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DEP unveils initial draft of carbon dioxide trading rule to Air Quality Technical Advisory Committee

Authors:

Kevin J. Garber, Esq.

Jean M. Mosites, Esq.

Babst Calland
Attorneys at Law

On February 13, the Department of Environmental Protection presented its preliminary draft proposed rulemaking to establish a carbon dioxide budget trading program to the Air Quality Technical Advisory Committee (AQTAC). The proposed trading program would apply to fossil fuel-fired electricity generators of greater than 25 MW in Pennsylvania. The draft proposal reflects a first look at DEP's vision for a cap-and-trade program as directed by Governor Tom Wolf's October 3, 2019, Executive Order 2019-07.

The draft proposed rule, although still in development, parallels the model rule prescribed by the Regional Greenhouse Gas Initiative (RGGI). RGGI is a coalition of 10 states in the Northeast and Mid-Atlantic that participate in a regional CO2 cap-and-trade program for fossil fuel-fired electricity generating units that have a nameplate capacity of over 25 MWe.

Under the program, each member state has a budget of CO2 allowances, which it then allocates through set-aside programs, offsets or periodic auctions. The number of allowances in each state's CO2 budget that are allocated through auction varies widely among members. Each affected source (CO2 budget source) is required to hold sufficient CO2 allowances based on its CO2 emissions as determined from continuous monitor-

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Impact fee case finally nearing resolution

By Brandon Coneby and Steve Chadwick
Dinsmore & Shohl LLP

The long-standing dispute between a natural gas exploration company and the Pennsylvania Public Utility Commission (PUC over what constitutes a "stripper well" under Pennsylvania's unconventional gas well act, 58 Pa. C.S. § 2301 *et seq*. (Act 13) may finally be nearing a resolution.

In December 2018, the Pennsylvania Supreme Court upheld the PUC's expansive definition of what constitutes a "stripper well" under Act 13, 198 A.3d 1056 (Pa. 2018). However, a recently unpublished decision by the Pennsylvania Commonwealth Court, 2020 Pa. Commw. Unpub. LEXIS 91 (Feb. 6, 2020), provided some relief to gas drillers by calling into question the PUC's ability to "punish" operators for mounting good-faith challenges to actions of the agency and, perhaps more importantly, invalidating the portion of Act 13 imposing mandatory penalties and interest on unconventional well operators who bring such challenges.

In January 2014 the PUC's Bureau of Investigation and

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CO2 trading regulation *Continued from page 1*

ing. Each allowance is equal to one ton of CO_2 emissions.

States' CO_2 budgets, and in turn available allowances, periodically reduce over time. This requires each CO_2 budget source to either reduce CO_2 emissions as measured by continuous monitoring, or obtain extra CO_2 allowances to cover its emissions in excess of its allowance account. Under RGGI, auctions to obtain allowances generally occur quarterly, and may be open to qualified participants other than CO_2 budget sources. The draft proposed rule explicitly mentions financial institutions and environmental groups as potential auction participants. The proposal specifies an annual rather than quarterly auction process.

Unlike the majority of RGGI state members, Pennsylvania DEP has indicated it does not intend to seek legislative authority to implement a CO_2 trading program, but rather believes it has sufficient authority under the Pennsylvania Air Pollution Control Act. This position has been controversial, as some stakeholders contend that approval by the Pennsylvania General Assembly is necessary for such a trading program, including one that would involve other states. In November 2019, bills were introduced into the House (HB 2025) and Senate (SB 950) that would require General Assembly approval for any Pennsylvania carbon cap-and-trade program. This legal dispute is likely to give rise to significant ongoing challenges to the trading program rule.

DEP's draft proposed rule contains a number of differences from the RGGI model rule, most notably including:

• The proposed rule states that it is designed to reduce CO_2 emissions "in a manner that is protective of public health, welfare and the environment and is economically efficient," while the RGGI model rule mentions only economic efficiency in its statement of purpose. Numerous concerns were raised at the AQTAC meeting regarding the overall cost-effectiveness of the trading program, an analysis of which will be required under Pennsylvania's Regulatory Review Act, Commonwealth Attorneys Act and the Climate Change Act. DEP indicated it is still assessing costs and benefits of the trading program. The overall economic impact of the regulation will be a critical issue to a variety of stakeholders as the rulemaking progresses.

• The draft proposed rule does not require the establishment of multi-state allowance auctions, as performed within RGGI. Rather, the draft proposal gives DEP discretion to hold auctions only within Pennsylvania if it determines, among other things, that its participation in a multi-state auction process would not provide more benefits than costs to Pennsylvania versus a statewide auction. There is no established timeframe in the draft proposed rule for Pennsylvania DEP to determine which approach it will take.

DEP is operating on an accelerated timeframe to initiate and ultimately finalize the CO_2 budget trading program rulemaking. It intends to present a proposed version of the regulation to AQTAC in April, at which point the committee will vote on whether to advance the proposal to the Environmental Quality Board (EQB). DEP anticipates submitting the proposal to the EQB by July as required by Executive Order 2019-07. Assuming the EQB votes to adopt the regulation as a proposed rulemaking, public comments will be solicited in fall of 2020, and the final rulemaking could be promulgated by fall 2021. DEP expects the regulation to be effective in the first quarter of 2022.

Owners and operators of fossil fuel-fired electricity generating units greater than 25MW will be directly affected by the CO_2 budget trading program rulemaking if the rule is adopted in its currently proposed form. In addition, the energy industry, manufacturers and consumers in general are likely to be affected by the rulemaking based on the potentially far-reaching impacts to the nature of energy generation within Pennsylvania and regionally. ■

Babst Calland's climate change attorneys are closely following this rulemaking. If you have questions about the proposed CO2 budget trading program, please contact Kevin Garber at 412-394-5404 or kgarber@babstcalland.com or Jean Mosites at 412-394-6468 or jmosites@babstcalland.com.

Electricity sector emissions falling faster than expected, without RGGI

By Joyce Turkaly
Director, Natural Gas Market Development

On February 5, Representative Daryl Metcalfe, Chairman of the House Environmental Resources and Energy Committee, conducted a public hearing on House Bill 2025 (Struzzi, R-Indiana) which asserts that as a matter of Pennsylvania law *no statutory or constitutional authority currently exists that authorizes a state agency* (in this case the Department of Environmental Protection) *to regulate or impose a tax on carbon dioxide emissions*. Governor Wolf has declared his intent to join the Regional Greenhouse Gas Initiative (RGGI) and impose a carbon tax without getting approval from the General Assembly, a point of contention for many and viewed as unconstitutional.

Meanwhile, Pennsylvania has made more progress reducing CO_2 emissions than any other RGGI state. In fact, all over the United States, electricity sector emissions are falling faster than anyone expected. So why the talk about instituting a mandatory cap-and-trade program?

In order to understand what additional benefits participation in RGGI would produce above and beyond our current track record, let's first define the cap-and-trade program, examine our state's ongoing energy efficiency and conservation programs, evaluate Pennsylvania as part of PJM, and compile thoughts on benefits versus consequences given these factors.

RGGI, pronounced as "Reggie," is a carbon credit trading system (www.rggi.org). Established in 2005, RGGI is defined as a mandatory GHG emission reduction effort targeting the electric generation fleet. RGGI requires fossil fuel generators with a capacity of 25MW or more to purchase allowances for each ton of CO_2 emitted annually. The tax revenue incentives are believed to be attractive, so states are signing on to participate. To date, 10 states have signed on to reduce CO_2 emissions and generate cap-and-trade tax revenue for their states. The first auction took place in 2008 and the design of the program from its original concept has changed many times over, adjusting for downward assumptions and methodologies as the initial cap was drastically higher when compared to actual emissions.

Overlay Pennsylvania's generation fleet around this same timeframe, which was transitioning to cleaner emissions as a direct result of stringent federal and state regulations. Approximately (18-20 MW) of coal plants were targeted to retire or convert to natural gas; it was apparent, the market was changing. State legislation created in 2004 Alternative Energy Portfolio Standards (Act 213, www.pennaeps.com/aboutaeps) requires both electric distribution companies (EDCs) and electric generation suppliers (EGSs) to meet 18 percent of total demand from alternative energy sources by 2020.

In 2008, the General Assembly charged the Pennsylvania Public Utility Commission (PUC) with implementing Act 129, the Energy Efficiency and Conservation (EE&C) program, achieving energy efficiency and demand reduction of each electric utility company (EDC) in the state. Each year the PUC releases the Statewide Evaluator Report on EE&C. The program is currently in Phase III. The report published on February 19 showed a five-year cumulative incremental annual energy savings goal of 5.7 million MWh/year; a program year 10 gross verified statewide total of 1,493,258 MWh/year, or approximately 26 percent of the statewide Phase III target; and a phase-to-date verified gross savings of 4,029,968 MWh/year, which represents 71 percent of the statewide Phase III target. (Phase III, year 10 data June 1, 2019, through May 31, 2019 – www.puc.state.pa.us/Electric/pdf/Act129/Act129-SWE_AR_Y10_021920.pdf)

For the past 15 years, the combination of Act 213 and Act 129, plus the Clean Air Act, have all contributed to better air quality. Why does Pennsylvania need a cap and trade program? The Energy Information Administration's state energy analysis summarizes the following: "*PA benefits from a diverse mix of generation with enough available capacity to meet electricity demand now and for the foreseeable future. PA has just over 48 GW of nameplate generation capacity, according to the latest comprehensive review by the U.S. Energy Information Administration (EIA). While its total capacity places it fifth among the states, PA often ranks second or third in total electric generation during the winter months. <u>The residential sector is the largest consumer of electricity</u>, and one-fifth of PA households use electricity as their primary heating source.*" (www.eia.gov/state/analysis.php?sid=PA).

