

ENROLLED SENATE
BILL NO. 68

BY: EASLEY, HERBERT and LONG
(Lewis) of the SENATE

and

RICE of the HOUSE

AN ACT RELATING TO THE OKLAHOMA CORPORATION COMMISSION AND OIL AND GAS; AMENDING 17 O.S. 1991, SECTION 40.1, AND 52 O.S. 1991, SECTIONS 36.1, 36.3, 36.4 AND 36.5, WHICH RELATE TO REGIONAL SERVICE AREAS AND THE UNDERGROUND STORAGE OF GAS; MODIFYING CERTAIN STAFF; STATING PROCEDURES FOR HEARINGS ON APPLICATIONS; DEFINING TERMS; CLARIFYING CERTAIN REFERENCE; AUTHORIZING AND DIRECTING THE COMMISSION TO ACT UPON CERTAIN APPLICATIONS WITHIN CERTAIN TIME PERIOD; AUTHORIZING THE COMMISSION TO GRANT CERTAIN ACTION OR RELIEF ON EMERGENCY BASIS FOR LIMITED TIME PERIOD; REQUIRING THE COMMISSION TO ISSUE CERTAIN ORDER WITHIN CERTAIN TIME PERIOD; STATING ORDER SHALL BE EFFECTIVE FOR CERTAIN TIME PERIOD; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 17 O.S. 1991, Section 40.1, is amended to read as follows:

Section 40.1 A. For the purpose of accepting, processing and hearing applications for oil and gas well development, administrative applications, and for any other related matters, the Corporation Commission shall divide the state into two regional service areas. By September 1, 1990, the Corporation Commission shall establish and maintain in each regional service area, a regional service office located within the corporate limits of any municipality having a population of more than two hundred fifty thousand (250,000) inhabitants according to the last Federal Decennial Census to implement their duties pursuant to law. The State Office of the Corporation Commission located in Oklahoma City shall serve as the regional service office for the regional service area in which Oklahoma City is located. The regional service office shall service the regional service area in which such office is located or as otherwise provided by the Corporation Commission for public convenience.

B. 1. Applications for oil and gas well development, administrative applications and any other related matters may be filed in any regional service office.

2. The central record of all filings with all regional service offices shall be maintained in the State Office of the Corporation Commission located in Oklahoma City and all initial dockets shall be simultaneously announced in Oklahoma City and transmitted to regional offices.

3. All hearings on any application including but not limited to appellate hearings shall be held in the regional service office where the application is filed unless:

- a. in the case of a ~~protested~~ an application protested by a respondent mineral owner, or surface owner having standing to protest by statute or by Rule of the Corporation Commission, holding the hearing in the regional service office would not be at the convenience of such respondent mineral owner, or surface owner, or
- b. the applicant and all protestants agree to have the Commission proceed to hear any case, or any portion thereof, during any stage of the proceedings, at any regional service office, or by telecommunication hearings, or
- c. the applicant, all protestants and the Commission agree to have the Commission proceed to hear any case, or any portion thereof, during any stage of the proceedings, at another location other than a regional service office.

C. 1. The Corporation Commission shall provide for an adequately staffed regional service office in each regional service area to conduct the business of the regional service office as herein provided.

2. In order to implement the provisions of this subsection for the regional service office located within the corporate limits of a municipality having a population of more than two hundred fifty thousand (250,000) inhabitants, the Commission shall utilize the following positions from existing FTE for such service office:

POSITION	MINIMUM FTE
Office Administrator	1.0
Hearing Officers	2.0
Court Reporters	2.0
Docket Clerks	2.5
Secretary	1.0

3. The Corporation Commission shall maintain electronic data equipment capable of retrieving and printing information by cause number, applicant name, relief requested, or by county.

D. The Corporation Commission shall submit a report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate by ~~January~~ February 1 of each year detailing the number of applications filed by county, hearings held and other activities performed by each regional service office.

E. The Corporation Commission shall promulgate rules, pursuant to the Administrative Procedures Act, to implement the provisions of this ~~act~~ section.

F. The Corporation Commission shall develop and maintain a system for providing telephonic communication service for hearings related to oil and gas matters in municipalities having a population of more than eighty-five thousand (85,000) inhabitants according to the last Federal Decennial Census. In order to implement the provisions of this subsection, the Commission shall utilize from existing FTE the following position for such telephonic communication service:

POSITION	FTE
Docket Clerk	.5

SECTION 2. AMENDATORY 52 O.S. 1991, Section 36.1, is amended to read as follows:

Section 36.1 As used in this act, Section 36.1 et seq. of this title, (a) "underground storage" shall mean storage in a subsurface stratum or formation of the earth; (b) "natural gas" shall mean gas either while in its original state or after the same has been processed by removal therefrom of component parts not essential to its use for light and fuel; (c) "native gas" shall mean gas which has not been previously withdrawn from the earth; (d) "~~natural gas~~ public utility" shall mean any person, firm or corporation authorized to do business in this state and engaged in the business of transporting or distributing natural gas by means of pipelines into, within or through this state for ultimate public use, or that uses natural gas as a fuel to produce electricity for ultimate public use; and (e) "Commission" shall mean the State Corporation Commission.

