July 18, 2017

The Honorable Mike Turzai
Speaker of the House
139 Main Capitol Bldg., Suite 202028
Harrisburg, PA 17120

Dear Mr. Speaker,

I read with disappointment the letter penned by Representative DiGirolamo (R-Bucks) and several of his colleagues that asserts that political divisions over a $2 billion structural deficit should be alleviated by enacting yet another tax on one segment of one industry in Pennsylvania. This is a false-narrative, devoid of vision or leadership to grow Pennsylvania's economy through pro-business policies that can provide for a stable and sustainable tax base for the Commonwealth and jobs for Pennsylvania citizens.

It is simply disingenuous for Rep. DiGirolamo and his colleagues to fail to acknowledge that Pennsylvania already has a tax on drillers – called the Impact Fee – which was enacted in 2012 and is levied on every unconventional natural gas producer in Pennsylvania. For context, Pennsylvania's Impact Fee brought in more revenue in 2016 than the severance tax collections did in Ohio, West Virginia, Colorado and Arkansas combined.

To date, Pennsylvania's one-of-a-kind tax has generated more than $1.2 Billion, benefitting every county in the state and making hundreds of millions of dollars in new investments in environmental programs like Growing Greener, the Marcellus Legacy Fund and water and sewer infrastructure. In 2016, the tax on drillers was the equivalent of a 9.16% tax on production, translating into the highest effective rate of any state in the country that imposes a tax on drilling activity. The Impact Fee is paid on top of every other business tax levied in the Commonwealth, in a state long-regarded by capital investors around the nation as one of the least competitive environments in which to do business.

While despised by those who have an insatiable appetite for government spending, the fact remains that the Impact Fee is a national model for success, as states whose budgets have depended on severance tax revenues have suffered when commodity prices have crashed, as they have over the last two years.

Besides being an unstable revenue source to support state budgets, Pennsylvania has the deepest discount or pricing differential than any other region of the country. In 2016, producers were paid 47% less in Pennsylvania than what they received in the Southwest. Platts bid-week natural gas pricing for July of 2017 shows that the NYMEX average was $3.07 per MMBtu, while the average Pennsylvania price at three of the major interconnect points was $1.71 per MMBtu, or 43% less than the national average.

While indeed we sit atop of a world-class reserve of natural gas, there are dozens of other similar shale plays throughout the country and globe with which we are in direct competition for limited capital resources. Business decisions are based on factors like return on investment and risk, and we are losing investment to other states and shale plays where return is higher and the tax and regulatory regimes are more stable. Those who understand the natural gas business know that new liquids development in the Permian Basin is attracting great attention and the lion's share of new capital allocation. Given the state of our market conditions in Pennsylvania that make us inherently less competitive with other plays, not only do calls for additional energy taxes give pause to investment decisions, but they also completely ignore the existing barriers to development in the Commonwealth.

In addition to an uncompetitive tax climate and marketplace for gas, Pennsylvania is considered to have one of the most burdensome regulatory structures in the country for unconventional gas producers, with outcomes that provide little-to-no added environmental benefits. From regulations that exceed statutory authority, to regulating through the use of General Permits, or permit delays that hinder development of the resource, Pennsylvania's regulatory structure under which gas companies operate is considered unnecessarily expensive and extremely unpredictable.

For example, despite DEP's own policy to issue erosion and sedimentation permits (ESCGP-2) in 14 days, these permits are taking, on average, in excess of 250 days to be issued in certain regions of the Commonwealth. Pennsylvania's process on these permits is unreliable and far-exceeds the timeframe of other states that have similar permit requirements, delaying both production and pipeline build-out. This regulatory uncertainty has already cost Pennsylvania capital dedication and jobs.

Similarly, well permits, which are required by statute to be issued in 45 days (or extended another 15 days "for cause") are taking, on average, 93 days to be issued. With well permits required to be "in-hand" before any activity occurs, the 560 well permits that currently are backlogged represent approximately $4 billion in capital investment being delayed or diverted elsewhere. This backlog costs the Commonwealth substantial tax revenues, including potentially $28 million in impact fees, as well as the resulting income and sales tax revenues that could be derived from this investment. When other states routinely issue well drilling permits in less than two weeks, it is easy to understand why the Commonwealth consistently fails to maximize its capital investment and job growth opportunities.

Politically expedient policies that harm job creators, small business and consumers of natural gas are the problem, not the answer to an economically robust Commonwealth. Rather, we need policies that foster production investment, facilitate efficient buildout of our infrastructure, and encourage and attract the unprecedented manufacturing opportunities that are presented with the use and development of the most affordable and abundant energy resource in the world—natural gas.

We appreciate your leadership in recognizing that Pennsylvania's unconventional natural gas producers are in fact assessed a tax on their drilling activity and that the revenue from this tax contributes greatly to the success of local governments and environmental enhancement initiatives across the Commonwealth. Again, we strongly encourage all elected officials to focus their efforts on pro-growth energy policies that will translate into good paying jobs for Pennsylvania families and immeasurable economic benefits for the Commonwealth, and we look forward to being a partner in this effort.

Respectfully,

David J. Spigelmyer
President

cc: Majority Leader Dave Reed
Minority Leader Frank Dermody