

PENNSYLVANIA GENERAL ENERGY COMPANY, L.L.C.

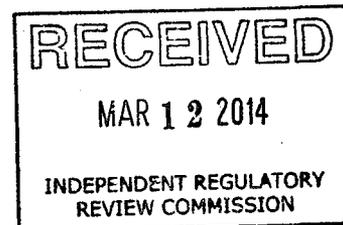
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Statement at Public Hearing Conducted by the Pennsylvania Environmental Quality Board
On the Adoption of Amendments to Chapter 78 of Title 25 of the Pennsylvania Code

Warren County Courthouse, Warren, PA
February 12, 2014, 6:00 p.m.

By Nathaniel J. Schmidt, Esq.



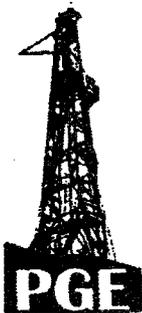
Good Evening, Members of the Board.

My name is Nathaniel Schmidt, and I am General Counsel for Pennsylvania General Energy Company, LLC, an oil and gas exploration and production company based here in Warren, Pennsylvania. PGE has been in existence for over thirty years, during which time it has been active in the exploration, production and development of oil and natural gas in the Appalachian Basin. PGE has since its beginning been active in conventional development, and has recently enjoyed a burgeoning success as a Pennsylvania-based operator in the Marcellus Shale.

Like our industry partners, PGE opposes the proposed amendments to Chapter 78 in their current form. As articulated by other commenters tonight, by those at previous hearings held by the EQB, and by comments submitted in writing, and in addition to the comments that PGE submitted to EQB on January 9, 2014, we note the following: that the costs of alteration to water impoundments have been severely underestimated; that the Regulatory Review Act has not been complied with; that the rules impose unreasonable standards upon conventional operators; and that the standards which require restoration of water quality to greater than previously-existing levels are unfeasible. In addition, the proposed rules regarding public resources and species of special concern are beyond the Department's authority to promulgate under Act 13, especially in view of the Pennsylvania Supreme Court's decision in the *Robinson Township* case, and the conditioning of well permits regarding public resources fails to comport with the legislative intent of Act 13, because the regulations do not articulate any of the statutorily required criteria for so doing. We ask the Board to vote against passage of the amendment at this time.

We appreciate the EQB's scheduling of this additional meeting and the corresponding opportunity to comment, and the commitment the Board hereby demonstrates to its critical purpose.

As an attorney, and by necessity a student of our language, I would not reach too far to claim that the founding action of any civilization is the writing of its rules. In a single composition, a community states its values, competing interests are arbitrated, duties and rights are meted out, and a destiny of sorts is tendered to each party to be bound to the social contract. The writing of rules is irrefutably a creative, identity-forming act for its intended audience. Like any other work, rules are also a window into the clarity of mind



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and determination of purpose of the writer. The rule itself judges the author, and the society to which the rules belong.

I am often called upon and endeavor to practice on the writing of agreements, or essentially the set of rules by which parties abide, at first by choice, if not later, by the compunction of law. As I've been told many times, and so believe myself, there is limited use for a contract to which no one will sign. An imposing set of requirements may act as a statement of the author's values, indeed may be issued with all seriousness, and at best may ward off frivolous offers. The great risk then, is there will be no one to affirm—no counterparty, acting as a mirror, in which those values can manifest. There is further little value in a contract so one-sided as to impair or weaken the non-drafter, who yet maintains the cyclical, tremulous decision whether to engage the agreement.

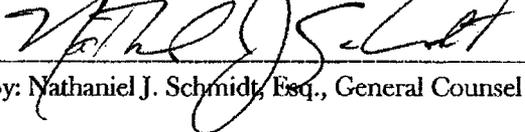
In good faith, PGE does not want, nor does it believe the Commonwealth wishes to render, an unacceptable offer, or a set of terms so onerous to any interest that rights are not protected, and frustration is unduly fostered. PGE, and many of our industry partners, believe that the common ground of reasonable regulation and vital development of Pennsylvania's natural resources exists. As one part of the chorus in that discussion, we ask that when the industry's comments are issued by men and women devoting their lives to their gainful employ, when they speak from the knowledge procured from personally fostered expertise, and when they resound in urgency about the threat of these proposed amendments as written, that these comments be duly noted and assigned their merited credibility.

I hope not to presume upon the Board in this comment, as if its members are unaware of the gravity or nature of its task. We ask the Board to consider these amendments unfinished, and to enable the realization of the governing body that much more work needs done: the work of critical thinking that closely tailors language to its least burdensome and most effective mandate; the draftsmanship of avoiding unintended consequences; the work of listening to the critiques of the governed; and the tireless calculation of the elusive but attainable equilibrium of fairness, which is the fuel on which consenting society is powered.

Thank you again for the opportunity to provide these comments, and we look forward to your decision.

Respectfully Submitted,

PENNSYLVANIA GENERAL ENERGY COMPANY, LLC


By: Nathaniel J. Schmidt, Esq., General Counsel