RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION

OIL & GAS DOCKET NO. 09-0315626

APPLICATION OF TEP BARNETT USA, LLC PURSUANT TO THE MINERAL INTEREST POOLING ACT FOR THE FORMATION OF A POOLED UNIT FOR THE GGVZ MIPA UNIT, WELL NO. 1H, NEWARK, EAST (BARNETT SHALE) FIELD, TARRANT COUNTY, TEXAS

OIL & GAS DOCKET NO. 09-0315627

APPLICATION OF TEP BARNETT USA, LLC PURSUANT TO THE MINERAL INTEREST POOLING ACT FOR THE FORMATION OF A POOLED UNIT FOR THE GGVZ MIPA UNIT, WELL NO. 2H, NEWARK, EAST (BARNETT SHALE) FIELD, TARRANT COUNTY, TEXAS

EXAMINERS' REPORT AND RECOMMENDATION

HEARD BY: Jennifer Cook, Administrative Law Judge
Robert Musick, P.G., Technical Examiner

PROCEDURAL HISTORY:

Application Filed -	October 5, 2018
Notice of Hearing -	December 7, 2018
Hearing Date -	January 10, 2019
Transcript Received -	January 25, 2019
Record Closed -	March 1, 2019
Conference -	March 26, 2019

APPEARANCES:
For Applicant TEP Barnett USA, LLC -
John Hicks, *Scott Douglass McConnico* – Attorney for Applicant
Rick Johnston, P.E. – Consulting Petroleum Engineer
Jeff Scoggins – Land Manager, TEP Barnett USA, LLC
Jeremiah Johnson – Landman, TEP Barnett USA, LLC
Diego Vega – Landman, TEP Barnett USA, LLC

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I. Statement of the Case

Two docketed cases are presented together in this Examiners' Report and Recommendation ("Report") because they have common facts, parties and legal issues.

Applicant TEP Barnett USA, LLC ("TEP") has filed two applications ("Applications") under the Mineral Interest Pooling Act ("MIPA")[1] asking the Railroad Commission of Texas ("Commission") to establish two pooled units—the GGVZ MIPA 1H Unit covering approximately 115 acres, and the GGVZ MIPA 2H Unit covering approximately 134 acres—for the drilling of horizontal wells in the Newark, East (Barnett Shale) Field in the City of Fort Worth, Tarrant County, Texas. The Applications were heard together. TEP asserts that a compulsory pooling order under MIPA is necessary to prevent waste and protect correlative rights. The Applications are unprotested.

The Administrative Law Judge and Technical Examiner ("Examiners") respectfully submit this Report and recommend that the Commission grant the Applications.

II. Jurisdiction and Notice

Sections 81.051 and 81.052 of the Texas Natural Resources Code provide the Commission with jurisdiction over all persons owning or engaged in drilling or operating oil or gas wells in Texas and the authority to adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the Commission. The MIPA grants the Commission authority to pool mineral interests into a unit under certain conditions.[2]

On December 7, 2018, the Hearings Division of the Commission sent a Joint Notice of Hearing on the Applications via first-class mail to all interested parties, setting a hearing date of January 10, 2019.[3] Applicant published the Notice of Hearing five times in the *Commercial Recorder*, a newspaper of general circulation in Tarrant County, on December 10, 14, 21 and 28, 2018, and January 4, 2019.[4] The mailed and published notices included the specific requests in TEP's applications regarding the proposed size of the units, method of allocation, charge for risk, and designation of operator.[5] The notice contained (1) a statement of the time, place and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted.[6] The hearing was held on January 10, 2019, as noticed. Consequently, all parties received more than 30 days' notice.[7] Applicant appeared at the hearing on January 10, 2019, and presented evidence and argument. No one appeared in protest.

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[1] Tex. Nat. Res. Code §§ 102.001-102.112
[2] *See* Tex. Nat. Res. Code § 102.011.
[3] Applicant's Ex. 3.
[4] Applicant's Ex. 4.
[5] Applicant's Exs. 3, 4.
[6] *See* Tex. Gov. Code §§ 2001.051, 2001.052; 16 Tex. Admin. Code §§ 1.41, 1.42, 1.45.
[7] Tex. Nat. Res. Code § 102.016.

