

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

April 11, 2012

Rosemary Chiavetta
Office of the Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

**RE: Docket Number M-2012-2288561
Public Notice of Intent to Adopt Impact Fee Ordinance
Allegheny County, Pennsylvania**

Dear Ms. Chiavetta,

Pursuant to conversations that have taken place between the Commission and Allegheny County officials, and in accordance with the provisions of the Ordinance, attached is a signed copy of Allegheny County's ordinance enacting an unconventional gas well fee in accordance with the Unconventional Gas Well Impact Fee Act, Act 13 of 2012.

Thank you for your prompt attention to this matter.

Sincerely,

James M. Flynn, Jr.
County Manager

CC: Andy Szefi, Esquire, County Solicitor (w/o attachment)
Jared Barker, County Council (w/o attachment)

SECRETARY'S BUREAU

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OFFICE OF THE COUNTY MANAGER

119 COURTHOUSE • 436 GRANT STREET • PITTSBURGH, PA 15219
PHONE (412) 350-5300 • FAX (412) 350-3581
WWW.ALLEGHENYCOUNTY.US

Bill No. 6850-12

No. 07-12-OR

AN ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, enacted pursuant to Act 13 of 2012, providing for the imposition of an unconventional gas well fee on each unconventional gas well spud in Allegheny County.

Whereas, Act 13 of 2012, which became effective on February 14, 2012, hereinafter “the Act,” authorizes, among other things, the governing body of a county having spud unconventional gas wells located within its borders to elect whether to impose a fee on spud unconventional gas wells in the county; and

Whereas, Act 13 of 2012 further requires that the governing body of any county electing to impose a fee on spud unconventional gas wells located within the borders of the county must adopt an ordinance to impose an unconventional gas well fee within sixty (60) days of the effective date of the Act; and

Whereas, the County of Allegheny, hereinafter “the County,” has spud unconventional gas wells located within its borders and is likely to have more unconventional gas wells spud in the future; and

Whereas, the County Council of the County of Allegheny has satisfied the first procedural requirement set forth in Section 2302 (a.1) of the Act for the enactment of an ordinance imposing an unconventional gas well fee upon unconventional gas wells by notifying the Pennsylvania Public Utility Commission of its intent to adopt an ordinance to impose an unconventional gas well fee upon unconventional gas wells that have been spud in the County; and

Whereas, the County Council of the County of Allegheny has satisfied the second procedural requirement set forth in Section 2302 (a.1) of the Act for the enactment of an ordinance imposing an unconventional gas well fee upon unconventional gas wells by giving public notice of its intent to adopt an ordinance to impose an unconventional gas well fee upon unconventional gas wells that have been spud in the County by the following methods: (A) public notice as required by the County Code and by the Second Class County Code, to-wit, the publication in a newspaper of general circulation within the County of a brief summary prepared by the County Solicitor setting forth in reasonable detail: (i) the provisions of the proposed ordinance authorizing the imposition of an unconventional gas well fee upon unconventional gas wells; and (ii) notification of the following locations where an attested full and complete copy of the text of the proposed ordinance is available for public inspection: the offices of the newspaper of general circulation in which the public notice was published, the Allegheny County Law Library and the offices of Allegheny County Council; and (B) public notice as required by § 5-311.04 of the Allegheny County Administrative Code, to-wit, by posting the title of the proposed

ordinance in a conspicuous place in the County Courthouse and on the Internet at an appropriate County-controlled Web site; and

Whereas, the County Council of the County of Allegheny is of the considered opinion that the use of the authority granted by Act 13 of 2012 to impose an unconventional gas well fee upon unconventional gas wells that have been spud in the County will inure to the benefit of the citizens of the County because the revenues generated from the imposition of an unconventional gas well fee will be appropriated in part to counties and municipalities within the Commonwealth for important public purposes enumerated in subsection (g) of Section 2314 of the Act.

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Definitions.

The following words and phrases when used in this Ordinance shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Act" means Act 13 of 2012.

"Commission" means the Pennsylvania Public Utility Commission.

"County" means the County of Allegheny.

"Department" means the Department of Environmental Protection of the Commonwealth of Pennsylvania.

"Fee" means the unconventional gas well fee authorized for imposition under Section 2302 of the Act (relating to unconventional gas well fee).

"Natural gas" means a fossil fuel consisting of a mixture of hydrocarbon gases, primarily methane, and possibly including ethane, propane, butane, pentane, carbon dioxide, oxygen, nitrogen and hydrogen sulfide and other gas species. The term includes natural gas from oil fields known as associated gas or casing head gas, natural gas fields known as non-associated gas, coal beds, shale beds and other formations. The term does not include coal bed methane.

"Producer" means a person or its subsidiary, affiliate or holding company that holds a permit or other authorization to engage in the business of severing natural gas for sale, profit or commercial use from an unconventional gas well in this Commonwealth. The term shall not include a producer that severs natural gas from a site used to store natural gas that did not originate from the site.

"Spud" means the actual start of drilling of an unconventional gas well.

"Unconventional formation" means 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.

"Unconventional gas well" means a bore hole drilled or being drilled for the purpose of or to be used for the production of natural gas from an unconventional formation.

SECTION 2. Imposition of Unconventional Gas Well Fee.

A. The County of Allegheny hereby imposes an unconventional gas well fee on each unconventional gas well spud in this county.

B. The fee adopted under Section A above is imposed on every producer and shall apply to unconventional gas wells spud in this County regardless of when spudding occurred. Unconventional gas wells spud before the fee is imposed shall be considered to be spud in the calendar year prior to the imposition of the fee for purposes of determining the fee under Section 2 of this Ordinance.

SECTION 3. Amount of Unconventional Gas Well Fee; Automatic Readjustment of Fee; Cessation of Payment of Fee.

