



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

IN REPLY PLEASE
REFER TO OUR FILE

June 4, 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 § 5.302, please accept for filing the Bureau of Investigation and Enforcement's Petition for Interlocutory Review and Answer to a Material Question 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,

Heidi L. Wushinske
Prosecuting Attorney
Attorney ID No. 93792

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PA PUC
SECRETARY'S BUREAU

Enclosures

cc: As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility :
Commission, Bureau of :
Investigation and Enforcement :

C-2014-2402746

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v. :

JUN 4 2014

Snyder Brothers, Inc. :

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**PETITION FOR INTERLOCUTORY COMMISSION REVIEW AND ANSWER
TO A MATERIAL QUESTION**

The Material Question is as follows:

Whether an unconventional gas well that produces more than 90,000 mcf average per day in any given month during a calendar year is properly subject to the impact fees and administrative charges applicable to said well under Act 13?

The Bureau of Investigation and Enforcement (“I&E”) requests that the Commission answer the Material Question in the affirmative. This Petition is submitted pursuant to Section 5.302 of the Commission’s regulations, 52 Pa. Code § 5.302. In support thereof, I&E asserts that resolution of this question will expedite the proceeding.

On January 17, 2014, I&E filed a Complaint against Snyder Brothers, Inc. (“Respondent”), alleging violations of Act 13 of 2012, the Unconventional Gas Well Impact Fee Act (“Act 13”). The Complaint alleges that the Respondent failed to identify and pay the applicable impact fees and administrative charges on twenty four (24) of its unconventional vertical gas wells for 2011 and 2012. The Complaint seeks an Order

from the Commission directing the Respondent to pay past due impact fees and administrative charges totaling \$507, 586.00 and to pay a civil penalty of \$50,000.00.

Respondent filed an Answer and New matter on February 5, 2014, denying the allegations of the Complaint. Respondent denied that it failed to identify any unconventional vertical gas wells in 2011 or 2012 that are subject to the impact fees and administrative charges and also denied that it owed any additional impact fees or administrative charges for 2011 or 2012.

In its New Matter, Respondent contends that it submitted Annual Reports for calendar years 2011 and 2012 to the Commission as required by Act 13; that it accurately identified all of its unconventional vertical gas wells; and therefore correctly paid the impact fee and administrative charges on those wells, as required by Act 13. Respondent's Answer sought dismissal of the Complaint with prejudice. I&E's Response refuted the contentions contained in Respondent's New Matter.

In seeking to avoid paying Act 13 impact fees and administrative charges, Respondent argues that the wells identified in the Complaint are "stripper wells" not subject to such payments. The applicable statutory provision misinterpreted by the Respondent to make such assertions is Act 13's definition of "stripper well," the interpretation of which determines the outcome of this case. Act 13 defines a "stripper well" as "[a]n unconventional gas well incapable of producing more than 90,000 cubic feet of gas per day during any calendar month, including production from all zones and multilateral well bores at a single well, without regard to whether the production is separately metered." 58 Pa.C.S. § 2301.

I&E asserts that pursuant to this definition, a vertical unconventional gas well that produces more than 90,000mcf average per day in any month during a calendar year is obviously capable of producing more than 90,000mcf average per day and is therefore not a “stripper well,” making it subject to the applicable Act 13 impact fees and administrative charges for that well.

For example, under I&E’s definition of “stripper well,” an unconventional gas well that produced over 90,000mcf average per day in eleven months of a calendar year, but fell below 90,000mcf in month twelve, would not be a “stripper well” and would be subject to the impact fees and administrative charges pursuant to Act 13. Under Respondent’s definition, the same well would be exempt from Act 13’s impact fees and administrative charges if its production fell below 90,000mcf in only one month in a calendar year. This is clearly not what the legislature intended.

WHEREFORE, for the foregoing reasons, I&E respectfully requests that the Commission grant this Petition for Interlocutory Commission review.

Respectfully submitted,


Heidi L. Wushinske, Prosecutor
PA Attorney I.D. No. 93792

Bureau of Investigation and Enforcement

P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 214-9594
Dated: June 4, 2014

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing Petition for Interlocutory Commission Review and Answer to a Material Question in accordance with the requirements of 52 Pa. Code § 1.54 *et seq.* (relating to service by a participant).

Notification by first class mail addressed as follows:

Thomas C. Reed, Esquire
Dinsmore & Shohl, LLP
301 Grant Street, Suite 2800
Pittsburgh, PA 15219

The Honorable David A. Salapa
Administrative Law Judge
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Kevin J. Moody, Esquire
General Counsel
Pennsylvania Independent Oil & Gas Association
212 Locust Street, Suite 300
Harrisburg, PA 17101-1510


Heidi L. Wushinske
Prosecutor
Attorney ID #93972
(Counsel for Pennsylvania Public Utility
Commission)

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

Dated: June 4, 2014

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