Overview of Legal and Policy Issues in Marcellus Shale Development

Legislative Information Session at Penn State

August 26, 2010
Overview of Presentation

- Developing Case Law
- Enacted Legislation
- Pending Legislation
- Regulatory Issues
- Developing Issues
Developing Case Law

- Lease Termination Litigation
  - Minimum Royalty Act cases
    - Statutory provision
    - Treatment of post-production costs
    - Supreme Court decision
  - Other theories of recovery
Developing Case Law

- Municipal Regulation
  - Oil and Gas Act section 602
  - Supreme Court decisions
  - Recent Commonwealth Court decision
  - Impact of decisions
Enacted Legislation

- Senate Bill 297
  - Enacted March 22, 2010
  - Established new reporting requirements for Marcellus wells
    - Reports required semi-annually
    - Reports posted on DEP Web site
Pending Legislation – Clean and Green

- Rollback tax treatment differs by county
- Legislation
  - SB 298 passed by Senate (50-0) on Feb. 2, 2010
  - Differing bills in House
  - General provisions of legislation
  - Status
Pending Legislation – Severance Tax

- What is it?
- Arguments for and against
- If enacted, additional issues:
  - Tax rate?
  - Who would pay tax?
  - Impact on shallow wells
  - Distribution of tax
- Status
Pending Legislation – Forced / Fair Pooling

- Background
  - Leasing creates patchwork quilt of parcels
  - Companies must fill in land prior to drilling

- Impact of Hold-out
  - Work around hold-out
  - Negotiate with hold-out
  - Utilize fair / forced pooling
Pending Legislation – Forced / Fair Pooling

- Issues Raised
  - State conservation obligations
  - Compensation of landowner
  - Impact upon lease market

- Status
Regulatory Issues – Hydraulic Fracturing

- Exception to regulation under Federal Safe Drinking Water Act
- EPA Study
  - Announcement of study – March 2010
  - Public meetings held
  - Study design completed – September 2010
  - Study begins – January 2011
  - Results completed – late 2010
Regulatory Issues – Pipelines

- PA eminent domain law
- Interstate transmission lines
- Public utility status
  - Northeast Laser Gathering LLC
  - Hearing held before PUC
Developing Issues

- Expiration of Primary Terms
  - What is primary term?
  - What is secondary term?
  - Why is it advantageous for company to have lease converted to secondary term?
  - What will happen as end of primary terms approach?