



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

February 27, 2014

Rosemary Chiavetta
Pa. Public Utility Commission
2nd Floor, 400 North Street
P.O. Box 3265
Harrisburg, PA 17105

Re: Pennsylvania Public Utility Commission, Bureau of Investigation and
Enforcement v. Snyder Brothers, Inc.; Docket No. C-2014-2402746

Dear Secretary Chiavetta:

Pursuant to the provisions of 52 Pa. Code § 5.63, please accept for filing the Bureau of Investigation and Enforcement's Reply to New Matter in the above referenced case. Copies have been served on the parties of record in accordance with the Certificate of Service.

If you have any questions on this matter, please call me at 717-214-9594.

Sincerely,

A handwritten signature in cursive script that reads "Heidi L. Wushinske".

Heidi L. Wushinske
Prosecuting Attorney
Attorney ID No. 93792

Enclosures

cc: As per Certificate of Service

RECEIVED
2014 FEB 27 PM 12:24
PA PUC
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED
2014 FEB 27 PM 12:25
PA PUC
SECRETARY'S BUREAU

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement,
Complainant
v.
Snyder Brothers, Inc.,
Respondent
Docket No. C-2014-2402746

REPLY TO THE NEW MATTER OF SNYDER BROTHERS, INC.

AND NOW comes the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) Bureau of Investigation and Enforcement (“I&E”) and files this Reply to the New Matter of Snyder Brothers, Inc. (“Snyder Brothers” or “Respondent”), pursuant to 52 Pa. Code § 5.63. In support thereof, I&E avers as follows:

- 1. Admitted. It is admitted that on August 15, 2011, Snyder Brothers submitted to the PUC an annual report for the year 2011.
- 2. Admitted. It is admitted that Snyder Brothers attached a true and correct copy of its 2011 annual report to its Answer and New Matter as Exhibit SBI-1.
- 3(a). Denied. I&E lacks sufficient knowledge to admit or deny Snyder Brothers’ beliefs regarding the submission of its 2011 Annual Report. To the extent a response is required, this allegation is denied. Strict proof is demanded at trial. Further, it is denied that each of the wells listed as stripper wells on the 2011 Annual Report meet the statutory definition of stripper well.
- 3(b).¹ Admitted in part, denied in part. While it is admitted that Exhibits A and B to the 2011 Annual Report lists wells operated by Snyder Brothers that were potentially subject to the impact fee and administrative charge requirements of Act 13, I&E lacks sufficient knowledge to admit or deny if these Exhibits list all of Snyder Brothers’ wells

¹ In its New Matter, Snyder Brothers numbered three paragraphs as (“3.”). I&E believes this to be in error and has divided the paragraphs numbers as “3” into 3(a), 3(b), and 3(c).

potentially subject to the impact fee and administrative charge requirements of Act 13. To the extent a response is required, this allegation is denied. Strict proof is demanded at trial.

3.c. Denied. I&E lacks sufficient knowledge to admit or deny the accuracy of the monthly production report set forth in Exhibit C to the 2011 Annual Report. To the extent a response is required, this allegation is denied. Strict proof is demanded at trial.

4. Denied. It is denied that each well set forth on Exhibit C to the 2011 Annual Report meets the definition of “stripper well” as set forth in 58 Pa. C.S. § 2301.

5. Admitted in part and denied in part. It is admitted that Exhibit A to the 2011 Annual Report lists 18 gas wells categorized by Snyder Brothers as being “subject to the fee.” I&E lacks sufficient knowledge to admit or deny Snyder Brothers’ beliefs regarding the submission of Exhibit A to its 2011 Annual Report. To the extent a response is required, this allegation is denied. Strict proof is demanded at trial.

6. Admitted. It is admitted that the PUC sent Snyder Brothers Statement Number 11-35-0000063561-1 dated August 29, 2011, and that this statement listed \$170,000.00 due for the period January 1, 2011 through December 31, 2011 for 17 Vertical Gas Wells.

7. Admitted. It is admitted that Snyder Brothers attached a true and correct copy of its 2011 fee statement to its Answer and New Matter as SBI-2.

8. Admitted. It is admitted that on August 30, 2011, Snyder Brothers paid the amount listed in the 2011 fee statement.

9. Admitted. It is admitted that the PUC sent Snyder Brothers Statement Number 11-35-0000063561-2 dated August 29, 2011, and that this statement listed \$850.00 due for the period January 1, 2011 through December 31, 2011 for spud fees or administrative fees on 17 Vertical Gas Wells.

10. Admitted. It is admitted that Snyder Brothers attached a true and correct copy of its 2011 spud statement to its Answer and New Matter as SBI-3.

11. Admitted. It is admitted that on August 30, 2011, Snyder Brothers paid the amount listed in the 2011 spud statement.

12. Admitted. It is admitted that on March 27, 2012, Snyder Brothers submitted to the PUC an annual report for the year 2012.

