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BEFORE THE  
NEW MEXICO OIL CONSERVATION COMMISSION  
MORGAN HALL, STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO

June 20, 1973

IN THE MATTER OF:

Application of El Paso  
Natural Gas Company for the amendment of the prorated gas pool rules promulgated by Order No. R-1670, as amended. Case No. 4991

BEFORE: State Geologist, A. L. Porter, Jr.,  
Secretary-Director

I. R. Trujillo,  
Member

TRANSCRIPT OF HEARING

## NEW MEXICO OIL CONSERVATION COMMISSION

## REGULAR HEARING

SANTA FE, NEW MEXICO

Hearing Date JUNE 20, 1973TIME: 9 A.M.

NAME	REPRESENTING	LOCATION
AB Gullett	El Paso Natural Gas	Jal
RL Medley	Natural Gas Pipeline Co	Orlando Tex:
HERMAN D. KAUFMAN	✓	HOUSTON
E.H. Lowrey	cities service oil co	MIDLAND
J.H. Sweeney	Mobil Oil Corp	MIDLAND
Saul Cohen	Fanning Oil Corp	Santa Fe
L.P. White	Texas Inc	
AR Kendrick	o c c	aytee
EC Lueder	o c c	aytee
Bob Lutz Lutz	Seather Union	Farmington
Jose Kallahi	Kellahi & Fry	Santa Fe
Victor T. Lyon	Continental Oil Co	Hobbs
John Soderstrom	✓	✓
Richard S. Morrison	Montgomery, Fenwick et al.	Santa Fe
J.C. Consideine	EPNG Co.	El Paso
Frank Goddard	"	" "
E.R. Manning	"	" "
Daryl L Smith	Northern Natural Gas Co.	Midland, Tex

## NEW MEXICO OIL CONSERVATION COMMISSION

REGULAR HEARINGSANTA FE, NEW MEXICOHearing Date JUNE 20, 1973 TIME: 9 A.M.

NAME	REPRESENTING	LOCATION
Walter J. ... Tom Swedish	Tammy Oil	Holls
Helmer J. ...	" "	"
James B. ...	Sea Investors Inc	S.F.
J. B. ...	EL PASO NAT. GAS	EL PASO
J. H. ...	Transwestern Pipeline	Houston
James A. ...	" "	ALBUQUERQUE
PETER ...	Public Interest	SF
Oliver E. ...	Platka	Tammy
RW ...	ELM	El Paso
C. M. ...	CONOCO	Kasper 476
Bart Giles	Amoco	Denver
Bob ...	Northern Natural	Midland
Joe ...	ARTEC OIL & GAS	FMN.

NEW MEXICO OIL CONSERVATION COMMISSION

REGULAR HEARING

SANTA FE, NEW MEXICO

Hearing Date JUNE 20, 1973 TIME: 9 A.M.

NAME	REPRESENTING	LOCATION
RON D. JOHNSON	GACR OIL CO.	CARLSBAD
KEN SMITH	" " "	"
<del>J. H. Haney</del>	EPNG	Santa Fe
<del>L. T. M. Smith</del>	McAdams & Connelly	Santa Fe
Hans Paulsen	P. W. Byrum & Assoc., Inc.	SF.
William Foley	Plateau, Inc	Empton
J. M. Cray	S. U. Gas Co	Dallas

Rule 13 A

X Todd Lower SA

X Blitt - S.A.

Rule 13

X Devils Fork Sp

Rule 18

X SE Chaves Q Gashear

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X 9B Tapscott PC delete

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1 MR. PORTER: Case 4991.

2 MR. CARR: Case 4991: Application of El Paso  
3 Natural Gas Company for the amendment of the prorated gas  
4 pool rules promulgated by Order No. R-1670, as amended.

5 MR. PORTER: Appearances in this case?

6 MR. MORRIS: Richard Morris, of Montgomery,  
7 Federici, Andrews, Hannah and Morris, Santa Fe, appearing  
8 on behalf of the Applicant, El Paso Natural Gas Company.

9 MR. PORTER: Would anyone else like to make an  
10 appearance in Case 4991?

11 MR. PARKER: James Parker, of Modrall, Sperling,  
12 Roehl, Harris and Sisk, Albuquerque, appearing on behalf  
13 of Transwestern Pipeline Company.

14 MR. LYONS: Darrell Lyons, appearing on behalf  
15 of Mr. Michael Grace.

16 MR. WHITE: L. C. White, of White, Gilbert, Coch,  
17 and Kelly, Santa Fe, appearing on behalf of Texaco Inc.  
18 I would like to make a statement at the conclusion of the  
19 testimony.

20 MR. KELLAHIN: Jason Kellahin, of Kellahin and  
21 Fox, Santa Fe, appearing on behalf of Continental Oil  
22 Company, Chevron Oil Company, Caulkins Oil Company, and  
23 Marathon Oil Company. Continental will present one witness.

24 MR. PORTER: Continental, Chevron, Marathon, and  
25 Caulkins?

1 MR. KELLAHIN: Right.

2 MR. PORTER: How many witnesses will you have?

3 MR. KELLAHIN: One witness.

4 MR. SEEREY: J. H. Seerey, appearing on behalf of  
5 Mobil Oil Corporation.

6 MR. GILES: R. B. Giles, appearing on behalf of  
7 Amoco. I will have a statement at the end of the case.

8 MR. MEDLEY: R. L. Medley, appearing on behalf  
9 of Natural Gas Pipeline Company. We may want to make a  
10 statement at the end of the case.

11 MR. TWEED: Jerry Tweed, with Atlantic Richfield.  
12 We may want to make a statement.

13 MR. LOWREY: E. H. Lowrey, appearing on behalf  
14 of Cities Service Oil Company. We might possibly want to  
15 make a statement.

16 MR. BUDABAUGH: Don Budabaugh, of Northern Natural  
17 Gas. We may have a statement.

18 MR. PORTER: Mr. Morris, how many witnesses will  
19 you have?

20 MR. MORRIS: We anticipate having just one witness,  
21 Mr. Manning.

22 MR. PORTER: Mr. Kellahin has one witness. Does  
23 anybody else desire to present testimony?

24 MR. PARKER: Yes, I would like to present one  
25 witness on behalf of Transwestern.

1 MR. LYONS: We would like to present one witness  
2 on behalf of Mr. Grace.

3 (Whereupon the witnesses in the case were sworn  
4 en masse by Mr. Porter.)

5 MR. PORTER: Mr. Morris, you may proceed with your  
6 testimony.

7 MR. MORRIS: If the Commission please, I neglected  
8 to introduce my co-counsel, Mr. James Considine of El Paso  
9 Natural Gas Company. Mr. Considine is a member of the  
10 Texas Bar, and he will participate with me in the presentation  
11 of this case.

12 MR. PORTER: Yes, sir.

13 MR. MORRIS: We call Mr. Manning.

14 MR. PORTER: Let the record show that Mr. Manning  
15 has been sworn.

16 \* \* \* \*

17 E. R. MANNING,

18 was called as a witness, and having been already duly sworn  
19 according to law, testified as follows:

20 MR. MORRIS: We would like to take a moment before  
21 we start, Mr. Porter, to hand out some exhibits that we have  
22 for anyone present that may want copies.

23 DIRECT EXAMINATION

24 BY MR. MORRIS:

25 Q Mr. Manning, please state your name, where you reside,

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1 by whom you are employed, and in what capacity.

2 A Eugene R. Manning, El Paso, Texas. I am employed by  
3 El Paso Natural Gas Company as administrator in their  
4 gas proration operations department.

5 Q And how long have you held that position, Mr. Manning?

6 A Approximately five years.

7 Q Mr. Manning, have you previously testified before this  
8 Commission and had your qualifications established as  
9 a matter of record and accepted by this Commission?

10 A Yes, I have.

11 Q We have presented to the Commission and to the interested  
12 parties at this hearing three marked exhibits; one, two,  
13 and three. Were these exhibits prepared by you or  
14 under your direction?

15 A Yes, they were.

16 Q And do these exhibits contain and reflect the rule  
17 changes that are proposed by El Paso Natural Gas Company  
18 in this hearing?

19 A Yes, they do.

20 Q At the outset, Mr. Manning, would you briefly review  
21 the overall objectives that are being sought by El  
22 Paso's application in this case?

23 A El Paso's objective is to change certain state-wide  
24 proration rules to provide for more accurate and more  
25 effective methods of prorating which would be to the

1 benefit of both the producer and the operator.

2 Our proposed rules seek to attain two goals; one,  
3 the assignment to each marginal well of an allowable  
4 which reflects it as closely as possible to those wells  
5 actually producing. Number two, a change in annual  
6 balancing rates from the middle of the heating season  
7 to a point in time of less demand.

8 Now, the specifics of these rules will be detailed  
9 subsequently in my testimony.

10 Q Specifically what rules are El Paso seeking to amend  
11 by the application in this case?

12 A El Paso is seeking to amend the following rules:  
13 Rule 9-B as it pertains to the Northwest;  
14 Rule 10-A as it pertains to the Southeast.

