



May 30, 2012

**VIA eFiling**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
2d Floor, Room N-201  
Harrisburg, PA 17105-8765

**Re: Act 13 of 2012- Implementation of Unconventional Gas Well Impact Fee;  
Docket No. M-2012-2288561**

Dear Ms. Chiavetta:

The Pennsylvania Independent Oil and Gas Association (PIOGA) respectfully submits the following request regarding the Pennsylvania Public Utility Commission's Implementation Order Regarding Chapter 23 of Act 13 of 2012, which was published in the Pennsylvania Bulletin on May 26, 2012. 42 Pa. Bull. 3038 (May 26, 2012). According to that notice, any interested person may propose issues beyond those addressed in the Order for consideration and disposition by the Commission.

PIOGA is a nonprofit trade association, with nearly 1000 members, representing Pennsylvania independent oil and natural gas producers, marketers, service companies and related businesses, landowners and royalty owners. PIOGA members are subject to the well fees imposed by Act 13 and have a direct interest in the policies, guidelines and rules adopted by Commission related to these fees.

PIOGA requests that the Commission explain how it will implement Section 2305 (b) of Act 13, which states that "The [Department of Environmental Protection] shall not issue a permit to drill an unconventional gas well until all unconventional gas well fees owed under section 2302 that are not in dispute have been paid to the commission." (Emphasis added). The Order mentions the prohibition from the Department issuing well permits but fails to explain how Producers may dispute fees to avoid the imposition of the prohibition.

Act 13 acknowledges that there must be two avenues to dispute well fees. First, a Producer must have the opportunity to dispute a well fee before it is due to avoid the prohibition

in Section 2305 (b). Without this option, Producers are put in the unreasonable and risky position of choosing either to pay significant fees that may not be owed or declining to pay disputed fees and await a written notice of deficiency under Section 2307(c).

Second, Act 13 provides that persons may appeal enforcement orders that are issued by the Commission under Section 2309 to the Commonwealth Court. The use of the word "appeal" in Section 2309, however, implies a different process than the use of the word "dispute" in Section 2305. Additionally, an appeal to the Commonwealth Court, upon receipt of an enforcement order from the Commission, is not available for a Producer who wishes to dispute a fee, is not yet subject to an enforcement order, and has pending permit applications under review by the Department. The Commission should provide guidance as to what is required of Producers in this situation and how a record is to be made of such a dispute that will be sufficient to preclude the permit prohibition in Section 2305(b). The enforcement order appeal process is not suited to resolve the issues in the same timeframe as a fee dispute process.

Act 13 expressly acknowledges that well fees may be disputed. The Commission should address the fee dispute process that can be utilized to avoid imposition of enforcement orders and appeals to the Commonwealth Court.

PIOGA appreciates the opportunity to provide additional comment on the Final Implementation Order (as to Chapter 23) and hopes that the Commission will take steps to address our concerns. Please let me know if you have any questions or if I can be of further assistance.

Sincerely,



Kevin Moody, Esquire  
General Counsel

PIOGA

212 Locust Street, Suite 300  
Harrisburg, PA 17101-1510

cc: Per Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of the PIOGA's additional comment in Docket No. M-2012-2288561 on the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code § 1.54.

**VIA EMAIL (if available) & FIRST CLASS MAIL**

Scott E. Coburn, Esq.  
PSATS  
4855 Woodland Drive  
Enola, PA 17025  
[scoburn@psats.org](mailto:scoburn@psats.org)

Ron Grutza  
Assistant Director of Government Affairs  
PA State Association of Boroughs  
2941 N. Front St.  
Harrisburg, PA 17110

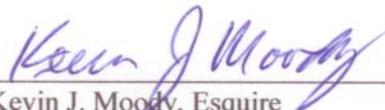
Douglas Hill  
Executive Director  
County Commissioners Association of PA  
17 N. Front St.  
Harrisburg, PA 17101

Jacob Cardiff  
Carrizo Oil & Gas, Inc.  
500 Dallas, Suite 2300  
Houston, TX 77002

Stephanie Catarino Wissman  
Executive Director  
Associated Petroleum Industries of PA  
300 N. Second St., Suite 902  
Harrisburg, PA 17101  
[wissmans@api.org](mailto:wissmans@api.org)

Kathryn Z. Klaber  
President  
Marcellus Shale Coalition  
24 Summit Park Drive  
Pittsburgh, PA 15275  
[kklaber@marcelluscoalition.org](mailto:kklaber@marcelluscoalition.org)

Date: May 30, 2012

  
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Kevin J. Moody, Esquire  
General Counsel, PIOGA