

BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
COMMISSION OF NEW MEXICO FOR  
THE PURPOSE OF CONSIDERING:

CASE NO. 903  
Order No. R-681

IN THE MATTER OF THE APPLICATION  
OF THE OIL CONSERVATION COMMISSION  
OF NEW MEXICO UPON ITS MOTION FOR  
AN ORDER REVISING SECTION "N" - RULES  
ON PROCEDURE, OF THE RULES AND  
REGULATIONS OF THE COMMISSION.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a. m. on May 18, 1955, June 28, 1955 and July 14, 1955 at Santa Fe, New Mexico, before the Oil Conservation Commission, hereinafter referred to as the "Commission."

NOW, on this 15<sup>th</sup> day of September, 1955, the Commission, a quorum being present, having considered the records and testimony adduced, and having considered further the recommendations of the Committee appointed by the Commission for the purpose of studying this cause, and the recommendations submitted by other interested parties, and being fully advised in the premises,

FINDS:

(1) That due notice of the time and place of hearing and the purpose thereof having been given as required by law, the Commission has jurisdiction of this case and the subject matter thereof.

(2) That the advent of Chapter 235, New Mexico Laws of 1955, authorizing the Commission to implement an Examiner System in connection with hearings and other proceedings before the Commission, has necessitated the promulgation of rules and regulations to govern the appointment and qualifications of such Examiner, and to govern the procedure and conduct of hearings before such Examiner.

(3) That experience has demonstrated to the Commission that certain other sections and provisions of Section N - Rules on Procedure, of its Rules and Regulations, are in need of revision to enable the Commission more efficiently to conduct the business which comes before it.

IT IS THEREFORE ORDERED:

1. That Section N - Rules on Procedure of the Rules and Regulations of the New Mexico Oil Conservation Commission be, and the same is hereby, revised to read as follows:

**N - RULES ON PROCEDURE**

**RULE 1201. NECESSITY FOR HEARINGS.**

Except as provided in some general rule herein, before any rule, regulation or order, including revocation, changes, renewal or extension thereof shall be made by the Commission, a public hearing before the Commission or a legally appointed Examiner shall be held at such time and place as may be prescribed by the Commission.

**RULE 1202. EMERGENCY ORDERS.**

Notwithstanding any other provision of these rules, in case an emergency is found to exist by the Commission, which, in its judgment, requires the making of a rule, regulation or order without a hearing having first been had or concluded, such emergency rule, regulation or order when made by the Commission shall have the same validity as if a hearing with respect to the same had been held before the Commission after due notice. Such emergency rule, regulation or order shall remain in force no longer than 15 days from its effective date, and in any event, it shall expire when the rule, regulation or order made after due notice and hearing with respect to the subject matter of such emergency rule, regulation or order becomes effective.

**RULE 1203. METHOD OF INITIATING A HEARING.**

The Commission upon its own motion, the Attorney General on behalf of the State and any operator, producer or any other person having a property interest may institute proceedings for a hearing. If the hearing is sought by the Commission it shall be on motion of the Commission and if by any other person it shall be by application. The application in **TRIPPLICATE** shall state (1) the name or general description of the common source or sources of supply affected by the order sought, unless the same is intended to apply to and affect the entire state, in which event the application shall so state, (2) briefly the general nature of the order, rule or regulation sought, (3) any other matter required by a particular rule or rules, and (4) whether applicant desires a hearing before the Commission or an Examiner, and, if hearing before an Examiner is desired, the time and place applicant prefers the hearing to be held may be stated in the application, and such application shall state a list of the names and addresses of all interested parties known to applicant.

An application shall be signed by the person seeking the hearing or by his attorney. Unless required by a specific rule, an application need not be verified.

**RULE 1204. METHOD OF GIVING LEGAL NOTICE FOR HEARINGS.**

Notice of each hearing before the Commission, except hearings continued by an Examiner as provided in Rule 1209, and notice of each hearing before an Examiner shall be given by personal service on the person affected or by publication once in a newspaper of general circulation published at Santa Fe, New Mexico, and once in a newspaper of general circulation published in the county or each of the counties, if there be more than one, in which any land, oil or gas or other property which may be affected shall be situated.

RULE 1205.            CONTENTS OF NOTICE OF HEARING.

Such notice shall be issued in the name of "The State of New Mexico" and shall be signed by two members of the Commission or by the Secretary of the Commission, and the seal of the Commission shall be impressed thereon.

The notice shall specify whether the case is set for hearing before the Commission or before an Examiner and shall state the number and style of the case and the time and place of hearing and shall briefly state the general nature of the order or orders, rule or rules, regulation or regulations to be promulgated or effected. The notice shall also state the name of the petitioner or applicant, if any, and unless the contemplated order, rule or regulation is intended to apply to and affect the entire State it shall specify or generally describe the common source or sources of supply which may be affected by such order, rule or regulations.