At the February 5 hearing, David Stevenson, Director, Caesar Rodney Institute, Center for Energy & Environmental Policy, remarked "While there have been some reductions in the average price of electricity in the RGGI states, the residential sectors in those states have experienced increases."

Many states fall within integrated market regions, known as an Independent System Operator (ISO). Pennsylvania's ISO is called PJM. PJM allows electricity to flow freely between states or parts of states. Why is this important to note? Well, as part of this discussion, many states that either import or export electricity have different outcomes even if they are participating in a cap-and-trade program. Electricity crosses state borders. Pennsylvania is not an island in PJM and there is no proof that justifies that the state's participation in RGGI would result in any regional CO_2 reductions; because the lost generation will be replaced by generation in other PJM states not participating in RGGI and those plants could be a generation mix of coal or coal refuse or natural gas fired.

With significantly more generation capacity than required to meet demand, Pennsylvania is the nation's number-one exporter of electricity to other states. RGGI participating states that were not importing more electricity in 2018 have CO_2 emissions that have either increased over 2015 levels or have a reduction that is far less on a percentage basis than the reduction already achieved in Pennsylvania. We are leaving our state vulnerable in PJM if we were to join a cap-and-trade program. Any projected tax revenue for Pennsylvania would directly affect any future investments. This point was made at the House hearing by Sean Lane, a representative of Chief Power, LLC.

PJM's capacity market is called a Reliability Pricing Model (RPM); capacity is customer specific and it is matched against the average of a customer's coincidental peak demand matched to five highest demand hours

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PIOGA Spring Meeting: Clear vision in a confusing time

Our 2020 Spring Meeting is just around the corner—**Wednesday, April 1, at Rivers Casino in Pittsburgh**—and we have an excellent program on tap. A major focus of the meeting will be how to address public misperceptions about our industry and what we can do about it.

Our keynote speaker is documentary film producer Mark Mathis of Clear Energy Alliance (clearenergyalliance.com), and his presentation is "Curing Energy Blindness with Video (Yes, you read that right!)."

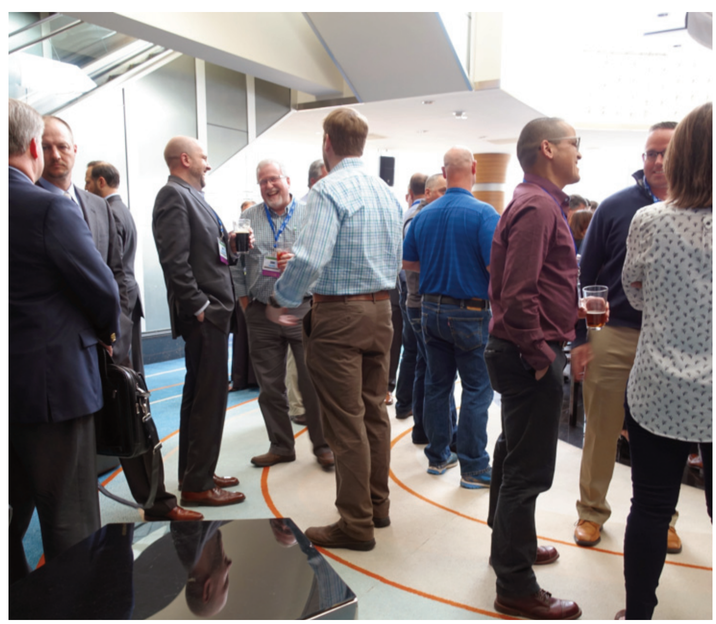
Most people are blind to the critical importance that oil and natural gas play in our daily lives. Mathis says we shouldn't judge our fellow citizens too harshly. We're being bombarded with a constant flow of disinformation by the mainstream press, activist groups and politicians. The flow is so overwhelming, and our lives are so busy, even some in the energy sector have bought into the propaganda.

Attend and learn how Mathis and Clear Energy Alliance are using short, animated videos to fight back against the dangerous menace of energy blindness.

On the same theme, we'll also hear from Nichole Jacobs Schomburg of Energy In Depth, who will talk about "Perception vs. Reality: The Battle for Public Perception." Launched by the Independent Petroleum Association of America in 2009, Energy In Depth is a research, education and public outreach campaign focused on getting the facts out about the promise and potential of responsibly developing America's onshore energy resource base—especially abundant sources of oil and natural gas from shale formations across the country.

Our Spring Meeting always includes segments addressing industry trends and market developments, regulatory activities and political happenings.

On the industry activity and markets side, the day will open with Dr. R. Dean Foreman, Chief Economist with the American Petroleum Institute, who will provide an industry outlook from the API's perspective. Later in the day, we'll hear from David Marks of Dominion Energy Field Services about gas to liquids opportunities, and



from Barry Carr of Clean Communities of Central New York on natural gas as a clean transportation fuel on the I-80 corridor.

Regulatory matters will be divided into two related sessions during the morning. First up will be Scott Roberts, a former deputy secretary for the Department of Environmental Protection who now serves as environmental regulatory consultant for PIOGA. He will cover current regulatory and enforcement issues. After a break, a panel moderated by Roberts will address “Knowing Your Rights and Protecting Our Industry.” Participants will include Brian Pulito of the law firm Steptoe & Johnson and producers Jack Crook of Diversified Gas & Oil and Michael Hillebrand of Huntley & Huntley.

Politics? Yeah, there’s a bit of that in 2020! To help make sense of things, we will hear some “Election Speculation” from the always-interesting political analyst Charlie Gerow of Quantum. Also, Teresa Irvin McCurdy of TD Connections, chair of PIOGA’s Political Action Committee (PAC), will talk about getting involved, literally and politically.

And that’s not all!

So that’s what’s happening in the period between when the conference kicks off at 9 a.m. and when it wraps up at 5 p.m. Needless to say, there’s more going on that day.

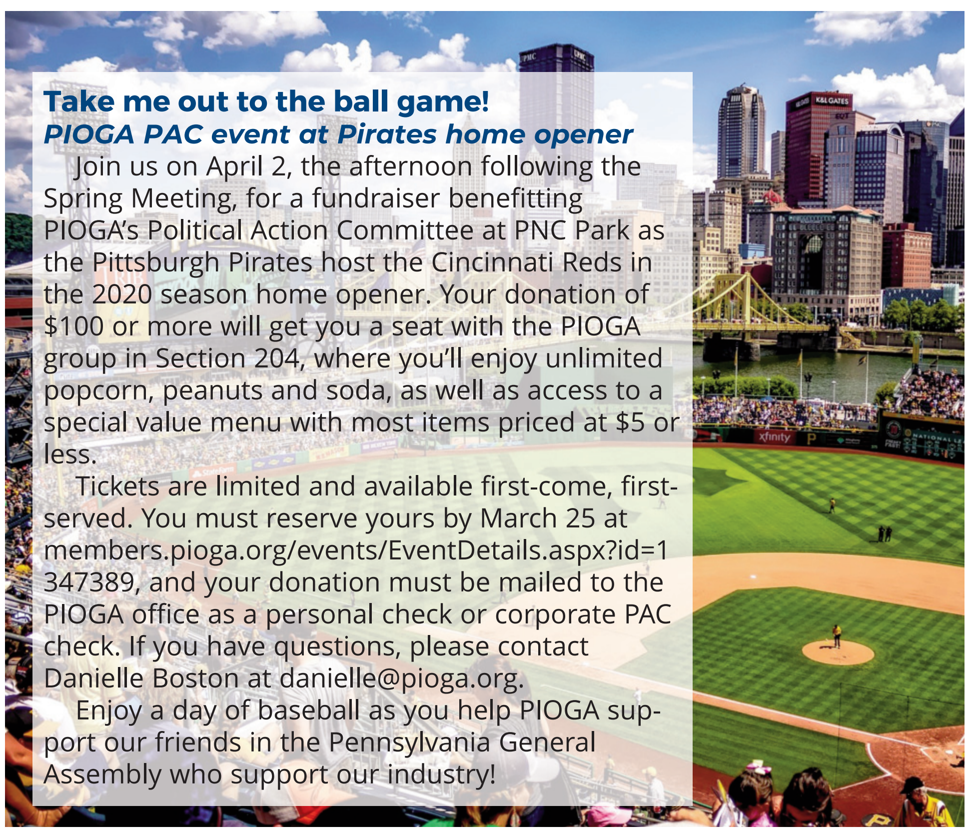
Registration begins at 8 a.m., and from then until the meeting opens an hour later, you can visit with our exhibiting vendors. Stop by all of their tables to get in the running for a special prize drawing! (And if you received one of our Spring Meeting postcards in the mail, don’t forget to bring that too for another great drawing.) There also will be opportunities during the day to stop by the vendor tables to learn about the great products and services they offer.

