

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 09-0273416

**APPLICATION OF XTO ENERGY, INC., PURSUANT TO THE MINERAL INTEREST
POOLING ACT FOR THE PROPOSED WESCO A1 POOLED UNIT, WELL NO. 10H,
NEWARK, EAST (BARNETT SHALE) FIELD, TARRANT COUNTY, TEXAS**

FINAL ORDER

The Commission finds that, after statutory notice in the above-numbered docket, heard on April 25, 2012, the examiners have made and filed a report and proposal for decision containing findings of fact and conclusions of law, which was served on all parties of record, and that this proceeding was duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas.

The Commission, after review and due consideration of the proposal for decision and the proposed findings of fact and conclusions of law contained therein, and any exceptions and replies thereto, hereby adopts as its own proposed Findings of Fact Numbers 1 through 6 and 9 through 18 and proposed Conclusions of Law Numbers 1, 6, and 7 and incorporates said findings of fact and conclusions of law as if fully set out and separately stated herein. Proposed Conclusions of Law Numbers 6 and 7 are renumbered as Conclusions of Law Numbers 2 and 3. The Commission declines to adopt proposed Findings of Fact Numbers 7, 8, and 19 through 21 and proposed Conclusions of Law Numbers 2 through 5 and 8 through 11 contained in the proposal for decision. The Commission hereby adopts the following substitute Finding of Fact and Conclusions of Law:

Substitute Finding of Fact No. 7 The standard drilling and proration unit for the Newark, East (Barnett Shale) Field is 320 acres. An operator is permitted to form optional drilling units of 20 acres.

Substitute Finding of Fact No. 8. If the proposed well is successfully completed, granting compulsory pooling, as ordered herein, will allow unleased, non-drillsite mineral owners within the perimeter of the pooled unit who would not otherwise be entitled to receive payments from production from the proposed well to receive such payments.

Substitute Conclusion of Law No. 4. Compulsory pooling of the owners of the unleased tracts within the area of the proposed Page Street D1 Unit as owners of a 1/4th royalty and a 3/4ths working interest, proportionately reduced, with these owners' share of expenses, subject to a risk penalty of zero, payable only from

3/4ths of production, and subject to a no-surface-use restriction, is fair and reasonable within the meaning of Texas Natural Resources Code § 102.017.

Substitute Conclusion of Law No. 5. Compulsory pooling, as ordered herein, meets all requirements of the Mineral Interest Pooling Act, Texas Natural Resources Code §§ 102.001–102.112.

Therefore, it is **ORDERED** that the application of XTO Energy, Inc. for the formation of a pooled unit pursuant to the Mineral Interest Pooling Act for the proposed Wesco A1 Unit, Well No. 10H, Newark, East (Barnett Shale Field), Tarrant County, Texas, is hereby **GRANTED** to the extent, and subject to the terms and conditions, set forth in this order.

All interests, including working interests, royalty interests, and unleased mineral interests, in tracts within the area identified in Appendix 1 to this Final Order are pooled into the Wesco A1 Unit, Well No. 10H, to form a 229.597-acre pooled unit out of the William Welch Survey, A-1644, and the Peter Rouche Survey, A-1340, in Tarrant County, Texas. These interests are pooled into a proration unit for the drilling of a horizontal well in the Newark, East (Barnett Shale) Field at the location shown on XTO's Exhibit No. 3 from this docket, which is attached as Appendix 2 to this order, subject to the following terms and conditions:

TERMS AND CONDITIONS

1. The name of the unit is the XTO Energy, Inc. Wesco A1 Unit.
2. The operator of the unit is XTO Energy, Inc.
3. The unit well is the well depicted on Appendix 2 to this order.
4. The unit shall be effective on the date this order becomes administratively final.
5. The unit is established for and limited to the depth interval correlative with the Newark, East (Barnett Shale) Field.
6. The unit is established for and limited to the well depicted on Appendix 2 to this order.
7. For the purpose of determining the portion of production owned by the persons owning interests in the pooled unit, the production shall be allocated to the respective tracts within the unit in the proportion that the number of surface acres included within each tract bears to the number of surface acres included in the entire unit.
8. The interests of lessors of tracts within the unit are pooled as royalty interests. The interests of XTO Energy, Inc., Chesapeake Exploration, LLC, and Total E&P USA, Inc. in tracts within the unit are pooled as working interests.
9. The owners of all unleased tracts within the unit are pooled as owners of a 1/4th royalty interest and 3/4ths working interest, proportionately reduced. These owners' share of expenses, subject to a zero risk penalty, are payable only from 3/4ths of production and not from their entire mineral interest.

10. The operator shall make no surface use of the unleased tracts within the unit without the written consent of the unleased owner.
11. XTO Energy, Inc. shall make a diligent effort to determine current addresses for all interest owners in the unit. Except as herein provided, payment of the appropriate pro rata share of the proceeds of production of the unit well shall be made, according to the terms of this final order, to each such interest owner for whom a current address and good title has been determined. The pro rata share of proceeds of production for any interest owner for whom a current address cannot be determined, or who declines to execute a division order in the form prescribed by Texas Natural Resources Code § 91.402, shall be held in escrow for the benefit of such owners and be subject to disposition in the manner provided by law.
12. The working interest owners shall adopt a joint operating agreement substantially in the form of the AAPL Form Joint Operation Agreement, which shall not include any provision prohibited by the Mineral Interest Pooling Act or contravene any provision of this final order.

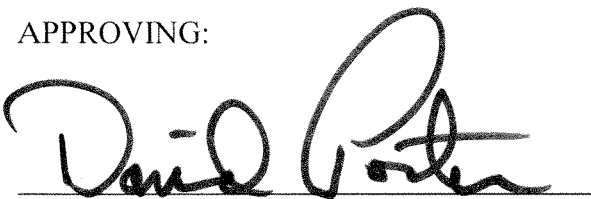
It is further **ORDERED** by the Commission that this order shall not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party of interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to Texas Government Code § 2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the parties are notified of the order.

Each exception to the examiners' proposal for decision not expressly granted herein is overruled. All requested findings of fact and conclusions of law not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or not granted herein are denied.

Done this 12th day of February 2013 in Austin, Texas.

RAILROAD COMMISSION OF TEXAS

APPROVING:


COMMISSIONER DAVID PORTER


COMMISSIONER CHRISTI CRADDICK

DISSENTING:


CHAIRMAN BARRY T. SMITHERMAN

I dissent because Texas Natural Resources Code § 102.011 only authorizes the Commission to grant an MIPA application “for the purpose of avoiding the drilling of unnecessary wells, protecting correlative rights, or preventing waste,” and a line of previous Commission cases indicates these purposes are not served when a Rule 37 exception is available to allow recovery of the same hydrocarbons without resort to force-pooling of mineral interests.

ATTESTING:


SECRETARY

