

May 6, 2013

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

**Re: Anadarko E&P Onshore LLC's Petition for Rescission and Amendment,
Docket No. M-2012-28288561**

Dear Secretary Chiavetta,

Enclosed please find Anadarko E&P Onshore LLC's Petition for Rescission and Amendment, which was e-filed today regarding a portion of the Pennsylvania Public Utility Commission's Clarification Order Regarding Chapter 23, December 20, 2012. Copies have been served on all parties listed in the Certificate of Service.

Sincerely,



Kevin J. Garber

Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Act 13 of 2012 – Implementation of
Unconventional Gas Well Impact Fee

M-2012-2288561

**PETITION OF ANADARKO E&P ONSHORE LLC
FOR RESCISSION and AMENDMENT**

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Dated: May 6, 2013

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Act 13 of 2012 – Implementation of
Unconventional Gas Well Impact Fee

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**PETITION OF ANADARKO E&P ONSHORE LLC
FOR RESCISSION and AMENDMENT**

Pursuant to the Commission's regulations at 52 Pa. Code §5.572, Anadarko E&P Onshore LLC submits this Petition for Rescission and Amendment of one discrete matter raised in the Commission's December 20, 2012 Clarification Order Regarding Chapter 23 of Act 13 (December Order). In a previous petition, Anadarko had raised the question of how impact fees would be determined or refunded when a well is re-classified from a horizontal to a vertical unconventional gas well. The Commission addressed this question and *sua sponte* raised an additional issue associated with re-classification of wells. Anadarko respectfully requests rescission and amendment of the Commission's conclusion that a well re-classified from horizontal to vertical should pay the horizontal well impact fee in the re-classification year. December Order, p 7-8.

This Petition provides the following analysis. First, the date of re-classification of a horizontal to a vertical well is a factual determination. A conductor that is plugged is vertical at the moment when it is plugged; it never was and never could be a horizontal well. A well that was originally permitted as horizontal but is drilled and completed as vertical is vertical at the moment when drilling is finished. It never was a horizontal well, and may not become one unless a new well permit is obtained to alter it. These dates provide objective and self-implementing criteria that document when re-classification occurs. Second, the impact fee for a re-classified unconventional well is determined by the factual status of the well in the year of re-classification. If the well was either a plugged conductor or a completed vertical well—never drilled or completed as a horizontal well—the proper impact fee is that of a vertical well. This is the fair and just interpretation of Act 13, which dictates a clear distinction between impact fees owed for vertical versus horizontal wells.

In support of its request, Anadarko states as follows:

Statement of Interest

1. Anadarko is exploring for and producing natural gas from unconventional formations (as defined in Act 13, 58 Pa. C.S. §§2301 *et seq.*) as well as from conventional formations in Pennsylvania. It has drilled over 300 unconventional gas wells in the Commonwealth that have been subject to the impact fees to date, including 76 locations in which only conductors were installed, where no completion, development or production occurred.
2. Anadarko timely paid unconventional gas well impact fees under Act 13 to the Commission in September 2012 and April 2013, in excess of \$25 million.
3. In accordance with the Commission's December Order, Anadarko timely disputed impact fees for conductors that were plugged in 2012 when it submitted its Annual Producer Report in April 2013. Anadarko subsequently engaged in discussions to informally resolve this dispute.

I. Prior Petition and Orders Regarding Re-classification of Wells

4. The Commission determined that impact fees would be calculated based on factors such as "when the well was spud, the number of years the well has been subject to the impact fee and the average annual price of natural gas." Implementation Order regarding Act 13 (May Order) p. 6-7. These factors did not address how impact fees would be calculated if and when a well is re-classified from a horizontal to a vertical well.
5. The Commission did not initially acknowledge that DEP might re-classify wells from horizontal to vertical wells that would be subject to a lesser impact fee. May Order, p. 11.
6. The Commission requires Producers to self-report to the Commission regarding spudding, production, and removal of wells from production but had not provided for circumstances in which wells are re-classified from horizontal to vertical wells. May Order, p. 12.
7. In practice, however, the Commission has acknowledged and accepted the re-classification of wells from horizontal to vertical in its determination of well impact fees payable in 2012.
8. On August 24, 2012, Anadarko provided information to the Commission to certify production information for vertical wells, including those that had been re-classified based upon well records Anadarko submitted to the Pennsylvania Department of Environmental Protection (Department) in accordance with 25 Pa. Code Section 78.122. In its payment of well impact fees, Anadarko did not submit impact fees for the re-classified vertical wells that did not meet production requirements necessary to qualify as a vertical well under Act 13. The Commission accepted Anadarko's payment as complete in accordance with that fee calculation.

