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October 24, 2014

The Honorable Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed for filing is the Pre-Conference Statement of Snyder Brothers Inc., submitted pursuant to an order dated October 14, 2014.

If your office has any questions feel free to contact me.

Respectfully submitted,

Thomas C. Reed
Counsel for Snyder Brothers, Inc.

Cc: The Honorable David A. Salapa, Administrative Law Judge
Heidi L. Wushinske, Esquire
Kevin J. Moody, Esquire

w/enclosure

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PA PUBLIC UTILITY COMMISSION
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
Bureau of Investigation and Enforcement :

v. :
Snyder Brothers, Inc. :

No. C-2014-2402746
:
:
:

**PRE-HEARING STATEMENT OF SNYDER BROTHERS, INC. SUBMITTED
PURSUANT TO AN ORDER DATED MARCH 20, 2014**

Pursuant to an Order dated October 14, 2014 Snyder Brothers, Inc. (“SBI”) files the following Pre-Hearing Statement:

I. INTRODUCTION

Act 13 of 2012 authorizes the Pennsylvania Public Utility Commission (“PUC”) to impose and collect a so-called “impact fee” and “administrative fee” on a “vertical gas well,” which is defined by Act 13 as:

An unconventional gas well which utilizes hydraulic fracture treatment through a single vertical well bore **and produces natural gas in quantities greater than that of a stripper well.**

An “unconventional gas well,” as defined by Act 13 is a “gas well” which is drilled into an “unconventional formation,” which in turn is defined as:

A geological shale formation existing below the base of the Elk Sandstone or its geologic equivalent stratigraphic interval where natural gas generally cannot be produced at economic flow rates or in economic volumes except by vertical or horizontal well bores stimulated by hydraulic fracture treatments or by using multilateral well bores or other techniques to expose more of the formation to the well bore.

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To qualify as a “vertical gas well,” upon which an “impact fee” and an “administrative fee” or “spud fee”¹ can be imposed, the well must “produce natural gas in quantities greater than that of a stripper well,” defined by Act 13 as:

“An 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.” (emphasis added)

SBI is a gas producer located in Armstrong County, Pennsylvania which produces gas from an “unconventional formation” using *only* a single vertical borehole. *It does not drill, nor does it operate any “unconventional gas well” that produces gas through horizontal boreholes.*

Pursuant to Act 13, as an “unconventional gas well” operator, SBI filed an annual report with the PUC for 2011 and 2012 which listed each “unconventional gas well” it operated or spud during the reporting year, and also documented the production of each listed well. It also recently filed a similar report for the 2013 reporting year. Each such report listed the “vertical wells” for which SBI, in good faith, believed “fees” were due and its “unconventional gas wells” which, by virtue of their production in a given year, did not qualify as “vertical wells” because such well met the statutory definition of “stripper well” or were never completed and/or operated as an “unconventional well.”

For each year Act 13 “fees” have been imposed SBI has paid the amount of such “fees” it believed, in good faith, were due for that year.

The Complainant, has filed a complaint against SBI claiming: (a) that additional “ impact fees” totaling \$254,616.00 are due on an additional 24 of SBI’s “unconventional gas wells” for

¹ The “impact fee” for a “vertical well” is calculated by Section 2302(b) of Act 13 and is a function of the number of years such well has qualified as a “vertical well,” and is capped at 20% of amount determined in a given year by Section 2302(b). Section 2302(f). In addition, Section 2303 authorizes the PUC to charge an “administrative fee,” often referred to as a “spud fee” not to exceed \$50.00 per any unconventional well “spud” in the reporting year which constitutes a “vertical well.”

2011 and an additional “spud fee” of \$1,200 is also due; (b) that additional “impact fees” totaling \$153,470.00 are due on an additional 21 of SBI’s “unconventional wells” for 2012 and an additional “spud fee” of \$1400.00 is also due. The Complaint also seeks to recover interest and a statutory penalty for the alleged underpayment of “impact fees” in 2011 and 2012 and an additional “civil penalty” of \$50,000.00.

In addition, certain of the wells for which the complaint seeks payment of “impact fees” while permitted as “unconventional wells,” were in fact not completed and/or operated as such and are therefore wells for which no “fees” are due or owing.

II. STATEMENT CONCERNING SETTLEMENT

SBI, in good faith believes, there is no likelihood of a settlement of the disputed issues at this time.

III. ISSUES AND SUB-ISSUES

The primary issue in this matter remains whether the bureau of the PUC charged with administering Act 13’s “impact” and “administrative” fee provisions has properly interpreted the statutory terms “vertical well” and “stripper well.” In other words, are the “unconventional gas wells” which SBI drilled or operated for the relevant time periods and which were unable, and did not, produce more than 90,000 mcf per day in one calendar month of the reporting period “stripper wells” and, thus, not “vertical wells” subject to payment of Act 13 “fees?” SBI reserves fully its rights with respect to its position on this issue.

Other issues will or may include:

1. Whether Act 13 “impact fees” are legally equivalent to a “tax,” and thus any interpretation of the statutory language imposing the “fees” must be strictly construed in favor of the payor?

SBI’s Position: “impact fees” are the equivalent of a tax, and it reserves fully its rights with respect to its position on this issue.

2. Whether the PUC has had a consistent interpretation to the term “stripper well ?”

SBI’s Position: The PUC has not consistently, nor transparently, interpreted the term “stripper well.”