15 These rules related to methods of assigning  
16 monthly allowables to marginal wells.

17 We are also seeking to amend Rule 13, and it  
18 pertains to both the Northwest and Southeast. This  
19 rule establishes the balancing date as January 1st, and  
20 sets out the term of the gas proration period.

21 We also would like to have Rule 16-A pertaining  
22 to both the Northwest and Southeast amended, and this  
23 rule sets forth the procedure for changing the  
24 classification of a well from non-marginal to marginal.

25 Q Now, these rules that you have referred to, Mr. Manning,

1 these are rules set forth in Order No. R-1670 as  
2 amended?

3 A That's correct.

4 Q Now, in somewhat more detail, Mr. Manning, your first  
5 proposed rule change relates to Rule 9-B for the  
6 Northwest, as shown on your Exhibit Number One, and  
7 Rule 10-A as it applies to the Southeast, which is  
8 shown on Exhibit Number Two. As you have already stated,  
9 these rules relate to the method of assigning monthly  
10 allowables to marginal wells, is that correct?

11 A Yes, sir.

12 Q What is the present requirement of these rules?

13 A These rules presently require that the monthly allowable  
14 to be assigned to each marginal well be equal to its  
15 average monthly production during the preceding gas  
16 proration period.

17 Q And how do your proposed amendments change this rule?

18 A Well, we propose that the monthly allowable assigned  
19 to each marginal well be that well's latest available  
20 monthly production rather than average allowable for  
21 the preceding gas proration period.

22 Q Now, if the proposed rule changes are adopted by the  
23 Commission, what would be the effect of this change?

24 A Well, the amended rules would result in assigning to  
25 each marginal well an allowable which is as close to

1 possible to its producing ability. This will result  
2 in a more accurate determination of that portion of  
3 permitted production set aside for production by  
4 marginal wells.

5 Consequently, it will be possible to make a more  
6 accurate determination of the amount of market demand  
7 remaining that must be prorated among the marginal  
8 wells with the end result being prorated wells will  
9 receive a more accurate allowable.

10 Q Now, the second rule change that you mentioned on both  
11 Exhibits One and Two relate to Rule 13. Would you  
12 describe what Rule 13 does in its present form as it  
13 presently exists, and then explain how your proposal  
14 would amend that rule?

15 A Yes, sir. Well, presently Rule 13 provides that seven  
16 a.m., January 1st of each year shall be known as the  
17 balancing date, and the twelve months following this  
18 date shall be known as the gas proration period.

19 El Paso Natural Gas Company is asking the Commission  
20 to amend Rule 13 to change the balancing date to seven  
21 a.m., April 1st of each year, and April 1st of each  
22 year shall be known as the balancing date, and the  
23 twelve months following that date shall be known as  
24 the gas proration date. Rule 13 changes January 1st  
25 to April 1st.

1 Q So the gas proration period would still be a twelve-  
2 month period, but it would commence on April 1st of  
3 each year instead of January 1st, as it does under the  
4 present rule?

5 A Yes, that's correct.

6 Q Now, why is El Paso seeking this particular change?

7 A Well, as the rule is now in effect, it becomes necessary  
8 for us to shut in wells to balance during the height  
9 of the heating season, and if we would commence on  
10 April 1st rather than January 1st, the curtailment of  
11 production would occur during a period of the year  
12 when demand for gas is less, and this would help the  
13 operators balance their wells better.

14 Q How would you propose that particular change be implemented,  
15 and when would it be implemented?

16 A El Paso would like to have the current proration period  
17 due to terminate at seven a.m., on January 1st, 1974  
18 be extended to seven a.m., April 1st, 1974.

19 Q So the current proration period would be extended from  
20 the twelve-month period now in effect to a fifteen-  
21 month period?

22 A Yes, that's correct.

23 Q Now, concerning the third rule change that you have  
24 proposed, and which is reflected on both Exhibits One  
25 and Two in relation to Rule 16-- First, Mr. Manning,

1 before we start discussing that, on Exhibit One, is  
2 there any error under Rule 16 that should be noted?

3 A Unfortunately, there is.

4 Q Would you point that out, please?

5 A Yes. In the second line of that paragraph pertaining  
6 to Rule 16, it says, "Commending on April 1st", and  
7 this is very difficult. It should be changed to  
8 "commencing on April 1st". I apologize for the  
9 typographical error.

10 MR. PORTER: Did you type it, Bob?

11 THE WITNESS: I was responsible for proofreading it.

12 Q (By Mr. Morris) With respect to Rule 16-A, would you  
13 explain how the rule operates at the present time in  
14 its present form, and how it would be changed in  
15 accordance with your proposal?

16 A Presently Rule 16-A provides that only once a year  
17 would you determine if a well were to be classified  
18 as marginal or non-marginal. Under our proposal, a  
19 non-marginal well would be examined every three months  
20 for possible clarification to marginal.

21 Now, we propose no change in the current procedure  
22 which results in only the annual analysis of each  
23 marginal well to determine whether it should be  
24 classified to non-marginal.

25 Q How would you accomplish that procedure?

1 A El Paso is asking that Rule 16-A be amended to provide  
2 two things. First, that the gas proration periods  
3 consist of four classification periods for purposes  
4 of classifying wells as marginal. Now, each  
5 classification period would be for a duration of three  
6 months.

7 Second, we are asking that after the production  
8 data is available for the last month of each classification  
9 period that any well which had underproduced status  
10 at the beginning of a gas proration period and had  
11 not balanced, or has not balanced during a current  
12 proration period be classified as a marginal well.

13 If its highest single month's production during  
14 a classification period is less than its average  
15 monthly allowable for such a classification period,  
16 unless of course as is currently provided, within  
17 fifteen days of receipt of notice of classification,  
18 the operator of the well could come in and with good  
19 cause show the Commission that his well should not be  
20 so classified.

21 Q Now, here again just for clarification, when you are  
22 talking in your testimony about the term proration  
23 period, you are still talking about annual or a twelve-  
24 month period, except for the initial one we are in now,  
25 which would be extended to a fifteen-month period.

1 A That's right, sir.

2 Q And when you are talking about a classification period,  
3 you are talking about a three-month period?

4 A Yes, that's correct.

5 Q Now, does the procedure you have just outlined for  
6 determining the classification of marginal wells differ  
7 from present practice and procedure by the Commission  
8 under the present rule?

9 A Well, the procedure for classifications is the same,  
10 only the frequency has been increased, and it's been  
11 increased from one year to once every three months.  
12 So the only change is in frequency of classification.

13 Q What will be the effect of the proposed changes in  
14 Rule 16-A if the Commission adopts your proposal?

15 A Well, I believe a direct result will be more frequent  
16 and more accurate determinations of a well's ability  
17 to produce its allowable, and it would also result  
18 in whether a well should be classified marginal or  
19 non-marginal.

20 The present procedure can result in a well having  
21 a twelve-month delay in determining whether it should  
22 be classified marginal. During that twelve-month  
23 period, that well could be assigned a portion of  
24 market demand which it's incapable of producing. This  
25 deprives the capable wells of part of their appropriate

1 allowable, and this will result in improper showing  
2 of overproduction.

3 El Paso proposes that wells be examined every  
4 three months for probable re-classification as marginal.  
5 This will avoid this long delay in classification, and  
6 will result in production of wells more nearly in line  
7 with their current allowable, and thereby maintaining  
8 a better proration balance.

9 Q Generally, Mr. Manning, do you think this rule change  
10 that you propose will generally help prorationing work  
11 better?

12 A Yes, sir.

13 Q Now, when would you propose that this change in Rule  
14 16-A be made effective?

15 A Well, we would request the first marginal classification  
16 be effective October 1st, 1973, utilizing data from  
17 the July-August, 1973-- utilizing production data of  
18 July and August, 1973.

19 Q And September?

20 A And September. July, August and September, the three  
21 months in that period.

22 Q Does El Paso propose that a cancellation and  
23 redistribution schedule be issued at the end of each  
24 three-month classification period?

25 A No, we do not. El Paso does not propose to have

1 classifications and redistribution schedules per se  
2 at the end of each three-month classification period.  
3 However, one of the classification period coincides  
4 with the end of the annual proration period, and we  
5 would expect continuation of procedures presently  
6 followed at the end of the balancing and proration period.

7 Q Now, since El Paso does not propose that a cancellation  
8 and redistribution schedule be made and issued at the  
9 end of each three-month classification period, but only  
10 at the end of the annual proration period, how will  
11 the necessary adjustments to allowables be accomplished?

12 A Well, when a well is classified as marginal, its  
13 accumulative underproduced status is made zero. This  
14 has the effect of taking away underproduction from  
15 the accumulative status of the pool and increasing the  
16 allowed production from the non-marginal wells.

