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Shale Gas Impact Fees Jumped in 2017

Summary: Impact fees from drilling in Pennsylvania's shale formations jumped in 2017 by 21 percent over 2016. The impact fees, authorized by Act 13 of 2012, are distributed not only to select state agencies and to municipalities and counties hosting such wells, but to all counties across the commonwealth. Thus far more than $1.43 billion has been collected.

In late June the Pennsylvania Public Utility Commission (PUC) reported that $209,557,300 in impact fee revenues was collected from owners of unconventional natural gas wells in 2017. The 2017 figure represents a jump of 21 percent over 2016's collections. It reverses a three-year trend of declining revenues from the 2013 peak of $225.75 million. The 2016 tally of $173.26 million represents the lowest point in the seven-year history of the impact fee. To date more than $1.43 billion in impact fees have been paid.

Act 13 of 2012 authorized an impact fee to be assessed on all unconventional wells (those drilled in the shale formations using the hydraulic fracturing method) drilled in the state (retroactively covering 2011 as the first year). The fee follows a schedule based on two factors: the trading price of natural gas on the New York Mercantile Exchange (the spot price representing dollars per million Btu) and the age of the well. Older wells will presumably produce less gas over time as the pool of gas is expended so the fee schedule lowers the amount they pay as they age.

One of the reasons impact fee revenues slid from 2014 through 2016 was a glut of natural gas due to a rise in production from Marcellus and Utica shale formations. The resulting over supply contributed to the drop in the market price that fell from an average yearly price of $4.13 in 2014 to $2.62 in 2016, a drop of 37 percent. This plunge in gas price led to a decline in the number of new wells being drilled. In 2014 there were 1,371 wells started, the second highest behind 2011 (1,956). In 2016 only 504 wells were started—a decline of 63 percent since 2014. Thus the number of aging wells outweighed newer wells, which would presumably pay a higher impact fee, as the pace of drilling had fallen off.

However, 2017 saw the gas price move up to an average yearly price of $3.02, 15 percent over 2016's average. The rise in gas price encouraged a major rise in new wells with 810 drilled in 2017, a 61 percent surge compared to 2016. In total, there were 8,518 unconventional wells representing an increase of 4.9 percent over the total reported for 2016.

It is too early to tell if this uptick in prices, drilling activity, and the subsequent jump in the impact fee collection, is the start of a new trend, but it is certainly welcome news to those who benefit from this revenue stream.

Act 13 specifies how the impact fee will be distributed. State agencies get the first $10.5 million off the top. These agencies include the PUC; Department of Environmental Protection; the Fish and Boat Commission; the Emergency Management Agency; Office of the State Fire Commissioner and the Department of Transportation. Also another $7.75 million is given to the State Conservation Commission for county conservation districts. For the 2017 distribution, that leaves $114.78 million for counties and municipalities with the remaining $76.52 million for the Marcellus shale legacy fund (section 2315.a1 of Act 13).

From the legacy fund, $15.3 million is allocated to the Commonwealth Financing Authority (CFA), an agency whose purpose and impacts we questioned in *Policy Brief Vol. 14, No. 8*. Since 2012, the CFA has reaped $87.7 million in impact fee money. Other components of the legacy fund go to county rehabilitation of greenways ($11.48 million); highway bridge improvements ($19.13 million); water and sewer projects ($19.13 million); a hazardous sites cleanup fund ($3.2 million) and an environmental stewardship fund ($7.65 million). Since inception, the Marcellus shale legacy fund has collected more than $515 million to be distributed among these causes.

All counties across the commonwealth receive money from the Marcellus shale legacy fund, whether or not they host any unconventional wells, from the county rehabilitation of greenways fund (section 2315.a1.5). The amount received is based on the county's share of statewide population. For example, Philadelphia County has a population of 1.57 million or 12.26 percent of the state's population and thus receives the largest share of greenways monies ($1.39 million). In fact, since the implementation of Act 13, Philadelphia County has received over $9.3 million.

However, a minimum amount of $25,000 is given to counties with small populations (for example, Fulton, Juniata and Montour Counties). None of these counties sit atop the Marcellus shale formation and thus do no host a well yet benefit from the legacy fund, and by extension, the impact fee, having received $175,000 each over the time period. As mentioned above, all 67 counties split $11.48 million in 2017 and since the beginning have shared $65.8 million.

The focal point of the impact fee is to tax the drilling industry and then return the money to those communities that are most impacted by the activity. Thus those counties and municipalities impacted the most split the largest share of the money ($114.78 million) as outlined by Act 13 (section 2314.d). Of this amount, more than $39.52 million in 2017 was allocated to counties hosting unconventional wells, with the rest dedicated to municipalities hosting, or being in proximity to, such wells.

For those counties hosting an unconventional well, their allocation is determined by the number of wells they host. For example, the county with the most unconventional wells in 2017 was Washington County (1,528) and as a result collected the largest amount of money ($7.09 million) from this section of Act 13. The runner-up is Susquehanna County (1,274 wells), earning $5.91 million. As two of the top counties with wells, Washington has collected more than $38.85 million over the years while Susquehanna has collected more

than $35.53 million. Allegheny County, with only 125 eligible wells, a fraction of the total, has received $2.15 million over time. As largely rural counties, Washington's population is 207,981 and Susquehanna's is just 40,862. These totals are quite significant and most likely larger than if the state would switch to a severance tax instead and the money was allocated from Harrisburg at the whim of those viewing the shale industry as a cash cow for their own pet projects.

And of course that was the intent of Act 13—to place a fee (tax) on those drilling in the Marcellus and Utica shale formations using the technique of hydraulic fracturing (unconventional wells). The money would then bypass the political machinations of Harrisburg and send the money directly to those counties and communities most impacted by the activity surrounding the drilling and to those state agencies that would also be impacted from the activity. The money distributed even has strings attached as to how it can be spent such as on public infrastructure construction, storm water/sewer systems, emergency preparedness/public safety and environmental programs, among others.

Yet the clamoring for a severance tax continues. But what those favoring a severance tax fail to consider is that not only do drillers pay the impact fee, they also pay the assorted business taxes levied by the commonwealth and pay royalties to leaseholders. According to the Marcellus Shale Coalition president in a recent op-ed, that has amounted to $4.5 billion to date on top of the impact fees total of $1.43 billion. The latest proposal from Harrisburg will leave in place the impact fee and couple it with a severance tax amounting to double taxation on the industry.

A severance tax has the potential to curtail production causing a reduction in these payments as drilling will likely be reduced or shifted to neighboring states that are also above the Marcellus and Utica shale formations. The impact fee has struck a balance between holding drillers accountable for their activities and generating much needed revenues to those counties and municipalities most affected.

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