A. The fee herein imposed on unconventional gas wells spud in this County by a producer shall be in the amount as fixed by Subsection (b) of Section 2302 of the Act and as automatically adjusted on an annual basis by the Commission in accordance with subsection (c) of Section 2302 of the Act.

B. Payments of the unconventional gas well fee shall cease upon certification to the Department by the producer that an unconventional gas well has ceased production and has been plugged according to the regulations established by the Department.

SECTION 4. Related Administrative Requirements.

All other provisions set forth Part II, Chapter 23, of the Act relating to the imposition, payment and administration of an unconventional gas well fee on unconventional gas wells spud in this County by a producer, to the extent applicable, are incorporated by reference in their entirety herein as part of this Ordinance.

SECTION 5. Well Information.

The County Manager is authorized to request from time to time a list of all spud unconventional gas wells from the Department.

SECTION 6. Use of Act 13 Funds.

Pursuant to Subsection (g) of Section 2314 of the Act, all funds received by the County

from the distribution of Act 13 funds shall be used only for the following purposes associated with natural gas production from unconventional gas wells within the County:

- A. Construction, reconstruction, maintenance and repair of roadways, bridges and public infrastructure.
- B. Water, storm water and sewer systems, including construction, reconstruction, maintenance and repair.
- C. Emergency preparedness and public safety, including law enforcement and fire services, hazardous material response, 911, equipment acquisition and other services.
- D. Environmental programs, including trails, parks and recreation, open space, flood plain management, conservation districts and agricultural preservation.
- E. Preservation and reclamation of surface and subsurface waters and water supplies.
- F. Tax reductions, including homestead exclusions.
- G. Projects to increase the availability of safe and affordable housing to residents.
- H. Records management, geographic information systems and information technology.
- I. The delivery of social services.
- J. Judicial services.
- K. For deposit into the County's capital reserve fund if the funds are used solely for a purpose set forth in this subsection.
- L. Career and technical centers for training of workers in the oil and gas industry.
- M. Local or regional planning initiatives under the Act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.

SECTION 7. Effective Date; Transmittal.

- A. This Ordinance shall enter into effect immediately and shall remain in effect until this Ordinance is repealed by County Council or until Part II, Chapter 23, of the Act either expires in accordance with Section 2318 of the Act or the Act is repealed by the General Assembly of the Commonwealth of Pennsylvania.
- B. Upon final approval, the County Manager shall transmit a copy of this Ordinance to the Department and to the Commission.

SECTION 8. Severability.

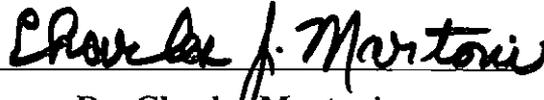
If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.

SECTION 9. Repealer.

Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

Enacted in Council, this 3rd day of April, 2012

Council Agenda No. 6850-12



Dr. Charles Martoni
President of Council

Attest: 

Jared Barker
Chief Clerk of Council

Chief Executive Office April 5, 2012

Approved: 

Rich Fitzgerald
Chief Executive

Attest: 

Sonya Dietz
Executive's Secretary

SUMMARY PAGE

DRAFT ORDINANCE IMPOSING AN UNCONVENTIONAL GAS WELL FEE ON EACH UNCONVENTIONAL GAS WELL SPUD IN ALLEGHENY COUNTY

Act 13 of 2012, which became effective on February 14, 2012, hereinafter “the Act,” authorizes, among other things, the governing body of a county having spud unconventional gas wells located within its borders to elect whether to impose a fee on spud unconventional gas wells in the county. An ordinance imposing a fee on spud unconventional gas wells located within the borders of the county, however, must be adopted within sixty (60) days of the effective date of the Act. If Allegheny County wishes to receive funds under the Act, an ordinance imposing a fee on spud unconventional gas wells must be enacted by Council by April 16, 2012.

It is respectfully requested that County Council enact an ordinance imposing a fee on spud unconventional gas wells located within the borders of the County in accordance with the authority granted by the Act so that the County can receive funds in accordance with the Act.

As required by the Act, Council must comply with the following procedural requirements. First, Council must notify the Pennsylvania Public Utility Commission of its intent to adopt an ordinance to impose an unconventional gas well fee upon unconventional gas wells that have been spud in the County.

Second, Council must give public notice of its intent to adopt an ordinance to impose an unconventional gas well fee upon unconventional gas wells that have been spud in the County by the following methods:

(A) public notice as required by the County Code and by the Second Class County Code, to-wit, the publication in a newspaper of general circulation within the County of a brief summary prepared by the County Solicitor setting forth in reasonable detail: (i) the provisions of the proposed ordinance authorizing the imposition of an unconventional gas well fee upon unconventional gas wells; and (ii) notification of the following locations where an attested full and complete copy of the text of the proposed ordinance is available for public inspection: the offices of the newspaper of general circulation in which the public notice was published, the Allegheny County Law Library and the offices of Allegheny County Council; and

(B) public notice as required by § 5-311.04 of the Allegheny County Administrative Code, to-wit, by posting the title of the proposed ordinance in a conspicuous place in the County Courthouse and on the Internet at an appropriate County-controlled Web site.

COUNTY OF ALLEGHENY
OFFICE OF THE COUNTY MANAGER
119 COURTHOUSE
436 GRANT STREET
PITTSBURGH, PA 15219

170 171 17105

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PRSR FIRST-CLASS
US POSTAGE PA
15219
COUNTY OF ALLEG



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RETURN SERVICE REQUESTED

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ROSEMARY CHIAVETTA
OFFICE OF THE SECRETARY
PENNSYLVANIA PUBLIC UTILITY COMMISSION
PO BOX 3265
HARRISBURG PA 17105-3265