17 Now, this accurately distributes the cancelled  
18 allowable to the prorated wells.

19 Q Mr. Manning, at the time El Paso filed its application  
20 in this case, the application contained a request that  
21 additional changes in the orders and rules of the  
22 Commission be made as might be necessary to implement  
23 the specific rule changes that you have testified to.  
24 Are you aware of some of these additional changes that  
25 may be required?

1 A Yes, I am. Exhibit Three shows some word changing  
2 that will be necessary in Order R-333F-1 as amended.

3 This exhibit was prepared along the same lines  
4 as the first two exhibits.

5 Also I believe there is Rule 9-D that may have to  
6 have a date change, and possibly some others, sir.

7 Q Mr. Manning, we might have pointed this out at the  
8 beginning, but let's do so again now. What does the  
9 underlining mean, and what do the strike-through lines  
10 mean on each of the three exhibits?

11 A These exhibits were prepared in this manner. The rule  
12 as it now exists was copied verbatim, and the words  
13 that we would like changed in that were dashed through,  
14 and the words that we would like added to that were  
15 underscored. This is the procedure that was followed  
16 in the preparation of all three exhibits. So strike-  
17 through words we would like deleted, and underscored  
18 words we would like to add.

19 Q Are there any other additional changes that should be  
20 made in Order R-1670 that you are aware of?

21 A Well, as I said a while ago, Rule 9-D of the Northwest  
22 will probably have to be amended to reflect April 1st.

23 Q Instead of January 1st?

24 A Yes. And as I previously testified, there are probably  
25 some others that will need to be changed, the dates

1 will need to be changed on them.

2 Q From your experience in prorating, Mr. Manning,  
3 do the rule changes as proposed in this application  
4 have the effect of violating correlative rights or  
5 causing waste?

6 A No, I can see no violations of correlative rights, or  
7 any waste being caused by the adoption of our proposed  
8 changes.

9 MR. MORRIS: If the Commission please, this  
10 concludes the direct examination of Mr. Manning. At this  
11 time, I would move for the introduction of El Paso Exhibits  
12 One, Two and Three into evidence.

13 MR. PORTER: Exhibits One, Two and Three will be  
14 admitted in evidence without objection.

15 (Whereupon Applicant's Exhibits One, Two and Three,  
16 respectively, were admitted in evidence.)

17 \* \* \* \*

18 CROSS EXAMINATION

19 BY MR. PORTER:

20 Q Mr. Manning, as a result of more frequent re-classifica-  
21 tions from the twelve-month period to the three-month  
22 period as you have proposed, would that result in  
23 higher allowables to the non-marginal wells?

24 A Yes, it will.

25 Q Because of the cancellation of underage?

1 A When the status on a marginal well is made zero, it  
2 will, yes.

3 MR. PORTER: Are there any questions of the witness?

4 MR. KELLAHIN: Yes.

5 \* \* \* \*

6 CROSS EXAMINATION

7 BY MR. KELLAHIN:

8 Q Mr. Manning, in connection with the proposed change in  
9 Rule 9-B, you are proposing to assign an allowable to  
10 a marginal well based on later available monthly  
11 production. There are a good many factors that can  
12 affect a well's production during any one month that  
13 wouldn't be applicable to other months, are there not?

14 A Yes, sir.

15 Q So that a well that suffered for some reason during a  
16 month might be classified marginal when in fact it was  
17 not marginal, isn't that right?

18 A Nine-B, sir?

19 Q Yes.

20 A No, sir. Nine-B has nothing to do with classification.

21 Q I stand corrected. But in connection with 9-B, wouldn't  
22 a period longer than one month more accurately reflect  
23 the ability of that well to produce?

24 A Mr. Kellahin, it could, and it could not. But the  
25 thing is this. Its production two months later becomes

1 its allowable.

2 Q So the actual assigning of an allowable to that  
3 individual well means less insofar as that well is  
4 concerned?

5 A Assigning an allowable to that well, right, except that  
6 it puts more of an allowable to the non-marginal wells.

7 Q It puts more of an allowable to non-marginal wells  
8 which may or may not be available?

9 A Yes, sir. I think it is available.

10 Q It's available if the marginal well doesn't produce it.

11 A No, it has nothing to do with production from the marginal  
12 well.

13 Q When you carry it forward into the next proration period,  
14 it does, doesn't it?

15 A Two months later, a marginal well's production becomes  
16 its allowable. I think the word that should be  
17 deleted here is "allowable". This is not an allowable,  
18 it's assigned to a marginal well because, by definition,  
19 a marginal well could not have an allowable.

20 Q I would agree with you. Would you suggest that it be  
21 removed?

22 A I think that's up to the discretion of the Commission.  
23 If they would like to remove it, it would be fine with  
24 El Paso, I think.

25 Q You are proposing a twelve-month proration period

1 starting on April 1st in Rule 13, is that correct?

2 A Yes, that's correct.

3 Q So under your Rule 16-A, the four classification periods  
4 would also start on April 1st, would they not?

5 A Yes, sir.

6 Q That would start the wells during a period of low demand?

7 A Yes, sir.

8 Q So if a well started on April 1st and it was underproduced  
9 as of April 1st, that well would be subject to  
10 re-classification at the end of the first three-month  
11 proration period, assuming it didn't make up the allowable,  
12 is that correct?

13 A That's true.

14 Q So it only has three months in order to make it up.

15 A No, that is not true.

16 Q Where would it make it up?

17 A As you recall in my testimony, we did not propose a  
18 change in classification from marginal to non-marginal,  
19 except once a year.

20 Q Well, that isn't what your Rule 16-A states, is it?

21 A That's the way it is being handled now, Mr. Kellahin.  
22 We do not propose to change it in any way from the way  
23 it is being handled now.

24 Q Would you still have twelve months to make up under-  
25 production?

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1 A In effect, yes, the way we propose it.

2 Q Well, it says under your rule that the proration period  
3 if it was underproduced at the beginning of the period  
4 shall be classified marginal if its highest monthly  
5 production is less than the average monthly allowable  
6 for the three-month classification. When did the  
7 three-month classification period start?

8 A April 1st if your well has not balanced during that  
9 period.

10 Q So on July 1st, it would be marginal.

11 A It could possibly be classified as marginal.

12 Q Well, that's three months.

13 A Right.

14 Q So that well would only have had three months from the  
15 beginning of the proration period to make up this?

16 A No, that's not true. At the end of the year, the well  
17 is looked at, and if it produced a non-marginal allowable,  
18 it would be classified as non-marginal. It would be  
19 given a non-marginal allowable and the underage if it  
20 produced it.

21 Q That is going back to any one of these three-month  
22 periods when it was classified as marginal.

23 A I guess I don't understand where you are going.

24 Q I am afraid I don't understand the rule. You say  
25 that at the end of three months, say July 1st, if a

1 well hasn't made up its underage, it would be classified  
2 as marginal.

3 A That's true.

4 Q And when classified as marginal, it loses any underage,  
5 does it not, under the present rules?

6 A When it is classified as marginal, it can get the  
7 underage that it is entitled to, provided it qualifies  
8 to go back to non-marginal at the next balancing period.

9 Q Where in here would you find this, Mr. Manning? As I  
10 understand our rules, if a well is classified as  
11 marginal--

12 A Let me clarify something here.

13 Q Please.

14 A The way we are proposing this, Mr. Kellahin, is if a  
15 well is re-classified from marginal to non-marginal  
16 on the balancing date, April 1st, the well must have  
17 produced a non-marginal allowable to be re-classified,  
18 and then it will be given the underage that it is  
19 entitled to, provided it can make it.

20 Q Is that in your rule here?

21 A Wasn't that in my testimony?

22 Q Pardon me?

23 A Wasn't something to that effect in my testimony?

24 Q I am talking about the rule you are proposing to the  
25 Commission. It's not in your rule.

1 MR. MORRIS: Mr. Kellahin, I think maybe we can  
2 clear up some of the confusion here. I think Mr. Manning  
3 testified that this was under the existing rule, and the  
4 existing procedure of the Commission, and that El Paso did  
5 not propose any changes in this procedure or rule of the  
6 Commission. This is simply not covered by any proposed  
7 rule change that we offer, but it is part of the existing  
8 rules and practices of the Commission.

9 MR. KELLAHIN: I don't want to argue the point  
10 unnecessarily, but I think it should be pointed out that  
11 you are proposing that after a three-month period, a well  
12 could be classified as marginal, and that is not in this  
13 rule here. Do you agree with that, Mr. Manning?

14 A I agree with that, yes.

15 Q Now, another factor on this cancellation-- I mean  
16 classification of wells. If a well entered the  
17 underproduced status on April 1st, it would be  
18 classified as marginal, assuming it met other requirements  
19 at the end of the first three months, is that correct?

20 A Yes.

21 Q If it entered the second three-month period underproduced,  
22 it would run to the following year before it was subject  
23 to re-classification, is that correct?

24 A No, sir, it would be re-checked under the present rules  
25 at the end of the balancing period, which would be

1 April 1st.

2 Q At the end of the balancing period. I am talking about  
3 starting with July 1st. If it started on July 1st  
4 being underproduced, at what stage would it be subject  
5 to your proposed rule change?

