

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL AND GAS DOCKET NO. 10-0293509

ENFORCEMENT ACTION AGAINST ATHENA ENERGY, INC. (OPERATOR NO. 036051) FOR VIOLATIONS OF STATEWIDE RULES ON THE BART (051420) LEASE, WELL NO. 1, BEAL (MORROW LOWER) FIELD, LIPSCOMB COUNTY, TEXAS

FINAL ORDER

The Railroad Commission of Texas (“Commission”) finds that after statutory notice, the captioned enforcement proceeding was heard by a Commission Administrative Law Judge on July 14, 2016, and that the respondent, Athena Energy, Inc. failed to appear or respond to the Notice of Opportunity for Hearing. Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure, 16 TEX. ADMIN. CODE § 1.49, and after being duly submitted to the Commission at a conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Athena Energy, Inc. (“Respondent”), Operator No. 036051, was sent the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to the most recent Commission Form P-5 (Organization Report) (“Form P-5”) address. Respondent’s officer, as identified on Respondent’s Form P-5—Rodney Schroder, President, and Kay D. Loomis, Resident Agent—were provided the Original Complaint and Notice of Opportunity for Hearing by certified and first class mail, addressed to their last known address.
2. The certified mail envelopes containing the Original Complaint and the Notice of Opportunity for Hearing mailed to Kay D. Loomis, Resident Agent, was returned to the Commission on May 24, 2016. The certified mail envelope mailed to Rodney Schroder, President, was received on May 18, 2016. Record of the return and delivery of certified mail has been on file with the Commission for more than 15 days, exclusive of the day of receipt and day of issuance. Respondent was given more than 30 days’ notice of the Original Complaint and Notice of Opportunity for Hearing. Respondent has not entered into an agreed settlement order, filed an answer, or requested a hearing.
3. On October 13, 2013, Respondent, a corporation, filed a Form P-5 (Organization Report) with the Commission reporting that its officers consist of the following individuals: Rodney L. Schroder, President and CEO.
4. Rodney L. Schroeder was in a position of ownership or control of Respondent, as defined in section 91.114 of the Texas Natural Resources Code, during the time period of the violations of Commission rules committed by Respondent.

5. Respondent's P-5 (Organization Report) is delinquent. Respondent had a \$50,000 letter of credit from First State Bank, as its financial assurance, that expired on November 30, 2014.
6. The violations of Commission rules committed by Respondent are related to safety and the control of pollution.
7. Respondent designated itself to the Commission as the operator of the Bart (051420) Lease, Well No. 1, by filing a Commission Form P-4 (Certificate of Compliance and Transportation Authority), effective July 1, 1997 approved July 10, 1997.
8. Commission inspection reports made on October 1, 2014 and January 22, 2016 for the Bart Lease, show that the sign or identification required to be posted at the lease entrance did not display the correct operator's information.
9. Commission inspection reports made on October 1, 2014 and January 22, 2016 for the Bart Lease, show that the sign or identification required to be posted at the wells displayed the incorrect operator's information for Well No. 1.
10. Commission District inspection reports made on October 1, 2014 and January 22, 2016 for the Bart Lease, show that the sign or identification required to be posted at the tanks were faded.
11. The lack of legible signs and identification displaying correct information, as set forth in Statewide Rules 3(1), 3(2) and 3(3) may cause confusion as to the responsible operator to be contacted and the actual location of a violation or emergency, which can result in delays in remedying a violation or emergency.
12. Commission records reflect that on December 4, 2013, the Commission gave Respondent notice by certified mail of the alleged facts or conduct of Respondent in the operation, or production, of oil or gas from the Bart (051420) Lease, that appeared to violate the oil and gas conservation laws of this state, or rules or orders of the Commission adopted under those laws, to warrant the cancellation of the certificate of compliance. Said notice gave Respondent an opportunity to show compliance with all requirements of law for retention of the certificate of compliance.
13. Commission records reflect that Respondent did not timely show compliance with all requirements of law for retention of its certificate of compliance and, as a result, the certificate of compliance for the Bart (051420) Lease was cancelled. Respondent was given notice of such cancellation, on March 24, 2014.
14. Production reports filed by Respondent with the Commission for the Wilson, C.R. (01911) Lease, from April 2014 to June 2014, show Respondent produced an approximate total of 1103 MCF from the Bart (051420) Lease after the certificate of compliance had been cancelled and before a new certificate of compliance had been issued. Additionally, a commission District inspection report made on October 1, 2014,

showed that Respondent had produced 24.4 MCF of gas within the proceeding 24-hour period of the inspection. A follow up commission District inspection report made on January 22, 2016, shows that Respondent continues to produce the lease. A new certificate of compliance has not been issued for the subject lease as of the date of this Original Complaint.

