Kingman
8 County from 2013 to 2017. Prior to that I was the managing editor of the Kingman Leader-
9 Courier newspaper. I have worked in various roles in journalism for the past forty-four years
10 and continue to own a freelance journalism business. I have a Bachelor of Science degree
11 from the University of Kansas. I have worked for the Kansas Corporation Commission since
12 February 2018 as an Administrative Specialist. My primary duties include processing and
13 reviewing license applications, processing open records requests, and processing legal filings.

14 **Q. Have you previously testified before this Commission?**

15 A. Yes.

16 **Q. What is the purpose of your testimony in this matter?**

17 A. The purpose of my testimony is to discuss the evidence supporting the Commission's findings
18 relating to the Order Denying Application for License issued to Gateway Resources U.S.A.,
19 Inc. (Operator) in this docket - Docket 24-CONS-3114-CPEN (Docket 24-3114). Specifically,
20 my testimony will discuss Operator's license.

21 **Q. Please provide a brief overview of the facts in this docket.**

22 A. Operator's application for license renewal was denied by the Commission because Operator's
23 application did not meet the requirements of K.S.A. 55-155(c)(4) and K.A.R. 82-3-120(g)(2).

Operator is suspended for non-compliance with a Commission order, specifically Docket 17-CONS-3474-CMSC (Docket 17-3474).

Q. Will you please explain the requirements of K.S.A. 55-155(c) and K.A.R. 82-3-120(g)(2)?

A. Yes. K.S.A. 55-155(c)(3), (4) and K.A.R. 82-3-120(g)(2) provide that in order to obtain approval of a license or license renewal, an applicant: (1) If registered with the Securities and Exchange Commission, must demonstrate to the Commission's satisfaction that the applicant complies with all requirements of Chapter 55 of the Kansas Statutes Annotated, and amendments thereto, all rules and regulations adopted thereunder and all commission orders and enforcement agreements; or (2) If not registered with the Securities and Exchange Commission, must demonstrate to the Commission's satisfaction that the following individuals comply with all requirements of Chapter 55 of the Kansas Statutes Annotated and amendments thereto, all rules and regulations adopted thereunder, and all commission orders and enforcement agreements: (1) the applicant; (2) any officer, director, partner, or member of the applicant; (3) any stockholder owning in the aggregate more than 5% of the stock of the applicant; and (4) any spouse, parent, brother, sister, child, parent-in-law, brother-in-law, or sister-in-law of the foregoing.

Q. When did Operator submit its license renewal?

A. Operator submitted its license renewal on July 18, 2023.

Q. Did Operator indicate it was registered with the Securities and Exchange Commission?

A. No.

Q. Why were you unable to process Operator's license renewal?

A. I was unable to process Operator's license renewal because Operator was not in compliance with all requirements of Chapter 55 of the Kansas Statutes Annotated, and amendments

1 thereto, all rules and regulations adopted thereunder and all Commission Orders and
2 enforcement agreements. Specifically, Operator's license was suspended due to non-
3 compliance with a Commission approved compliance agreement.

4 **Q. Did Commission Staff send a Notice of Violation (NOV) letter to Operator regarding its**
5 **application not meeting the requirements of K.S.A. 55-155(c) and K.A.R. 82-3-120?**

6 A. Yes. I was cc'd on an NOV letter that was sent to Operator from Commission Legal Staff on
7 July 25, 2023. The letter stated Staff could not process Operator's license application at that
8 time, and that Staff would recommend denial of Operator's application if the underlying issue
9 was not resolved by August 25, 2023. A copy of this letter is attached to the Commission's
10 Order Denying Application for License as Exhibit A.

11 **Q. To your knowledge, has Operator resolved the underlying issue?**

12 A. No. It appears that Operator's license is still listed as suspended in the Commission's Risk
13 Based Data Management System (RBDMS).

14 **Q. Did you have any communications with Operator regarding its license renewal?**

15 A. No.

16 **Q. Please summarize your recommendations.**

17 A. I recommend the Order Denying Application for License be affirmed. It appears Operator
18 failed to address the underlying issue resulting in the suspension of its license by the deadline
19 provided in the NOV letter and that Commission rules and regulations prevent the renewal of
20 Operator's license.

21 **Q. Does this conclude your testimony?**

22 A. Yes.

CERTIFICATE OF SERVICE

24-CONS-3114-CMSC

I, the undersigned, certify that a true and correct copy of the attached Prefiled Testimony of Nancy Borst has been served to the following by means of electronic service on January 2, 2024.

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