6 A We are starting at the first balancing period. I believe  
7 my testimony was that it has to be underproduced at the  
8 start of the proration period to qualify.

9 Q Qualify for your rule?

10 A Yes, sir, whether it be April 1st, July 1st, October 1st,  
11 or January 1st.

12 Q Thank you, Mr. Manning.

13 MR. KELLAHIN: I have no further questions.

14 MR. PORTER: Does anyone else have any questions?

15 MR. UTZ: Yes.

16 \* \* \* \*

17 CROSS EXAMINATION

18 BY MR. UTZ:

19 Q Mr. Manning, in regard to Mr. Kellahin's questioning,  
20 the rule is silent in regard to marginal wells going  
21 back up to non-marginal. Would you suggest that the  
22 rule be changed to make that clear?

23 A Yes, I believe I would. I believe I would suggest  
24 along these lines, Mr. Utz, that the well will be  
25 examined at the end of the balancing period, and if it

1 met the criteria of producing a non-marginal allowable  
2 or in excess of a non-marginal allowable, it would be  
3 re-classified to non-marginal.

4 Q I would like to reason with you a little bit with regard  
5 to the last four lines of 16-A, wherein it says,  
6 "Unless within fifteen days after receipt of notice  
7 of classification of a well as marginal, the operator  
8 of the well or other interested person presents  
9 satisfactory evidence to the Commission showing that  
10 the well is not of marginal character, and should not  
11 be so classified."

12 As a practical matter, the production for the end  
13 of a ninety-day period or three-month period is not  
14 received by the Commission until the middle of the  
15 following month.

16 A Yes, sir.

17 Q And that would be the time for the expiration of the  
18 fifteen days, if I understand your rule correctly?

19 A I don't believe you can notify your operators at that  
20 time. You are going to have to notify him it's marginal  
21 after you analyze it, which will probably be the first  
22 of the following month.

23 Q Would the wording, say, "Within fifteen days after he  
24 is notified..."--

25 A Well, Mr. Utz, this is the wording as it exists now,

1 and we see no reason for changing it. It's been working  
2 in the past--

3 Q That's just my point, it hasn't been working.

4 A Oh, it hasn't?

5 Q As a practical matter, the operator does not make the  
6 request until after he is notified. I am suggesting  
7 to you that maybe we should make it fifteen days after  
8 notification of such classification.

9 A I agree with you, Mr. Utz.

10 MR. NUTTER: Let me read the entire sentence: And  
11 to provide that after production data is available for the  
12 last month of each such classification period, any well  
13 which had an underproduced status at the beginning of the  
14 gas proration period would be classified marginal if its  
15 highest single month's production during the classification  
16 period is less than its average monthly allowable for the  
17 classification period, unless within fifteen days after  
18 receipt of notice of classification of a well as marginal,  
19 the operator of the well or other interested person presents  
20 satisfactory evidence to the Commission showing that the  
21 well is not of marginal character, and should not be  
22 classified."

23 In other words, if an operator is notified that his  
24 well has been re-classified on August 15th, he has another  
25 fifteen days in order to contest it.

1 MR. ARNOLD: Mr. Manning, I would like to get it  
2 a little bit clearer as to what you have in mind as far as  
3 reinstatement of underage. Suppose you have a non-marginal  
4 well coming up to April 1st, which has underproduction, and  
5 the fact that it has underproduction assigned makes it  
6 eligible at the end of the next three-month classification--  
7 I mean, that's one of the qualifications, is that right?

8 THE WITNESS: That's true.

9 MR. ARNOLD: So at the end of a three-month period,  
10 it, by your definition, becomes a marginal well, and it stays  
11 marginal through the next three-month period until you get  
12 around to April 1st again. It stays marginal through the  
13 year, and then when you look at it on April 1st, it becomes  
14 a non-marginal well by definition.

15 THE WITNESS: Yes.

16 MR. ARNOLD: Now, do you go clear back to the  
17 previous April 1st and pick up that underage you had?

18 THE WITNESS: Yes. Let me explain something to  
19 you. If this well, without the three-month classification  
20 period, if this well had entered that proration period  
21 underproduced, doesn't it have that year to make that  
22 underproduction up?

23 MR. ARNOLD: Well, the question I was asking was  
24 to clarify what Mr. Kellahin was asking, and that is whether  
25 or not that underage that you had, whether you go back a

1 year and pick up that underage for a year.

2 THE WITNESS: You go back to the start of the  
3 proration period, yes. I think the answer to your question  
4 is yes, one year.

5 MR. ARNOLD: Well, if you did that, that would  
6 take care of Mr. Kellahin's objection.

7 THE WITNESS: I think it would. I thought Mr.  
8 Kellahin's objection was taken care of, but maybe I didn't  
9 understand his questions.

10 MR. PORTER: We will assume it has been unless he  
11 states otherwise.

12 Are there any further questions of Mr. Manning?  
13 Mr. Lyons, do you have any questions?

14 MR. LYONS: I don't believe so.

15 MR. MEDLEY: I have a question or two.

16 \* \* \* \*

17 CROSS EXAMINATION

18 BY MR. MEDLEY:

19 Q Mr. Manning, do you mean to always go back to the  
20 beginning of the proration period for underproduced  
21 status?

22 A I don't understand your question.

23 Q Do you mean to always come back to the beginning of the  
24 proration period to find your underproduced status?

25 A I think the answer to your question would be yes. You

1 will look at the wells for that entire proration period  
2 in an underproduced status.

3 Q For the proration period?

4 A Yes.

5 Q Is that always April 1st?

6 A If you are looking at July 1st, you go back to April 1st.  
7 If you entered that proration period in an underproduced  
8 status, that well becomes a candidate for re-classification.

9 MR. MEDLEY: Thank you.

10 MR. PORTER: Are there any other questions of the  
11 witness?

12 (No response)

13 MR. PORTER: If not, the witness may be excused.

14 (Witness excused.)

15 \* \* \* \*

16 VICTOR T. LYON,

17 was called as a witness, and having been already duly sworn  
18 according to law, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. KELLAHIN:

21 Q Would you state your name, please?

22 A V. T. Lyon, L-y-o-n.

23 Q By whom are you employed, and in what position, Mr. Lyon?

24 A I'm employed with Continental Oil Company as a  
25 conservation coordinator in the Hobbs division office,

1 Hobbs, New Mexico.

2 Q Have you previously testified before the Oil Conservation  
3 Commission and made your qualifications a matter of  
4 record?

5 A Yes, I have.

6 MR. KELLAHIN: Are the witness' qualifications  
7 acceptable?

8 MR. PORTER: Yes, they are.

9 Q (By Mr. Kellahin) Have you studied the proposed rule  
10 changes that have been presented here today by El Paso  
11 Natural Gas Company affecting gas proration?

12 A Yes, I have. I am familiar with this case in that Mr.  
13 Manning visited our office prior to the filing of the  
14 application, and reviewed it with us. I was present  
15 also when he reviewed it for our Casper office. And  
16 I have reviewed the application which was mailed to us,  
17 and have attempted to evaluate our wells as they would  
18 be affected by these rules, as I understand them with  
19 the background that I have.

20 Q Now, is Continental, as a producer, in agreement with  
21 these rules?

22 A We are concerned that the rules if adopted and if the  
23 Commission's attitude about balancing and so forth  
24 isn't liberalized that they would cost us allowable  
25 and revenue.

1 Q Do you have any other points of contention with the  
2 proposed rules?

3 A No, I think that's about the sum and substance of it.

4 Q Have you made a study of the effect these proposed  
5 rules would have on your actual operations based on  
6 your past production?

7 A Yes, we have. We evaluated all the non-marginal wells  
8 which we operate in the Hobbs division, and I would  
9 like to point out that as a gas producer, Continental  
10 looks at this problem, and I should emphasize the word  
11 producer, Continental looks at this problem from a  
12 different viewpoint than does El Paso. Continental  
13 is concerned about its individual property and wells,  
14 and the effect that the proposed changes would have on  
15 its operations of those properties and wells.

16 I would like to address myself particularly to  
17 three points about which we are concerned in this  
18 proposal. These points are, number one, the probable  
19 effect on our individual wells, and we have prepared  
20 some examples to show what this would be if the rule  
21 had been in effect on January 1st, 1972. The second  
22 point concerns some of the present practices of the  
23 Commission in administering gas proration rules and  
24 their effects on individual wells. The third point  
25 is addressed to the philosophy which appears to exist

1 in administering the gas proration rules by the  
2 Commission and some instances where we feel we have  
3 not been equitably treated, and our correlative rights  
4 may have been violated.

5 As to the first point, as I say, we have made a  
6 study of the non-marginal wells in the Hobbs division,  
7 and in making this review, I would like to point out  
8 that we have taken the severest interpretation of the  
9 rules proposed by El Paso. Now, Mr. Manning explained  
10 to us that it was their feeling that to go with the  
11 adoption of these rule changes, there would be adequate  
12 provisions for reinstatement of allowables which were  
13 cancelled if a well were improperly classified from  
14 non-marginal to marginal.

