

McNees Client Alert

Act 13 of 2012 – Implementation of Unconventional Gas Well Impact Fee Act

by Jim Dougherty

On February 14, 2012, Governor Corbett signed House Bill 1950 into law as Act 13 of 2012, the Unconventional Gas Well Impact Fee Act ("Act 13"). Act 13 provides for an impact fee, Oil and Gas Act (Title 58) amendments and local ordinance standards.

In addition, Act 13 specifically empowers the Pennsylvania Public Utility Commission ("PUC" or "Commission") to administer impact fee collection and disbursement. On February 22, 2012, the PUC issued a Secretarial Letter regarding Act 13 implementation. The PUC's Secretarial Letter is summarized below.

Act 13 allows PA counties to pass ordinances imposing an impact fee on unconventional gas well producers, or if a county opts to not do so, allows municipalities within that county to adopt resolutions imposing such fees.

If requested by a municipality, the PUC must review a proposed local ordinance and issue an advisory opinion as to proposed ordinance's compliance with the Municipalities Planning Code, Act 13 or other applicable statutory provisions. Along with the request for an advisory opinion, municipalities must furnish a copy of the proposed ordinance, as well as full explication as to whether it is in full compliance with applicable law.

The Commission must also issue an Order when a request for review is filed by gas operation

owners, or a person residing within a local government's geographic boundaries who feels aggrieved by enactment or enforcement of a local ordinance.

The PUC established a formal Docket (M-2012-2288561) for Secretarial Letters and Orders related to Act 13. Counties and municipalities must use this Docket Number when filing to implement an impact fee and municipal resolutions; producers must use this Docket Number to file reports pursuant to the Act. However, requests for advisory opinions should be filed without any docket number, since the Commission will assign a separate docket number for each request.

Requests for review will be accepted after April 16, 2012. The PUC will issue further instructions regarding advisory opinions and requests for review in a Tentative Implementation Order. The Tentative Implementation Order will also address several issues and procedures related to the PUC's duties under Act 13, and provide a forum for public comment on the PUC's implementation plans before finalization.

Please contact Jim Dougherty at 717.237.5249 or jdougherty@mwn.com if you would like our assistance in assessing your rights and responsibilities under Act 13, or if you require clarification on the PUC's planned implementation of Act 13.