

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
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As Engrossed: H3/18/21
A Bill

HOUSE BILL 1725

By: Representative Beck

For An Act To Be Entitled

AN ACT TO AMEND THE LAW REGARDING OIL AND GAS PRODUCTION AND CONSERVATION; TO CLARIFY THE ALLOCATION OF PRODUCTION AND COST FOLLOWING AN INTEGRATION ORDER; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW REGARDING OIL AND GAS PRODUCTION AND CONSERVATION; AND TO CLARIFY THE ALLOCATION OF PRODUCTION AND COST FOLLOWING AN INTEGRATION ORDER.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 15-72-305(a)(3), concerning the calculation and distribution of royalty gas sold from a drilling unit following an integration order and the procedure for distributions to royalty owners, is amended to read as follows:

(3) One-eighth (1/8) of all gas sold on or after the first day of the calendar month next ensuing after March 6, 1985, from any such unit shall be considered royalty gas, and the net proceeds received from the sale thereof shall be distributed to the owners of the marketable title in and to the leasehold royalty and royalty as defined under § 15-72-304(d) as the minimum royalty to be paid to a royalty owner. Marketability of title shall be determined according to principles of real property law governing title to oil and gas interests. Unless all royalty owners within the drilling unit agree to a different method for distribution of the royalty, the distribution shall be coordinated by the operator of the well as follows:



(A)(i) Within thirty (30) days of the receipt of the proceeds from gas sales, each working interest owner shall furnish to the working interest owner designated as operator, in a form acceptable to the operator, the following information:

(a) The names and addresses of all owners of royalty under the working interest owner's leasehold interests;

(b) Each royalty owner's tax identification or Social Security number and any other information needed to meet the requirements of the Internal Revenue Service or other governmental agencies; and

(c) The fractional or decimal interests in the unit of each tract in which interests are owned and each royalty owner's fractional or decimal interest therein.

(ii) Thereafter, each working interest owner shall notify the operator of any changes of ownership and provide the necessary information to facilitate the necessary changes promptly upon receiving proof thereof.

(iii) If any working interest owner should fail or refuse to discharge its obligation to provide the information outlined in subdivision (a)(3)(A)(i) of this section in a timely manner, to facilitate payments, the operator may, at its option, either:

(a) Notify the working interest owner by certified or registered mail of the name, address, and decimal interests of the royalty owner believed to be entitled to receive payments pursuant to the terms hereof under the working interest owner's leasehold on the basis of the best information then available to the operator. If the working interest owner fails to respond to the notification within thirty (30) days of the receipt thereof, the operator shall be entitled to pay royalty moneys in accordance with its prior notification and usual procedures. Further, the operator's payment in this manner shall constitute a complete defense to any claim or in any legal proceeding or cause of action and the responsible working interest owner shall indemnify and hold the operator harmless from all liability and reimburse the operator for any and all costs and expenses, including attorney's fees, interest, or penalty incurred with respect to the proceeding or action; or

(b) File an application with the commission,

setting forth sufficient facts to identify the well concerned and the responsible working interest owner, requesting that the commission issue an order requiring the working interest owner to appear at the next regularly scheduled hearing and show cause with respect to its failure to timely comply with the provisions of this section. Subsequent to the hearing, the commission shall impose upon a working interest owner who has failed to meet its obligations hereunder such sanctions as are reasonably calculated to enforce compliance with this section. These sanctions shall include, but not be limited to, a penalty under § 15-74-709. The commission shall have the authority to suspend the imposition of any sanction for a maximum period of sixty (60) days in order to allow the noncompliant owner the opportunity to furnish proof to the commission of his or her compliance with any commission order. All penalties levied by the commission as a result of this provision shall be collected by the commission and shall be deposited into the State Treasury to the credit of the Oil and Gas Commission Fund. The commission may promulgate such other rules as it deems appropriate and necessary to carry out the purposes of this section.