From 5 until 7 p.m. will be a reception downstairs from the conference hall in the casino’s Drum Bar. There will be a special VIP area there between 5-6 for a PAC reception supporting PIOGA’s efforts in Harrisburg. During the reception you can also meet and get your picture taken with the Pittsburgh Pirates Parrot mascot. On the day after the Spring Meeting, we’re having a PAC event at the Pirates’ 2020 season home opener (see accompanying item). As part of the Spring Meeting reception, you’ll receive $10 in complimentary slots’ play at the casino.

We hope you’ll be sure to join us for our biggest conference of the year at what is a unique venue right on the river on Pittsburgh’s bustling North Shore. Rivers Casino is easy to get to and parking is free.

If you are reading this before March 13, be sure to take advantage of early-bird registration discounts. Preregistration ends March 25. As of this writing, a few exhibitor spaces and plenty of sponsorship opportunities remain.

All the details and registration are at pioga.org/event/pioga-2020-spring-meeting. ■



Take me out to the ball game!

PIOGA PAC event at Pirates home opener

Join us on April 2, the afternoon following the Spring Meeting, for a fundraiser benefitting PIOGA’s Political Action Committee at PNC Park as the Pittsburgh Pirates host the Cincinnati Reds in the 2020 season home opener. Your donation of $100 or more will get you a seat with the PIOGA group in Section 204, where you’ll enjoy unlimited popcorn, peanuts and soda, as well as access to a special value menu with most items priced at $5 or less.

Tickets are limited and available first-come, first-served. You must reserve yours by March 25 at members.pioga.org/events/EventDetails.aspx?id=1347389, and your donation must be mailed to the PIOGA office as a personal check or corporate PAC check. If you have questions, please contact Danielle Boston at danielle@pioga.org.

Enjoy a day of baseball as you help PIOGA support our friends in the Pennsylvania General Assembly who support our industry!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Road construction results in *de facto* condemnation of coal on nonadjacent parcel

Author:

Glenn A.W. Thompson
—
Steptoe & Johnson PLLC

Oil and gas producers who have their access to parcels cut off by highway construction may find an avenue to claim a *de facto* taking under a recent coal case. In *PBS Coals, Inc. v Department of Transportation, No. 140 C.D. 2018, 206 A.3d 1201 (2019)*, the Pennsylvania Commonwealth Court resurrected coal companies' *de facto* taking claim by reversing the trial court's dismissal of the Pennsylvania Department of Transportation's preliminary objections. A *de facto* condemnation occurs when an entity with the power of eminent domain substantially deprives an owner of the beneficial use and enjoyment of property, as when the construction of a highway results in a landowner's property becoming landlocked.

In 2006, Pocahontas Coal Company obtained the right to mine all of the subsurface coal on Parcel 55. It then leased the right to mine all the coal underlying Parcel 55 to PBS Coals, Inc. PBS Coals Inc. also acquired a lease to mine all of the surface and subsurface coal on nearby Parcel 59 (the "Shaffer Lease"). Parcel 55 has always been landlocked. Parcel 59 is located northwest of Parcel 55 but is not contiguous. The coal companies obtained a right of way east over Parcels 50 and 54 to provide Parcel 55 with road access. PennDOT later constructed limited-access Route 219 in a north-south direction bisecting Parcels 50 and 54 and eliminating Parcel 55's road access.

The coal companies claimed a *de facto* condemnation of the coal on Parcel 55 and asked for the appointment of a board of viewers. PennDOT filed preliminary objections on the grounds that the coal companies had alternative access to Parcel 55 through the Shaffer Lease, and that the coal on Parcel 55 was not mineable because it was unlikely that the coal companies would be able to obtain mining permits for Parcel 55 from the Pennsylvania Department of Environmental Protection.

After a three-day hearing, the trial court concluded that the coal companies had leasehold rights to extract and sell the coal under Parcel 55, that they had a right of way over Parcels 50 and 54 to the road, and that the construction of Route 219 precluded the removal of the coal over that right of way. However, the trial court granted PennDOT's preliminary objections. First, it interpreted the Shaffer Lease to permit coal from Parcel 55 to be removed over Parcel 59, even though such right was not expressly granted. Second, it held the ability to obtain a surface mining permit for Parcel 55 was so speculative and uncertain as to not support a *de facto* taking claim.

Relying substantially on oil and gas related case law, the Commonwealth Court viewed the lease as being in the nature of a contract and controlled by principles of contract law. The ultimate goal of contract interpretation is to ascertain and give effect to the intent of the parties as reasonably manifested by the language of their contract. When a written contract is clear and unequivocal, its meaning must be determined by its contents alone, without need to resort to extrinsic aids or evidence.

The Commonwealth Court concluded that because there was no explicit language in the Shaffer Lease that provides the coal companies a right of way across the surface of Parcel 59 to access Parcel 55, the trial court erred in concluding the Shaffer Lease gave the coal companies alternative access to Parcel 55. While the owner of a coal estate has the right to use the tunnels and passageways underlying the surface to transport coal from adjoining properties, as long as all the coal has not yet been removed, it has no implied right to use the surface to transport coal from adjoining properties. As there was no explicit language in the Shaffer Lease granting PBS Coals Inc. the right to use the surface of Parcel 59 to transport coal from either adjoining lands, or non-adjoining lands, such as Parcel 55, the court concluded that the parties did not intend to grant the coal companies the right to transport coal from other properties across the surface of Parcel 59.

Next the coal companies argued that the trial court erred in deciding at the preliminary objection stage that

Congratulations, Debbie!

At the end of February, PIOGA's Director of Member Services, Debbie Oyler, celebrated 20 years of service with this association and its predecessor, the Independent Oil & Gas Association of Pennsylvania (IOGA-PA).

"I'm grateful that PIOGA has someone like Debbie as one of our employees," said Dan Weaver, President & Executive Director. "She has stood with us through thick and thin for two decades now, and that's no small accomplishment in our demanding, fast-paced industry."

Retired PIOGA exec Lou D'Amico, was the person who hired Debbie and had high praise for what she has contributed over the years.

"Debbie Oyler was hired by IOGA-PA as 'Administrative Assistant,' Lou recalled. "That title was quite frankly a joke! Debbie did it all as a support staff of one—secretarial support, member services, accounting, meeting planning and administration, you name it. She worked tirelessly and efficiently to serve the entire support staff function for the membership and its Executive Director and board. I can't imagine a better person for the job.

"She was a joy to work with, a great employee and a great friend. Congratulations on 20 years, Debbie!"

the coal underlying Parcel 55 was not mineable because it was unlikely to be permitted by DEP, contending that question should have been decided by the board of viewers at the valuation stage.

To prove a *de facto* taking, the property owner must establish three elements. First, the condemner must have the power to condemn the property. Second, the property owner must establish that there are exceptional circumstances that substantially deprive the property owner of the beneficial use and enjoyment of the property. Finally, the property owner must demonstrate that the deprivation is the immediate, necessary and unavoidable consequence of the exercise of the power to condemn. A *de facto* taking is not a physical seizure of property, but an interference with one of the rights of ownership that substantially deprives the owner of the beneficial use of his property.

The Commonwealth Court examined speculative and conjectural *de facto* taking cases. The three cases PennDOT relied on all hinged on the causation prong of the *de facto* taking test, *i.e.* whether the substantial deprivation of use was the "immediate, necessary and unavoidable consequence of the exercise of the power to condemn." In all the cases the causation was too speculative because the owners still had access to their properties. In contrast, the construction of Route 219 resulted in the coal companies' complete loss of access to Parcel 55. Under the trial court and PennDOT's logic, the owners of a coal estate would never be able to demonstrate a *de facto* taking at the preliminary objection stage, unless they were able to prove they were likely to obtain a mining permit. But that places a higher burden of proof on owners of coal estates than surface owners who do not face any similar requirement to demonstrate a *de facto* taking at the preliminary objection stage, even if their property is relatively valueless or useless.

Because PennDOT's actions resulted in the coal companies' loss of access to Parcel 55 and the property becoming landlocked, the Commonwealth Court concluded a *de facto* taking occurred. The trial court erred by requiring the coal companies to demonstrate that the coal was permittable and mineable at the preliminary objection stage. PennDOT could later argue that the coal was unmineable to the Board of Viewers. It could dispute the volume of coal that was extractable, the difficulty in obtaining a permit or the cost incurred in mitigating environmental impact in determining the value of the coal, but not the occurrence of a *de facto* taking.

In this era of horizontal drilling and multiple wells located on one well pad, and there are fewer well sites than with conventional drilling, but road access remains a critical issue. One can certainly envision a new road stranding a unit's well pad site. If no other site can be obtained due to either topography or lease terms, a *de facto* taking of the entire unit may have occurred. Or imagine a smaller parcel which only has road access on one side, surrounded on the others by combinations of existing units of other lessees, navigable rivers, state or federal forests, or even the Appalachian Trail. The condemnation of that last side could well result in a *de facto* taking.

