

DAILY TIMES

New Mexico Press Clipping Bureau
Albuquerque, N. M.

No OCC Word On SJ Proposal

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The court ruled last week the commission's 1958 order directing a change in the allowable formula for the Jalmat pool in Lea County was invalid.

The commission failed to show the new formula would prevent waste or protect correlative rights of the producers, the court said.

The San Juan petition asked the OCC to place more emphasis on a well's acreage and less on its ability to deliver gas to the pipeline in determining how much gas it should be allowed to produce each month.

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ARTESIA

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THURSDAY OVER RATE CASE

El Paso, FPC Meet In Legal Fight

By HARRY WILSON SHARPE

WASHINGTON (UPI) — The Giant El Paso Natural Gas Co. comes before the Federal Power Commission next Thursday with a tough legal fight on its hands.

If it loses, there could be cheers among the interstate pipeline's customers and the California Public Utilities Commission. As of now, however, El Paso has legal precedent on its side.

The case involves \$80 million in rate increases but that is not the immediate issue. The issue is whether the FPC can arbitrarily fix "a proper rate of return" on El Paso's producing properties without first completing cost-of-service investigations.

Previous Ruling

The commission, in the interests of consumer protection, has speed action on its

some variations last year in a \$26.6 million Tennessee Gas Transmission Co. rate case. It fixed Tennessee's rate of return at 6½ per cent instead of the 7 per cent the company had asked, and on that basis ordered Tennessee to make a corresponding rate cut and to refund about \$11 million to its customers.

The edict was short lived. Tennessee appealed to the Fifth U. S. Circuit Court at New Orleans. The court ruled that the commission had erred in enforcing the rate reduction without giving a prior ruling on Tennessee's rate-zone production costs.

This case is now before the Supreme Court on appeal by the FPC and the City of Pittsburgh, Pa., and that is where the El Paso case could head. The Tennessee dispute is set for oral argument next fall.

El Paso tried to sidetrack

the FPC by also appealing to the Fifth Circuit Court. But the tribunal ruled in this instance that it was without authority to act because the commission had not yet made its final rate of return decision.

In its brief, El Paso had argued that if its rates were cut on the basis of a predetermined rate of return—as in the Tennessee case—it stands to lose heavily until such time as the commission completes its cost-of-service inquiry.

As in the Tennessee case, the Commission proposes to bypass the customary trial examiner decision and issue an "interim" order fixing the rate of return. It said this was both necessary and proper "in substantial justice to all parties."

Commission Thinking

The Tennessee case provided a key to the commission's thinking. In its Supreme Court appeal it said the Fifth Circuit

decision would keep it from enforcing lower rates even though they were based on evidence that they were not justified. In addition, it said the interim order procedure was aimed at safeguarding consumers "who are not adequately protected while they pay excessive rates subject to refund."

In the El Paso case the FPC staff argued that this proceeding differs from the Tennessee affair because no issues other than the rate of return are ready for decision. It argued further that a prompt rate of return decision "could give immediate relief to all El Paso's customers, particularly those in California which takes the bulk of El Paso's gas."

El Paso has four rate increases pending, three of them being collected subject to refund. The first dates back to Jan. 1, 1958.

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Court Voids Gas Formula Ruling

SANTA FE (UPI) — The State Supreme Court Wednesday struck down the state Oil Conservation Commission's 1958 order which directed a change in the gas allowable formula for the Jalmet pool in Lea County.

The OCC order is invalid and void, the high court said in the opinion written by Justice David Carmody and signed by Chief Justice J.C. Compton and justices David Chavez and M. E. Noble.

The commission failed to show that the new method would prevent waste or protect correlative rights of the producers, the court said.

The decision reversed earlier action of the district court at Lov-

The old formula was based on "pure acreage." Each producer was allowed to produce his portion of the total allowable, based on the acreage of his tract as compared to the total acreage overlying the pool or gas reservoir.

The OCC said this should be revised so allowables would be computed 25 per cent on basis of acreage and 75 per cent on deliverability.

This led to the suit filed against the commission by Continental Oil Company, Amerada Petroleum Corp., Pan American Petroleum Corp., Shell Oil Company, Atlantic Refining Company, Standard Oil Company of Texas and Hum-

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This led to the suit filed against the commission by Continental Oil Company, Amerada Petroleum Corp., Pan American Petroleum Corp., Shell Oil Company, Atlantic Refining Company, Standard

Oil Company of Texas and Humble Oil and Refining Company.

The OCC made the change after hearings requested by Texas Pacific Coal and Oil Company, which also was named in the suit, along with El Paso Natural Gas Company, Permian Basin Pipeline Company and Southern Union Gas Company.

Supreme Court Rejects OCC's Jalmat Formula

SANTA FE (UPI) — The State Supreme Court Wednesday threw out the 1958 order changing the formula for gas production allowables at the Jalmat pool in Lea County.

The State Oil Conservation Commission (OCC) failed to show its new formula would prevent waste or protect correlative rights of the gas producers, the high court said.

The old OCC formula for the gas production allowable at Jalmat had been based on "pure acreage." Each producer was allowed to produce his portion of the total allowable for southeastern New Mexico based on the acreage of his tract, as compared to the total acreage overlying the pool or gas reservoir.

That is the formula still followed in other pools in the Lea-Eddy county area.

The OCC said this should be revised so allowables would be computed 25 per cent on basis of acreage and 75 per cent on deliverability; that is, the well's ability to deliver gas to the pipeline.

That is the formula followed for all wells in the San Juan Basin of northwestern New Mexico.

Seven gas producers protested the commission's decision and appealed to the district court at Lovington, which upheld the OCC. They then appealed to the supreme court, which ruled Wednesday both the trial court and OCC were in error.

Dist. Judge John R. Brand erred in allowing additional evidence at the trial than that presented before the OCC hearing on the dispute, the high court said in the opinion written by Justice David Carmody. It was signed by Chief Justice J. C. Compton and Justices David Chavez and M. E. Noble.

It was the first case contesting merit of an OCC decision to reach the high court since the commission was created in 1935, Carmody noted.

Lea Pool Formula Rejected

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Oil * * * Gas —and— Mining *??* —in— New Mexico

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Edict Overruled

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Paul Jones, chairman, Navajo Tribal Council, announces the Navajo Tribe will offer approximately 150,000 acres of Navajo tribal lands

competitive sealed - bid lease sale June 28. Seventy - three separate tracts in western San Juan County will be the subject of the bidding.

The lands offered lie in Townships 27, 28 and 29 North, Ranges 17 through 21 West. Detailed tract descriptions will be available May 28 from the Navajo Agency, Window Rock, Ariz. Jones commented, "This sale continues our regular offerings of oil and gas leases of Navajo tribal lands inaugurated in April of this year. Much of the land included in this sale has been requested to be offered for leasing by a number of operators."

Leases offered will be the standard Indian tribal lease with a 20 per cent royalty called for in addition to a \$1.25 an acre rental payment a year which would be credited against any royalty accruing. The term of all leases will be for 10 years and so long thereafter as oil and gas is produced in paying quantities.

Some of the tracts offset recent important natural gas discoveries in the Table Mesa area recently made by Continental Oil Co. In addition, other tracts will offset areas where oil has been discovered in the past in the Tropic area vicinity.