15. Respondent has no prior history of violations of Commission rules.

CONCLUSIONS OF LAW

1. Proper notice was issued by the Commission to Respondent and all other appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties have been performed or have occurred.
3. Respondent is responsible for maintaining the subject lease in compliance with all applicable Commission rules and chapters 89 and 91 of the Texas Natural Resources Code.
4. Respondent is in violation of Statewide Rules 3(1), 3(2), 3(3), 73(i).
5. The documented violations committed by Respondent constitute acts deemed serious, and a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE § 81.0531(c).
6. Respondent is responsible for maintaining the subject leases in compliance with Statewide Rule 3(1), which requires that for each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil measuring facility, a sign shall be posted at the principal entrance which shall show the name by which the property is carried on the records of the Commission, the name of the operator, and the number of acres in the property.
7. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(2), which requires that each well site that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, name of the operator and the well number.
8. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3(3), which requires that each tank battery that produces oil, gas, or geothermal resources shall post signs or identification showing the name of the property, commission lease number, name of the operator, number of acres in the property and if commingled, include the commingling permit number.
9. Respondent is responsible for maintaining the subject well in compliance with Statewide

Rule 73(i) and TEX. NAT. RES. CODE § 91.706, which requires the operator, upon notice from the Commission that a certificate of compliance has been cancelled, to not produce oil, gas, or geothermal resources until a new certificate of compliance has been issued by the Commission.

10. Pursuant to TEX. NAT. RES. CODE § 81.0531, the Commission may assess administrative penalties against Respondent for the subject violations of up to \$10,000 per day for each violation, with each day such violations continued constituting a separate violation.
11. An assessed administrative penalty in the amount of SEVEN THOUSAND DOLLARS (\$7,000) is justified considering the facts and violations at issue.
12. As a person in a position of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Rodney Schroeder, and any other organization in which he may hold a position of ownership or control, is subject to the restriction in section 91.114(a)(2) of the Texas Natural Resources Code.

IT IS ORDERED THAT within 30 days from the day immediately following the date this order becomes final:

1. Athena Energy, Inc. (Operator No. 220721) shall place the Bart (051420) Lease, Well No. 1, in compliance with Statewide Rules 3(1), 3(2), 3(3), 73(i), and any other applicable Commission rules and statutes.
2. Athena Energy, Inc. (Operator No. 220721) shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of SEVEN THOUSAND DOLLARS (\$7,000.00).

It is further **ORDERED** that as a person in a position of ownership or control of Respondent at the time Respondent violated Commission rules related to safety and the control of pollution, Rodney Schroeder and any other organization in which he may hold a position of ownership or control, shall be subject to the restriction in section 91.114(a)(2) of the Texas Natural Resources Code for a period of no more than seven years from the date the order entered in this matter becomes final, or until the conditions that constituted the violations herein are corrected or are being corrected in accordance with a schedule to which the Commission and the organization have agreed, and all administrative, civil, and criminal penalties and all cleanup and plugging costs incurred by the State relating to those conditions are paid or are being paid in accordance with a schedule to which the Commission and the organization have agreed.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 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 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 TEX. GOV'T 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 this order in accordance with TEX. GOV'T CODE § 2001.144.

All requested findings of fact and conclusions of law, which are not expressly adopted herein, are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

Noncompliance with the provisions of this order is subject to enforcement by the Attorney General and subject to civil penalties of up to \$10,000.00 per day per violation.

Done this 24th day of August 2016.

RAILROAD COMMISSION OF TEXAS

(Signatures affixed by Default Master Order
dated August 24, 2016)

DAL / pbm