But establishing the existence of a *de facto* taking only gets a company past preliminary objections to a board of viewers. The value of the stranded oil and gas after all costs of extraction, permitting, and environmental remediation, discounted by the likelihood of development would all be yet to be determined.

The Pennsylvania Supreme Court has agreed to hear PennDOT's appeal, so we have not heard the last on this topic. ■

Glenn A.W. Thompson (glenn.thompson@steptoe-johnson.com) is a Meadville-based member of Steptoe & Johnson PLLC in the Energy Department. Glenn has represented oil and gas clients for over 30 years predominately on title issues, and also advises rural electric cooperatives on right of way and other issues.

DriveSAFE trains for transportation safety issues specific to oil and gas

The West Virginia University Extension Service Safety and Health Extension (WVUSHE) has been awarded an Occupational Health and Safety Administration (OSHA) Susan Harwood Training Grant to provide driver training to 400 workers in the oil and natural gas industry.

Susan Harwood Training Grants provide training and education for workers and employers on workplace safety and health hazards, responsibilities and rights. Target audiences include underserved, low-literacy, and high-hazard industry workers and employers.

"The oil and gas industry is considered a high-hazard industry, with an overwhelming percentage of the fatalities and injuries due to transportation related incidents.," Tiffany Rice, adjunct instructor for WVU Extension Service Safety and Health Extension, said. "The grant has allowed us to develop a regionally specific driving training program that focuses on hazards our workers face while driving in the Appalachian region."

Rice gave a presentation on DriveSAFE at the February meeting of PIOGA's Safety Committee.

DriveSAFE is a training campaign focusing on: S-seatbelts, A-attitudes, F-fatigue and E-environmental factors including regionally specific curriculum on industry related driving hazards and best practices. Workers additionally are trained to understand their rights and employer responsibilities according to OSHA regulations.

The training objectives for DriveSAFE are aligned with the National Occupational Research Agenda to reduce motor vehicle fatalities and injuries in the Oil and Gas Extraction category. The curriculum was developed using researchers and industry professionals at the National Institute for Occupational Safety and Health – Oil and Gas and Motor Vehicle Safety team, WVUSHE, Appalachian STEPS network, and Contractor Transport LLC.

"The program has gained momentum, not only in the Appalachian region but beyond. We've had workers trained as far as Texas." Our goal is to push the training out to workers of all types, but specifically those hard-to-reach workers, such as sand haulers, water truck drivers, and other service contractors to the industry," Rice said.

Under the grant, the training is currently provided free of charge. To schedule a training for your employees or attend a train-the-trainer course, contact Tiffany Rice at 304.293.2852 or tiffany.rice@mail.wvu.edu. ■

Updates wanted for PIOGA safety training provider list

We are updating our list of PIOGA members who offer safety training and invite you participate if your company provides these services. The list, a project of the PIOGA Safety Committee, is posted on our website for use by members and others who may visit the site.

If you would like to participate, please email Matt Benson (matt@pioga.org) the following information:

- Company name, address, phone number and website
- A specific contact person, if desired
- A brief, one-paragraph description of your company, focusing on safety training
- A bullet list of specific training, if desired

If your company is not active in the PIOGA Safety Committee, we encourage you to become a part of this important group. Find out more by clicking on Committees at members.pioga.org.

DEP expects adjustments to 2020 Driving PA Forward guidelines

By Joyce Turkaly
Director, Natural Gas Market Development

At the February Pittsburgh Region Clean Cities (PRCC) stakeholder meeting, Pennsylvania Department of Environmental Protection representatives hinted at possible guideline adjustments to the Drive PA Forward grants and rebates. Pennsylvania received $118 million via the Volkswagen diesel emissions settlement and in 2019, the first of the five-year program, DEP awarded grants totaling $24 million from eight targeted programs. The goal of the VW settlement was the replacement of diesel vehicles and the elimination of NOx emissions; Pennsylvania included clean diesel as a qualifying fuel. Internally, DEP wishes for the dollars to last five years and intend to repurpose any dollars that are returned if projects aren't completed.

In 2019 the overall structure awarded rebates for Class 4-7 vehicles and competitive grants for Class 8s. Last year, the most popular rebate program was the Class 4-7 (drayage, school bus and shuttle) category that awarded $12 million to 301 applications, 294 of which were clean diesel school buses. In 2020 DEP will be running programs for Class 4-8 and these programs will be coming out in mid-to-late spring. Some of the changes being discussed are to cap the number of certain types of vehicles so all of the money does not go to just one class of vehicle and defining a vehicle roll-up number that would determine if your application is best suited for the rebate category or competitive grant.

$4 million went to electric vehicle (EV) charging stations; DEP has issued vouchers to 297 new projects just this year alone. A "project" constitutes a minimum of two plugs. Through February the total number of projects is approximately 1,000, of which 50 percent have been completed for public use installed in multi-unit buildings, workplace buildings and parking garages located throughout the city. Fifteen percent of the total, or $17.7 million, of these dollars are going to zero-emission vehicles (charging or hydrogen fueling). DEP is seeing more interest in the charging program for level 2 charging and may reallocate the funds differently between level 2 and DC fast charging. $1.25 million in completed projects went to Giant Eagle, the City of Pittsburgh and ChargePoint projects in Philadelphia. PECO has a three-year demand charge holiday for publicly available DC fast charging. Utility incentives such as these are boosting EV registration in and around the Philadelphia area.

Some of the conclusions from 2019 led to these suggested changes and DEP hopes the 2020 guidelines will create a greater incentive or rebate for alternative fuel vehicles. For more information on alternative fuel vehicles and fueling stations reach out to joyce@pioga.org and monitor the DEP site for revised guidelines at www.depgis.state.pa.us/DrivingPAForward.

Scholarship money provided by PRCC is targeted for students attending the Community College of Allegheny County (CCAC) in the field of clean energy and sustainability. The amount of scholarships will vary based on the number of recipients each year. The scholarship is administered by the department head with input from faculty members of the CCAC Automotive Technology Department. For more information contact Bob Koch at rkoch@ccac.edu.

Come learn more at the PIOGA Spring meeting!

Barry Carr is Executive Director of Clean Communities of Central New York, working with major utilities and fleets to develop alternative fuel infrastructure including natural gas, renewable natural gas, hydrogen and DC fast charge systems. Commercial truck fleets are seeking ways to lower operating costs and emissions. In Pennsylvania, there are multiple public access compressed natural gas (CNG) stations, utilizing Pennsylvania-produced natural gas as a cost-effective, lower-emission transportation fuel. The Commonwealth has multiple programs to fund the incremental cost of alternative-fueled vehicles, and the federal government has active programs to create "Clean Fuel Corridors" along major interstates. Barry will share his thoughts on collaboration and opportunities with the existing facilities within the Commonwealth and trucking fleets located adjacent to the I-80 corridor. Register today by clicking on PIOGA Events at pioga.org. ■

Ethane production and the importance of real data

Chuck Zelek, Ph.D., Special Advisor to the Assistant Secretary in the U.S. Department of Energy's Office of Fossil Fuels, shares that in 2019, 250,000 barrels per day of liquids were put into the pipelines; using back calculations to separate out the propane and then using heat map data to determine what liquids are being mixed in as part of a 1 million Bbls/day total production is obviously not as exact as needed. "That's 750,000 Bbls/day of ethane being rejected," he told the PIOGA Market Development Committee at their February monthly meeting. Chuck commented that it takes 90,000 Bbls/day to support a world-class ethane cracker. Using the Energy Information Administration data, he estimates there is enough production to support eight additional crackers. DOE plans on talking to West Virginia University and the tri-state geological teams who can gather specific data from processors and fractionators to determine what liquids are in the ground and what is economically recoverable. Real data is what we need in order to attract investment in Appalachia.

Support needed for natural gas manufacturing tax credit legislation

As we reported last month, Governor Wolf is threatening to veto legislation creating a tax credit for construction of facilities that use methane to produce fertilizer and other chemicals. House Bill 1100 establishes the "Energy and Fertilizer Manufacturing Tax Credit" for projects that require at least $450 million in construction and start-up costs and that create at least 800 jobs.

The bill passed both the House of Representatives and Senate by overwhelming bipartisan majorities. Unfortunately, Wolf has signaled he would veto the measure, saying such projects should be evaluated on a case-by-case basis. The bill's sponsor contends—and we agree—that the fact that the proposal is not specific to a single business makes for better policy.

The importance of the tax credit is more than speculation. According to published reports, Connecticut-based Elis Energy hopes to build a methanol plant in northeast Pennsylvania, and the final decision hinges to some degree on enactment of the tax credit. The plant would use natural gas to produce 450,000 tons of methanol per year for use as a maritime fuel.

What you can do

Even though HB 1100 received final approval by the General Assembly on February 4, it has not yet been transmitted to the governor. The leadership of the General Assembly wants to use the hold to drum up more support for the legislation, which has been occurring, particularly among the state's labor unions.