13. Admitted. It is admitted that Snyder Brothers attached a true and correct copy of its 2012 annual report to its Answer and New Matter as Exhibit SBI-4.

14. Denied. I&E lacks sufficient knowledge to admit or deny Snyder Brothers' beliefs regarding the submission of its 2012 Annual Report. To the extent a response is required, this allegation is denied. Strict proof is demanded at trial. Moreover, it is denied that each of the wells listed as stripper wells on the 2011 Annual Report meet the statutory definition of stripper well.

15. Admitted in part, denied in part. While it is admitted that Exhibits A and B to the 2012 Annual Report list wells operated by Snyder Brothers that were potentially subject to the impact fee and administrative charge requirements of Act 13, I&E lacks sufficient knowledge to admit or deny if these Exhibits list all of Snyder Brothers' wells potentially subject to the impact fee and administrative charge requirements of Act 13. To the extent a response is required, this allegation is denied. Strict proof is demanded at trial.

16. Denied. I&E lacks sufficient knowledge to admit or deny the accuracy of the monthly production report set forth in Exhibit C to the 2012 Annual Report. To the extent a response is required, this allegation is denied. Strict proof is demanded at trial.

17. Denied. It is denied that each well set forth on Exhibit C to the 2012 Annual Report meets the definition of "stripper well" as set forth in 58 Pa. C.S. § 2301.

18. Admitted in part and denied in part. It is admitted that Exhibit A to the 2012 Annual Report lists 28 gas wells categorized by Snyder Brothers as being "subject to the fee." Strict proof is demanded at trial. I&E lacks sufficient knowledge to admit or deny Snyder Brothers' beliefs regarding the submission of Exhibit C to its 2012 Annual Report.

19. Admitted. It is admitted that on April 2, 2013, Ms. Yvonne Hess of the PUC sent Snyder Brothers an e-mail explaining that the problem with Snyder Brothers' 2012 annual report was that the vertical wells (an additional 21 wells) producing over 90 mcf in just one month were required to pay the fee for the entire year.

20. Admitted. It is admitted that Snyder Brothers attached a true and correct copy of Ms. Yvonne Hess' email to its Answer and New Matter as Exhibit-SBI-5.

21. Admitted in part and denied in part. It is admitted that Snyder Brothers communicated with staff of the PUC's Fiscal Office its disagreement with the Commission's interpretation of stripper well, and its belief that the wells Snyder Brothers listed as stripper wells in its 2011 and 2012 Annual Reports qualified as such. By way of

further answer, I&E believes that Snyder Brothers' interpretation is an inaccurate interpretation of the definition of "stripper well" as set forth in 58 Pa. C.S. § 2301.

22. Admitted. It is admitted that on April 8, 2013, Snyder Brothers received Statement Number 12-35-0000063561-1, requesting payment in the amount of \$236,000.00 on or before April 1, 2013.

23. Admitted. It is admitted that Snyder Brothers attached a true and correct copy of Statement Number 12-35-0000063561-1 to its Answer and New Matter as Exhibit SBI-6.

24. Admitted. It is admitted that Snyder Brothers paid \$236,000.00 as requested by Statement Number 12-35-0000063561-1.

25. Admitted. It is admitted that on April 8, 2013, Snyder Brothers received Statement Number 12-35-0000063561-2, requesting payment in the amount of \$1400.00 on or before April 1, 2013.

26. Admitted. It is admitted that Snyder Brothers attached a true and correct copy of Statement Number 12-35-0000063561-2 to its Answer and New Matter as Exhibit SBI-7.

27. Admitted. It is admitted that Snyder Brothers paid \$1400.00 as requested by Statement Number 12-35-0000063561-2.

28. Denied. It is denied that Snyder Brothers has paid all impact fees for 2011 as required by law because of the 30 wells Respondent identified as stripper wells, 24 do not qualify as stripper wells because they produced more than 90,000 cubic feet of gas per day in at least one month in calendar year 2011. Therefore, Snyder Brothers should have paid an impact fee for 24 additional vertical wells. 58 Pa.C.S. § 2301.

29. Denied. It is denied that Snyder Brothers has paid all administrative charges for 2011 as required by law because for calendar year 2011, Snyder Brothers paid administrative charges of \$850.00, based on the number of wells it identified as vertical wells. However, Snyder Brothers should have identified an additional 24 wells as vertical wells, and paid an administrative charge of \$2050.00

30. Denied. It is denied that Snyder Brothers paid all impact fees for 2012 as required by law. Snyder Brothers failed to include 21 additional wells as vertical wells, even though these wells produced more than 90,000 cubic feet of gas per day in at least one month in calendar year 2012. Therefore, Snyder Brothers should have paid an impact Fee for 21 additional vertical wells for 2012.

