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Impact fee payments reach the municipal level

Summary: Much has been written about how the proceeds from the Marcellus Shale impact fee, which has garnered $2.25 billion from inception through 2021, has benefited state agencies and counties across the commonwealth. But municipalities in counties with wells also receive a portion of the fee. This *Brief* examines the amounts received by Allegheny County municipalities and how that money is spent.

Background

Act 13 of 2012 imposed the impact fee on any well drilled within the commonwealth (*Policy Brief Vol. 12, No. 11*). The fee, per well, is based on a sliding scale determined by the annual monthly arithmetic mean of the natural gas selling price on the New York Mercantile Exchange, also known as the Henry Hub price. There are five categories: up to $2.25; $2.26 up to $2.99; $3.00 up to $4.99; $5.00 up to $5.99; and $6.00 and greater. Over the years since Act 13 the mean Henry Hub price has ranged from $2.08 per million British thermal units (2020) to a high of $4.42 (2014). In 2021 that price was determined to be $3.84. In 2022 that price jumped 73 percent to a new high of $6.64.

The per well impact fee also depends upon the age of the well, with newer wells paying more than older wells that will presumably be less productive as the pool of gas is diminished with extraction. For the first four years the price falls a bit each year. Then from years four through 10, the price is constant as it is from years 11-15. Presumably the fee ends in a well's 16th year and beyond (since the first year was 2011, the 16th year for any well has yet to be reached).

A well that is plugged and no longer producing is declared inactive and no longer pays the fee. There is also a reduction for wells that produce at very low levels (less than 90,000 cubic feet per day). Not every well drilled produces, and the length of production varies greatly with the size of the pool it has tapped.

The money collected from the impact fee will vary based on the trading price, the number of wells eligible to pay the fee and the age of those wells. Some years the revenue is more than in others. The range of annual impact fee revenue runs from a low of $146.25 million (2020) to a high of $242.96 million (2018). For 2021 the amount was the second highest realized at $234.44 million. According to the timeline of events in Act 13, the 2022 payments have been made by producers (April 1) and will be dispersed July 1, 2023. Given that the benchmark Henry Hub

Price was over $6.00 for the first time, each well will pay the highest rate for their year and 2022's impact fee should set a new revenue record.

When the impact fee money is collected, the Commonwealth takes $25.5 million up front for "state agencies to offset the statewide impact of drilling. Then 60 percent of the remaining money goes to the Unconventional Gas Well Fund to be distributed to counties and municipalities with wells. Municipalities in counties with wells share in that money, even if that municipality doesn't host a well. 40 percent goes to the Marcellus Shale Legacy Fund. 15 percent of that fund is sent to all counties, regardless of whether the county has a well located within its borders, to be used for certain environmental initiatives, set forth in Act 13. Other funds making up the Marcellus Shale Legacy Fund include the Highway and Bridge Improvement Fund and the Environmental Stewardship Fund (Pennsylvania Public Utility Commission)."

In 2011 there were 4,333 eligible wells statewide paying the impact fee. Even though Act 13 was passed in 2012, it was retroactive, covering wells in 2011. A decade later, there were 10,995 eligible wells paying the impact fee, an increase of 154 percent. In 2011 Allegheny County hosted just nine eligible wells and in 2021 that number jumped to 160. While that increase is quite significant for the county, it represents just 1.5 percent of all eligible wells in the state. Neighboring Washington County has the most at 1,938 followed by Susquehanna (1,841) and Greene (1,544).

Allegheny County municipal allocations

Since Allegheny County does have wells within its boundaries, it receives money from both funds—the Unconventional Gas Well Fund and the Marcellus Shale Legacy Fund.

The important point is that because Allegheny County hosts wells, it and its' municipalities are eligible for payments from the Unconventional Gas Well Fund. Municipalities within eligible counties receive money based on their population and number of highway miles. Secondly, municipalities hosting qualifying wells, or are near a municipality with a qualifying well, will also receive money based on population and highway miles (*Act 13, section 2314 (D)(3)*).

Of the 130 municipalities in Allegheny County, two straddle other counties; McDonald (Allegheny and Washington) and Trafford (Allegheny and Westmoreland) and will be excluded from this sample. While neither of them contains eligible wells, they are in counties, other than Allegheny, with substantial well counts and thus receive more money. McDonald received $35,851 from being in Washington County and only $253 from being in Allegheny.

Of the remaining 128 municipalities, only seven hosted eligible wells in 2021: Forward (62); Frazer (32); Findlay (26); Fawn (18); Elizabeth Twp. (11); Indiana (7) and Plum (4). But every municipality receives money from the impact fee.

In 2021 the Allegheny County municipalities divided a total of $1,154,181, according to the guidelines in Act 13. While the average is $9,023, that is misleading as there are 121 municipalities without wells within their borders and do not receive money based on well production but only because they are in Allegheny County. That funding formula is much less generous than the production allowance fee and this brings down the average payment dramatically. Note that Haysville received just $25 while Forward's payment was $262,051.

Over the last seven years, 2015-2021, Allegheny County municipalities received a total of $6,324,792.

Act 13 limits the items for which municipalities can use the gas funds. Municipalities can use the money for public infrastructure; storm water systems; public safety/emergency preparedness; environmental programs; water preservations; tax reductions; housing; information technology; social services; judicial services; capital reserves; career and tech centers and planning initiatives.

In 2021 only seven of the categories were utilized: public infrastructure (46 municipalities); public safety/emergency preparedness (9); storm water systems (8); capital reserves (6); environmental programs (4); information technology (2) and judicial services (1). 53 municipalities were listed as not reporting how they spent their allocations.

In 2017, the breakout was very similar except for judicial services. Instead, one municipality spent their allocation on planning initiatives. But only 31 did not report how the money was spent.

Conclusion

The unconventional well fee imposed with the passage of Act 13 has benefitted not only the counties of Pennsylvania but municipalities as well. However, while all counties receive some money from the fee, only municipalities in counties with wells receive money whether they have wells or not. For example, Lancaster County in Southeast Pennsylvania is outside the shale formations and does not have any eligible wells. It does, however, receive money as a county while its municipalities do not.

The top receiving municipalities across the commonwealth in 2021 are Center Township in Greene County ($1.265 million), while Auburn Township received $1.217 million and New Milford Township received $1.016 million, both in Susquehanna County. Three others receive between $930,000 and $990,000.

It is important to note that disbursements will vary with the size of the impact fee collections. Therefore, municipalities cannot rely on the exact same amount each time. That said, the variations are not too great. Center Township has received at least $1.14 million for four of the last five years, the exception being the pandemic year of 2020 ($755,840). Haysville in Allegheny County has averaged $23 in those four years.

For counties with large disbursements, the reporting requirements make sense: make sure the money is being used as intended—to offset the impacts from unconventional wells. However, in counties with low well counts, perhaps there should be a minimum floor before reporting requirements kick in—a minimum of $100,000. For many of Allegheny County municipalities, the savings from not having to spend the time and money reporting such small amounts would be helpful as well.

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