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Marcellus Impact Fee Revenue: What's Happening?

Act 13 of 2012 imposed an impact fee on natural gas wells in the Marcellus Shale reserve lying beneath the Commonwealth. The levied fee is based on the price of natural gas as traded on the exchange market (and thus could fluctuate from year to year as that price changes) and the age of wells from the time they are spud—the actual start of drilling an unconventional well—through fifteen years. The revenues are shared among the counties, municipalities, and state agencies according to provisions in Act 13. Even counties and municipalities that do not contain any wells will receive some money. After two years of collections, how have the counties and state agencies fared?

The well count is determined by the Pennsylvania Department of Environmental Protection (DEP) while the responsibility for fee collection and distribution falls to the Pennsylvania Public Utilities Commission (PUC). According to DEP production reports, there were 4,333 wells spud in 2011 and prior years. Drilling in the Marcellus Shale formation began in 2007 but the first year of the impact fee was imposed on all wells spud up to and including 2011. Another 1,275 were spud in 2012. In 2011 the impact fee produced $204.2 million in revenue and in 2012 just under $202.5 million was collected.

Act 13 was very specific as to how the money would be distributed. Eight state agencies, such as the PUC ($1 million) and DEP ($6 million), receive $23 million off the top. Of the remaining revenues, sixty percent is distributed to the counties and municipalities and forty percent is deposited into the Marcellus Shale Legacy Fund for statewide initiatives.

There are seven statewide initiatives that share in the Marcellus Legacy Fund, each on a percentage basis. For 2011 and 2012 the Legacy Fund received $72.5 million and $71.8 million respectively. Twenty five percent goes to the highway bridge improvement restricted account in the Motor License Fund. This money is to be redistributed to counties to assist in the replacement of locally owned bridges. Another 25 percent is dedicated to water and sewer projects to be split evenly between the PA Infrastructure Investment Authority and the Commonwealth Financing Authority (CFA) for the H_2O PA Program. The CFA is also to receive another 20 percent for other specific initiatives such as mine acid abatement and cleanup, green-space initiatives such as trails and parks, and watershed projects. In 2011 this amount was approximately $14.5 million and $14.4 million in 2012. (For more on the CFA please see *Policy Brief, Volume 14 Number 8)*. Furthermore the CFA must set aside 25 percent of this allocation for flood control projects. All told the CFA received $23.6 million in 2011 and another $23.3 million in 2012 (32.5 percent of the Legacy Fund share).

Other statewide initiatives receiving money under the Marcellus Legacy Fund are the Environmental Stewardship Fund (ten percent), the Department of Community and Economic Development (five percent for projects related to oil and natural gas), and the final fifteen percent will be sent to the counties. Under this last designation, the distribution is based on population (as a percent of the statewide total) with every county guaranteed a minimum amount of $25,000 (to the extent funds are available).

Fifteen percent of the Legacy Fund provided the Commonwealth's 67 counties roughly $10.9 million in 2011 and $10.8 million in 2012. Money sent to the counties under the Marcellus Legacy Fund is based on population and are restricted to rehabilitation of greenways such as trails, open spaces and community conservation projects. In 2011, the largest amount went to Philadelphia County ($1.29 million) with Allegheny County second ($1.04 million). In 2012, both Philadelphia and Allegheny County still received the highest allocations even though both received slightly less than their 2011 allotment. Even small counties without wells (Fulton, Juniata and Montour) collected the minimum $25,000.

As mentioned above, sixty percent of the impact fee revenue is to be distributed to counties and their municipalities. Section 2314(d), allocates 36 percent of these funds to counties based on the number of spud wells within the county as a percentage of the total wells in the state. In a county with a spud well, municipalities with a well divide 37 percent of the 60 percent while those with no wells divide the remaining 27 percent. The amount a municipality can receive is restricted in Act 13 to "…not exceed the greater of $500,000 or 50% of the total budget for the prior fiscal year…" This money is restricted by statute for use on any one of thirteen possible purposes ranging from road and bridge maintenance/construction to tax reductions to affordable housing and environmental projects such as conservation and beautification initiatives. In 2011, the counties under this section shared more than $38.2 million. Bradford County received the highest allotment under this section at just under $8.4 million. In the Pittsburgh region, Washington County received the highest share ($4.3 million) while Allegheny County picked up $79,400.

In 2012 the amount to be shared decreased to just less than $37 million. But since another 1,275 wells were spud in 2012 the distribution among the counties and municipalities had changed as each county's share of the statewide total became altered. For example, even though Bradford claimed the most wells in 2011 (949) and 2012 (1,099), its percentage share dropped from 22 percent in 2011 to 19.6 percent in 2012. Thus it received less money in 2012 ($7.2 million) than in 2011. In the Pittsburgh area, Washington County still garnered the most money ($4.5 million). However, Allegheny County claimed more in 2012 ($145,000) as its share of statewide wells increased with the number of wells climbing from nine in 2011 to 22 in 2012.

After the first two years, the impact fee has raised more than $405 million to be distributed to counties, municipalities, and state agencies. The revenues for 2013 have yet to be reported (drillers are to pay the PUC before April 1st), but it should yield more than either of the two previous years. As mentioned above the impact fee fluctuates based on the trading price of gas and the age of the well.

The main reason the amount collected in 2012 slipped below the 2011 figure, even though more wells were spud, is that the price of natural gas fell by 30 percent, thereby triggering a lower fee based on the schedule. The fee for first year wells in 2012 was $45,000 compared to $50,000 in 2011. Second year wells in 2012 (those that were first year wells in 2011) paid a fee of $35,000. The average annual price of natural gas in 2013 came in at 34 percent greater than the 2012 price and thus first year wells in 2013, roughly 1,200 based on DEP production reports, will once again pay a first year fee of $50,000. The second year wells (1,275, spud in 2012) will pay $40,000 and the third year wells (4,333, spud in 2011 and earlier) will have a fee of $30,000. This of course assumes that all wells remain online and have not been deemed exempted from the fee (due to capping or low production). Taking into account new wells and a higher gas price, a crude estimate of 2013's impact fee revenue would be roughly $232 million, implying that counties and municipalities around the Commonwealth should receive more money in the coming year.

However, while the number of wells throughout the state continues to increase, they do so at a decreasing rate. The number of wells spud in 2013 (1,200) is the lowest since before 2010. Should this trend continue, it will begin to take a toll on fee revenue as wells age out and are not replaced. Rising gas prices could offer an offset but of course that is the big question for the fee revenue in the future.

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