

**Comments of Lane R. Palmateer  
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Before the  
Joint Committee on Administrative Rules and Regulations  
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Chair and members of the Committee, I am Lane Palmateer, Litigation Counsel for the Kansas Corporation Commission, Conservation Division. Today, I will provide comment on the proposed new regulations K.A.R. 82-3-1200 through K.A.R. 82-3-1223.

K.S.A. 66-1274 directs the Commission to establish rules and regulations establishing requirements, procedures, and standards for the safe and secure injection of compressed air into storage wells, including maintenance of underground storage of compressed air (“compressed air energy storage” or “CAES”). Specifically, K.S.A. 66-1274 required that the regulations include the following: 1) site selection criteria; 2) design and development criteria; 3) operation criteria; 4) casing requirements; 5) monitoring and measurement requirements; 6) safety requirements, including public notification; 7) closure and abandonment requirements, including an annual demonstration of financial ability to cover the cost of closing the permitted facility; and 8) long-term monitoring. The proposed regulations address each of these categories. I will provide a summary of the regulations as a whole, and then I will briefly address each regulation.

### **Summary**

These regulations provide a framework to govern compressed air energy storage activities from the initial permit application until the storage wells are plugged and the storage facility is decommissioned and abandoned. The regulations address both cavern storage facilities and reservoir storage facilities. The specificity of the regulations will assist regulators and potential CAES permit applicants who are looking for guidance.

We regret not meeting the target date contained in K.S.A. 66-1274 for having these regulations adopted. Regulation development was complicated because there are few CAES facilities operating worldwide, and no other state currently has CAES regulations in place. The regulations were initially sent to the Department of Administration during the first week of October 2010. The Department of Administration and Attorney General reviews were lengthy due to the complexity of the regulations.

Fees are proposed in the regulations to offset the costs of enforcement. There is a \$1,500 license application fee for each operator, which will recur annually. There is also an annual permit fee of \$18,890 for each storage facility and \$305 for each storage well. The permit fees are based on those used by the KDHE for cavern storage of natural gas (See K.A.R. 28-45a-19). The regulations also contain a permit application fee of \$1,500 and additional \$1,500 fees whenever an operator submits specified plans or performs specified activities, to offset the substantial amount of time that Staff will spend reviewing permits and plans.

These regulations do not address the private property rights needed to perform CAES activities, because private property rights are outside the Commission's jurisdiction. These regulations also do not cover the solution mining of a salt cavern that will be used for CAES activities, because the solution mining falls under the KDHE's jurisdiction over Class III injection wells. The regulations do not cover the monitoring of air emissions from storage wells and storage facilities to ensure compliance with the Kansas Air Quality Act, because K.S.A. 66-1275 states that the KDHE shall monitor air emissions and the KDHE has enacted regulations for this purpose. K.S.A. 66-1276 provides that the KCC and KDHE may enter into a memorandum of understanding, and we anticipate that the memorandum will be finalized in the near future.

These proposed regulations were reviewed by the Commission's Oil and Gas Advisory Board Committee, as required under K.S.A. 55-153, before the initial submission to the Department of Administration and Attorney General. The official notice for these proposed regulations has been made in the *Kansas Register*. In addition, the proposed regulations, notice of hearing, and economic impact statement are available on the Commission's website, which is [kcc.ks.gov](http://kcc.ks.gov). A public hearing will be conducted on the proposed regulations on October 18, 2012, at the Kansas Corporation Commission office in Wichita. To date, the Commission has not received any written comments on the proposed regulations. Comments are currently being accepted by regular mail and by email at [oilandgasregcomments@kcc.ks.gov](mailto:oilandgasregcomments@kcc.ks.gov).

The following is a brief summary of each regulation:

**K.A.R. 82-3-1200.** This regulation defines the terms used in the CAES regulations.

**K.A.R. 82-3-1201.** This regulation requires a license for the CAES operator, describes the license application process, and creates a requirement of financial assurance.

**K.A.R. 82-3-1202.** This regulation requires that the operator designate a signatory for any permit application, amendment application, and facility permit transfer. It also specifies that any report not signed by a licensed professional geologist, licensed professional engineer, or licensed professional land surveyor must be signed by a plant or operations manager, a superintendent, a cavern or reservoir storage specialist, or a person holding a position with equivalent responsibility.

**K.A.R. 82-3-1203.** This regulation requires the issuance of a permit for a CAES facility before the commencement of operations, and it describes the permit application.

**K.A.R. 82-3-1204.** This regulation describes the notice requirements for a CAES permit application. The regulation describes how protests can be filed, and it describes the notice requirements for any hearing on the application.

**K.A.R. 82-3-1205.** This regulation requires an application to amend a CAES permit for certain activities or changes. The regulation also sets out the notice required for the amendment application.

**K.A.R. 82-3-1206.** This regulation describes the requirements for transferring a CAES permit to a different operator.

**K.A.R. 82-3-1207.** This regulation sets out the conditions under which the Commission may modify, suspend, or cancel a CAES permit.

**K.A.R. 82-3-1208.** This regulation creates requirements regarding the site selection for a CAES facility, including the requirement that the operator submit a site selection plan.

**K.A.R. 82-3-1209.** This regulation specifies the required design and construction of CAES wells, including the requirement that the operator submit a drilling and completion plan.

**K.A.R. 82-3-1210.** This regulation creates requirements for the construction and equipment of a CAES facility, including the submission of a storage facility integrity plan.

**K.A.R. 82-3-1211.** This regulation creates requirements for an operator performing a workover on a CAES well, including the required submission of a workover plan.

**K.A.R. 82-3-1212.** This regulation creates requirements for the operation, monitoring, and measurement requirements for cavern CAES wells.

**K.A.R. 82-3-1213.** This regulation creates requirements for the operation, monitoring, and measurement requirements for reservoir CAES wells.

**K.A.R. 82-3-1214.** This regulation specifies long-term monitoring, measurement, and testing requirements for cavern CAES facilities and wells to ensure mechanical integrity.

**K.A.R. 82-3-1215.** This regulation specifies long-term monitoring, measurement, and testing requirements for reservoir CAES facilities and wells to ensure mechanical integrity.

**K.A.R. 82-3-1216.** This regulation requires the CAES operator to submit and comply with a safety and emergency response plan.

**K.A.R. 82-3-1217.** This regulation requires the CAES operator to perform a safety inspection on an annual basis and describes the various aspects of the safety inspection.

**K.A.R. 82-3-1218.** This regulation describes the conversion of a cavern CAES well to plugging-monitoring status, which is a necessary step before plugging a cavern CAES well. The regulation includes the requirement that the operator submit a plugging-monitoring status plan.

**K.A.R. 82-3-1219.** This regulation creates requirements for the plugging of any cavern or reservoir CAES well, including the submission of a plugging plan. The regulation also specifies circumstances in which plugging a well may be required.

**K.A.R. 82-3-1220.** This regulation describes the circumstances under which a reservoir CAES facility or well may be temporarily abandoned.

**K.A.R. 82-3-1221.** This regulation creates requirements for the decommissioning and abandonment of a CAES facility.

**K.A.R. 82-3-1222.** This regulation specifies reporting and record retention requirements for CAES operators.

**K.A.R. 82-3-1223.** This regulation lists the regulatory fees applicable to CAES operators and facilities.

If the Committee has questions, I would be happy to answer them.

Thank you.

2-4