9. On September 28, 2012, Anadarko requested the Commission to amend its May Order to: (i) acknowledge that re-classification of wells from horizontal to vertical will affect the calculation of impact fees due for such wells, and (ii) provide reporting mechanisms to account for re-classification of wells from horizontal to vertical.
10. The December Order acknowledged that re-classification of wells from horizontal to vertical affects the calculation of impact fees but, contrary to its practice and the July 2012 Reconsideration Order Regarding Act 13 (July Order), the Commission mistakenly concluded that such wells should pay the horizontal well impact fee for the year in which re-classification occurs.
11. The Commission declined to provide a separate reporting mechanism to account for the re-classification of wells from horizontal to vertical wells because the Annual Producer Report provides such information, whereby the Producer verifies its financial liability under Act 13. December Order, p. 7.
12. Anadarko agrees with the Commission's conclusion that Producers provide classification information and report their financial liability under Act 13 when they submit the annual report. No additional reporting mechanism is necessary because well classification is a matter of fact, certified by Producers in a variety of forms, submissions and correspondence with both the Department and the Commission.

II. Well classification is a matter of objective fact, not subject to interpretation.

13. In its December Order, the Commission agreed that re-classification of wells from horizontal to vertical will affect the calculation of the impact fee but did not address when re-classification occurs.
14. Chapter 23 of Act 13 contains no language that addresses or anticipates the re-classification of wells and provides no guidance as to when re-classification occurs.
15. The Department's regulations (25 Pa. Code Chapter 78) do not address the question of when re-classification occurs, but do require well records recording the total depth of every well drilled. Section 78.122.
16. The Department has no current or past practice or policy that separately documents when re-classification of wells from horizontal to vertical occurs. The Department relies upon the operator's certified well reports regarding construction and classification.
17. Wells have been and will continue to be re-classified from vertical wells to horizontal wells under different factual scenarios, all of which are thoroughly documented and certified by Producers.

A. Plugged conductors that were never drilled to reach an unconventional formation are classified as vertical wells at the time of plugging.

18. Chapter 78 of the Department's regulations requires operators to plug wells in accordance with Pennsylvania regulations and to file a Certificate of Well Plugging, Form 8000-FM-OOGM006 within 30 days of plugging. Section 78.124. See Attachment A for an example of this form.
19. Chapter 78 defines "total depth" as the depth to which a well was originally drilled, subsequently drilled, or to which it was plugged in a manner approved by the Department.
20. The total depth of a plugged well is clearly stated on the face of the Certificate of Well Plugging.
21. Every Certificate of Well Plugging is signed and certified as to the information contained on the form.
22. Some conductors that were set in anticipation of drilling horizontal unconventional wells were never drilled to reach unconventional formations. The depth of such conductors, including pipe and open hole, is typically no deeper than 200 feet below ground surface and does not reach an unconventional gas formation.
23. Operators must submit Certificates of Well Plugging for any conductors that are plugged.
24. Even if initially permitted as horizontal wells, conductors consisting of pipe and open hole that only ever reached a depth less than 200 feet below ground surface and were subsequently plugged have never been and can never be horizontal wells.
25. A plugged conductor is not a horizontal well.
26. Re-classification of wells is an objective fact that occurs at a particular point in time, including the plugging of a conductor that had initially been permitted to be drilled and completed as a horizontal well.

B. Wells permitted as horizontal wells that are drilled and completed as vertical wells are classified as vertical wells at the completion of drilling.

27. Section 78.122 requires Well Records to be submitted after cessation of drilling or altering a well, informing the Department of total depth of the well, among other things, and including the dates that drilling started and completed. See Attachment B for an example of Form 8000-FM-OOGM004a.
28. Chapter 78 defines "total depth" as the depth to which a well was originally drilled, subsequently drilled, or to which it was plugged in a manner approved by the Department.