3. Whether Complainant’s current interpretation of the statutory term “stripper well” is entitled to deference ?;

SBI’s Position: It is not.

4. Whether the PUC’s Fiscal Bureau has properly calculated the “impact fees” and “administrative fees” due on those wells which even SBI agrees are “vertical wells for the years at issue, including whether it properly assessed “fees” against wells which, although permitted as “unconventional” were never operated or completed as an “unconventional well ?;

SBI’s Position: It is has not.

5. Whether the collection scheme and the “appeal” mechanism set forth in Act 13 is constitutionally valid ?

SBI’s Position: It is not.

6. Alternatively, whether in circumstances where there exists no statutory mechanism for a “refund” of improperly assessed “fees” it is proper to impose any type of “penalties” for an alleged late payment ?

SBI’s Position: No

7. Alternatively, whether in the circumstances present here the Complainant is due any type of interest or statutory penalty if, in fact, the Complainant’s interpretation of the term “stripper well” is upheld ?

SBI’s Position: No

8. Alternatively, whether in the circumstances present here the Complainant is due any type of civil penalty if, in fact, the Complainant’s interpretation of the term “stripper well” is upheld ?

SBI’s Position: No

SBI reserves the right to raise additional issues as these proceedings continue.

IV. POTENTIALLY DISPUTED FACTS/EVIDENCE SBI PROPOSES TO INTRODUCE

Potentially disputed facts, some of which are “mixed questions of fact/law,” may include,

1. The manner in which SBI operates its “unconventional gas wells;

SBI’s evidence on this issue will demonstrate that SBI seeks to maximize production from its “unconventional gas wells” and the production figures for its “unconventional gas wells” as submitted to the PUC are reflective of each wells ability to produce natural gas.

2. Whether the “unconventional gas wells” operated by SBI which it contends are “stripper wells” meet the statutory definition of that term ?

SBI’s evidence on this issue will establish that each well it has labeled a “stripper well” meets the definition of that term.

3. Whether the PUC has applied a consistent interpretation of the “stripper well?”

SBI’s believes its evidence on this issue will establish that there has been no consistency in the manner in which the PUC has interpreted the term “stripper well.”

4. Whether SBI acted in good faith when submitting its Act 13 Reports and paying Act 13 “fees?”

SBI’s evidence on this issue will confirm that it acted in “good faith.”

5. The amount of Act 13 “impact fees” owed by SBI;

SBI’s evidence on this issue will establish the proper amount of “impact fees” owed by SBI.

6. The amount of Act 13 “administrative” or “spud fees” owed by SBI;

SBI’s evidence on this issue will establish the proper amount of “administrative” or “spud fees” owed by SBI.

7. The amount of interest, statutory penalty which SBI owes, if any.

SBI’s evidence on this issue will establish that no interest or statutory penalty should be assessed in this case.

8. The amount of a “civil penalty” owing in this case.

SBI’s evidence on this issue will establish that no “civil penalty” should be assessed in this case.

9. Whether certain wells, although permitted as “unconventional” were completed and/or operated as such and thus are not subject to any “fees.”

SBI's evidence on this issue will establish that various wells for which "fees" are sought should not be subject to such fees because they were not completed and/or operated as an "unconventional well" at any relevant time.

V. STATEMENT RELATING TO STIPULATED FACTS

The parties have already entered into a stipulation regarding various facts.

It is possible the parties may also reach additional stipulations.

VI. WITNESSES

SBI intends to present direct, rebuttal, and surrebuttal testimony as may be necessary. It also reserves the right to have certain witnesses deemed "hostile" for purposes of their testimony. SBI will present testimony in written form and will also attach appropriate exhibits, documents and explanatory information.

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Yvonne Hess
Bureau of Administration's Fiscal Office
Pennsylvania Public Utility Commission
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Amy Zuvich
Bureau of Administration's Fiscal Office
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Other representatives of the PUC and other witnesses not yet identified.

SBI reserves the right to call additional witnesses, as necessary and to designate one or more witnesses as an “expert” in the area of gas well operation and production . Once such additional witnesses are identified SBI will notify the presiding Administrative Law Judge and all parties of record.

VII. PROPOSED PLAN OF DISCOVERY

No further discovery will be conducted.

VIII. PROPOSED SCHEDULE

SBI proposed the following procedural schedule.

Evidentiary Hearing

Main Briefs

Reply Briefs

Counsel for SBI has agains spoken with counsel for the Complainant and both counsel believe an “evidentiary hearing” with oral testimony is appropriate in this matter. SBI also, *again, respectfully respects that consideration be given to holding the hearings in Pittsburgh.* With respect to dates for a hearing the parties have also consulted as their availability and are prepared to discuss hearing dates during the scheduled conference to be held on October 28, 2014

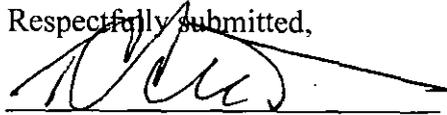
IX. SERVICE LIST

Service can be made on

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Respectfully submitted,



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Counsel for Snyder Brothers, Inc.

Dated:

10/24/14

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CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing was made upon the persons listed below in the manner indicated:

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Dated: October 24, 2014



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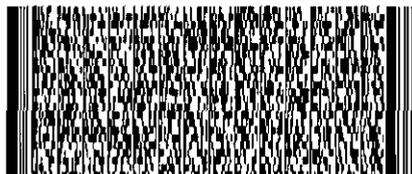
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