SECTION 3. AMENDATORY 52 O.S. 1991, Section 36.3, is amended to read as follows:

Section 36.3 Any ~~natural gas~~ public utility may condemn for its use for the underground storage of natural gas any subsurface stratum or formation in any land which the Commission shall have found to be suitable and in the public interest for the underground storage of natural gas, and in connection therewith may condemn such other interests in property as may be required adequately to examine, prepare, maintain and operate such underground natural gas storage facilities; provided, however, that the right of condemnation of underground sands, formations and strata, granted hereby, shall be limited as follows:

(a) No sand, formation, or stratum which is producing or which is capable of producing oil in paying quantities, through any known recovery method, shall be subject to appropriation hereunder;

(b) No gas bearing sand, formation, or stratum shall be subject to appropriation hereunder, unless the volumes of native gas originally in place therein shall be shown to be substantially depleted, and that such sand, formation or stratum has a greater value or utility as a gas storage reservoir for the purpose of insuring an adequate supply of natural gas for any particular class or group of consumers of natural gas, or for the conservation of natural gas, than for the production of the relatively small volumes of native gas which remain therein, provided that no gas sand, formation or stratum shall be condemned under the terms of this act when the gas therein is being used for the secondary recovery of oil, unless gas in necessary and required amounts is furnished to the operator or operators of the secondary recovery operations for as long as oil is produced in paying quantities in the secondary operations for the recovery of oil at the same cost as that at which the gas was being produced at the time of condemnation by the operator of the secondary recovery project or projects.

(c) Only such area of such underground sand, formation or stratum as may reasonably be expected to be penetrated by gas displaced or injected into such underground gas storage reservoir may be appropriated hereunder.

(d) No rights or interest in existing underground gas reservoirs, being used for the injection, storage and withdrawal of natural gas, owned or operated by others than the condemner, shall be subject to appropriation hereunder.

The right of condemnation hereby granted shall be without prejudice to the rights of the owner of said lands or of other rights or interests therein to drill or bore through the underground stratum or formation so appropriated in such manner as shall comply with orders, rules and regulations of the commission issued for the purpose of protecting underground storage strata or formations

against pollution and against the escape of natural gas therefrom and shall be without prejudice to the rights of the owner of said lands or other rights or interests therein as to all other uses thereof. The additional cost of complying with such regulations or orders in order to protect the storage shall be paid by the public utility.

SECTION 4. AMENDATORY 52 O.S. 1991, Section 36.4, is amended to read as follows:

Section 36.4 Any ~~natural-gas~~ public utility desiring to exercise the right of eminent domain as to any property for use for underground storage of natural gas shall, as a condition precedent to the filing of its petition in the district court, obtain from the Commission a certificate setting out findings of said Commission (a) that the underground stratum or formation sought to be acquired is suitable for the underground storage of natural gas and that its use for such purposes is in the public interest; (b) the amount of recoverable oil and native gas, if any, remaining therein; provided, that the Commission shall issue no such certificate until after public hearing is had on application, pursuant to notice served in compliance with notice in civil actions in the district court, together with notice published at least once each week for two (2) successive weeks in some newspaper of general circulation in the county or counties where the gas is proposed to be stored, the first publication to be at least ten (10) days prior to the date of the hearing.

SECTION 5. AMENDATORY 52 O.S. 1991, Section 36.5, is amended to read as follows:

Section 36.5 Any ~~natural-gas~~ public utility having first obtained a certificate from the Commission as hereinbefore provided, desiring to exercise the right of eminent domain for the purpose of acquiring property for the underground storage of natural gas shall do so in the manner hereinafter provided. Such ~~natural-gas~~ public utility shall present to the district court of the county wherein the land is situated, or to the judge thereof, a petition setting forth the purpose for which the said property is sought to be acquired, a description of the property sought to be appropriated and the names of the owners thereof as shown by the records of such county. The petitioner shall file the certificate of the Commission as a part of its petition and no order by the court granting said petition shall be entered without such certificate being filed therewith. The court or the judge thereof shall examine said petition and determine whether the petitioner has the power of eminent domain and whether said property is necessary to its lawful purposes, and if found in the affirmative, such finding shall be entered in the record and subsequent proceedings shall follow the procedure now provided by law in the exercise of the rights of eminent domain by railroads.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 257 of Title 52, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Corporation Commission shall issue an order determining the merits of any application for emergency relief relating to a conservation docket proceeding within thirty (30) days from the filing of the application. In the event the Commission issues an order granting emergency relief, the order shall be effective for a period not to exceed ninety (90) days.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 28th day of May, 1992.

President of the Senate

Passed the House of Representatives the 28th day of May, 1992.

Speaker of the House of
Representatives