15 I did not see this in his application, I did not  
16 see it in the rules. Consequently, this is the reason  
17 I took the severe interpretation that I did in making  
18 these comparisons.

19 Now, in summary, I would like to point out that  
20 Continental operates 131 wells in the Blinbry, Eumont,  
21 Jalmat and Tubb gas pools. Of these 131 wells,  
22 sixty-five or approximately half, are non-marginal.  
23 Of these non-marginal wells, twenty-two, or approximately  
24 one-third, would have been re-classified from  
25 non-marginal to marginal during the period of January

1 1st, 1972 through March 31st, 1973. There would have  
2 been a total of 1,132,964 MCF of gas allowable  
3 cancelled as a result of these re-classifications.

4 I would further mention that we have categorized  
5 the periods in which these wells would have been  
6 re-classified. In making this study, we referred to  
7 the first quarter, from April 1st to July 31st, and  
8 the last quarter, from January 1st through March 31st.  
9 In the first quarter, there would have been two wells  
10 re-classified to marginal; five wells in the second  
11 quarter; three in the third quarter; and twelve in  
12 the fourth quarter.

13 It's obvious to me, again taking this severest  
14 interpretation, that the balancing date of April 1st  
15 would maximize the number of marginal wells. And  
16 from Continental's viewpoint, we believe this is  
17 undesirable.

18 I have prepared three exhibits which list three  
19 wells which we think would have been unjustly treated  
20 under these proposed rules.

21 Q Referring you to what has been marked as Continental  
22 Exhibit One, would you identify that exhibit?

23 A Exhibit One is a tabulation which shows the allowable  
24 production and the over or underproduced status and  
25 average quarterly allowable for the Lockheart No.

1 27 Well in the Blinebry pool. This well is located  
2 in Unit A, Section 27. It's a 120-acre proration unit.

3 The well entered the first quarter underproduced--  
4 Excuse me. The well was overproduced at the beginning  
5 of the year, which would be the fourth quarter if the  
6 system were in effect, and therefore, it would not  
7 be subject to cancellation at the end of that quarter.

8 Q You mean under the proposed rule?

9 A Yes.

10 Q It entered the beginning period overproduced? Is that  
11 correct?

12 A Yes, that's true. It was overproduced on December 31st,  
13 1971.

14 Q What was its status as of April 1st?

15 A As of April 1st, it was underproduced by 4,732 MCF.

16 Q Now, as I understand the proposed rule, that would render  
17 that well subject to re-classification as a marginal  
18 well.

19 A Yes, sir. The well in fact did not produce its overage  
20 allowable during that first quarter, that proration  
21 period, and consequently it would have been re-classified  
22 to marginal under the proposed rule on July 1st. Then,  
23 as I understand it, the accumulated underproduction  
24 would be cancelled. Here we are not certain how much  
25 of the underproduction that is cancelled would be

1 restored, and under what circumstances. This is the  
2 reason we are skeptical of the thing, we don't know  
3 how it will be administered for sure.

4 I would point out to you that in the month of  
5 December, 1972, the well produced about two and a half  
6 million cubic feet of gas, so it's obviously not a  
7 marginal well.

8 Q That's per day?

9 A Per day, yes.

10 Q So it's not a marginal well in fact?

11 A Right.

12 Q But under the proposed rule, in your opinion, you would  
13 lose the underproduction that it went into the first  
14 of the year with?

15 A Yes.

16 Q Referring you to what has been marked as Exhibit Two,  
17 would you identify that exhibit?

18 A Exhibit Two is the same type of tabulation showing our  
19 Line B-25, which is a Jalmat well located in Unit M,  
20 Section 25, Township 23 South, Range 36 East. The  
21 well is on a 320-acre proration unit. You will note  
22 that the well remained in an overproduced status during  
23 the entire year of 1972. At the end of 1972, the  
24 underproduction which had been accumulated for eighteen  
25 months in the pool was cancelled and redistributed.

1 The redistribution was made in February, but was made  
2 retroactive to December. So that well was charged  
3 with that allowable in December, which changed it from  
4 31,000 MCF overproduced to 50,000. These are rounded  
5 off production figures.

6 The well failed to make its overage allowable  
7 for the fourth quarter, that was from January through  
8 March, and consequently would be classified to a  
9 marginal status on April 1st, 1973.

10 Q Referring you to what has been marked as Exhibit Three,  
11 would you identify that exhibit?

12 A Exhibit Number Three is the same type of tabulation  
13 on the Stevens A-35 Unit Well, which is on a 280-acre  
14 proration unit, jointly allocated to Wells 1 and 2.

15 They are located in Unit J and Unit L of Section  
16 25, Township 23 South, Range 36 East, Lea County. The  
17 two wells together have just about enough producing  
18 capacity to produce their non-marginal allowable.

19 You will note that they entered the period under  
20 consideration in an underproduced state. In the first  
21 quarter of 1972, the wells produced more than the  
22 average allowable for the quarter, and also for the  
23 first, second and third quarters of the balancing  
24 period, and were actually overproduced by 49,000 MCF  
25 of gas on the basis of the normal allowable before

1 redistribution. However, the wells received 71,607  
2 MCF redistributed allowable, which changed its  
3 classification to underproduced by 37,600 MCF.

4 So it entered the fourth quarter underproduced,  
5 and during that quarter, it failed to produce its  
6 average allowable for the quarter, and consequently  
7 it would have been re-classified to a marginal well.

8 This would have been the second time this well  
9 would have run into difficulty due to this circumstance,  
10 which we think works to the serious disadvantage of  
11 the proration unit.

12 Q Is this due to the manner in which the Oil Commission  
13 handles the cancellation and redistribution of gas  
14 allowables?

15 A Yes, sir. Since gas prorationing began in Southeastern  
16 New Mexico on January 1st, 1954, the Commission has  
17 engaged in practices of cancelling allowables, then  
18 redistributing the allowables, as was done in this case,  
19 during a period where the balancing periods were of  
20 six-month durations.

21 This cancellation then redistribution would take  
22 place in February and August, but the allowable would  
23 be given to the wells retroactively to December and  
24 June so that it was added to the December-June allowable  
25 for balancing purposes.

1           The rules provide that underproduction should be  
2 made up in the following balancing period, or it should  
3 be cancelled. The retroactive allowable was not given  
4 until after one month had passed.

5           Several years ago, there was a proposal to grant  
6 a tentative allowable, and then the firm final allowable  
7 would be based on actual production and redistributed--  
8 or distributed to the wells in the pool.

9           The basis of the proration formula legal opinion  
10 was given by Jack Campbell before he was elected governor,  
11 and it was to the effect that the Commission must grant  
12 an allowable which is prospective and not retroactive.

13           The redistribution of an allowable in the February  
14 proration schedule made effective December 31st, in  
15 my opinion, is a retroactive allowable, and is in  
16 conflict with this opinion.

17           Furthermore, it has always been my contention  
18 that this redistribution is not necessary. In times  
19 past, the overproduction was considered in adjusting  
20 nominations in arriving at current allowables. The  
21 practice is no longer used, though. The current  
22 practice is to take the nominations and whatever  
23 adjustments are deemed proper in the eyes of the staff  
24 based on the experience or knowledge they have, and  
25 the sum and effect is the current allowable.

1 I see no advantage to this scheme of gas proration  
2 of redistributing the cancelled allowable. In my  
3 opinion, if an allowable is not produced within the  
4 rules, it should be cancelled. The effect of  
5 redistribution is kind of a Robin Hood scheme, where  
6 you take the allowables from the weak and give them  
7 to the strong. The wells which are overproduced  
8 appreciate the bonus, but the wells that are barely  
9 balanced, or which are underproduced, really have their  
10 work cut out for them because of the additional  
11 allowable which is given them.

12 Now El Paso directly tells us how good it is to  
13 have a well classified as marginal, and we just can't  
14 work up a great deal of enthusiasm about this  
15 classification.

16 In the first place, if a well is classified  
17 improperly, there is difficulty, if not impossibility,  
18 in getting the allowable restored.

19 Secondly, a marginal well is constantly in  
20 balance, and the operator is lulled into complacency  
21 thinking that this is the best the well can do. If  
22 a well is classified non-marginal and begins to  
23 accumulate underproduction, there is notice to the  
24 producer that the well is falling behind, and he needs  
25 to give it attention.

1           The fact that the well has accumulated  
2 underproduction is often a stimulant to the operator  
3 to go in and to do remedial work, or recomplete another  
4 well to help produce the allowable.

5           This Commission has provided a discovery oil  
6 allowable, but it seems reluctant to provide the  
7 stimulus to do remedial work, which would increase gas  
8 production in gas proration units.

