



GRAY REED[®]
ATTORNEYS & COUNSELORS

SUMMARY OF WRITTEN COMMENTS ON TEXAS RAILROAD COMMISSION APRIL 14 HEARING ON PRORATIONING

by Charlie Sartain, Rusty Tucker and Ethan Wood
April 17, 2020



Gray Reed attorneys [Charlie Sartain](#), [Ethan Wood](#) and [Rusty Tucker](#) read comments and listened in on portions of the historic April 14 Texas Railroad Commission hearing on the proposal that the Commission immediately institute an order for market demand prorationing of Texas oil and gas production. Of the 120+ written comments, 51 supported, 59 opposed, 12 were neutral and several were not clear.

Click [here](#) for a summary of the comments. Click [here](#) to view full-length comments. Below is a high level overview but if you have any questions about how prorationing might impact your business, please contact [Charlie Sartain](#).

PROPOSERS GENERALLY ASSERTED:

- State-mandated cuts in production of, say 20 percent, applied uniformly, are necessary to avoid even more price disruption that will lead to widespread industry carnage in the form of failed businesses, lost jobs, and sharply falling state and local tax revenues.
- Some small producers are seeing their markets disappear altogether as purchasers cancel their contracts, thus favoring larger producers.

OPPONENTS GENERALLY ASSERTED:

- Texas does not have the market power to affect global crude oil prices like it did from the 1930s to the early '70s. Global oil production is 100 million +/- BOPD, Texas production is 5 +/- million. A 20 percent cut of 1 million BOPD will not affect the price of this global commodity.
- Individual producers are themselves deferring drilling and completion of wells, shutting in or choking back production, and lowering expenses. All of these efforts together will bring supply closer to demand.
- Market forces work faster and reach a sustainable solution much better than regulatory intervention. Prorationing takes control of operators' decisions away from them to decide which barrels to produce and which barrels not to produce.

WHAT DOES FLARING HAVE TO DO WITH IT?

A big surprise was the support among producers and other industry players for implementation of tighter rules on flaring, including calls for a reduction in flaring permits, especially in the Permian Basin. This was a universal theme among environmental organizations.

WHAT CONCERNED THE COMMISSIONERS?

Many questions from Commissioner Sitton asked whether this current demand/supply imbalance fits the statutory definition of waste. There were disagreements among the contestants. For example, XTO and Ovintiv argue that the current supply/demand imbalance is not waste as defined by the statute. Pioneer and Parsley assert that it is.

(continued on next page)



SUMMARY OF WRITTEN COMMENTS ON TEXAS RAILROAD COMMISSION APRIL 14 HEARING ON PRORATIONING

by Charlie Sartain, Rusty Tucker and Ethan Wood
April 17, 2020

Commissioner Craddick focused more on process and procedure, noting that the Commission hasn't employed market-demand prorating since the early 1970s and no longer has the expertise to implement such a regulatory regime. Former Commission Executive Director John Tinterro cautioned against implementing such a plan hastily, without adequate study, funding, and technology improvements. He warns that implementation would take Commission funds away from other important responsibilities.

Chairman Christian posed questions about the practical effects of the proposal. For example, should Texas go it alone or implement prorating only if other producing states join in?

ABOUT THE AUTHORS



Charlie Sartain, Partner – csartain@grayreed.com

Leader of the Energy Litigation Practice Group, Charlie is an experienced trial lawyer who primarily focuses on resolving complex energy disputes in Texas and Louisiana through litigation, arbitration and negotiation. His clients include oil and gas producers and investors, midstream transportation operators, and mineral and royalty owners involved all types of contractual, payment and operational disputes. Dedicated to helping clients stay current on the best ways to protect their businesses, Charles is the author and editor of [Energy & The Law](#), a blog focused on exploring critical developments in the energy industry and how they impact clients from a legal and business perspective.



Rusty Tucker, Associate – rtucker@grayreed.com

Rusty Tucker advises energy clients on the entire range of transactions and issues that arise during oil and gas operations in Texas and many states across the country. He has prepared, reviewed and negotiated many different types of contracts and agreements, with a strong emphasis on purchase and sale agreements, production sharing agreements, oil-and-gas leases, assignments, deeds and family settlement agreements.



Ethan Wood, Associate – ewood@grayreed.com

Ethan Wood advises upstream and midstream energy clients on the entire range of transactions and issues that arise during oil and gas operations in Texas and many states across the country. He has guided clients through a variety of multi-million-dollar deals and other operational transactions, with a strong emphasis on the acquisition, divestiture and financing of producing assets, private securities offerings, oil and gas leases and joint operating agreements. Ethan is Board Certified in Oil, Gas and Mineral Law by the Texas Board of Legal Specialization.