OXY Occidental

5 Greenway Plaza, Suite 110
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April 7, 2020

The Honorable Wayne Christian, Chairman
The Honorable Christi Craddick, Commissioner
The Honorable Ryan Sitton, Commissioner
Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711-2967

RE: Motion for Commission Called Hearing on the Verified Complaint of Pioneer Natural Resources U.S.A. Inc. and Parsley Energy Inc. to Determine Reasonable Market Demand for Oil in the State of Texas

Dear Commissioners:

On behalf of Occidental Petroleum Corporation ("Occidental"), thank you for the opportunity to submit written comments in response to the above-referenced motion in lieu of testifying. Occidental has thoroughly reviewed the motion and complaint and is opposed to the Railroad Commission ("RRC") issuing any rule or order prorating production of oil and gas in the State of Texas to meet reasonable market demand.

As the largest oil producer in the Permian Basin, Occidental has taken significant actions to mitigate the impacts of the economic crisis the oil and gas industry is facing due to the unprecedented COVID-19 pandemic, lower commodity prices and the global oil supply surplus and storage shortage. Occidental is opposed to the RRC attempting to address this crisis through any regulatory mechanism via proration for the following reasons: First, a RRC rule or order instituting proration for May 2020 production, as requested by Pioneer and Parsley, would be extremely short-sighted in today's complex global economy and would potentially interfere with the ability of Texas producers to fulfill existing contracts and agreements; and, second, Texas should not unilaterally impose any limits on oil production in the absence of similar actions by other producing states as such a unilateral action would place Texas producers at a disadvantage to producers in other states.

First, in their motion, Pioneer and Parsley correctly state that there is precedent for the RRC issuing market proration orders in an attempt to bring oil and gas production in line with market demand, but they fail to paint the full picture. In 1932, the Texas Legislature enacted the Market Demand Act authorizing the RRC to limit production based on the reasonable market demand. As a result, the Market Demand Factor ("MDF") began in the early 1930's when the prolific East Texas production drove oil prices from $2.50/bbl to $0.10/bbl. The purpose of the MDF was to prevent waste as oil was being held in surface pits, which was also a public safety concern. The MDF was applied to the statewide or field rule allowables and was based on monthly nominations by purchasers as to how much oil they planned to purchase in the next month. The RRC continued to apply the MDF until lawsuits were filed in 1990, prompting the end of this practice due to the East Texas production limits of 20 BOPD/well at a time when the U.S. was importing 60 percent of the oil consumed in this country.

Since the RRC's last imposition of a MDF, crude oil marketing on a global scale has dramatically altered the economics of the industry. Market demand is no longer simply determined by the monthly projections of purchasers within Texas. Producers have a myriad of domestic and international contractual opportunities – related to both sales and transportation – including exporting production to overseas buyers. The determination of a MDF has become much more complicated than it was in 1973, or when the law was last changed in 1977. Today, MDF would need to be determined for each producer based upon that producer's marketing arrangements and would need to consider worldwide supply and demand (as evidenced by the market share war between Russia and Saudi Arabia). The result of the imposition of the MDF, or any other rule or order limiting production in Texas, would necessarily and severely impact existing contracts and inhibit the ability of Texas oil producers to freely contract in the future on a global scale, especially as the market eventually corrects itself.

Second, it would be irresponsible and short-sighted for the RRC to unilaterally act to limit oil production in Texas when no other state is enacting the same restrictions. Of the 13 U.S. states that explicitly allow prorationing based on market conditions, Texas is the only state having this discussion. Such unilateral action could put all Texas oil producers at a severe competitive disadvantage to producers in other states. In the specific case of the Permian Basin, state regulation applies within borders, but oil reservoirs do not stop at the state line. Texas Nat. Res. Code §85.054 stipulates that "[i]n allocating or ascertaining the reasonable market demand for the entire state, the reasonable market demand of one pool shall not be discriminated against in favor of another pool." It would be impossible and illogical for the RRC to limit production on the Texas side of the Permian Basin in a non-discriminatory manner while production continues unfettered in neighboring New Mexico.

It is Occidental's position that the surge in the supply of oil coupled with the decline in oil demand will resolve itself without state regulatory interference. In the meantime, the RRC should allow all Texas producers to continue operating on a level playing field with the rest of the country and react to oil prices by adjusting their own capital investments and production levels consistent with their individual contracts. Occidental believes there is reasonable market demand for all oil produced in Texas and, therefore, there is no statutory basis for the RRC to apply an MDF or any other rule or order limiting oil production in Texas.

Thank you for your consideration of these comments. Please do not hesitate to contact me if I may provide further assistance in this matter.

Yours respectfully,

Thomas A. Janiszewski
Vice President, Regulatory and Land