WEST VIRGINIA CODE: §22C-8-11

§22C-8-11. Pooling of interests in a drilling unit; limitations.

(a) Whenever the board establishes a drilling unit pursuant to the provisions of sections nine and ten of this article, the order establishing such drilling unit shall include an order pooling the separately owned interests in the gas to be produced from such drilling unit.

(b) If a voluntary pooling agreement has been reached between all persons owning separate operating interests in the tracts comprising the drilling unit, the order of the board shall approve such agreement.

(c) If no voluntary pooling agreement is reached prior to or during the hearing held pursuant to subsection (b), section ten of this article, then at such hearing the board shall also determine the pooling of interests in the drilling unit.

(d) Any order of the board pooling the separately owned interests in the gas to be produced from the drilling unit shall be upon terms and conditions which are just and equitable and shall authorize the production of gas from the drilling unit; shall designate the applicant as the operator to drill and operate such gas well; shall prescribe the procedure by which all owners of operating interests in the pooled tracts or portions of tracts may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging, abandoning and reclaiming such well shall be borne, and all production therefrom shared, by all owners of operating interests in proportion to the net gas acreage in the pooled tracts owned or under lease to each owner; and shall make provisions for payment of all reasonable costs thereof, including all reasonable charges for supervision and for interest on past-due accounts, by all those who elect to participate therein.

(e) Upon request, any such pooling order shall provide an owner of an operating interest, an election to be made within ten days from the date of the pooling order, (i) to participate in the risks and costs of the drilling of the well, or (ii) to participate in the drilling of the well on a limited or carried basis on terms and conditions which, if not agreed upon, shall be determined by the board to be just and equitable. If the election is not made within the ten-day period, such owner shall be conclusively presumed to have elected the limited or carried basis. Thereafter, if an owner of any operating interest in any portion of the pooled tract shall drill and operate, or pay the costs of drilling and operating, a well for the benefit of such nonparticipating owner as provided in the order of the board, then such operating owner shall be entitled to the share of production from the tracts or portions thereof pooled accruing to the interest of such nonparticipating owner, exclusive of any royalty or overriding royalty reserved with respect to such tracts or portions thereof, or exclusive of one eighth of the production attributable to all unleased tracts or portions thereof, until the market value of such nonparticipating owner's share of the production, exclusive of such royalty, overriding royalty or one eighth of production, equals double the share of such costs

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payable by or charged to the interest of such nonparticipating owner.

(f) In no event shall drilling be initiated or completed on any tract, where the gas underlying such tract has not been severed from the surface thereof by deed, lease or other title document, without the written consent of the person who owns such tract.

(g) All disputes which may arise as to the costs of drilling and operating a well under a pooling order issued pursuant to this section shall be resolved by the board within ninety days from the date of written notification to the board of the existence of such dispute.

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