III. Applicable Legal Authority

At issue in these cases is whether Applicant can create pooled units consisting of both leased and force-pooled unleased mineral interests into units under the MIPA. Pertinent sections of the MIPA at issue in this case are as follows:

> Sec. 102.003 APPLICATIONS TO CERTAIN RESERVOIRS. The provisions of this chapter do not apply to any reservoir discovered and produced before March 8, 1961.
>
> Sec. 102.011. AUTHORITY OF COMMISSION. When two or more separately owned tracts of land are embraced in a common reservoir of oil or gas for which the commission has established the size and shape of proration units, whether by temporary or permanent field rules, and where there are separately owned interests in oil and gas within an existing or proposed proration unit in the common reservoir and the owners have not agreed to pool their interests, and where at least one of the owners of the right to drill has drilled or has proposed to drill a well on the existing or proposed proration unit to the common reservoir, the commission, on the application of an owner specified in Section 102.012 of this code and for the purpose of avoiding the drilling of unnecessary wells, protecting correlative rights, or preventing waste, shall establish a unit and pool all of the interests in the unit within an area containing the approximate acreage of the proration unit, which unit shall in no event exceed 160 acres for an oil well or 640 acres for a gas well plus 10 percent tolerance.
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> Sec. 102.012. OWNERS AUTHORIZED TO APPLY FOR POOLING. The following interested owners may apply to the commission for the pooling of mineral interests:
>
> (1) the owner of any interest in oil and gas in an existing proration unit or with respect to a proposed unit;
> (2) the owner of any working interest; or
> (3) any owner of an unleased tract other than a royalty owner.
>
> Sec. 102.013. REQUIRED VOLUNTARY POOLING OFFER.
> The applicant shall set forth in detail the nature of voluntary pooling offers made to the owners of the other interests in the proposed unit.
>
> (a) The commission shall dismiss the application if it finds that a fair and reasonable offer to pool voluntarily has not been made by the applicant.
> (b) An offer by an owner of a royalty or any other interest in oil or gas within an existing proration unit to share on the same yardstick basis as the other owners within the existing proration unit are then sharing shall be

considered a fair and reasonable offer.[8]

According to the MIPA, for an applicant to prevail, the following must be established:

1. There are two or more separately owned tracts of land;
2. They are embraced in a common reservoir of oil or gas;
3. The commission has established the size and shape of proration units for the reservoir;
4. There are separately owned interests in oil and gas within an existing or proposed proration unit in the common reservoir;
5. The reservoir was not discovered and produced before March 8, 1961;
6. The owners have not agreed to pool their interests;
7. At least one of the owners of the right to drill has drilled or has proposed to drill a well on the existing or proposed proration unit to the common reservoir;
8. An application for the Commission to pool has been made by one of the following:
   (1) the owner of any interest in oil and gas in an existing proration unit or with respect to a proposed unit;
   (2) the owner of any working interest; or
   (3) any owner of an unleased tract other than a royalty owner;
9. Applicant made a fair and reasonable offer to pool voluntarily; and
10. A pooled unit will avoid the drilling of unnecessary wells, protect correlative rights, or prevent waste.

If these criteria are met, the Commission must establish a unit and pool all of the interests in the unit within an area containing the approximate acreage of the proration unit.

IV. Discussion of Evidence

A. The Applications

In each of the Applications, TEP asks the Commission to establish a pooled unit consisting of unleased acreage as well as acreage from three voluntary pooled units—the Glen Garden voluntary pooled unit, the Vaquero voluntary pooled unit, and the Ziegler voluntary pooled unit. The MIPA unit names GGVZ MIPA 1H Unit and GGVZ MIPA 2H Unit are an acronym for those three voluntary units. The proposed GGVZ MIPA 1H Unit ("1H Unit") contains approximately 115.188 acres comprised of multiple separate tracts and acreage from the voluntary pooled units. As of the hearing, TEP had leases covering approximately 106.96 net mineral acres, which is 93% of the 1H Unit area. The proposed GGVZ MIPA 2H Unit ("2H Unit") contains approximately 134.228 total acres comprised of multiple separate tracts and acreage from the voluntary pooled units. As of the hearing,

[8] Tex. Nat. Res. Code §§ 102.003, 102.011, 102.012, 102.013.

TEP had leases covering approximately 125.918 net mineral acres, which is 94% of the 2H Unit area.[9] The 1H Unit and the 2H Unit are adjacent to each other.