9           Now, the third point I would like to discuss  
10 concerning this Stevens A-35 proration unit, which was  
11 shown on Exhibit Three-- I would like to call the  
12 Commission's attention to Case 3817 in which Order  
13 No. R-3491 was entered. I would like to review the  
14 facts of that case briefly.

15           The Stevens A-35 leased two wells, both of which  
16 were relatively strong wells, and because they were  
17 strong, it was El Paso's practice, with our full  
18 knowledge and consent, that they would pull the well  
19 hard during the high demand period, and they would  
20 pull it very lightly, or even shut it in for some  
21 several months at the times of low demand.

22           Because of this fact, we did not realize that  
23 well was in trouble until a high demand was on us, and  
24 the well failed to produce as it had in the past.  
25 Production was reported to us before we realized that

1 there was something wrong with the well, and it ended  
2 the first balancing period, June 30th, 1967, in an  
3 overproduced status by an amount of 1,854 MCF of gas  
4 before redistribution.

5 The redistribution at that time was 7,235 MCF,  
6 and the well's status became underproduced by 5,381  
7 MCF. Application was filed to combine the two proration  
8 units so that the No. 1 Well could help the No. 2 Well  
9 produce the allowable. But we didn't get this  
10 accomplished until well into the calendar year of 1968.

11 At the end of 1967, since the well had entered  
12 that proration period underproduced, it did not produce  
13 its allowable during the balancing period, and was  
14 re-classified to marginal, and the allowable was  
15 cancelled.

16 Now, a member of the Commission's staff told me  
17 that if we would overproduce that well by a sufficient  
18 amount, that they would restore that underproduction,  
19 they would restore the allowable.

20 So we wrote to El Paso, and asked them to  
21 overproduce the well, so the cancelled allowable could  
22 be restored. El Paso replied by letter as follows:  
23 "We are without authority to produce an allowable  
24 which has been cancelled. In anticipation of  
25 Commission approval for reinstatement, our market

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1 demand situation in the Jalmat pool during 1968 will  
2 make it extremely difficult to produce in excess of  
3 the current allowable."

4 I might say that El Paso had then, and they have  
5 now, wells which were considerably more overproduced  
6 than that. But in any event, we were caught between  
7 the horns of a dilemma as the Commission wouldn't  
8 restore the allowable, and El Paso wouldn't produce it  
9 unless the Commission reinstated the allowable.

10 The net result was that the unit lost approximately  
11 118,000 MCF of gas with a value of some \$18,000.

12 Now, Order R-3491 contains the following language  
13 in paragraph eleven: "That the correlative rights of  
14 the other operators in the Jalmat Gas Pool would be  
15 violated if underproduction accumulated by the Stevens  
16 A-35 Well were reinstated and allowed to be produced  
17 by either or both of the Stevens wells."

18 As I understand it, the proration formula is  
19 designed to permit each operator to produce his fair  
20 and equitable share of reserves in place. Correlative  
21 rights would be violated if the well were overproduced,  
22 and the operator was not required to make up such  
23 overproduction. It is difficult for me to understand  
24 how a well could violate the rights of other operators  
25 by producing less than its allowable. I believe you

1 can readily understand why Continental considers  
2 the classification of a well as marginal as something  
3 to be avoided. I have been advising my management  
4 for the past several years that there is only one way  
5 to prevent a gas well from losing its allowable under  
6 the proration rules, and that is to keep it overproduced.

7 I think the rules which are being proposed here  
8 make it even more necessary for an operator to keep  
9 his wells overproduced in order to avoid losing the  
10 allowables.

11 We really don't have any argument with El Paso's  
12 position of making allowables available to wells that  
13 can produce them. I think this is completely logical,  
14 and we do believe that the Secretary-Director and the  
15 staff have adequate authority to adjust nominations  
16 to provide the allocations of gas allowables to the  
17 same extent as would be available in the rules proposed  
18 today.

19 We would strongly urge the Commission to avoid  
20 making changes which would impair the rights of the  
21 operators to produce their share of the allowables.

22 Q Were Exhibits One, Two and Three prepared by you or  
23 under your supervision?

24 A Yes, sir.

25 MR. KELLAHIN: At this time, I offer Continental

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1 Exhibits One, Two and Three.

2 MR. PORTER: Without objection, the exhibits will

3 be admitted.

4 (Whereupon Continental Exhibits One, Two and Three

5 were admitted in evidence.)

6 MR. KELLAHIN: That completes our testimony.

7 THE WITNESS: I would like to make a couple of

8 recommendations, if I may?

9 MR. PORTER: Yes, sir.

10 THE WITNESS: First, we recommend the rules not

11 be changed as proposed by El Paso unless there is adequate

12 provision for reinstating cancelled allowables. This is

13 our whole concern in this. Number two, that the practice

14 of redistributing allowables be discontinued, and that

15 allowables cancelled in wells classified as marginal be

16 restored up to one year following such re-classification

17 if the well demonstrates the ability to produce at a

18 non-marginal rate.

19 But we do believe that wells should be subject

20 to cancellation of allowables under the normal balancing

21 procedure.

22 That completes my recommendations.

23 MR. KELLAHIN: You would recommend no underage

24 be redistributed?

25 THE WITNESS: I would like to modify that just

1 slightly. I would say no retroactive redistribution be made.

2 MR. PORTER: How do you distinguish? It's all  
3 retroactive if it's cancelled for a particular proration  
4 period, and your prorating another period, then it would  
5 be retroactive.

6 THE WITNESS: Well, without redistribution, an  
7 operator can look at the proration schedule and he can look  
8 at production when the reports come in, and say, "Okay, I  
9 made my allowable, but if the balancing period"--- Say in  
10 December, you can look at your December production, but you  
11 don't know until you get the February proration schedule  
12 what your allowable was.

13 MR. PORTER: So it actually would be all retroactive,  
14 wouldn't it?

15 THE WITNESS: If you make that redistribution  
16 effective December 31st. If you make it available February  
17 1st, it isn't retroactive.

18 MR. PORTER: I don't believe I get the distinction.

19 THE WITNESS: The distinction is if you look at  
20 the February schedule and see that there has been so much  
21 gas redistributed in February, and added to your current  
22 allowable, that you know you have that allowable to produce  
23 in February during the month you are producing it.

24 MR. UTZ: Aren't you suggesting that rather than  
25 redistributing underage that you allow it to the wells in

1 the form of a current allowable?

2 THE WITNESS: Sir?

3 MR. UTZ: Aren't you suggesting that rather than  
4 redistributing the allowable that you give this additional  
5 allowable or cancellation in the form of a current allowable?

6 THE WITNESS: Yes, sir, that's precisely what I  
7 am recommending.

8 MR. PORTER: Mr. Lyon, maybe I should ask your  
9 attorney this, but is it your position that this change  
10 could be made within the current call of this hearing?

11 MR. KELLAHIN: In my opinion, it could, because  
12 I feel the call of the hearing is to consider a change, not  
13 only the specific change by El Paso. I don't feel that  
14 the call of the hearing would preclude any other operator  
15 from coming in and proposing a different change affecting  
16 the same circumstance.

17 MR. PORTER: As long as it refers to the same rules  
18 that were advertised?

19 MR. KELLAHIN: That's right.

20 MR. PORTER: Are there any questions of the witness?

21 \* \* \* \*

22 CROSS EXAMINATION

23 BY MR. UTZ:

24 Q Mr. Lyon, in regard to your statement of allowables  
25 being reinstated at the end of a proration period, would

1           you recommend that that be done in the case of underage  
2           also? In other words, if there was underage at the  
3           beginning of a period, is it your opinion that you  
4           should have the underage reinstated at the beginning  
5           of the proration period?

6   A       You are talking about a marginal well that had been  
7           worked over?

8   Q       Well, for that matter, a non-marginal well that had  
9           been worked over.

10   A       Well, in a non-marginal well that had been worked over,  
11           it wouldn't have suffered cancellation as a result of  
12           re-classification, so I don't feel it would apply there.

13   Q       That's true.

14   A       But I think any proration unit which within the past  
15           year has been re-classified and its allowable cancelled  
16           because of the re-classification should have that  
17           allowable restored within twelve months of that  
18           re-classification.

19   Q       Even if the well had been worked over?

20   A       If the well had been worked over, or a new well drilled,  
21           or a well recompleted, I think it should be reinstated,  
22           yes.

23           MR. UTZ: That's all I have.

24           MR. PORTER: Are there any further questions?

25           MR. MORRIS: Yes.

## 1 CROSS EXAMINATION

2 BY MR. MORRIS:

3 Q Mr. Lyon, would you refer to your Exhibit Number One  
4 for a moment, please? I believe in your sample here,  
5 you were showing that this well would be re-classified  
6 to marginal in June of 1972 under El Paso's proposed  
7 system, is that right?

8 A Yes, sir.

9 Q Now, under El Paso's proposed rule, the well would not  
10 be subject to re-classification to a marginal status  
11 unless, among other things, it met the criteria that  
12 it entered the proration period in an underproduced  
13 state, is that correct?