(iv) The terms of this subdivision (a)(3)(A) shall not be applicable to any producing unit or well that produces liquid hydrocarbons only, or liquid hydrocarbons associated with the production of gas, or gas produced associated with the production of liquid hydrocarbons; and

(B)(i) Commencing no later than six (6) months after the date of first sale, and thereafter no later than the earlier of thirty (30) days after first payment is received or thirty (30) days after the sixty-day period within which the first purchaser is to make payment pursuant to §§ 15-74-501 and 15-74-601 – 15-74-603, or a total of ninety (90) days after the end of the calendar month within which subsequent production is sold, each working interest owner or marketing party who has sold gas shall remit or cause to be remitted to the operator one-eighth (1/8) of the revenue realized or royalty moneys from gas sales computed at the mouth of the well, less all lawful deductions, *including, but not limited to, all federal and state taxes levied upon the production or proceeds as established by the commission for parties subject to an integration order or a court of competent jurisdiction for parties subject to a lease,* and shall indemnify and hold the other working interest owner free from any liability therefor. However, if any

portion of the price received by a marketing party is subject to possible refund to the gas purchaser pursuant to the regulations, rules, or orders of any governmental authority, the refundable portion need not be included in the amount remitted to the operator for distribution hereunder until the possibility of refund has terminated. The funds or amounts as so remitted shall be held in trust by the operator for the account of the royalty owner or owners entitled thereto until distributed and paid as provided in this section.

(ii) If any operator should fail or refuse to discharge its obligation to remit revenues in a timely manner as provided in this section, the working interest owner whose royalty owner's obligations have not been paid may, to facilitate payment, either:

(a) File an application with the commission, setting forth sufficient facts to identify the well concerned and the responsible operator, requesting that the commission issue an order requiring the operator to appear at the next regularly scheduled hearing and show cause with respect to its failure to timely comply with the provisions of this section. Subsequent to the hearing, the commission shall impose upon an operator who has failed to meet its obligations hereunder such sanctions as are reasonably calculated to enforce compliance with this section. The sanctions shall include, but not be limited to, a penalty under § 15-74-709. The commission shall have the authority to suspend the imposition of any sanction for a maximum period of sixty (60) days in order to allow the noncompliant the opportunity to furnish proof to the commission of his or her compliance with any commission order. All civil penalties levied by the commission as a result of this provision shall be collected by the commission and deposited into the State Treasury to the credit of the fund. The commission may promulgate such other rules as it deems appropriate and necessary to carry out the purposes of this section; or

(b) File a legal proceeding or cause of action to compel the operator's compliance with the terms hereof. The operator shall reimburse the complaining working interest owner for any and all costs or expenses, including attorney's fees, incurred with respect to the proceeding or action.

(iii) The operator shall not be held liable for failure to distribute royalty hereunder where its failure is due to the

failure of a working interest owner to timely provide or cause to be provided the information and royalty moneys described in subdivision (a)(3)(A) of this section and this subdivision (a)(3)(B). Each working interest owner shall indemnify and hold the operator harmless for all costs, including reasonable attorney's fees, incurred as a result of the failure.

(iv) The terms of this subdivision (a)(3)(B) shall not be applicable to any producing unit or well that produces liquid hydrocarbons only, or liquid hydrocarbons associated with the production of gas, or gas produced associated with the production of liquid hydrocarbons.

SECTION 2. Arkansas Code § 15-72-305, concerning the allocation of production and cost following an integration order, is amended to add an additional subsection to read as follows:

(c)(1) If a royalty owner has a lease with a working interest owner, the working interest owner shall pay the difference on the amount of the one-eighth (1/8) royalty required under subdivision (a)(3) of this section and the terms of the lease.

(2) If a working interest owner markets the working interest owner's gas through the operator, then the operator shall distribute the difference on the amount of the one-eighth (1/8) royalty required under subdivision (a)(3) of this section and the terms of the lease.

/s/Beck