

Docket M-2012-2288561

CCAP Commentary on Tentative Implementation Order
Unconventional Gas Well Impact Fee Act

Introduction

No comments.

Chapter 23 – Determination, Collection and Disbursement of Impact Fees

No comments.

Section 2302. Unconventional gas well fee.

Impact Fee Notification Procedures and Notice Content

We appreciate acknowledgement of, and reference to, the model ordinance developed by CCAP.

Additional issue: The final order, an amendment to the order, or a subsequent order will need to specify the time frame in which counties that do not have spud wells as of 2011 but have them subsequently, as well as counties that have spud wells in 2011 but fail to take timely action on the ordinance, are to adopt the ordinance. Timing would likely fall between January 1 and April 1 of any given year, inasmuch as county action is dependent on knowing it has eligible spud wells in the subject (prior calendar) year, and inasmuch as the PUC will require action and notice in sufficient time to allow it to discharge its duties relative to collection of the fee. While future-year action is not specific in the statute, it is referred to in section 2302(a.3) and is implicit in section 2302(a).

Application of Impact Fee to Wells Spud 2011 or Prior

No comments.

Calculation of Impact Fee

While we agree in general with the analysis and conclusions stated, we are verifying that the fee becomes payable once the well is spud, that is, “the actual start of drilling,” regardless of whether the well begins production at that time. The phrasing from both the act and the order referring to capping following commencement of paying the fee could be confused with capping following commencement of production, which is not the same thing. We believe that production does not need to commence from the well, but simply that the fee payment has begun – triggered by “the actual start of drilling.” Subsequent to that, should the well be capped or two years pass without threshold level production, then the fee is suspended. We believe the intent as structured is to recognize that many of the impacts are incident to drilling and thus the well is covered under the act upon “start of drilling” whether there is ultimately any production. This also recognizes that many wells have been spud with no immediate intention of

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production, but as a means to finalize rights under an existing lease, which would otherwise expire at the fifth anniversary of the lease if there is no drilling activity, or to have the well in place while awaiting extension of gathering and collection lines.

Section 2303. Administration.

No comments.

Section 2304. Well information.

Clarity would be helpful regarding how and to which agency, and on what time line, a county or municipality is to report apparent discrepancies between or among DEP, PUC, and county/municipal records of spud wells.

Section 2305. Duties of Department

No comments.

Section 2307. Commission.

Section 2308. Enforcement.

Section 2309. Enforcement orders.

Section 2310. Administrative Penalties

No comments.

Section 2312. Recordkeeping

Section 2313. Examinations.

No comments.

Section 2314. Distribution of fee.

Fee Distribution to Localities

No comments.

Reporting

We agree with the analysis, and concur that the draft Impact Fee Disbursements Report, marked Attachment D, meets the purposes of the act. We suggest that provision be made for manner of local publication or availability of the Report for municipalities that do not actively maintain a website.

Section 2315. Statewide initiatives.

No comments at this time, awaiting review of the distribution algorithms.

Chapter 33. Local Ordinances Relating to Oil and Gas Operations.

All sections: No comments.

Advisory Opinions

No comments.

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Requests for Review

The adoption of standards declaring actions to be public documents, and setting specific rules of procedure are welcome.

Section 3306. Civil actions.

No comments.

Section 3307. Attorney fees and costs.

No comments.

Section 3308. Ineligibility.

No comments.

Section 3309. Applicability.

No comments.

ORDER:

1. No comments.

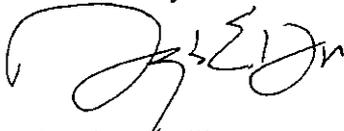
2. No comments.

3. No comments.

4. Allowing counties until April 15 to submit the Impact Fee Disbursements Report adequately recognizes the time needed following the close of counties' calendar-based fiscal year in order to generate the Report. This presumes that the Report format and detail remains as proposed at Attachment D.

5. No comments.

Submitted by



Douglas E. Hill
Executive Director
April 4, 2012

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