31. Denied. It is denied that Snyder Brothers paid all administrative charges for 2012 as required by law. For 2012, Snyder Brothers paid administrative charges in the amount of \$1400.00. It should have paid administrative charges in the amount of \$2450.00

32. Denied. It is denied that 1 Pa. C.S. § 1928(b)(3) applies to the impact fees imposed by Act 13 because 1 Pa. C.S. § 1928(b)(3) applies to only to taxes, not fees.

33. Denied. It is denied that 1 Pa. C.S. § 1928(b)(3) applies to the administrative charges imposed by Act 13 because 1 Pa. C.S. § 1928(b)(3) applies to only to taxes, not administrative charges.

34. Denied. It is denied that I&E's complaint fails to state a claim upon which any relief can be granted. I&E's complaint specifically charges Snyder Brothers with failing to comply with Act 13 in that it has not paid the full amount of the impact fees and administrative charges imposed under the Act for its unconventional gas wells reported for calendar years 2011 and 2012. The relief to be granted for these violations is that Snyder Brothers by ordered to pay its past due impact fees, plus interest and penalties, and administrative charges totaling \$507,586.00; be ordered to pay a civil penalty of

\$50,000.00; as well as such other relief as the Commission deems just and reasonable. 58 Pa.C.S. § 2308(a), (b); 58 Pa. C.S. § 2310(a).

35. Denied. While there may not be any apparent administrative mechanisms whereby Snyder Brothers could have paid the amount of disputed impact fees or administrative charges under protest or had successfully disputed fees or charges returned to it, I&E does not have knowledge of all possible remedies at law or in equity.

36. Denied. While there may not be any apparent administrative mechanisms whereby the PUC can refund impact fees or administrative charges that were paid but subsequently determined to be not due or otherwise paid in error, I&E does not have knowledge of all possible remedies at law or in equity.

37. Denied. It is denied that the Commission is not entitled to recover interest, penalties, or civil penalties in this proceeding. The Commission is required to recover penalties and interest in this proceeding. 58 Pa.C.S. § 2308(a), (b). The Act states that “[t]he Commission *shall* assess interest on any delinquent fee at the rate determined under section 2307(a)...” 58 Pa.C.S. § 2308(a) (*emphasis added*). “In addition to the assessed interest under subsection (a), if a producer fails to make timely payment of the fee, there *shall* be added to the amount of the fee due a penalty of 5% of the amount of the fee if failure to file a timely payment is for not more than month, with an additional 5% penalty for each additional month, or fraction of a month, during which the failure continues, not to exceed 25% in the aggregate.” 58 Pa.C.S. § 2308(b) (*emphasis added*). Moreover, the Commission may assess a civil penalty in addition to penalties and interest. 58 Pa.C.S. § 2310(a).

38. Denied. The Act gives the Commission the authority to impose civil penalties upon producers for violations. 58 Pa.C.S. § 2310(a). The Complaint charges Snyder Brothers with two continuing violations of 58 Pa.C.S. § 2303(a) for non-payment

of the full amount of the impact fees and administrative charges imposed under the Act for its unconventional gas wells. Pursuant to the authority granted to the Commission under 58 Pa.C.S. § 2310(a), it may assess civil penalties upon Snyder Brothers for violating 58 Pa.C.S. § 2303(a).

WHEREFORE, for all the foregoing reasons, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that, after consideration of the record, the Office of Administrative Law Judge and the Commission deny Snyder Brothers New Matter and find Snyder Brothers, Inc. in violation of each and every count as set forth in the Complaint.

Respectfully submitted,



Heidi L. Wushinske
Prosecutor
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission

P.O. Box 3265
Harrisburg, PA 17105-3265

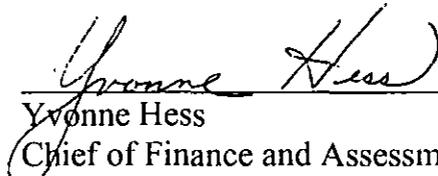
Date: February 27, 2014

RECEIVED
2014 FEB 27 PM 12:25
PA PUC
SECRETARY'S BUREAU

VERIFICATION

I, Yvonne Hess, Chief of Finance and Assessments, of the Pennsylvania Public Utility Commission's Bureau of Administration's Fiscal Office ("Fiscal Office"), hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect the Fiscal Office will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: February 27, 2014



Yvonne Hess
Chief of Finance and Assessments
Bureau of Administration's Fiscal Office
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED
2014 FEB 27 PM 12:25
PA. PUB.
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon the persons listed and in the manner indicated below:

Notification by certified mail addressed as follows:

Thomas C. Reed, Esq.
Dinsmore & Shohl LLP
One Oxford Center
301 Grant Street, Suite 2800
Pittsburgh, PA 15219

Mr. David C. O'Hara
Vice President
Snyder Brothers, Inc.
P.O. Box 1022
Kittanning, PA 16201



Heidi L. Wushinske
Prosecutor
Attorney ID #93972

P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-5000

Dated: February 27, 2014

RECEIVED
2014 FEB 27 PM 12: 25
PA PUC
SECRETARY'S BUREAU