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Via Electronic Submission
Pennsylvania Public Utility Commission
Harrisburg, PA

Re: Marcellus Shale En Banc Hearing on PUC Jurisdictional Issues, Docket No. I-2010-2163461

Dear Commissioners:

Thank you for conducting the en banc hearings on PUC jurisdictional issues. Many residents of the Commonwealth reside in areas that face potentially significant gas pipeline system development. These pipelines present risks to the personal safety, welfare and property of residents, as well as to the natural environment, and thorough review and consideration of these issues is critical. The en banc hearings are an important part of that process.

Below I have addressed several of the questions the Commission presented in its Secretarial Letter on these hearings dated May 20, 2010.

Q: Should the Commission encourage natural gas distribution companies' expansion efforts into the gas fields with the use of long-term contracts to support drilling and processing capital requirements?

A: No. The natural gas industry has been continuously finding new reserves and improving methods for its extraction. Gas is being discovered just about everywhere in the world, and will likely continue to be, there is a growing glut. A long term contract locking in rates or further subsidizing the activity would not benefit consumers given the high likelihood that prices may enter a long decline as more gas comes online worldwide and alternative non-carbon based energy sources become more readily available. There are too many scientific and market variables and risks. Each public gas company's prospectus elaborates on how this is a high risk activity for many reasons.

In addition, there are a growing number of water contaminations, ruptures/blow-outs, and related drilling problems.

To invest long-term is to turn a blind eye to these real and growing issues. Slick water fracturing techniques are new.

And, gas company prospectuses point directly to reasons for caution, for example this one from EXCO Resources:

EXCO Resources, Inc. Prospectus, February 8, 2006, Pgs 23 and 24

We are exposed to operating hazards and uninsured risks that could adversely impact our results of operations and cash flow.

Our operations are subject to the risks inherent in the oil and natural gas industry, including the risks of:

- Fires, explosions and blowouts;
- Pipe failures;
- Abnormally pressured formations; and
- Environmental accidents such as oil spills, gas leaks, ruptures or discharges of toxic gasses, brine or well fluids into the environment (including groundwater contamination).

We have in the past experienced some of these events during our drilling operations. These events may result in substantial losses to us from:

- Injury or loss of life;
- Severe damage to or destruction of property, natural resources and equipment;
- Pollution or other environmental damage;
- Environmental clean-up responsibilities;
- Regulatory investigation;
- Penalties and suspension of operations; or
- Attorney's fees and other expenses incurred in the prosecution or defense of litigation.

Q: How best can the commission promote the production and use of natural gas from the Marcellus Shale formation?

A: The best way to support the development of Marcellus Shale with respect to pipeline is to protect the companies involved in developing gathering systems from fouling their relationships with land owners by 1) developing regulations that protect all members of the public and, 2) allowing the market to set price for pipeline right-of-way value.

If pipeline regulations and inspection through lower-density (Class 1) areas are lax or non-existent, then some companies will be, in effect, incentivized to make cost-saving compromises. Other companies may then need to follow suit to remain competitive with the lowest common denominator. As we have seen in the Gulf, cost-saving compromises can lead to significant, newsworthy damage which will undermine the public trust. This would in turn

reduce requisite landowner participation, and drive up land acquisition costs and legal fees for Marcellus developers and transport companies.

The companies involved in laying pipeline may not carry insurance, do not post bond, and may effectively invalidate property owner homeowner insurance policies through laying class 1 pipeline on a property. This combination leaves land owners with virtually no recourse. Neighboring homeowners, who have not leased land for pipeline, would end up without even the financial benefits, only risk, and may bear property value decrease due to close proximity of pipeline that could end up above ground (many communities have no setback requirements).

There appears to be no requirement that these lines be placed underground (we have seen leases that state they place them underground where possible); the soil is very rocky in the NEPA hilly areas and may make it difficult to run lines underground. PA rural life includes hunting (read: kids with guns, and “adults” with beer and guns, in the woods and fields).

By not protecting citizens in all areas, the PUC would essentially be authorizing less safe situations (through unregulated Class 1 lines) for rural residents in order to save gas companies money. This invites lawsuits which may significantly impair development. Additionally, unregulated Class 1 lines would likely incentivize gathering companies to route pipeline so as to maximize Class 1 status while encouraging cost cutting and generating increased hazard.

In the Times-Tribune (June 82010) I read a newspaper article in which Paul Metro, PUC Chief Engineer, was stated to have said:

If a breach occurred in a gas pipeline, there would be the risk of a forest fire and dying trees, Mr. Metro said. "Hopefully, that will be the limit of the risk," he added.

This type of “optimistic” safety planning is not acceptable. In our community, for example, there are several locations with clusters of housing on which pipeline could easily be placed on routes with enough open land to average out to 10 houses per mile. A gas well was placed where there are 70 homes within ½ mile – though, there is enough of a strip of land that skims by the houses that it appears it would still qualify as Class 1 – a blow out or pipe failure in that location would test the “hopefully” portion of Mr. Metros faith based safety strategy.

Additionally, I have not yet found clarification to determine the answer to this question – I will pose the hypothetical here in likelihood that it is correct:

What if there are 9 houses on a ¼ mile or ½ mile length of pipeline that then connects to a DOT regulated line.

Would the ¼ or ½ mile length be considered Class 1? If so, this is really a very easy way to skirt regulations and tempt larger catastrophes – simply run more pipes for shorter lengths. The PUC needs to ensure protection for all citizens of the Commonwealth, not just dense clusters.

Failing to regulate and oversee Class 1 pipeline would be neglecting the very important role of protecting the public, including those in more rural areas, from the life-altering damage that can come from lax pipeline safety when there are known, real risks to people and property. This is simply a cost of doing business that the industry can and should bear, rather than have the PUC transfer this risk to the individual homeowners and townships where accidents will inevitably occur and impact those less prepared to protect themselves.

A second key variable is to leave the leasing of land for pipeline up to the individual land owner, and not attempt to apply public utility status with eminent domain powers to an industry that is clearly not a public utility. If there are attempts by pipeline companies who are not bona fide utilities to achieve public utility status and apply eminent domain power, these will bring on significant lawsuits against the PUC and/or transmission companies while undermining public trust in the agency and the industry. The market is best to set the price for sale of a privately-held asset (land) to a corporation for profit; the PUC should not intervene as this is not the PUC's charter.

Q: If the PUC enforces the federal gas safety regulations i.e. first metering station, last compressor station downstream, at what physical point should that enforcement begin?

A: Enforcement should begin with whatever is not covered by the DOT and continue on through the remaining full length of the pipeline. The entire pipeline needs to be regulated.

Q: What should the requirements be for jurisdictional gathering/intrastate transmission pipelines to register with PA One Call and how should that be accomplished?

A: Registration of all pipelines with One Call should be mandatory without exception.

Thank you for this opportunity to comment and for your consideration of these matters. Please feel free to contact me with any questions.

Sincerely,

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