

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	C-2014-2402746
v.	:	
	:	
Snyder Brothers, Inc.,	:	
Respondent	:	

**PREHEARING CONFERENCE MEMORANDUM
OF THE
PENNSYLVANIA INDEPENDENT OIL & GAS ASSOCIATION**

To The Honorable David A. Salapa, Administrative Law Judge:

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, 52 Pa. Code §§ 5.221-5.224 and Your Honor's March 20, 2014 Prehearing Conference Order, the Pennsylvania Independent Oil & Gas Association (PIOGA) submits this prehearing conference memorandum.

I. BRIEF HISTORY OF PROCEEDING

On January 17, 2014, the Pennsylvania Public Utility Commission's Bureau of Investigations and Enforcement (BI&E) filed and served a Formal Complaint in this proceeding alleging that Snyder Brothers, Inc. (SBI) should have paid impact fees for calendar years 2011 and 2012 on unconventional wells SBI characterized as "stripper wells" but that BI&E characterizes as "vertical gas wells."

On February 5, 2014, SBI filed and served its Answer to the complaint and New Matter. On February 11, 2014, the PIOGA filed a petition to intervene in this proceeding and by order

dated March 24, 2014, Your Honor granted PIOGA intervenor party status. On February 27, 2014, BI&E filed and served its Reply to SBI's New Matter.

On or about March 28, 2014, SBI served its first set of interrogatories, document production requests and requests for admission on BI&E, and on April 17, 2014, BI&E served its responses to most of the interrogatories, about half of the document requests, and all the requests for admission.

II. SERVICE LIST

PIOGA's entry on the service list is:

Kevin J. Moody, Esquire
General Counsel
Pennsylvania Independent Oil & Gas Association
212 Locust Street, Suite 600
Harrisburg, PA 17101-1510
717-234-8525, ext. 113
Fax: 717-234-8812
kevin@pioga.org

III. STATEMENT CONCERNING SETTLEMENT

As this matter turns on issues of statutory interpretation that appear to have already been finally determined by the Commission and that those determination are relied upon by BI&E, PIOGA believes that no settlement is possible.

IV. FACTS IN DISPUTE

With respect to PIOGA's interests, PIOGA believes there are no material facts in dispute and that all material facts have been admitted by the pleadings or, to the extent denied by BI&E per the pleadings, have been admitted by BI&E's responses to SBI's interrogatories and document requests. Nonetheless, PIOGA reserves the right to address factual disputes and issues raised thereto.

V. JOINT STIPULATION OF FACTS

PIOGA believes that the pleadings and discovery responses provide the basis for a Joint Stipulation of Facts.

VI. ISSUE

With respect to PIOGA's interests, the overriding issue in this proceeding is the statutory interpretation of the definitions of "stripper well" and "vertical gas well." Reduced to its simplest terms, PIOGA believes the issue is whether:

BI&E/PUC position: Whether a non-horizontal unconventional gas well's production of *more than 90,000* cubic feet average per day in *only one month* during a calendar year means that the well is *not incapable* of producing *less than 90,000* cubic feet average per day in *any one month* during that calendar, and therefore is *not* a stripper well *and is subject* to 20% of the applicable horizontal well fees and administrative charge for that calendar year;

or

SBI/PIOGA position: Whether a non-horizontal unconventional gas well's production of *less than 90,000* cubic feet average per day in *any one month* during a calendar year means that the well is *incapable* of producing *more than 90,000* cubic feet average per day in that month, and therefore *is a stripper well* and *is not subject* to a fee or administrative charge for that calendar year.

PIOGA believes the SBI/PIOGA position is the correct legal interpretation based upon the plain meaning of the unambiguous words defining a stripper well: "An unconventional gas well *incapable of producing more than 90,000 cubic feet of gas per day during any* [i.e., one] *calendar month*, including production from all zones and multilateral well bores at a single well, without regard to whether the production is separately metered." (Emphasis added).

VII. HEARINGS

PIOGA understands that there may be facts in dispute that are material to claims of SBI and also believes that those disputed facts may, perhaps after additional discovery, be able to be resolved and included in a joint stipulation. PIOGA will cooperate with SBI and BI&E to

stipulate the facts that may be disputed at this time that SBI believes are necessary for appropriate consideration and resolution of all issues by Your Honor and the Commission. Accordingly, PIOGA does not see the need for testimony or hearings but, to the extent testimony is required, PIOGA suggests that written testimony be provided as is customary in Commission proceedings.

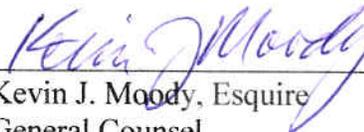
VIII. PROPOSED DISCOVERY AND LITIGATION SCHEDULE

PIOGA will cooperate with BI&E and SBI and Your Honor to establish a reasonable discovery and litigation schedule to adjudicate this important proceeding. As BI&E's position is reflected in the Commission's proposed Act 13 rulemaking, approved last October¹ but not yet published for public comment, PIOGA believes that this matter should be resolved as quickly as possible rather than being viewed as having no deadline because it is a complaint proceeding.

IX. MODIFICATION OF DISCOVERY RULES

Consistent with PIOGA's position concerning the schedule, PIOGA is amenable to reasonable modifications to the Commission's discovery rules as has become customary in abbreviated Commission proceedings to provide reduced response times and email service.

Respectfully submitted,



Kevin J. Moody, Esquire
General Counsel

Pennsylvania Independent Oil & Gas Association
212 Locust Street, Suite 300
Harrisburg, PA 17101-1510
717-234-8525, ext. 113
Fax: 717-234-8812
kevin@pioga.org

¹ Act 13 of 2012-Implementation of Unconventional Gas Well Impact Fee Act; Chapter 23, Proposed Rulemaking Order, Docket No. L-2013-2375551, Order entered October 17, 2013.

CERTIFICATE OF SERVICE

I hereby certify that this day, April 17, 2014, I served a copies of the foregoing Prehearing Conference Memorandum of the Pennsylvania Independent Oil & Gas Association on the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code § 1.54.

VIA E-MAIL & FIRST CLASS MAIL

HEIDI L. WUSHINSKE, ESQUIRE
WAYNE T. SCOTT, ESQUIRE
PA PUBLIC UTILITY COMMISSION
BUREAU OF INVEST. & ENFORCEMENT
PO BOX 3265
HARRISBURG PA 17105-3265
hwushinske@pa.gov
wascott@pa.gov

DAVID A. SALAPA
ADMINISTRATIVE LAW JUDGE
P.O. BOX 3265,
HARRISBURG, PA 17105-3265

VIA E-MAIL

DAVID C. O'HARA
VICE PRESIDENT
SNYDER BROTHERS, INC
PO BOX 1022
KITTANNING, PA 16201
dave.ohara@snydercos.com

THOMAS C. REED, ESQUIRE
DINSMORE & SHOHL LLP
ONE OXFORD CENTER
301 GRANT STREET, SUITE 2800
PITTSBURGH, PA 15219
thomas.reed@dinsmore.com



KEVIN J. MOODY, ESQUIRE