Other than the size of each proposed unit, the Applications are substantively identical. For each, TEP proposes to drill a well in the Newark, East (Barnett Shale) Field and to allocate production between the three voluntary pooled units and the unleased tracts on a surface-acreage basis. TEP asks that the Commission provide a charge for risk of 100% and that it designate TEP as the operator of the proposed MIPA unit.[10]

B. The Voluntary Pooling Offer

On or about December 3, 2018, TEP sent a voluntary pooling offer to all mineral owners of unleased tracts within the boundaries of the proposed units. TEP offered these unleased mineral owners four options for inclusion of their interests in the respective proposed units: two lease options, a working-interest participation option, and a farm-out option. One lease option was to lease with a 25% royalty and a bonus of $1,500 per net mineral acre, and the other lease option was to lease with a 20% royalty and a bonus of $2,000 per net mineral acre. Both lease options included pooling authority. The participation option provided each unleased owner an opportunity to participate as a working interest owner in the respective proposed unit. By electing this option, the owner would be responsible for a proportionate share of the costs of drilling and completing the well or wells in the unit and would share proportionately in the production from the well. Each offer letter had as an attachment an AFE (Authorization for Expenditure) indicating the estimated cost to complete and drill the relevant well and confirmed that the operating agreement would not contain any of the provisions prohibited by Section 102.015 of MIPA. The farm-out option proposed to each unleased owner that he or she convey to TEP an 80% net revenue interest attributable to his or her mineral interest and retain an overriding royalty interest equal to 20% of 8/8ths, proportionately reduced to the extent that each owner's mineral interest bears to all of the mineral interests in the unit, until payout of all well costs. At payout, the electing owner would have the option to convert the retained override to a 25% working interest, proportionately reduced.[11]

TEP's landman, Jeremiah Johnson, testified that the lease royalties and bonuses that were part of the voluntary pooling offers in this case were the same that TEP had offered in this area and were also the same that the City of Fort Worth, TEP's largest lessor in this area, had recently accepted.[12] Mr. Johnson also testified that the voluntary pooling offers in this case were fair and reasonable and matched the offers that TEP made for its recent MIPA applications within the Carden, Heidi, and Little voluntary units that the Commission approved in 2018.[13] Not all of the owners within the 1H Unit and the 2H Unit have agreed to pool their interests.[14]

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[9] Applicant's Exs. 2A-2B.
[10] *Id.*
[11] Applicant's Exs. 11A, 11B
[12] Tr. 52:1-14.
[13] Tr. 55:18-25 and 51:16-22. The recent MIPA applications referred to are Oil & Gas Docket Nos. 09-0310406, 09-0310407, 09-0310408, 09-0310409, 09-0310410, 09-0310411, 09-0310413, and 09-0310414. See also Applicant's Ex. 25.
[14] Tr. 55:4-6.

C. Field, Discovery Date and State of Texas Ownership

The MIPA does not apply in fields discovered and produced before March 8, 1961, and it does not apply to land in which the State of Texas has an interest unless the State has given consent.[15] These exceptions to MIPA do not apply in this case—the proposed MIPA units include multiple tracts of land that embrace the common reservoir designated by the Commission as the Newark, East (Barnett Shale) Field (the "Field"). The discovery date for the Field was October 15, 1981, and special field rules establishing proration units have been established for the Field.[16] Numerous MIPA applications have been approved in the Field.[17] There are lands in which the State of Texas has an interest, but the Commissioner of the General Land Office has provided the State's consent to TEP's MIPA applications.[18]

D. The Need for MIPA

TEP, through its petroleum engineering expert Rick Johnston, offered evidence that all of the acreage within the proposed MIPA units lies within the productive limits of the Field.[19] In addition, Mr. Johnston prepared a model to predict incremental recovery per additional foot of drainhole from Barnett Shale wells in the area of the MIPA units.[20] For every well within a five-mile radius with sufficient data (570 wells), Mr. Johnston plotted the production over time to determine the well's estimated ultimate oil recovery ("EUR") by decline-curve analysis.[21] Mr. Johnston calculated the estimated drainhole length of each well in the study area, based on the completion reports filed at the Commission for each well,[22] and then plotted each well on a scatter plot with EUR as the y-coordinate and the estimated drainhole length as the x-coordinate.[23] A computer-generated least-squares regression of the plotted data points resulted in a line through the points with a positive slope of 0.7238 and an R-squared coefficient of 0.0502. The inference of this resulting equation is that, on average, a well within the five-mile radius will recover 0.7238 MMCF of gas for each additional foot of drainhole length.