29. The true vertical depth and total measured depth of a well are clearly provided on the face of the Well Record.
30. Every Well Record is signed and certified as to the information contained on the form.
31. If a well was initially permitted as a horizontal well, but is subsequently drilled and completed as a vertical well, operators must file a Well Record to verify the total depth of the well.
32. Regardless of the label on the well permit that was issued, a well that is drilled and completed as a vertical well—that was never drilled as a horizontal well—is not and never was a horizontal well.
33. The date of re-classification of such a well is the date upon which drilling of the vertical well was completed.
34. Re-classification of wells is an objective fact that occurs at a particular point in time, such as the completion of drilling a vertical well.
35. Additionally, Section 78.11 requires operators to obtain a permit to alter a well. If a well is drilled and completed as a vertical well, it cannot legally be altered to become a horizontal well without the review and approval of a new well permit application by the Department.

III. In the absence of statutory or regulatory language or guidance, the Commission's December Order improperly concluded that "a reclassified well should pay the horizontal fee for the reclassification year." December Order, p. 8.

36. Chapter 23 of Act 13 does not address the re-classification of wells or the fee implications of re-classifying a well that was initially permitted as horizontal but subsequently was drilled or plugged as a vertical well.
37. Act 13 does, however, distinguish in great detail between the different well impact fees required for vertical and horizontal wells, without ever making a reference to the well permit that was issued for any particular well. Section 2302 (b).
38. Under Act 13, vertical wells are subject to significantly lower fees than horizontal wells—only 20% of the fee imposed on horizontal wells, and then only for ten rather than fifteen years. Section 2302 (f). Based upon the average price of natural gas, impact fees in 2012 were \$50,000 per horizontal well and \$10,000 per vertical well. In 2013, impact fees for Year 2 wells were \$35,000 per horizontal well and \$7,000 per vertical well.
39. The clear policy choice of the legislature is that Producers pay lower fees, for a shorter period of time, for vertical wells.
40. Under the logic of this framework, the impacts to be compensated by the differing fees imposed in Chapter 23 are those related to the factual differences between drilling and completing horizontal and vertical wells.

41. It is contrary to common sense, as well as the language and purpose of Act 13, to impose a horizontal well fee on a conductor, including pipe and open hole, that has been plugged at a total depth less than 200 feet below ground surface.
42. Such a well was never a horizontal well, did not ever create the impacts of a horizontal well, and could never become a horizontal well unless a new permit were issued.
43. Further, under Act 13 and the July Order, Producers pay no impact fee unless vertical wells produce in quantities greater than a stripper well. July Order, p. 4.
44. Tying impact fees for vertical wells to production levels demonstrates that the legislature considered the factual details of well construction and operation to be significant factors in fee determinations.
45. Contrary to the Commission's December Order, well permits do not "dictate the treatment of the well for impact fee purposes" because well permits do not create any impact to be compensated by the impact fee. December Order, p. 6.
46. The Environmental Quality Board promulgates rules to impose well permit application fees in accordance with statutory criteria provided in Act 13. Section 3211 (d). Well permit fees are established to compensate for the cost of administering Chapter 32 of Act 13.
47. The fair reading of Act 13 is that fees may be imposed upon spud wells in accordance with the permit that was issued—whether horizontal or vertical—unless or until the drilling or plugging of that well factually determines otherwise.
48. Regardless of how a well has been permitted, a conductor that is plugged, or a well that is drilled and completed as a vertical well, is as a matter of fact a vertical well—it was never a horizontal well and never imposed the impact of a horizontal well.
49. The impact fee due for a re-classified well should be based upon the factual status of the well in the year of re-classification. If it was in fact never a horizontal well, the appropriate fee is that of a vertical well.
50. This position does not create any administrative burdens for the Department or PUC because it is self-implementing. Chapter 78 already provides for certified records to be submitted to the Department, providing the total depth and relevant dates for all wells.
51. This position does not jeopardize future impact fees because when any well that has been permitted as a horizontal unconventional well is spud, the Producer will be required to pay the horizontal well impact fee unless or until some action is taken to physically re-classify that well as vertical.
52. Additionally, if a producer drills and completes a vertical well under a well permit for a vertical well, but subsequently decides to alter that well and drill and complete it as a horizontal unconventional well, that Producer would be required to submit a new permit application to the Department, and upon approval, would incur the horizontal impact fee in the year of re-classifying such a well to become a horizontal well.