RULE 1206.            PERSONAL SERVICE OF NOTICE.

Personal service of the notice of hearing may be made by any agent of the Commission or by any person over the age of 18 years in the same manner as is provided by law for the service of summons in civil actions in the district courts of this State. Such service shall be complete at the time of such personal service or on the date of publication, as the case may be. Proof of service shall be by the affidavit of the person making personal service or of the publisher of the newspaper in which publication is had. Service of the notice shall be made at least 10 days before the hearing.

RULE 1207.            PREPARATION OF NOTICES.

After a motion or application is filed with the Commission the notice or notices required shall be prepared by the Commission and, service and publication thereof shall be taken care of by the Commission without cost to the applicant.

RULE 1208.            FILING PLEADINGS; COPY DELIVERED TO ADVERSE PARTY OR PARTIES.

When any party to a hearing files any pleading, plea or motion of any character (other than application for hearing) which is not by law or by these rules required to be served upon the adverse party or parties, he shall at the same time either deliver or mail to the adverse party or parties who have entered their appearance therein, or their respective attorneys of record, a copy of such pleading, plea or motion. For the purposes of these rules, an appearance of any interested party shall be made either by letter addressed to the Commission, or in person at any proceeding before the Commission, or before an Examiner, with notice of such appearance to the parties from whom such pleadings, pleas, or motions are desired.

RULE 1209.            CONTINUANCE OF HEARING WITHOUT NEW SERVICE.

Any hearing before the Commission or an Examiner held after due notice may be continued by the person presiding at such hearing to a specified time and place without the necessity of notice of the same being again served or published. In the event of any continuance, a statement thereof shall be made in the record of the hearing which is continued.

Any matter or proceeding set for hearing before an Examiner shall be continued by the examiner to the next regular hearing of the Commission following the date set for the hearing before the Examiner if any person who may be affected by any order entered by the Commission in connection with such hearing shall have filed with the Commission, at least three days prior to the date set for such hearing, a written objection to such hearing being held before an Examiner. In such event the matter or proceeding shall be placed on the regular docket of the Commission for hearing.

RULE 1210. CONDUCT OF HEARINGS.

Hearings before the Commission or any Examiner shall be conducted without rigid formality. A transcript of testimony shall be taken and preserved as a part of the permanent record of the Commission. Any person testifying in response to a subpoena issued by the Commission and any person seeking to testify in support of an application or motion or in opposition thereto shall be required to do so under oath. However, relevant unsworn comments and observations by any interested party will be designated as such and included in the record. Comments and observations by representatives of operators' committees, the United States Geological Survey, the United States Bureau of Mines, the New Mexico Bureau of Mines and other competent persons are welcomed. Any Examiner legally appointed by the Commission may conduct such hearings as may be referred to such Examiner by the Commission or the Secretary thereof.

RULE 1211. POWER OF COMMISSION TO REQUIRE ATTENDANCE OF WITNESSES AND PRODUCTION OF EVIDENCE.

The Commission or any member thereof has statutory power to subpoena witnesses and to require the production of books, papers and records in any proceeding before the Commission. A subpoena will be issued by the Commission for attendance at a hearing upon the written request of any person interested in the subject matter of the hearing. In case of the failure of a person to comply with the subpoena issued by the Commission, an attachment of the person may be issued by the district court of any district in the State, and such court has powers to punish for contempt. Any person found guilty of swearing falsely at any hearing may be punished for contempt.

RULE 1212. RULES OF EVIDENCE.

Full opportunity shall be afforded all interested parties at a hearing to present evidence and to cross-examine witnesses. In general, the rules of evidence applicable in a trial before a court without a jury shall be applicable, provided that such rules may be relaxed, where, by so doing, the ends of justice will be better served. No order shall be made which is not supported by competent legal evidence.

RULE 1213. EXAMINERS' QUALIFICATIONS AND APPOINTMENT.

The Commission shall by ex parte order designate and appoint not more than four individuals to be examiners. Each Examiner so appointed

shall be a member of the staff of the Commission, but no Examiner need be a full time employee of the Commission. The Commission may by ex parte order, designate and appoint a successor to any person whose status as an Examiner is terminated for any reason. Each individual designated and appointed as an Examiner must have at least six years practical experience as a geologist, petroleum engineer or licensed lawyer, or at least two years of such experience and a college degree in geology, engineering or law; provided however, that nothing herein contained shall prevent any member of the Commission from being designated as, or serving as, an Examiner.

RULE 1214. REFERRAL OF CASES TO EXAMINERS.