TEP's plats showed that, in spite of the high percentage of acreage under lease, there was no path for the planned wellbores that would not encounter some unleased, unpooled interest.[24] TEP contends that, absent MIPA approval of the proposed wells, the wells could not be drilled, and the underlying recoverable reserves, estimated to be 4.87 BCF for the 1H Unit and 5.81 BCF for the 2H Unit, would not be recovered and therefore would be wasted.[25]

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[15] MIPA §§ 102.003, 102.004.
[16] Applicant's Exs. 15, 16.
[17] E.g., Applicant's Ex. 25.
[18] Applicant's Ex. 2C.
[19] Tr. 83:20-24; Tr. 111:18-24; Applicant's Exs. 17-21.
[20] Tr. 83:17-90:7; Applicant's Exs. 17-20.
[21] Tr. 84:4-85:1; e.g. Applicant's Exs. 18, 19.
[22] Tr. 85:1-9; e.g. Applicant's Exs. 18, 19.
[23] Tr. 89:8-13; Applicant's Ex. 20.
[24] Applicant's Exs. 9A, 9B.
[25] Tr. 110:14-111:4; Tr. 115:25-116:2; Applicant's Ex. 22.

E. Charge for Risk

In the Applications, TEP requests that the Commission's MIPA pooling order include a 100% charge for risk attached to the working-interest component, as authorized under section 102.052 of MIPA.[26] In addition, the mailed and published Notice of Hearing gave notice that TEP was seeking a 100% charge for risk, and no party appeared to protest the 100% charge for risk, or any other aspect of the Applications.[27]

TEP provided evidence that the risk factor in private operating agreements in the Field, as reflected in the non-consent provision, ranges from 200% to 500% of the non-consenting party's share of drilling and completion costs.[28] A 200% non-consent provision in the model form operating agreement is equivalent to a 100% charge for risk under MIPA.[29] TEP provided evidence that the EURs of nearby wells in the Field exhibit significant variance from the average, demonstrating inherent risk associated with each individual well.[30] Mr. Johnston testified that roughly half of the wells in this area of the Field will not payout under current conditions, such that the successful wells needs to payout not only for itself but also makeup for another well that does not payout, which supports TEP's requested 100% charge for risk under MIPA.[31] Mr. Johnston, an expert petroleum evaluation engineer, also testified that the reserves underlying the proposed MIPA units are considered proved undeveloped unconventional reserves, to which industry typically applies a reserve adjustment factor of 50%, which also aligns with a 100% charge for risk under MIPA.[32]

TEP also noted that the Commission's most recent MIPA orders have provided for a 100% charge for risk.[33]

F. The Applications are Unprotested

No one has protested the Applications or the proposed charge for risk.[34]

V. Examiners' Analysis

The Examiners recommend the Commission grant the Applications and allow a 100% charge for risk. The Examiners recommend the Commission find that Applicant has met the requirements in the MIPA for forced pooling.

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[26] Applicant's Exs. 2A, 2B.
[27] Applicant's Exs. 3, 4.
[28] Tr. 56:11-67:23; Applicant's Exs. 12, 13A, 13B.
[29] Tr. 64:18-21.
[30] Tr. 91:6-16; Applicant's Ex. 20.
[31] Tr. 113:2-12; Applicant's Ex. 23.
[32] Tr. 115:8-15; Applicant's Ex. 24.
[33] Tr. 70:8-71:4 (identifying recent MIPA orders providing a 100% charge for risk in the Sinclair Oil & Gas Company MIPA applications, which were approved October 30, 2018 (Oil & Gas Docket Nos. 08-0319997, 08-0310001, 08-0310003, 08-0310004, 08-0310005); the TEP Barnett MIPA applications in Applicant's Ex. 25, which were approved August 21, 2018 (Oil & Gas Docket Nos. 09-0310406, 09-0310407, 09-0310408, 09-0310409, 09-0310410, 09-0310411, 09-0310413, 09-0310414); and the Colgate Operating LLC MIPA applications, which were approved August 1, 2017 (Oil & Gas Docket Nos. 08-0304960, 08-0304985, 08-0305025, 08-0305026)).
[34] Tr. at 10:6 – 11:18

A. Applicant meets the general criteria for pooling set out in the MIPA

The MIPA requires there be two or more separately owned tracts of land embraced in a common reservoir of oil or gas for which the Commission has established the size and shape of proration units for the reservoir. Applicant provided evidence of multiple different interest owners of tracts of land to be drilled in the Newark, East (Barnett Shale) Field. The Commission has established the proration units for the field.