IV. Conclusion

Anadarko respectfully requests that the Commission amend its December 20, 2012 Clarification Order Regarding Chapter 23 of Act 13 consistent with the discussion above and issue an order that:

- a. The following language on pages 7-8 of the December Order is rescinded:

Finally, there is one issue associated with reclassification that should be addressed involving the appropriate impact fee for a reclassified well. For a horizontal unconventional gas well, the impact fee accrues upon spudding or at the beginning of a calendar year for wells spud previously. For a vertical well, spudding does not trigger the impact fee, but rather satisfaction of required production levels is the relevant inquiry. *See July 19, 2012 Reconsideration Order* at 3. Recognizing the myriad of scenarios attendant to reclassification, we believe that a fair reading of Act 13 is that a reclassified well should pay the fee for a horizontal well in the reclassification year. (Fn 3)

The legislature recognized the greater impact occasioned by horizontal unconventional gas wells as compared to vertical unconventional gas wells. This variance is reflected by the different dollar amounts imposed by the impact fees associated with each type of well. Given this consideration, we believe that it is a fair result to require payment of the horizontal unconventional gas well impact fee for a well classified as such during any part of the year in which that well is otherwise subject to the fee.

Fn 3. If there is an obvious classification or computational error by a producer, we will work to rectify that error.

AND

- b. That the impact fee for a re-classified unconventional well is to be determined by the factual status of the well in the year of re-classification, as evidenced by certified records, including a certificate of plugging or a well record, that a Producer submits to the Department. If the well was never drilled as a horizontal well, the impact fee payable for the year of re-classification is that of a vertical well.

Respectfully Submitted,



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Attorneys for Petitioner
Anadarko E&P Onshore LLC

Dated: May 6, 2013

Attachment A

Certificate of Well Plugging



DEP USE ONLY	
Application Tracking #	

Proposed Alternate Method or Material for Casing, Plugging, Venting or Equipping a Well

Well Operator ANADARKO E&P COMPANY LP		DEP ID# 251430	Well Permit or Registration Number 37-027-21549	
Address PO BOX 1330		Well Farm Name COP Tract 231		
City HOUSTON	State TX	Zip Code 77251	Well # A-1001H	Serial #
Phone (570) 244-4045	Fax (832) 636-5081	County CENTRE		Municipality SNOW SHOE / BOGGS

A proposed alternate method is subject to provisions in §3221 of the 2012 Oil and Gas Act, 58 Pa. C.S. §3221 Section 13 of the Coal and Gas Resource Coordination Act, 58 P.S. §513 and 25 PA Code §§78.75-78.75a (relating to Alternate Methods.) **Attach proof of notification of coal operator(s).**

Describe in reasonable detail using a written description and / or diagram:

- 1. the proposed alternate method or materials, and**
- 2. the manner in which the alternative will satisfy the goals of the laws and regulations.**

Proposed Alternate Method

- 1) Fill rat hole with pea gravel to just below conductor shoe
- 2) Place bentonite chips on top of gravel at conductor shoe and up inside conductor
- 3) Fill remaining conductor with pea gravel
- 4) Weld plate on top of conductor
- 5) Weld standpipe to plate
- 6) Affix well monument

Alternative Method will Satisfy Goals of Laws and Regulations

- 1) No hydrocarbon bearing zones were present
- 2) No water bearing zones were present
- 3) Well was plugged from attainable bottom with nonporous material
- 4) Well was plugged in a manner to stop the vertical flow of fluids within the well bore

Optional: Approval by Coal Owner or Operator		Signature of Applicant / Well Operator	
Signature	Date	Signature 	Date 12/4/2012
Print or Type Signer's Name and Title		Print or Type Signer's Name and Title Nathan S. Bennett, Regulatory Manager	

If optional approval is signed by coal owner or operator, the 15-day objection period may be waived.

