

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**PENNSYLVANIA INDEPENDENT OIL & GAS ASSOCIATION
ANSWER IN SUPPORT OF SNYDER BROTHERS' ESCROW PETITION**

In accordance with 52 Pa. Code § 5.61(e), the Pennsylvania Independent Oil & Gas Association (PIOGA) submits this answer in support of the petition of Snyder Brothers, Inc. (SBI) to escrow the substantial amounts the Commission's Bureau of Investigations and Enforcement (BI&E) claims in this proceeding are owed by SBI.

As SBI's petition states (§ 13), the Commission has determined that Act 13 contains no provisions for refunding impact fees that have been paid but are not properly due. Nonetheless, the Commission's proposed Act 13 rulemaking order provides for "refunds or adjustments on a case-by-case basis if there is a classification or computational error in calculating the impact fee,"¹ but the refund petition would need to be filed with the Commission "by May 1 following the April 1 impact fee payment due date."² Under this proposal, "[u]pon the expiration of this 30-day refund petition period, the Commission will not issue any refunds or adjustments of over-paid unconventional gas well fees whatsoever."³ So even if this regulatory proposal is

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, at 18.

² *Id.*, at 19.

³ *Id.*

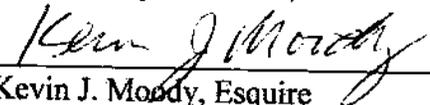
eventually approved and this dispute involves, in BI&E's view, a "classification error" – this refund mechanism would not address the situation facing SBI.

As SBI's petition states (§ 14), this circumstance presented SBI (for the 2011, 2012 and 2013 fees due a few weeks ago, April 1, 2014) with the Hobson's Choice⁴ "of either withholding payment of the disputed amount and facing an enforcement action, which includes claims for penalties and interest, or remitting the disputed amount with no expectation of ever receiving back any amount ultimately determined to not be owed." PIOGA agrees with SBI (§s 15-18) that this circumstance implicates several constitutional guarantees.

Accordingly, SBI's request to be permitted to escrow, in an interest bearing account in a federally insured bank, the disputed impact fees and administrative charges claimed to be owed by BI&E is an appropriate way to address the practical and constitutional issues concerning the untenable circumstance that producers generally – and SBI specifically – face when disputing, in good faith, that impact fees are not owed. This is especially true when the impact fees for 2011 and 2012 have already been distributed.⁵

WHEREFORE, the Pennsylvania Independent Oil & Gas Association respectfully requests that SBI's escrow petition be granted.

Respectfully submitted,



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Dated: April 23, 2014

⁴ "[T]he necessity of accepting one of two or more equally objectionable alternatives."
<http://www.merriam-webster.com/dictionary/hobson's%20choice>.

⁵ If the disputed impact fees in this matter are ultimately determined to be due, it is not clear how the Commission will distribute these fees that, if determined to be due, should have been included in the 2011 and 2012 disbursements that have already been made. Neither the *Proposed Rulemaking Order* nor BI&E's pleadings in this matter address this issue.

CERTIFICATE OF SERVICE

I hereby certify that this day, April 23, 2014, I served copies of the foregoing Pennsylvania Independent Oil & Gas Association Answer in Support on the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code § 1.54.

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