The MIPA requires that at least one of the owners of the right to drill has drilled or has proposed to drill a well on the existing or proposed proration unit to the common reservoir. In this case, Applicant has the right to drill and proposes to drill a well in each of the proposed MIPA units.

The MIPA requires that the owners have not agreed to pool their interests. While Applicant has made offers to pool, it has not been able to secure 100% agreement to pool.

The MIPA requires that an application for the Commission to pool has been made by one of the following:

(1) the owner of any interest in oil and gas in an existing proration unit or with respect to a proposed unit;
(2) the owner of any working interest; or
(3) any owner of an unleased tract other than a royalty owner.

Applicant is an owner of mineral interests in each of the proposed MIPA units.

The State of Texas does own a portion of the mineral interests in the proposed units. Applicant obtained consent from the General Land Office as required in the MIPA.

The field was discovered on October 15, 1981.[35] The reservoir at issue meets the requirement in the MIPA to be discovered after March 8. 1961.

B. Applicant meets the requirement of making a fair and reasonable offer to pool voluntarily.

The Examiners find that TEP's voluntary pooling offers were fair and reasonable. Its offers followed the framework-providing lease, participation, and farm-out options that the Commission has determined to be fair and reasonable in recently approved MIPA applications.

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[35] Applicant's Ex. 16.

C. The proposed units are necessary to protect correlative rights and prevent waste.

Under the MIPA, the Commission may order compulsory pooling when it is necessary to avoid the drilling of unnecessary wells, protect correlative rights or prevent waste. The evidence in this unprotested proceeding demonstrates that compulsory pooling is necessary to prevent waste and to protect correlative rights. Unless compulsory pooling is ordered, TEP cannot drill the wells, as proposed, because of the impracticality of drilling around the unleased tracts. Therefore, in the absence of compulsory pooling, these wells would not be drilled, resulting in the waste of the hydrocarbons underlying the MIPA units. In addition, compulsory pooling as proposed by TEP, wherein the proposed horizontal wells will extend the length of the MIPA units, protects correlative rights because it will allow all tract owners, whether leased or unleased, to have a reasonable opportunity for their fair share of hydrocarbons to be produced.

D. The Examiners recommend a 100% charge for risk.

In the Applications, TEP requests a 100% charge for risk be applied only to the working-interest portion of an owner who elects not to pay his proportionate share of the drilling and completion costs in advance. No one protested. The Examiners concur in light of the economic and mechanical uncertainty and the risk that a well in this area of the Field will not reach payout. Additionally, the Commission has approved a 100% charge for risk in prior recent orders. The Examiners recommend that the Commission grant the Applications with a 100% charge allowed for risk.

For these reasons, the Examiners recommend that the Commission grant the Applications. Appendix 1 attached to each of the proposed Final Orders accompanying this Report is the plat for the respective MIPA unit, and it shows the proposed MIPA well and the unleased tracts and partially-leased tracts within the proposed MIPA unit.[36] Appendix 2 attached to each of the proposed Final Orders accompanying this Report is the legal description of the respective MIPA Unit.[37]

VI. Recommendation, Proposed Findings of Fact and Proposed Conclusions of Law

Based on the record in this case, the Examiners recommend the Commission grant the Applications and adopt the following findings of fact and conclusions of law.

Findings of Fact

1. Applicant TEP Barnett USA, LLC ("TEP") has filed two applications ("Applications") under the Mineral Interest Pooling Act ("MIPA") asking the Railroad Commission of Texas ("Commission") to establish two pooled units—the GGVZ MIPA 1H Unit covering approximately 115 acres, and the GGVZ MIPA 2H Unit covering

[36] Applicant's Exs. 9A and 9B.
[37] Applicant's Exs. 10A(R) and 10B(R).

approximately 134 acres—for the drilling of horizontal wells in the Newark, East (Barnett Shale) Field in the City of Fort Worth, Tarrant County, Texas.

2. On December 7, 2018, the Hearings Division of the Commission sent a Joint Notice of Hearing on the Applications via first-class mail to all interested parties, setting a hearing date of January 10, 2019. The notice contained (1) a statement of the time, place and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted. The hearing was held on January 10, 2019, as noticed. Consequently, all parties received more than 30 days' notice.

