



Fair and Balanced: Drilling Tax/Fee Should Benefit Host Communities, Environmental Stewardship, and State-Wide Initiatives

Testimony before the House Democratic Policy Committee

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Good morning Representatives. Thank you Representatives Sturla and Santarsiero for hosting this public hearing on the Marcellus Shale and the Governor's recently released Marcellus Shale Advisory Commission report. The House Democratic Policy Committee should be commended for its effort in hosting committee meetings on this subject across the state – as the development of the Marcellus Shale is likely to impact all Pennsylvanians.

Last week, the Governor's handpicked Marcellus Shale Advisory Commission (heavily representing the interests of the oil and gas industry, big business, and local governments – but not ordinary citizens) issued its recommendations. The results were not surprising. The group recommended a number of modest improvements to the environmental regulation of this new type of gas drilling, suggested greater coordination of effort between state and local agencies, and ways the Commonwealth could assist in the development of natural gas.

It should be noted that the final report relied on questionable industry analyses and misinterpretations of government data in its market and workforce development sections.

In particular, the industry report titled *The Economic Impacts of the Marcellus Shale Gas Play: An Update*, (often incorrectly referred to as the Penn State report due to the affiliation of two of the authors) has been cited by academic researchers as being a particularly poor data source.

In a recent article published in the peer-reviewed, academic journal *Ecological Economics*, Bucknell Professor Thomas Kinnaman concluded the following:

“If these reports are not widely read, then any harm done is inconsequential. But if institutional affiliation increases the exposure of these reports, then policy makers and other readers may be misguided by questionable economic estimates.”

His article goes on to say, “overstating the economic impacts to persuade government officials could cause other disruptions in the economy if private investment decisions are based on poorly estimated economic impacts.”¹

¹ Thomas C. Kinnaman, “The economic impact of shale gas extraction: A review of existing studies,” *Ecological Economics* 70 (2011) 1243-1249, www.elsevier.com/locate/ecolecon (subscription required).

I'm here today to focus on the recommendation that has received the most attention – Recommendation 9.3.9: *“the enactment of – or authorization to impose a fee for – the purpose of mitigating and offsetting the uncompensated portion of demonstrated impacts borne by the citizens and local governments of the Commonwealth attributable to unconventional gas development.”*

The recommendation implies that this fee would only offset demonstratable direct costs incurred by governments – notably local governments. This narrowly focused recommendation is bad public policy for several reasons. It represents a sweetheart deal for drillers, an empty promise for many local governments, and most importantly – a bill of goods for the citizens of Pennsylvania.

The commission was careful not to put any figures in the document, but it seems likely that their ideal fee would be similar to the ones proposed by Senator Mary Jo White or Representative Brian Ellis. These impact fees were limited to the first ten years of a well's estimated 40 years production. The fees ranged, in total, from \$130,000 to \$160,000 per well. This represents approximately 1% of the proceeds of what is thought to be a typical well. Far less than the share paid in other major gas-producing states and far short of “making us whole” in terms of the costs imposed on generations of Pennsylvanians.

The extraction of natural gas from unconventional sources such as shale impose many externalities – or costs that are not included in the final price of the good, but are paid by society. These include damage to wild spaces, degradation of wildlife, pollution of our air and water, land contamination due to spills and pipeline leaks, damage to our health from pollutants, increased accidents due to road traffic - the list goes on.

Who pays for most of these costs? Not local governments, but the state. The Department of Environmental Protection is charged with protecting and assuring the remediation of damage to our air, water, and land. Penn DOT manages the most heavily traveled roads and bridges. The State Police are the police force of much of rural Pennsylvania. Already we are seeing the Commonwealth being asked to pick up the tab for specialized training and natural gas fueling stations.

When accidents happen, who is on the hook for fixing these problems? Largely the Commonwealth – and ultimately, the state's taxpayers. A local impact fee, as recommended by the Governor's Advisory Commission, does nothing to address these needs.

Right now, we can see what happens when there are not enough resources provided to remediate damage. The Commonwealth is paying to reclaim hazardous sites, deal with acid mine drainage, and plug abandoned oil and gas wells. Without additional funding for future

cleanup – paid for by those who are profiting from the enterprise – we are incurring a massive potential liability for our children and grandchildren.

Local governments in drilling areas may be clamoring over the potential for fee revenue, but it is likely to be unevenly distributed, and if the recommendations are enacted, will likely come with a number of conditions – which may include forced pooling and the adoption of model local ordinances. If you are a local government that has increased traffic, police costs, or loss of affordable housing, but cannot prove that it is due to drilling activity – or just not have the extra administrative capacity to apply for the funds, you may be out of luck.

Over the last year, the Legislature seems to have come up with a more equitable plan: a reasonable tax rate with the proceeds being equally split between environmental, local, and statewide uses. Air and water pollution know no political boundaries, and economic impacts – both good and bad – will be felt across the state. A portion of the revenue should be shared in the same manner.

A ten-year fee only benefits the drillers. According to news reports, energy analysts and those making drilling decisions expect a drilling tax of around five percent to be enacted Pennsylvania. A levy of less than this, as is being proposed, only serves to further pad drillers' bottom lines. The Marcellus Shale is lucrative enough as it is, without this extra incentive. No other major gas producing state uses such a short term or such a low rate for its tax.

The delay in enacting a drilling tax has already cost Pennsylvania over \$200 million. This could have helped revive adultBasic for 40,000 working Pennsylvanians, made the cuts to our public schools less deep, lessened tuition hikes, or kept thousands of people from losing their jobs.

We welcome the responsible development of the Marcellus Shale, and the potential benefits it could bring. But we need to go forward with our eyes open to both the positive and negative impacts of the development which is where the Governor's Advisory Commission fell short. We also need create public policies that adequately safeguard our environment and the well being of our citizens. A well-structured drilling tax should be an important part of this thoughtful regulation.