PIOGA strongly encourages members and other industry supporters to do the following:

- **Contact Governor Wolf** (www.governor.pa.gov/contact) and urge him not to veto HB 1100. Emphasize that the legislation will bring about investment in Pennsylvania, stimulating the economy and creating good jobs for our citizens.
- **Contact your state representative and senator** to encourage them to vote to override the governor's veto if that should occur. Again, emphasize that HB 1100 will be a huge positive for Pennsylvania's economy. To find the contact information for your legislators, go to pioga.mmp2.org/my-government and then click on My Officials. ■

New poster highlights lifesaving products made from oil and gas

You've no doubt seen where some Democratic candidates for president have pledged to ban hydraulic fracturing if elected, and have even suggested that oil and gas executives should be jailed. Such statements show a clear lack of understanding not only about the industry's efforts in making the air cleaner and reducing our environmental impact, but just as importantly about the thousands of essential, everyday products made from oil and natural gas.

To highlight the indispensable nature of such products, PIOGA has produced a printable poster showing more than 90 items made possible through the processing of oil and gas into advanced plastics and synthetic rubber found in a typical emergency room, ER code cart and other medical devices used on a daily basis.

These are quite literally lifesaving products!

You can find—and share—this poster on our website at pioga.org/education/pa-oil-and-gas/fact-sheets-and-additional-resources. As you'll see, there are other informational brochures and educational fact sheets available there as well. ■

2020 PIOGA online Buyers' Guide is live!

The Buyers' Guide is an interactive 'one-stop shop' for our members looking for products and services needed for oil and gas operations

PIOGA is pleased to announce that the 2020 edition of our online Buyers' Guide, the premier resource for relevant products and services for oil and gas professionals, is now available.

The 2020 version of the Buyers' Guide features updated and expanded company and product listings, in addition to other valuable information relating to the oil and gas industry. PIOGA members and other industry professionals now have an easy way to browse for goods and services.

To access this free service, use the Online Buyers Guide link on our homepage, pioga.org.

"For the past five years, the PIOGA Buyers' Guide has become a great online resource for purchasing goods and services in the oil and gas industry, connecting our members together for a more efficient way to find what your company is looking for," said Dan Weaver, PIOGA's President and Executive Director.

Our partnership with Strategic Value Media (SVM) has allowed PIOGA to provide more options to our members to advertise their products and services. All Allies & Providers members receive a complimentary listing in the Buyers' Guide, but your company can work with the SVM staff to discuss options for upgrading your listing in the Buyers' Guide. Additionally, there are new categories and subcategories that you can list your company in.

Allies & Providers members: Please take a minute to review your Buyers' Guide listing. If you would like to request any changes or upgrade your listing, email pioga-advertise@svmmedia.com.

The Buyers' Guide provides users with an efficient way to browse for goods and services and offers oil and gas suppliers and companies exceptional visibility by showcasing their products and services to a targeted, industry-specific buyer group.

If your company or business has not yet taken advantage of this exceptional opportunity to highlight your products and services in the guide, it's not too late! To learn more about advertising in this exclusive service, email pioga-advertise@svmmedia.com.

Did you know?

A portion of the proceeds from the Buyers' Guide comes back to PIOGA to help sustain our association. An investment in the Buyers' Guide is not only an investment for your company, but an investment in PIOGA too. We thank you! ■


COME VISIT OUR ONLINE BUYERS GUIDE
WWW.PAOILGASBUYERSGUIDE.COM
Browse all of our featured listing from all categories on the site and discover how to get your company featured here.
TO ADVERTISE CONTACT: RYANN CUTILLO
RCUTILLO@SVMMEDIA.COM
PIOGA
Pennsylvania Independent Oil & Gas Association
STRATEGIC VALUE MEDIA

Cigar Networking Event

February 20 • BURN by Rocky Patel Pittsburgh

See more in the Photo Galleries section at pioga.org

You can choose to opt out of receiving the newsletter by mail

As you probably know, *The PIOGA Press* is available both in printed form and electronically. We mail the printed copy every month to the primary contact of PIOGA member companies and notify all member company contacts when the electronic version is available online.

If you would like to save PIOGA the cost of printing and mailing the newsletter, you can choose to opt out of receiving the hard copy if you now receive the publication by mail. You will continue to receive an email when the electronic version is available—as much as two weeks before the print copy arrives on your desk.

If you decide you prefer to read *The PIOGA Press* electronically, simply send an email to Deana McMahan at deana@pioga.org asking to opt out. Don't forget that current and archive issues are always available at pioga.org/news-resources/newsletter. ■

Study finds no evidence oil and gas waste harming Pennsylvania streams

A new federal study has found no evidence that oil and gas production in northern Pennsylvania has contaminated the commonwealth's forest rivers and streams.

The study, which was published last month in the *Proceedings of the National Academy of Sciences*, one of the world's most prestigious scientific journals, concluded that there were no signs that chemicals or wastewater had entered more than two dozen streams running through the natural gas fields of the Marcellus Shale formation. There was also no evidence found that natural gas development had significantly altered the volume and makeup of the microscopic creatures in the water or had changed the chemical composition of the water itself.

The study's authors included experts from the Bureau of Forestry within the Pennsylvania Department of Conservation and Natural Resources and the Division of Water Quality at the Pennsylvania Department of Environmental Protection.

"No quantifiable relationships were identified between the intensity of oil-and-gas development, water composition, and the composition of benthic macroinvertebrate and microbial communities," the study said. "No definitive indications that hydraulic fracturing fluid, flowback water, or produced water have entered any of the study streams were found."

Rebecca Oyler, the Pennsylvania Legislative Director for the National Federation of Independent Business, told *Pennsylvania Business Report* that the study shows that natural gas development can provide affordable energy for the state's economy without significant environmental risk. "The study just released by PNAS confirms what we've known all along," she said, "that the responsible development of Pennsylvania's natural gas resources is not incompatible with protecting our environment."

The research team collected water samples from the headwater streams over a two-year period. The samples were analyzed for populations of microscopic creatures and for various chemicals known to make up produced water. The study concluded that there were no indications that the brine or the stimulation chemicals themselves were creating problems on a regional basis. In fact, the highest levels of chloride turned up in State Run, which the authors said has no oil and gas production located on its watershed, but does have higher densities of roads and housing.

The Department of Conservation and Natural Resources told *Pennsylvania Business Report* that the findings confirmed the current management practices in the state forests were doing the job. "We feel that the existing setbacks in commonwealth leases as recommended in the "Guidelines for Administering Oil and Gas Activity on State Forest Lands" are effective and currently exceed regulatory requirements," the agency said in a written statement.

Moreover, any changes in the permitting process for new wells should be balanced against rising drilling costs, Oyler said. "We haven't heard any proposed changes to the regulations impacting the oil-and-gas industry as a result of this study, but should they be considered in the future, we'd ask that they be examined in the context of effectiveness and what regulatory restrictions come at a high cost, but have little impact," she said.

PIOGA Member News

New Pig Energy honored by Environmental Protection

New Pig Energy, the industry leader in well pad, tank farm and duck pond containment has recently been recognized by Environmental Protection—the online solution resource for managing air, water, energy and waste issues.

New Pig Energy's tank end enclosures garnered top honors in the "water" category of Environmental Protection's 2019 New Product of the Year contest. This year's contest was especially competitive and attracted a record number of high-quality, innovative new product entries.

The patented tank end enclosures were specifically designed by oil and gas industry water superintendents to protect manifolds from freezing. The aluminum frames and translucent vinyl panel system is built to withstand high winds and snow accumulation.

ShalePro Energy Services selected to Gator100

ShalePro Energy Services was named to the University of Florida's 2020 Gator100 during a ceremony on February 28 at the Exactech Arena at the Stephen C. O'Connell Center, Gainesville, Florida.

The Gator100 recognizes the 100 fastest-growing businesses owned or led by UF alumni. Ernst & Young calculated each company's compound annual growth rate (CAGR) over the past three years to generate the ranking. ShalePro Energy Services was ranked No. 7 with a CAGR of 112.1 percent.

ShalePro is headquartered in Houston, Pennsylvania, and offers a full-service suite of best-in-class oil and natural gas field services, spanning the Appalachian Basin—Marcellus/Utica shale play, as well as basins across the U.S. They have more than 25 years of production and midstream industry experience and currently provide full well hook-ups, operate and maintain more than 2,000 wells, hundreds of compressors and associated facilities, hundreds of miles of gathering system pipelines, and are available nationwide. ■

New PIOGA members — *welcome!*

Allied Universal
200 Fleet Street, Ste 200, Pittsburgh, PA 15220
724-289-8744 • www.aus.com
Allies & Providers—provider of security services for more than 60 years

MinTech
1830 Ellsworth Industrial Drive NW, Atlanta, GA 30318
404-355-4580 • mintech.com
Allies & Providers—full-service mineral handling solution provider specializing in process application systems, surface application programs, and specialty chemical treatments

S.T.L. Resources, LLC
12300 Perry Highway, Ste 308, Wexford, PA 15090
267-844-0898 • www.stlresources.com
Oil & Gas Producer

Sommer Energy Technologies
203 East Edgewood Drive, McMurray, PA 15317
412-390-5050
Allies & Providers—safety, reliability, performance and optimization solutions for energy operations

TJD Energy Services, LLC
2000 Park Place, Ste 215, Washington, PA 15301
724-916-4535 • www.tjdenergy.com
Allies & Providers—field services contractor

Wolf Consulting, LLC
2790 Mosside Blvd, Suite 300, Monroeville, PA 15146
724-325-2900 • www.wolfconsulting.com
Allies & Providers—computer support and cloud services for small and mid-size businesses

Workers to graduate from environmental workforce training program

On April 14, 16 individuals from northeastern Pennsylvania will successfully complete the Environmental Workforce Training (EWT) Program offered by Earth Conservancy and its educational partner Penn State Wilkes-Barre.

