ALLEGHENY INSTITUTE FOR PUBLIC POLICY

July 31, 2019 **Policy Brief: Volume 19, Number 28**

Impact fee collection sets new mark

Summary: Act 13 of 2012 instituted a tax known as the impact fee on unconventional gas wells—those drilled via the "fracking" method. The fee is determined by two factors: the average annual trading price of natural gas and the age of the gas well with the fee declining as a well gets older. Generated funds are distributed to counties, municipalities and several state agencies. This *Brief* looks at the revenue collected in 2018.

According to a June press release from the Pennsylvania Public Utility Commission (PUC), the total impact fee revenue generated in 2018 reached $242.9 million, the highest amount since collections began in 2011. The previous high-water mark was $225.8 million in 2013. Collections for 2018 represent a 15.94 percent increase from 2017's $209.6 million.

The release indicated that the $33.4 million growth was likely due to a large rise in the number of unconventional wells operating, up by 1,042 (or 12.23 percent) to a total of 9,560. However, the Pennsylvania Department of Environmental Protection (DEP) reported that the number of new wells spud (broke ground) decreased by 4.07 percent to 777. The average trading price of natural gas also moved higher with the Henry Hub spot prices ticking up to $3.12—a 3.37 percent increase from 2017.

Also, in 2018, the Pennsylvania Supreme Court resolved a dispute between the PUC and producers over whether or not low-producing wells, also known as stripper wells—defined as being incapable of producing more than 90,000 cubic feet per day during any calendar month—had to pay the full impact fee. When a well was deemed to be a stripper well, the impact fee would be suspended as per criteria set forth by Act 13 (Section 2302.b1).

The dispute occurred because some producers refused to pay their impact fees believing that the stripper well definition was more extensive than PUC's interpretation. The court found in favor of the PUC and, as a result, an additional $8.9 million was collected and distributed to municipalities and counties connected to the verdict. This brings total impact fee revenue for 2018 to $251.8 million.

The press release stated that "[b]ecause of the unique circumstances surrounding this issue, and the potential financial impact on municipalities where the disputed wells were located, the commission felt it was important to thoroughly calculate the stripper well collections and allocate the corrected well distributions to the municipalities that did not receive those impact fees during the years the well status had been disputed." As such, the additional funding may have impacted some allocation amounts more than others.

Even without the additional money arising from the court decision, 2018's impact fee collection produced the largest distribution to date and caused total impact fee revenue collected since 2011 to surge to almost $1.7 billion.

From the 2018 distribution, $134.7 million from the Unconventional Gas Well Fund went to the counties and municipalities in which wells operate, $89.8 million was allocated to the Marcellus Shale Legacy Fund and almost $18.4 million was received by several state agencies (also through the Unconventional Gas Well Fund) such as the State Conservation Commission ($7.9 million); Fish and Boat Commission ($1 million); Public Utility Commission ($1 million); Department of Environmental Protection ($6 million); Pennsylvania Emergency Management Agency ($750,000); the office of State Fire Commissioner ($750,000) and Department of Transportation ($1 million).

The PUC website explains that counties receive money from the Unconventional Gas Well Fund (section 2314(d)) based on the number of wells they have and can only spend that money on 13 designated categories such as construction and road repair, storm water systems and environmental programs. All participating counties must submit a report indicating how much went to each category (*Policy Brief Vol.18, No.43*).

The Marcellus Shale Legacy Fund, on the other hand, distributes impact fee revenue based on population (section 2315(a.1)(5)). All counties receive money from this fund with the minimum distribution being $25,000 depending on fund balance. The money is designated for environmental matters, although counties are not required to report their usage to the state. 2018 saw a rise in the Legacy Fund by 17.39 percent over 2017.

In addition to sending money to the counties, the fund also benefits several entities such as the Commonwealth Financing Authority, Environmental Stewardship Fund, Highway/Bridge Improvements and County Rehabilitation of Greenways. Highway/Bridge Improvements receives the most money each year—$151.2 million in total thus far. Overall, the Legacy Fund has collected up to $604.8 million to date.

As mentioned previously, money from the court decision clarifying stripper well status was allocated to both the counties and municipalities through the Unconventional Gas Well Fund and also through the Marcellus Shale Legacy Fund. The counties and municipalities received an additional $5.3 million through the former while through the latter received another $3.5 million (shared with the state entities listed above).

County distributions for 2018 reached $62.6 million (municipalities received the other $72.1 million). Counties with wells received $52.7 million of the funds while counties without wells received $9.9 million. There are 31 counties with wells and 36 without. Washington County had the most unconventional wells, not only in the Southwest region but statewide (1,655) and, thus, received the most money ($8.4 million). Philadelphia, with no wells, was allocated $1.72 million in 2018.

There were 2,974 wells in the seven-county Pittsburgh metro area, accounting for about $18.5 million of the total distributed impact fee revenue to counties. Allegheny County represents a small fraction of the number of operating wells (130) and was allocated $1.9 million. Of the remaining counties in the area, Armstrong County with 112 wells obtained $1.5 million; Beaver with 113 wells received $727,512; Butler's 500 wells brought $3.1 million; Fayette has 224 wells and received $1.2 million and Westmoreland, 240 wells, was allocated $1.6 million.

Bear in mind that the impact fee was created as a tax on natural gas producers who drill unconventional wells. Due to the demanding nature of the extracting method, the impact fee revenue was designed in part to "reimburse" local areas for the wear and tear on infrastructure. The recent increase in impact fee revenue, driven in large part by the rise in the number of unconventional wells, indicates there is growing demand for natural gas resources.

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