3. Applicant published the Notice of Hearing five times in the *Commercial Recorder*, a newspaper of general circulation in Tarrant County, on December 10, 14, 21 and 28, 2018, and January 4, 2019. The mailed and published notices included the specific requests in TEP's Applications regarding the proposed size of the units, method of allocation, charge for risk, and designation of operator.

4. The hearing was held on January 10, 2019, as noticed.

5. TEP appeared at the hearing and presented evidence and argument.

6. No one appeared at the hearing in opposition to TEP's Applications.

7. For the proposed MIPA units, there are two or more separately owned tracts of land embraced within a common reservoir of oil or gas.

8. The tracts within each proposed MIPA unit are within a common reservoir— the Newark East (Barnett Shale) Field—which was discovered on October 15, 1981, and for which the Commission has established the size and shape of proration units.

9. The proposed units reasonably appear to lie within the productive limits of the reservoir.

10. On or about December 3, 2018, TEP sent a voluntary pooling offer to all mineral owners of unleased tracts within the boundaries of both proposed MIPA units. The unleased mineral owners were offered three options for inclusion of their interests in the proposed units: a lease option, a working-interest participation option, and a farm-out option. The basic terms outlined in the voluntary pooling offer made by TEP have been found to be fair and reasonable in other cases.

11. Applicant's pooling agreement and offer to pool does not contain any of the following provisions:

    a. Preferential right of the operator to purchase mineral interests in the unit;

b. A call on or option to purchase production from the unit;

c. Operating charges that include any part of district or central office expense other than reasonable overhead charges; or

d. A prohibition against nonoperators questioning the operation of the unit.

12. Not all owners agreed to pool their interests.

13. Applicant's voluntary pooling offer was fair and reasonable.

14. Applicant has the right to drill and has proposed to drill on the proposed MIPA units.

15. Applicant is the owner of an interest in oil and gas in the proposed MIPA units.

16. The reservoirs within the proposed MIPA units were not discovered and produced prior to March 8, 1961.

17. Without compulsory pooling, TEP will not be able to drill the proposed wells, TEP and its lessees will not have a reasonable opportunity to recover their fair share of hydrocarbons from the reservoir and the underlying hydrocarbons will be left unrecovered, resulting in waste.

18. The proposed units do contain land owned by the State of Texas, and General Land Office has consented to the proposed MIPA units in the Applications.

19. TEP presented evidence supporting a charge for risk of 100 percent of the drilling and completion costs of the proposed wells.

20. Establishment of the proposed MIPA units will prevent waste and protect correlative rights.

21. TEP agreed on the record or in writing that pursuant to the provisions of Texas Government Code § 2001.144(a)(4)(A), this Final Order shall be final and effective on the date a Master Order relating to this Final Order is signed.

Conclusions of Law

1. Notice was provided to all parties entitled to notice. *See* Tex. Nat. Res. Code § 102.016.

2. The Commission has jurisdiction in this case. *See* Tex. Nat. Res. Code § 102.011.

3. TEP made fair and reasonable offers to pool voluntarily, as required by Texas Natural Resources Code § 102.013, as to both proposed MIPA units.

4. Compulsory pooling of the owners of the unleased tracts within each of the proposed proration units as owners of a 25% royalty and 75% working interest, proportionately reduced, with these owners' share of expenses, subject to a charge for risk of 100%, payable only from the owners' working-interest component, and subject to a no-surface-use restriction, is fair and reasonable within the meaning of Texas Natural Resources Code § 102.017.

5. Compulsory pooling of the mineral interests in all tracts within the boundaries of the proposed MIPA units will serve the purpose of preventing waste and protecting correlative rights.

6. The terms and conditions of the Commission's Final Orders in these proceedings are fair and reasonable and will afford the owner of each tract or interest in each respective unit the opportunity to produce or receive his or her fair share of the hydrocarbons in question.

7. Pursuant to § 2001.144(a)(4)(A) of the Texas Government Code and the agreement of TEP, this Final Order can be final and effective when a Master Order relating to this Final Order is signed.

Recommendation

The Examiners recommend that TEP's Applications be approved.

Respectfully,

Jennifer Cook
Administrative Law Judge

Robert Musick, P.G.
Technical Examiner