14 A Yes.

15 Q Now, you have shown on your exhibit here what the  
16 status of this well was when it entered the 1972  
17 proration period, is that right?

18 A You have to do a little mental arithmetic to determine  
19 what the status was. If you look at the January  
20 allowable and production, it underproduced its allowable  
21 by about 8,000 MCF, sometimes it was only about 4,000  
22 MCF underproduced at the end of January.

23 In that case, it had to be 4,000 MCF overproduced  
24 at the end of December.

25 Q So if it came into the year 1972 in an overproduced

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1 status, then it wouldn't be a candidate for  
2 re-classification in June of that year under this  
3 proposed rule.

4 A Under your proposed rule, the balancing period started  
5 April 1st, so it was underproduced on April 1st.

6 Q I see, all right. You are not talking about the actual  
7 proration period that existed.

8 A No. I might mention another thing, Mr. Morris. I think  
9 the application wasn't specific as to how the  
10 re-classification would take place in that the over or  
11 underproduction status as of April 1st would be the  
12 thing that determines, insofar as we knew when we were  
13 making this comparison, it was the beginning of that--  
14 What did you call it? Classification period?

15 Anyway, these things have been prepared on that  
16 basis.

17 Q Now, Mr. Lyon, you said that, as I understood your  
18 testimony at the beginning of your statement, that you  
19 were concerned that the Commission practices with  
20 respect to reinstatement of allowables might cost  
21 Continental production if the proposed rules as  
22 proposed by El Paso here were adopted. Am I correct  
23 in interpreting your statement there? What you are  
24 really saying by the statement you made is that you  
25 really have no quarrel, particularly with the rules

1 El Paso has proposed here, but your apprehensive that  
2 the Commission might change its practices on the  
3 reinstatement of allowables to wells that change their  
4 classification, or show eligibility to change their  
5 classification from marginal to non-marginal wells?  
6 Is that your position?

7 A No, sir, I am apprehensive that they might not change  
8 their practices.

9 Q Mr. Manning, I believe testified that it was the  
10 practice under the present rules, not the rules we  
11 are proposing to change, but under the prorating  
12 rules of the Commission, that when a well is re-classified  
13 from the marginal to non-marginal category, it becomes  
14 eligible to have its allowable reinstated for the  
15 entire proration period just as if it had been in the  
16 non-marginal category during that whole proration  
17 period.

18 A Yes, sir.

19 Q I believe that's what his testimony was.

20 A Yes, sir.

21 Q Do I understand you to disagree with that?

22 A This isn't the practice that I have observed. We have  
23 noted that this particular situation has come up in  
24 the last couple of years, but we have filed several  
25 applications for reinstatement of allowables when we

1 thought the well should receive some consideration  
2 for having that allowable restored, and I may be a  
3 poor salesman, but my batting average is zero on that.

4 Q Well, let's approach this a little bit differently,  
5 Mr. Lyon. If the Commission has a policy, or should  
6 adopt a policy along the lines as testified to by Mr.  
7 Manning as what he believes the present policy is,  
8 I take it you would have no objection to the approval  
9 of El Paso's application in that case?

10 A With one exception, if I understand what you and Mr.  
11 Manning have said. You mentioned that the allowable  
12 would be restored during that balancing period as if  
13 it had been a non-marginal well. I think that if it  
14 had an underproduced status at the beginning of that  
15 balancing period which would have been carried forward  
16 that amount, that that should not be cancelled under  
17 the balancing provisions, and should also be reinstated.

18 Q I don't think we have any disagreement on that, Mr.  
19 Lyon.

20 A As I say, I don't have any particular argument with  
21 El Paso's proposed rule, but I am very concerned about  
22 how they will be administered, and I think the two  
23 have to be considered together.

24 MR. MORRIS: I have no further questions.

25 MR. UTZ: Mr. Lyon, do you have a suggestion as

1 to what should be written in the rule to avoid your complaint?

2 THE WITNESS: Well, I can't give you specific  
3 language, but I think it could be written without a great  
4 deal of difficulty. I would like it spelled out in the  
5 rules that this allowable would be reinstated, and then I  
6 believe we would have no objection to the proposal of El Paso.

7 MR. PORTER: What kind of information would you  
8 propose to show the Commission, Mr. Lyon, that the  
9 underproduction should be reinstated?

10 THE WITNESS: I think that a deliverability test  
11 showing the well's capacity to produce at a non-marginal  
12 allowable rate, or its production from month to month for  
13 a period long enough to evaluate it should be adequate.

14 MR. UTZ: I am still trying to understand in my  
15 mind just what underage you are talking about. It's my  
16 recollection that you made application on a few occasions  
17 to have your underage reinstated that had been cancelled  
18 prior to work-over. Am I correct on that?

19 THE WITNESS: No, I don't think this is so, Mr. Utz.  
20 We have asked that wells not be classified as marginal in  
21 contemplation of work-overs or some changes which we felt  
22 would improve the wells producing capacity, and the Commission  
23 has been very cooperative about not re-classifying the wells  
24 to marginal. It's when it is re-classified as marginal,  
25 and we ask it to be reinstated that we have our trouble.

1 MR. UTZ: And you have that trouble because you  
2 can't show at that time that the well is capable of producing  
3 its non-marginal allowable.

4 THE WITNESS: Well, in one instance, we couldn't  
5 show it because El Paso wouldn't overproduce it.

6 MR. UTZ: I would say that it looks to me like  
7 under that condition, you would have been able to show us  
8 in some manner that the well was capable of producing its  
9 non-marginal allowable.

10 MR. PORTER: Mr. Lyon, at the time you are talking  
11 about, was that well classified as marginal when you said  
12 they wouldn't overproduce it?

13 THE WITNESS: Yes, sir.

14 MR. PORTER: I thought marginal wells were allowed  
15 to produce all they could.

16 THE WITNESS: There was a repair problem, the well  
17 had developed a hole in the casing, and it was full of water.  
18 We repaired the hole in the casing, and the well may have  
19 gone back to non-marginal, I believe that it probably did.

20 MR. PORTER: You went back to non-marginal, but  
21 you still lost your underproduction?

22 THE WITNESS: Yes, sir.

23 MR. UTZ: That would be underage cancelled prior  
24 to work-over?

25 THE WITNESS: Yes.

1 MR. UTZ: And you are suggesting we discontinue  
2 this practice. Even though a well had been worked over in  
3 the middle of a period, the underage should be reinstated  
4 to the first of the period?

5 THE WITNESS: Yes, I think it should.

6 MR. PORTER: Are there any further questions of  
7 Mr. Lyon?

8 (No response)

9 MR. PORTER: The witness may be excused.

10 (Witness excused.)

11 MR. PORTER: Mr. Kellahin, does that conclude the  
12 testimony from Continental?

13 MR. KELLAHIN: Yes, it does.

14 MR. PORTER: Do you have testimony from any of  
15 your other clients?

16 MR. KELLAHIN: No, sir.

17 MR. PORTER: Mr. Lyons, do you have a witness?

18 MR. LYONS: I don't believe we will present testimony  
19 at this time.

20 MR. PORTER: Is there anyone else that would like  
21 to present testimony in this case?

22 MR. PARKER: I would like to present one witness  
23 on behalf of Transwestern Pipeline.

24 MR. PORTER: Proceed.

25 \* \* \* \*



1 in trying to obtain additional supplies.

2 Q In that regard, are you a competitor of El Paso?

3 A Yes, we are.

4 Q You are appearing here today, however, in support of  
5 the application made by El Paso in regard to the  
6 proposed changes?

7 A Yes, we are.

8 Q Will you state for the Commission the position of  
9 Transwestern with respect to these proposed amendments  
10 to the rules?

11 A We believe the rule changes proposed in the application  
12 to be reasonable, and if they are adopted, they will  
13 enhance the operation of gas prorationing. We believe  
14 the assignment of allowables to marginal wells equal  
15 to available production would allow the wells to  
16 produce their maximum capacity without detracting from  
17 the total field allowable, and would be more in line  
18 with their capacity to produce on a current basis.

19 We feel that the proposed change in Rule 13 is  
20 very desirable, giving a balancing date of April 1st  
21 which would allow us to go through most of the high  
22 demand and high pipeline capacity producing season at  
23 our maximum.

24 The proposed change in Rule 16 is most important  
25 in that it provides for a closer check on the wells

1           which no longer have the capacity to produce their  
2           full allowable. By placing these wells on a marginal  
3           status at the end of a three-month period would allow  
4           these wells to produce their maximum capacity without  
5           incurring underproduction, and the desired volumes  
6           could be better obtained from non-marginal wells without  
7           incurring great overproduction. These factors should  
8           make it easier to keep the wells balanced within the  
9           total field allowable.

10           MR. PARKER: I have no further questions.

11           MR. PORTER: Are there any questions of this witness?

12           (No response)

13           MR. PORTER: He may be excused.

14           (Witness excused.)