The program, an intense, 10-week, 233-hour experience, seeks to provide local job seekers with industry-specific skills to increase their employability in fields such as construction, engineering, environmental cleanup and energy/utilities. Applicants must complete an interview, math and literacy assessments, and a criminal background check. Once enrolled, they are expected to attend at least 93 percent of classes. The curriculum includes land surveying principles and techniques, environmental sampling, AutoCAD, GIS and technical writing. Participants also earn three nationally recognized credentials: HAZWOPER 40, OSHA 10 Construction and CPR/First Aid. Earth Conservancy is able to provide the program—a $6,000 value—at no cost to participants through grants received from the Appalachian Regional Commission and PPL Foundation.

Because of the unique combination of skills and technologies taught through the program, graduates are able to pursue a range of career paths. They are unified, however, by a common desire to apply their learning to a job that is active, challenging and involves the outdoors. They also are now aware of what it takes to be effective in an entry-level position, especially in terms of fieldwork and safety.

Industry partners have proven crucial to the EWT Program's success, serving as advisory partners, guest speakers, and resources at a closed career event. To learn more about the program or potential job candidates, please contact Dr. Elizabeth Hughes at 570-823-3445 or e.hughes@earthconservancy.org.

Impact fee case *Continued from page 1*

Enforcement filed a complaint against Snyder Brothers, Inc. alleging that Snyder failed to properly identify and pay mandated impact fees on approximately four dozen "unconventional gas wells" for calendar years 2011 and 2012. The complaint stemmed from the bureau's review of the annual well production reports submitted by Snyder for those years. The bureau determined that Snyder improperly classified these wells as "stripper wells" (which are exempt from the impact fee requirements) instead of "vertical wells" (for which impact fees are owed) under Act 13. The bureau's complaint for the alleged failure sought approximately $510,000 from Snyder for past due impact fees, administrative fees, mandated penalties, interest and a discretionary civil penalty.

After a series of procedural filings and a full administrative hearing in December 2014, an administrative law judge acknowledged that while the definition of the term "stripper well" is, in fact, ambiguous under Act 13, the application of the rules of statutory construction supported the bureau's position that the "disputed" wells constituted "vertical wells" subject to the impact fee requirements. In June 2015, with the exception of the imposition of a discretionary civil penalty in the amount of $50,000, the PUC upheld the administrative law judge's determination and ordered Snyder to pay $390,250 in past due impact fees and administrative fees, $11,707.50 in interest, and $97,562.50 in mandated penalties, for a cumulative total of $499,520.

Although the PUC ordered Snyder to pay the full amount owed within 20 days, Snyder immediately filed an appeal of the PUC's order with the Commonwealth Court and in the process obtained appellate relief delaying this time requirement (given the PUC's well-publicized position that impact fees cannot be refunded once paid, Snyder was concerned that the PUC would refuse to return any funds paid by Snyder regardless of the outcome of the good-faith appeal).

On appeal, the Commonwealth Court agreed with Snyder that the definition of the term "stripper well" under Act 13 is not ambiguous and, as such, the "disputed" wells in question were in fact "stripper wells" (not subject to payment of an impact fee) and not "vertical wells" (for which impact fees were owed). Given the conclusion that the underlying impact fees were not owed, the Commonwealth Court logically also reversed that portion of the PUC's order requiring Snyder to pay penalties and interest. However, on further appeal, the Pennsylvania Supreme Court reversed the Commonwealth Court and reinstated the PUC's order. The Pennsylvania Supreme Court concluded that, although the term "stripper well" in Act 13 is facially ambiguous, application of the statutory construction factors supports the conclusion that the "disputed" wells were in fact "vertical wells" for which impact fees must be paid. Given that the Pennsylvania Supreme Court was silent on whether penalties and interest were owed, Snyder filed a motion for reconsideration which was granted on March 7, 2019.

In so doing, the Pennsylvania Supreme Court ordered the Commonwealth Court to address Snyder's contention that mandatory penalties and interest were improperly assessed by the PUC (given that Snyder mounted a good-faith challenge to Act 13 and—according to the PUC—would have been unable to obtain a refund of any impact fees paid for the "disputed" wells if successful on appeal). In the second round of argument before the Commonwealth Court on the issue of penalties and interest, Snyder argued that: (1) the statutory provisions in Act 13 authorizing the imposition of mandatory penalties and interest violate procedural due process and (2) the affirmative representations and conduct of the PUC deprived Snyder of fair notice that mandatory penalties and interest would be assessed given the validity of the dispute between Snyder and PUC.

In a lengthy analysis of these issues, the Commonwealth Court agreed with Snyder and expressed strong criticism of the PUC's actions. Specifically, the Commonwealth Court expressed grave concern with the language of Act 13 that imposes mandatory penalties and interest. The Commonwealth Court noted that the statutory scheme set forth in Act 13 for imposing mandatory penalties and interest put Snyder in an untenable position—Snyder was either forced to pay the impact fees for the "disputed" wells and be deprived of a refund if successful on appeal, or withhold payment of the impact fees during the appeal period and be subject to mandatory penalties and interest if unsuccessful on appeal. Recognizing this quandary and the well-established right of parties to mount good-faith challenges to administrative actions on appeal, the Commonwealth Court found that in this instance the imposition of mandatory penalties and interest violated Snyder's due process rights under the federal Constitution and amounted to an unconstitutional "punishment" of Snyder for contesting and defending itself from administrative action in enforcement proceedings.

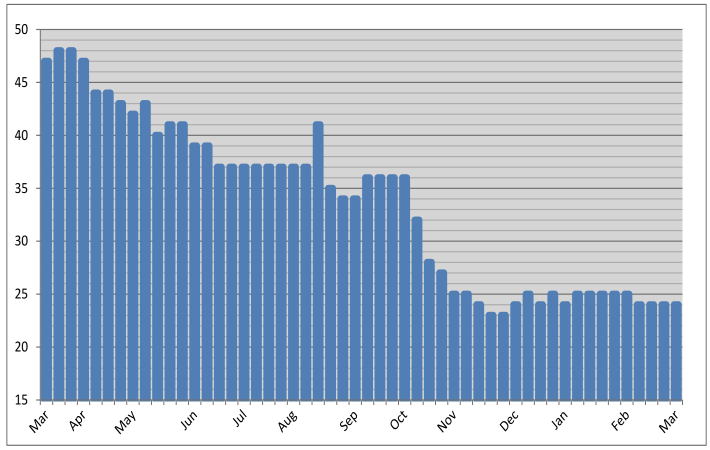
In addition, the Commonwealth Court expressed concern that the PUC provided Snyder with "baffling and inconsistent" advice as to whether the impact fees for the "disputed" wells needed to be paid during the duration of the appeal. Specifically, the court noted that the PUC's imposition of mandatory penalties and interest was in direct conflict with a prior PUC policy document confirming that gas drillers do not need to pay impact fees for "disputed" wells until resolution of the "dispute." Consequently, the Commonwealth Court found that Snyder acted reasonably in relying upon the conduct, representations and guidance provided to gas operators by the PUC and, as such, the procedures of due process prohibited the PUC from imposing mandatory penalties and interest on Snyder.

In light of the decision by the Commonwealth Court, gas operators who previously elected to follow Snyder's lead and not pay impact fees on "disputed" wells of the kind identified by Snyder in the response to the bureau's January 2014 complaint should be able to rely on the recent decision of the Commonwealth Court if the PUC elects to assess mandatory penalties and interest for the failure to pay. Furthermore, it remains unclear if the Pennsylvania General Assembly will take any action with respect to amending Act 13 to either: (1) clarify the definition of "stripper well" as suggested by the Pennsylvania Supreme Court or (2) provide a new mechanism to address a "pre-payment" of impact fees by gas drillers who elect to mount a good-faith challenge as to whether certain "unconventional gas wells" should be identified in annual reports as being subject to the impact fee. ■

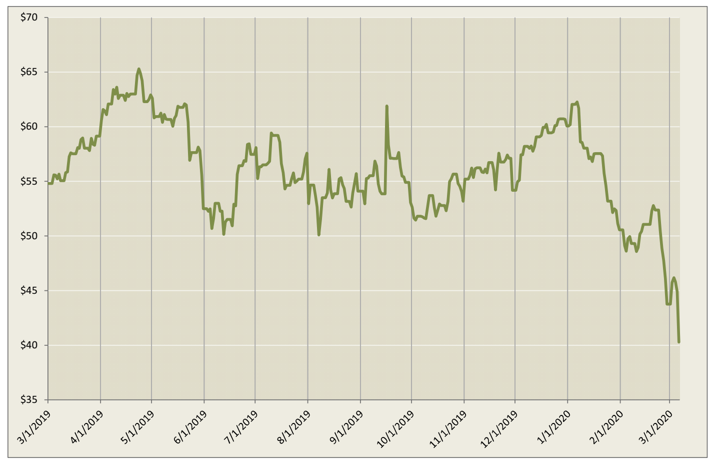
Brandon Coneby is an attorney in the Pittsburgh office of Dinsmore & Shohl LLP and represented PIOGA member Snyder Brothers in this litigation.

