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Counties Vote to Impose Gas Well Fee

When Act 13, the Unconventional Gas Well Impact Fee Act, was signed into law on February 14th, it gave counties with such wells the option of imposing an impact fee. The counties, thirty-seven in all, had sixty days or until April 16th to adopt the fee. As that deadline passed all had chosen to opt in, as have fourteen counties who as of yet don't have any of these wells within their borders. While the basics of Act 13 were outlined in a previous *Policy Brief* (*Volume 12, Number 11*), now that the counties have opted to enact the fee, we can take a more in-depth look at how much fee revenue will be collected in this first year and how it will be distributed among the various recipients.

As noted in the earlier *Brief*, the impact fee is tied to the price of natural gas as traded on the New York Mercantile Exchange by taking the closing price on the last day of each month for a calendar year and finding the arithmetic mean. For 2011 the mean was $4.08 which triggered an impact fee of $50,000. This fee is applied to all wells that were drilling had begun (spud) through the end of 2011 and since this is the first year of the fee it also includes any unconventional wells spud before 2011 as well. The fee for 2011 will be payable in September of 2012.

The Pennsylvania Utility Commission (PUC), administrator of the Act 13 impact fee, has released a map detailing the number and location of unconventional wells, spud through the end of 2011. Overall they document 4,930 such wells across the Commonwealth. Bradford County has the largest count with 1,020 wells with neighboring Tioga second at 695 and Washington County with 553 third. Rounding out the top five are Lycoming (465) and Susquehanna (461). These five counties account for nearly two-thirds of all unconventional wells in the state.

Since all counties with Marcellus wells have taken advantage of Act 13, all wells in the state will be charged the $50,000 fee. However, because of provisions in the statute, the counties will not get back all of the fees collected from wells within their borders. The revenues, once collected, will be placed into the "Unconventional Gas Well Fund" where it will be distributed according to a formula established by the Act. Before the counties see any money the Act calls for the state to take a share off the top. In the first two years this amounts to $23 million. Agencies receiving money from The Fund are: the PUC ($7 million), Fish and Boat Commission ($1 million), PA Emergency Management Agency ($750,000), Office of the State Fire Commissioner ($750,000), and PennDOT ($1 million). This allotment of $10.5 million will flow to these agencies every year. County conservation districts will receive $2.5 million in the first year, $5 million in the second, and from the third year on out they will receive $7.5 million. The Act has also established a Natural Gas Development Fund which will receive $10 million in the first year, $7.5 million in the second, and $2.5 million in the third. All–in-all, the state will remove $23 million from the Fund in the first and second years, $20.5 million in the third, and $18 million thereafter before any remaining funds are distributed to county and municipal governments.

Once these obligations have been met, participating counties and their municipalities will share 60 percent of the remaining money while other state initiatives such as water quality and watershed programs receive the other 40 percent.

Now that fee imposing counties and wells have been tallied, how much money will the impact fee generate and who receives what amounts?

As mentioned above the PUC has documented 4,930 unconventional wells with a spud date of 2011. With each paying $50,000, the Fund will have $246.5 million in this first year. Once the specified $23 million is taken off the top, there will be $223.5 million to be split 60/40 between the counties (and their municipalities) and the statewide initiatives—with the former dividing up $134.1 million and the state agencies receiving $89.4 million.

The $134.1 million coming back to the fee imposing counties will be allocated based on the following formula: 36 percent will go to county governments (with the county receiving a distribution based on the number of wells in the county divided by the number of wells in the state); 37 percent will be distributed to the municipalities where unconventional wells have been spud (with a municipality getting an amount based on the number of wells in the municipality divided by the number of wells in the county); and 27 percent will be distributed to municipalities in the county without wells (based on population and highway miles). The only constraint is that the amount of money received by any municipality shall not exceed the greater of $500,000 or 50 percent of its total budget for the prior fiscal year (starting with 2010 and then adjusted for inflation thereafter). Any money left over due to this provision will be placed into a Housing and Affordability Rehabilitation Fund.

For example, the PUC credits Allegheny County with having nine wells within its borders. But since there are 4,930 wells in the state, Allegheny County and its municipalities are only eligible for 0.1826 percent (9/4,930) of the $134.1 million or $244,807. The County's take (36 percent) will be $88,131 while municipalities with wells will share $90,579 (37 percent) and municipalities without wells will divide the remaining $66,098.

Due to the much higher number of wells spud in neighboring Washington County (553) it will have far more money for the county and its municipalities. They will receive 11.22 percent of the $134.1 million in the Fund or more than $15 million. The County stands to gain more than $5.41 million while municipalities with wells will share more than $5.56 million and municipalities without wells will split about $4.1 million.

And of course the largest portion of the Fund will go to Bradford County which has 1,020 unconventional wells. They will receive more than $27.74 million to share with their municipalities. The County itself will reap nearly $10 million while municipalities with wells will split $10.3 million and municipalities without wells will share nearly $7.5 million.

Of course this is only for the first year of the impact fee. By its very nature the impact fee schedule is designed to fall for each well as time passes and this year it will drop even more because of the decline in the trading price of natural gas. In the second year these 4,930 wells are very likely to have their impact fees reduced. Through the first quarter of 2012 the average monthly trading price is $2.32 (and has been falling as price dipped below $2.00 in April). Based on this price the 4,930 wells will pay a year two impact fee of $35,000 and any well spud in 2012 will pay a year one fee of $45,000. But in addition to lowering the impact fee, the falling price of natural gas will have a second impact on revenues in that it will cause the number of new wells spud to fall as profitability from Shale drilling drops. Thus the Unconventional Gas Well Fund is likely to bring in less revenue next year and as result there be fewer dollars for counties and municipalities.

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