DEP USE ONLY		
Approved by (DEP Manager)	Conditions	Date
	<input type="checkbox"/> YES, See Attached <input type="checkbox"/> NO	

Attachment B
Well Record Form



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF OIL AND GAS MANAGEMENT

DEP USE ONLY	
Site ID	Client Id
Client Id	Sub Facility Id

Well Record

WELL INFORMATION

Well Operator	DEP ID#	Well API # 37- - - -	Well Farm Name	Well #
Address		LAT ° ' "	Project Number	Serial #
City		LONG ° ' "	NAD 83	County
Phone	Fax	Email	USGS 7.5 min. quadrangle map	Section

Check the appropriate Submission: Original Well Record Amended Well Record

Well Type	<input type="checkbox"/> Gas <input type="checkbox"/> Oil <input type="checkbox"/> Combination Oil & Gas <input type="checkbox"/> CBM <input type="checkbox"/> Injection <input type="checkbox"/> Disposal <input type="checkbox"/> Storage	Wellbore Conditioning:
Well Orientation	<input type="checkbox"/> Vertical <input type="checkbox"/> Deviated from Vertical (Top & Side views & Deviation Survey must be attached)	
Drill Method(s)	<input type="checkbox"/> Rotary - Air ' <input type="checkbox"/> Rotary - Mud ' <input type="checkbox"/> Cable Tool ' <input type="checkbox"/> Other ' :	
Drilling Started	Surface Elev. ft.	GW Depth ft.
Drilling Complete	True Vertical Depth ft.	Depth of DFGW ft.
Date Well Completed	Total Measured Depth ft.	DFGW decided by: 0

CEMENT

Cement returned on surface casing? Yes No If No, provide depth to top of cement and method used to determine:

Cement returned on coal protective casing? Yes No If No, provide depth to top of cement and method used to determine: NA

Cement returned on intermediate casing? Yes No If No, provide depth to top of cement and method used to determine: NA

Casing String	Type/Class of Cement (Lead/Tail)	Slurry Temp F°	Amount of Cement (sks) (Lead/Tail/Total)	WOC hrs	Wt PPG	Yld ft ³ /sk	Gas Migration Controls Used
Conductor	/	°	/ /				What controls were used if any (additives/ hardware. Specify type and depth applicable).
Surface	/	°	/ /				
Coal Protective	/	°	/ /				
Intermediate	/	°	/ /				
Production	/	°	/ /				
	/	°	/ /				
If additional strings attach form(s)			Total				

CASING AND TUBING

Hole Size	Pipe Size	Wt. #/ft.	Grade Casing / Tubing Type	Thread / Weld - New/ Used	Amount in Well (ft.)	CO	R	Hardware - Baskets / Packer / Centralizers (Total/String)	Depth	Date Run
				-						
				-						
				-						
				-						
				-						

If any casing is welded, provide the name(s) of the welder(s):

PLUG-BACK/WELLBORE ALTERATION

Fill Material & Plugs	Depth		Date	Casing & Tubing		
	From	To		Size	Pulled	Left

LOG OF FORMATIONS

Well API#: 37-____-____-____

(If you will need more space than this page, please photocopy the blank form before filling it in.)

Formation Name or Lithology	Top (feet)	Bottom (feet)	Gas at (feet)	Oil at (feet)	Water at (fresh / brine; ft.)	Source of Data
	-----0					

If no show of oil, gas or water, explain why:

WELL SERVICE COMPANIES (Provide the name, address, and telephone number of all well service companies involved.)

Casing Source	Cementing Company	Hardware Supplier	Logging Company
Name	Name	Name	Name
Address	Address	Address	Address
City - State - Zip			
Phone	Phone	Phone	Phone

I do hereby certify to the best of my knowledge, information and belief that the well identified on this Well Record has been properly cased and cemented in accordance with the requirements of 25 Pa. Code Chapter 78 and any conditions contained in the permit for this well. In addition, I do hereby certify that any casing which is attached to a blow-out preventer with a pressure rating greater than 3,000 psi has passed a pressure test in accordance with 25 Pa. Code §78.84(f). I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Driller		Well Operator's Signature		DEP USE ONLY	
Name	Rig	_____ Printed Name / Title: _____ Date: _____ /		Reviewed by:	
Address				Comments:	
City - State- Zip					
Phone					

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of May, 2013, I served a copy of the Petition of Anadarko E&P Onshore LLC for Rescission and Amendment in Docket No. M-2012-2288561 on the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code § 1.54:

VIA E-MAIL and FIRST CLASS MAIL

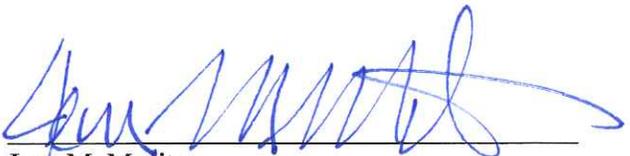
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