Oil & Gas Dashboard

Pennsylvania Rig Count



Penn Grade Crude Oil Prices



Natural Gas Futures Closing Prices

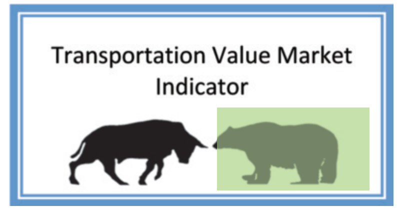
Month	Price
April	$1.657
May	1.704
June	1.778
July	1.869
August	1.190
September	1.923
October	1.968
November	2.117
December	2.344
January 2021	2.461
February	2.428
March	2.335

Prices as of March 8

Sources
American Refining Group: www.amref.com/Crude-Prices-New.aspx
Ergon Oil Purchasing: www.ergon.com/prices.php
Gas futures: quotes.ino.com/exchanges/?r=NYMEX_NG
Baker Hughes rig count: phx.corporate-ir.net/phoenix.zhtml?c=79687&p=irol-reportsother
NYMEX strip chart: Nucomer Energy, LLC, emkeyenergy.com

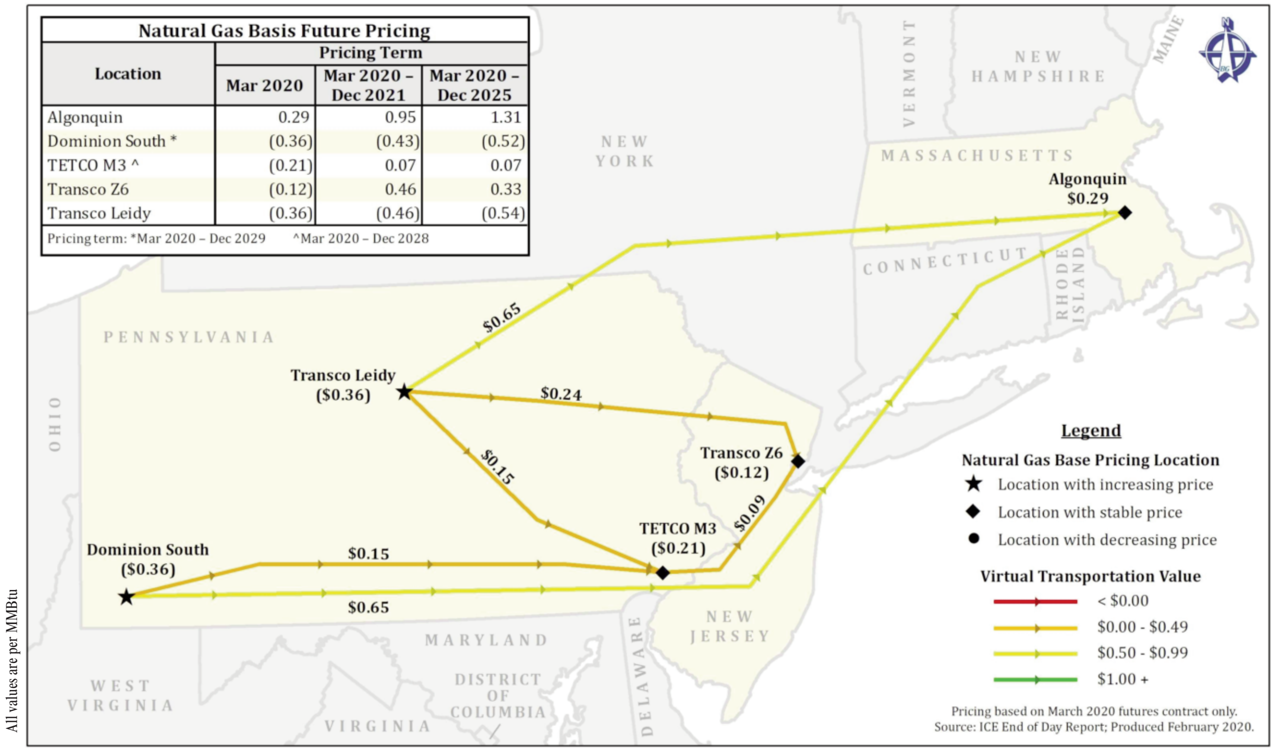
Northeast Pricing Report — March 2020

As we head into the last winter month, pricing has turned more bearish for several reasons. Basis pricing will not help the Henry Hub, which is now trading below $2.00 per MMBtu. For the front month, Algonquin, while still positive, has dropped $1.00 per MMBtu from February. And pricing is not favorable anywhere else. Transco Z6 and TETCO M3 dropped $0.64 and $0.54 per MMBtu respectively. Dominion South and Transco Leidy are the only two trading points that increased. Dominion South and Transco Leidy increasing $0.05 and $0.03 per MMBtu respectively. One-year term pricing increased for each trading point, although not significantly. Transco Z6 increased the most at $0.19 per MMBtu. Long-term pricing was mixed, but there were no significant changes. Algonquin decreased the most at $0.16 per MMBtu, and both TETCO M3 and Transco Leidy increased $0.04 per MMBtu.



Provided by Bertison-George, LLC
www.bertison-george.com

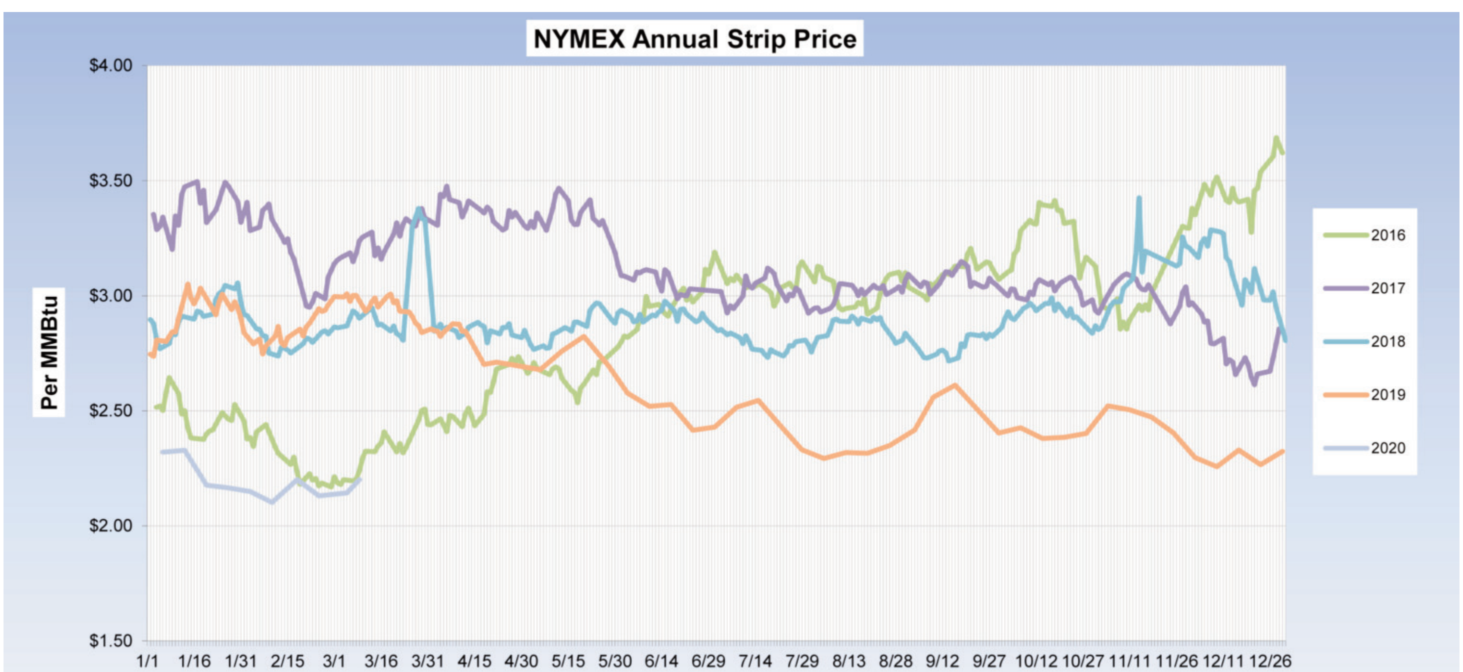
All transportation values decreased. Dominion South and Transco Leidy decreased the most at $1.05 and $1.03 respectively. Transco Leidy to Algonquin and Dominion South to TETCO M3 decreased $0.67 and $0.59 per MMBtu as well. As a percentage change, all transportation routes have decreased by 80% to 53% from last month. BG does not expect much recovery, if any, over the next month.