Either the Commission or the Secretary thereof may refer any matter or proceeding to any legally designated and appointed Examiner for hearing in accordance with these rules. The examiner appointed to hear any specific case shall be designated by name.

RULE 1215. EXAMINER'S POWER AND AUTHORITY.

The Commission may, by ex parte order, limit the powers and duties of the Examiner in any particular case to such issues or to the performance of such acts as the Commission deems expedient; however, subject only to such limitations as may be ordered by the Commission, the Examiner to whom any matter or proceeding is referred under these rules shall have full authority to hold hearings on such matter or proceeding in accordance with and pursuant to these rules. The examiner shall have the power to regulate all proceedings before him and to perform all acts and take all measures necessary or proper for the efficient and orderly conduct of such hearing, including the swearing of witnesses, receiving of testimony and exhibits offered in evidence, subject to such objections as may be imposed, and shall cause a complete record of the proceeding to be made and transcribed and shall certify same to the Commission as hereinafter provided.

RULE 1216. HEARINGS WHICH MUST BE HELD BEFORE COMMISSION.

Notwithstanding any other provision of these rules, the hearing on any matter or proceeding shall be held before the Commission (1) if the Commission in its discretion desires to hear the matter, or (2) if the application or motion so requests, or (3) if the matter is initiated on motion of the Commission for the enforcement of any rule, regulation, order, or statutory provision, or (4) if any party who may be affected by the matter or proceeding files with the Commission more than three days prior to the date set for the hearing on the matter or proceeding a written objection to such matter or proceeding being heard before an Examiner, or (5) if the matter or proceeding is for the purpose of amending, removing or adding a statewide rule.

RULE 1217. EXAMINER'S MANNER OF CONDUCTING HEARING.

An Examiner conducting a hearing under these rules shall conduct himself as a disinterested umpire.

RULE 1218.      REPORT AND RECOMMENDATIONS RE EXAMINER'S HEARINGS.

Upon the conclusion of any hearing before an Examiner, the Examiner shall promptly consider the proceedings in such hearing, and based upon the record of such hearing the Examiner shall prepare his written report and recommendations for the disposition of the matter or proceeding by the Commission. Such report and recommendations shall either be accompanied by a proposed order or shall be in the form of a proposed order, and shall be submitted to the Commission with the certified record of the hearing.

RULE 1219.      DISPOSITION OF CASES HEARD BY EXAMINERS.

After receipt of the report and recommendations of the Examiner, the Commission shall either enter its order disposing of the matter or proceeding, or refer such matter or proceeding to the Examiner for further hearing.

RULE 1220.      DE NOVO HEARING BEFORE COMMISSION.

When any order has been entered by the Commission pursuant to any hearing held by an Examiner, any party adversely affected by such order shall have the right to have such matter or proceeding heard de novo before the Commission, provided that within 30 days from the date such order is rendered such party files with the Commission a written application for such hearing before the Commission. If such application is filed, the matter or proceeding shall be set for hearing before the Commission at the next regular hearing date following the expiration of fifteen days from the date such application is filed with the Commission. Any person affected by the order or decision rendered by the Commission after hearing before the Commission may apply for rehearing pursuant to and in accordance with the provisions of Rule 1222, and said Rule 1222 together with the law applicable to rehearings and appeals in matters and proceedings before the Commission shall thereafter apply to such matter or proceeding.

RULE 1221.      NOTICE OF COMMISSION'S ORDERS.

Within ten days after any order, including any order granting or refusing rehearing, or order following rehearing, has been rendered by the Commission, a copy of such order shall be mailed by the Commission to each person or his attorney of record who has entered his appearance of record in the matter or proceeding pursuant to which such order is rendered.

RULE 1222.      REHEARINGS.

Within 20 days after entry of any order or decision of the Commission, any person affected thereby may file with the Commission an application for rehearing in respect of any matter determined by such order or decision, setting forth the respect in which such order or decision is believed

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to be erroneous. The Commission shall grant or refuse any such application in whole or in part within 10 days after the same is filed and failure to act thereon within such period shall be deemed a refusal thereof and a final disposition of such application. In the event the rehearing is granted, the Commission may enter such new order or decision after rehearing as may be required under the circumstances.

RULE 1223. CHANGES IN FORMS AND REPORTS.

Any changes in the forms and reports or rules relating to such forms and reports shall be made only by order of the Commission issued after due notice and hearing.

DONE at Santa Fe, New Mexico on the day and year hereinabove designated.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

*John F. Simms*  
JOHN F. SIMMS, Chairman

*E. S. Walker*  
E. S. WALKER, Member

*W. B. Macey*  
W. B. MACEY, Member and Secretary



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