15           MR. PORTER: Does anyone else have any testimony  
16           they want to put on?

17           (No response)

18           MR. PORTER: We will take statements at this time  
19           from any interested party. Mr. Kellahin?

20           MR. KELLAHIN: If the Commission please, I think  
21           one factor that has not been mentioned here must necessarily  
22           be considered by the Commission in passing on the application.

23           We are dealing with more than one pipeline company.  
24           We all know that El Paso has a fairly steady gas demand,  
25           of course, it fluctuates, but not to the extent that demand

1 does for some of the other pipelines. This is a factor  
2 that will have serious consequence under the proposed rule.

3 We have a serious problem already in connection  
4 with the business of classifying wells as marginal, and  
5 under the proposed rule, unless it is changed along the  
6 lines Mr. Manning and I discussed, we would have four periods  
7 of time during which any well could be classified as marginal  
8 without any regard to the reason.

9 For example, if a well enters the period of April  
10 1st, as I understand it, in an underproduced status, and  
11 during the first proration period, carries a non-marginal  
12 well status, but fails to make up its underproduction in  
13 the second period and fails to produce its allowable, it  
14 would then be classified as marginal, and this underproduction  
15 would be cancelled.

16 Now, this could occur for any number of reasons,  
17 well work-overs, low demand on the part of the pipeline,  
18 particularly to the pipeline to which the gas well is  
19 connected; any number of reasons.

20 Of course, I assume that the operator could come  
21 to the Commission and point these factors out and get his  
22 allowable reinstated, but to be faced with this four times  
23 a year when it's bad enough to be faced with it once a year  
24 seems to me to compound the problem considerably.

25 In any event, if a well is to be classified as

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1 marginal during any time of the proration period, there  
2 should be and must be some provision for reinstating that  
3 well and giving it a fair opportunity to produce its just  
4 and equitable share of the gas in the pool.

5           Otherwise, we feel this rule will deny the operator  
6 this opportunity.

7           Now, Chevron Oil Company is in a similar situation.  
8 Continental and Chevron operate wells in the Indian Basin  
9 Field, which the Commission records will show are non-marginal.  
10 The problem here has been discussed in various hearings  
11 before the Commission, and as the rules now presently apply,  
12 they are able to accumulate underage during months of low  
13 demand, and then produce the accumulated underage during  
14 months of high demand, keeping the wells in balance and  
15 maintaining the maximum production prescribed by the rules  
16 during the course of the year.

17           If the proposed rules are adopted, some of  
18 Chevron's wells could be erroneously classified as marginal,  
19 and they would be unable to accumulate any underage over  
20 that period of time. This inability would cause ultimate  
21 loss of allowable and loss of production, and at this time  
22 when there is a serious shortage of gas in this country,  
23 our system must be adjusted to fit the period of demand.

24           We feel that the proposed rule of El Paso would  
25 take away this flexibility. Sure, it would enable the

1 non-marginal wells to produce a great deal of gas because  
2 there's an awful lot of gas being produced from wells on  
3 the verge of a marginal status that ought to be produced.

4 Now, Chevron and Marathon and Caulkin Oil Company  
5 join with Continental Oil Company in stating, in the first  
6 place, they are in opposition to the proposed rule changes,  
7 but if they are adopted, we do urge the Commission to  
8 adopt the proposals presented by Mr. Lyon.

9 MR. PORTER: Mr. Kellahin, I guess I am a little  
10 confused. I got the impression that Mr. Lyon didn't oppose  
11 the rules, but he may have opposed the way they are  
12 administered. Now, I get the opinion that his attorney  
13 opposes the rules.

14 MR. KELLAHIN: The reason for the opposition was  
15 due in part to the way they would be administered.

16 MR. PORTER: I didn't get that "in part".

17 MR. KELLAHIN: Mr. Lyon said that he recommended  
18 the rules not be changed, according to my notes.

19 MR. PORTER: It appears that the concern of  
20 Continental would be that there would be no possibility  
21 of making up underage.

22 MR. KELLAHIN: Yes, we are concerned about the  
23 cancellation of underage.

24 MR. PORTER: Mr. Lyons?

25 MR. LYONS: I have a short statement. First of

1 all, concerning Rule 13, we would concur with the proposal  
2 made by El Paso Natural Gas. We take issue with Mr. Kellahin,  
3 and believe that the energy crisis we are presently involved  
4 in would certainly justify the rule as promulgated by El  
5 Paso.

6 MR. GILES: My name is R. B. Giles, and I am with  
7 Amoco, and represent our Houston division as well as our  
8 Denver division, which has separate authority within this  
9 state. We wholeheartedly endorse all of El Paso's suggested  
10 changes. I will be the first to admit that when El Paso  
11 suggested these changes, we were a little apprehensive, such  
12 as, "What is El Paso up to now?"

13 But we studied the cases, like Continental did,  
14 of our individual wells with our Houston people, and we  
15 think all of their suggestions make real good sense, because  
16 they are timely, as the gentleman just pointed out, timely  
17 in meeting the need for increased gas sales in order to  
18 meet the energy crisis. Perhaps our situation is a little  
19 bit different than some, because percentage-wise, we feel  
20 we may have more non-marginal wells than the other operators.

21 But be that as it may, we do feel these rules  
22 make sense. They are more in tune with what the wells are  
23 capable of producing now, and not back then. Thank you.

24 MR. PORTER: Does anyone else have a statement?

25 MR. MORRIS: Mr. Porter, I do not intend to

1 belabor the matter, but I feel the Commission has very  
2 well in mind the problems that we are trying to meet by  
3 these proposed changes. Also problems have been brought  
4 to the Commission's attention by Mr. Lyon of Continental,  
5 and as we indicated during Mr. Lyon's cross examination, we  
6 have no objection to the Commission adopting whatever  
7 procedures or rules it feels necessary to implement what  
8 we understand to be the present policy of the Commission  
9 with respect to reinstatement of allowables.

10 In summary, we believe that the proposals we made  
11 here are timely, that they will keep prorationing working  
12 in the State of New Mexico for as long as possible, and that  
13 they will be in the best interest of conservation. From  
14 that standpoint, El Paso has on many occasions here before  
15 the Commission taken the position that we want to make  
16 prorationing work for as long as possible, and we believe  
17 that the adoption of our rules as we have proposed them  
18 will be to that end. Thank you.

19 MR. PORTER: Anybody else?

20 MR. WHITE: Texaco Inc. recommends the amendment  
21 to Rule 16-A be expanded to allow any well which has its  
22 producing capacity restored or increased during a proration  
23 period to produce any production cancelled because of  
24 marginal classification. That would be in addition to the  
25 proposal made by El Paso.

1 MR. SEEREY: J. H. Seerey, of Mobil Oil Corporation.  
2 Mobil Oil Corporation has no objection to the rule changes  
3 proposed in Case 4991 by El Paso. We believe these changes  
4 may improve the gas proration procedure in New Mexico.

5 Mobil does have a recommendation to the Commission,  
6 that in lieu of continued future proposals of changing small  
7 parts of rules regarding gas proration in New Mexico that  
8 consideration be given to an overall study of the New Mexico  
9 gas rules and gas prorationing procedures in light of  
10 present day gas supply and demand.

11 MR. BUDABAUGH: Northern Natural wishes to express  
12 their support of the three proposed changes to the general  
13 rules and regulations presented by El Paso Natural Gas  
14 Company in Case 4991.

15 MR. TWLED: Jerry Tweed, for Atlantic Richfield  
16 in Midland. With reference to Rule 16 as proposed by El  
17 Paso Natural Gas, this rule as currently written would  
18 result in Atlantic Richfield having classifications from  
19 non-marginal to marginal status of many wells that are  
20 in fact non-marginal.

21 For this reason, we oppose the adoption of this  
22 part of the recommended rule changes. We think that the  
23 problem of assignment of larger allowables to marginal wells  
24 could be handled under the current rules.

25 We think it is an accounting problem more than

1 anything else at the present time. I would like to state  
2 that in some cases that we reviewed, there would be cases  
3 of highly non-marginal wells with high productivity that  
4 might enter periods underproduced and remain shut in for  
5 the three-month period, and then opened up again. As I  
6 understand it, those wells would be classified as marginal  
7 if they went for a three-month period without producing.

8 MR. PORTER: Has Cities Service made an appearance?

9 MR. LOWREY: Yes. Cities Service has no statement.

10 MR. PORTER: We have a couple of written  
11 communications, I believe.

12 MR. CARR: There is a letter from Chevron Oil  
13 Company stating that if the proposed rules for prorated gas  
14 pools are adopted, some of our wells in Southeastern New  
15 Mexico could be erroneously reclassified to a marginal  
16 status. As marginal, these wells would be unable to  
17 accumulate underage. Chevron must take the position of  
18 being in opposition to the proposed rule changes.

19 We also have a letter from Southern Union Gas  
20 Company in support of the rule changes.

21 MR. PORTER: Is there anything further in this  
22 case?

23 (No response)

24 MR. PORTER: The Commission will take Case 4991  
25 under advisement and proceed with the docket.



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