Natural Gas Basis Future Pricing

Location	Pricing Term: Mar 2020	Mar 2020 – Dec 2021	Mar 2020 – Dec 2025
Algonquin	0.29	0.95	1.31
Dominion South *	(0.36)	(0.43)	(0.52)
TETCO M3 ^	(0.21)	0.07	0.07
Transco Z6	(0.12)	0.46	0.33
Transco Leidy	(0.36)	(0.46)	(0.54)

Pricing term: *Mar 2020 – Dec 2029 ^Mar 2020 – Dec 2028



Spud Report: February 2020

The data show below comes from the Department of Environmental Protection. A variety of interactive reports are available at www.dep.pa.gov/DataandTools/Reports/Oil and Gas Reports.

The table is sorted by operator and lists the total wells reported as drilled last month. **Spud** is the date drilling began at a well site. The **API number** is the drilling permit number issued to the well operator. An asterisk (*) after the API number indicates a conventional well.

OPERATOR	WELLS	SPUD	API #	COUNTY	MUNICIPALITY
Cabot Oil & Gas Corp	5	2/8/20	115-22635	Susquehanna	Harford Twp
		2/8/20	115-22636	Susquehanna	Harford Twp
		2/8/20	115-22637	Susquehanna	Harford Twp
		2/8/20	115-22638	Susquehanna	Harford Twp
		2/8/20	115-22639	Susquehanna	Harford Twp
Cameron Energy Co	2	2/17/20	123-48442*	Warren	Sheffield Twp
		2/27/20	123-48447*	Warren	Sheffield Twp
Chesapeake Appalachia LLC	4	2/5/20	015-23566	Bradford	Wyalusing Twp
		2/6/20	015-23568	Bradford	Wyalusing Twp
		2/7/20	015-23567	Bradford	Wyalusing Twp
		2/8/20	131-20609	Wyoming	Mehoopany Twp
EQT Prod Co	3	2/4/20	125-28746	Washington	East Finley Twp
		2/4/20	125-28744	Washington	East Finley Twp
		2/4/20	125-28745	Washington	East Finley Twp
Inflection Energy (PA) LLC	1	2/13/20	081-21832	Lycoming	Hepburn Twp
Pennhills Resources LLC	2	2/17/20	083-57185*	McKean	Hamilton Twp
		2/20/20	083-57183*	McKean	Hamilton Twp
Range Resources Appalachia	5	2/17/20	125-28791	Washington	Morris Twp
		2/17/20	125-28793	Washington	Morris Twp
		2/17/20	125-28795	Washington	Morris Twp
		2/18/20	125-28792	Washington	Morris Twp
		2/18/20	125-28794	Washington	Morris Twp
Seneca Resources Co LLC	14	2/27/20	023-20258	Cameron	Shippen Twp
		2/27/20	023-20259	Cameron	Shippen Twp
		2/27/20	023-20260	Cameron	Shippen Twp
		2/27/20	023-20261	Cameron	Shippen Twp
		2/27/20	023-20263	Cameron	Shippen Twp
		2/27/20	023-20262	Cameron	Shippen Twp
		2/27/20	023-20264	Cameron	Shippen Twp
		2/27/20	023-20265	Cameron	Shippen Twp
		2/13/20	047-25088	Elk	Jones Twp
		2/13/20	047-25091	Elk	Jones Twp
		2/13/20	047-25092	Elk	Jones Twp
		2/13/20	047-25094	Elk	Jones Twp
		2/13/20	047-25093	Elk	Jones Twp
		2/13/20	047-25095	Elk	Jones Twp
Snyder Bros Inc	7	2/17/20	005-31326	Armstrong	East Franklin Twp
		2/17/20	005-31352	Armstrong	East Franklin Twp
		2/17/20	005-31353	Armstrong	East Franklin Twp
		2/17/20	005-31355	Armstrong	East Franklin Twp
		2/17/20	005-31356	Armstrong	East Franklin Twp
		2/17/20	005-31357	Armstrong	East Franklin Twp
		2/17/20	005-31358	Armstrong	East Franklin Twp
SWN Prod Co LLC	3	2/22/20	015-23569	Bradford	Stevens Twp
		2/23/20	015-23571	Bradford	Stevens Twp
		2/24/20	015-23570	Bradford	Stevens Twp

	February	January	December	November	October	September
Total wells	**46**	**77**	**60**	**30**	**57**	**77**
Unconventional Gas	42	74	51	23	43	46
Conventional Gas	0	0	0	0	1	0
Oil	2	3	5	7	13	29
Combination Oil/Gas	2	0	4	0	0	2

House RGGI hearing *Continued from page 4*

against all of PJM. The overall energy efficiency and demand side management of PJM has been a function of the capacity market and demand response (www.pjm.com/-/media/markets-ops/rpm/rpm-auction-info/2021-2022/2021-2022-base-residual-auction-report.ashx?la=en). The amount of MW/h participating in PJM's demand response program during the base residual auction (total unforced capacity) for years 2021/2022 was 11,886.8MW and represented an increase of 20.7 percent from the demand response (DR) that was offered just the year previously.

The state is experiencing a major inflection point in the electric power generation market. Pennsylvania's programs outcomes administered by the PUC point to declines in GHG attributed to consumer behavior and energy efficient technology. Whether the coming changes are good or bad is a matter of perspective. In 2016, Pennsylvania PUC extended the EE&C program for five years recognizing that the market would continue to evolve given regulatory compliance factors, which at the time were FERC Order 745, the PJM Demand Response program and the Clean Power Plan. RGGI states have failed to achieve mass installation of renewable generation. Coal and coal refuse fired electric generation together represent 12.5 percent of the global electric generation facilities; these plants have spent billions of dollars complying with federal and state regulations.

A best-case scenario offered at the hearing to quantify the economic contribution was posed: If all Pennsylvania coal-fired generation would be replaced entirely by natural gas generation, and if natural gas plants would operate as they performed in 2018, then the actual tax revenue would equate to $267 million/year. Because RGGI states generate less electricity than they import, these estimates for Pennsylvania would realistically be as low as $175 million/year, according to the Cesar Rodney Institute. By adopting a carbon tax too, Pennsylvania would be at risk of losing jobs to Ohio and West Virginia, where more power plants would be built and we have the potential to lose far more than we would gain; energy is the number-one input in manufacturing.

Stakeholders asked the House Environmental and Resources Committee to maintain the resilience and competitiveness of Pennsylvania's diversified energy portfolio and status as an energy exporter. Viewed as a state with low-cost power, Pennsylvania is on a trajectory to attract more manufacturing jobs, but RGGI would change this. Vital electricity providers are in rural parts of the state and stakeholders representing the trades and unions made it clear that these are good jobs for family sustainability.

There's no question that RGGI would jeopardize investment. We have made more progress in reducing CO_2 emissions compared to RGGI states, while our electricity bills are 50 percent lower than they were 10 years ago. The legislative actions that are in place appear to be improving the environment while encouraging economic growth—we cannot afford to sacrifice either. ■

Calendar of Events

PIOGA events

Information: pioga.org > PIOGA Events

PIOGATech: Transportation Safety Regulations Compliance
March 17, The Chadwick, Wexford

2020 Spring Meeting
April 1, Rivers Casino, Pittsburgh

PIOGA PAC Pittsburgh Pirates Home Opener
April 2, PNC Park, Pittsburgh

PIOGATech: Environmental Topic
April 23, TBA

Sporting Clays Networking Event
May 2, Promised Land Sporting Clays Club, Freeport

Ted Cranmer Memorial Golf Outing & Steak Fry
June 1, Wanango Country Club, Reno

Networking Event
July 10, TBA

PIOGATech: Water and Waste Management
August 19, TBA

23rd Annual Divot Diggers Golf Outing & Steak Fry
August 20, Tam O'Shanter Golf Course, Hermitage

Fall Conference
September 22, Seven Springs Mountain Resort, Champion

Fall Golf Outing and Sporting Clays Shoot
September 23, Seven Springs Mountain Resort, Champion

PIOGATech: Safety Topic
October 22, TBA

Annual Oil & Gas Tax and Accounting Seminar
November 18, Holiday Inn Express, Canonsburg/Southpointe

Marcellus to Manufacturing Conference
November TBA

PIOGATech: Environmental Topic / Holiday Mixer
December 15, The Chadwick, Wexford

Other association & industry events

The Great Energy Gathering VII
March 18, Hilton Garden Inn, Southepointe
www.greatgathering2020.com (use PIOGA member discount)

Ohio Oil & Gas Association Summer Meeting
July 13-14, Glenmoor Country Club, Canton, OH
www.ooga.org/events

Pennsylvania Independent Oil & Gas Association
115 VIP Drive, Suite 210, Wexford, PA 15090-7906
724-933-7306 • fax 724-933-7310 • www.pioga.org

Harrisburg Office (Kevin Moody)
212 Locust Street, Suite 300, Harrisburg, PA 17101
717-234-8525

Northern Tier Office (Matt Benson)
167 Wolf Farm Road, Kane, PA 16735
Phone/fax 814-778-2291

Pennsylvania Independent Oil & Gas Association

Pennsylvania: The Keystone to America's Energy Future®

115 VIP Drive, Suite 210
Wexford, PA 15090-7906

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