



JOINT LEGISLATIVE COMMISSION ON ENERGY POLICY

November 5, 2013

Room 643 Legislative Office Building

The Joint Legislative Commission on Energy Policy met on Tuesday, November 5, 2013 at 1:30 PM. The meeting was held in Room 643 of the Legislative Office Building in Raleigh. Representative Mike Hager presided.

Members present were: Senator Bob Rucho, Chair, Representative Mike Hager, Chair, Senator Andrew Brock, Senator Kathy Harrington, Senator Gene McLaurin, Senator E.S. (Buck) Newton, Senator Ronald Rabin, Senator Trudy Wade, Representative James L. Boles, Representative Rick Catlin, Representative Jacqueline Schaffer, and Representative Mike Stone. Dr. Jeff Warren, Senate Senior Policy Advisor; Andy Munn, House Senior Policy Advisor; Ms. Jennifer McGinnis, Mr. Peter Ledford, and Mr. Jeff Cherry, Commission Counsels; Ms. Jennifer Mundt, Commission Analyst, Lindsey Dowling and William Verbiest, Commission Clerks; and Sergeants-At-Arms Bill Bass, Young Bae, Steve Wilson, Ashley Mickens, and Anderson Meadows. Attendance sheet is attached to the minutes as Attachment #1 and Attachment #2.

On October 17, 2013, notice was sent to members and interested parties via e-mail. A copy of the notice is included in the attachments to these minutes as Attachment #3. Copies of the agenda for the meeting and visitor registration sheets are included in the attachments to these minutes as Attachment #4 and Attachment #5, respectively.

Call to order and introductory remarks

Representative Hager called the meeting to order at 1:40 PM and welcomed members, staff, and visitors in attendance. Representative Hager introduced the Sergeants-At-Arms, and recognized the new advisory member appointees to the Commission, Senator Ronald Rabin and Senator Trudy Wade. Representative Hager recognized Senator Rucho who announced Representative Hager's birthday. Representative Hager reviewed the topics on the agenda and recognized Jim Womack, Chairman of Mining and Energy Commission, who was also in attendance. There were no further remarks.

Modernization of oil and gas statutes

Representative Hager recognized Mr. Ben Norris, Counsel for the American Petroleum Institute (API), to present the considerations for modernization of the State oil and gas statutes. Mr. Norris thanked the Chairs and members of the committee for inviting him to present. Mr. Norris referred members to the PowerPoint handout in their packet, a copy of which is included in the attachments to these minutes as Attachment #6. Mr. Norris distributed additional API



materials on hydraulic fracturing. The additional API materials are included in the attachments to these minutes as Attachment #7. Following Mr. Norris' presentation, Representative Hager opened the floor for questions and comments:

Representative Catlin

- Stated that the State Geologist made a presentation to the North Carolina Water Resource Congress that was more technical than this, very informative, and would be something the Commission might consider hearing because the presentation answered a lot of the questions that a lot of us had.
- Stated that he had some conversations with petroleum groups to identify a constituent in the fracking fluid additives that could be made public as a way of testing wells to make sure that people felt comfortable, this constituent that could be a leading constituent like in gasoline plumes (akin to MTBE), something is used in all fracking fluids so people can test their wells for its presence.

Representative Hager then recognized Mr. James D. Rankin, III, Attorney at Perkins & Trotter, PLLC who also presented on modernization of the State's oil and gas statutes. Mr. Rankin directed members to his PowerPoint presentation included in their packet, a copy of which is included in the attachments to these minutes as Attachment #7. Mr. Rankin received a number of questions and comments including:

Senator Newton

- Asked what Arkansas does with tax incentives and tax credits as they relate to discovery wells, for example? Percentages and how it works? Mr. Rankin replied that there is a 5% severance tax (there was an attempt to increase it to 7% this year).
- Asked which section referenced the max term, 10 years? Mr. Rankin referred to G.S. 113-423(b).
- Asked, how does Arkansas handle the operator's lien, is it under a statute similar to mechanics-type lien on the property or is there a separate procedure? Mr. Rankin stated that it's typically addressed in a joint operating agreement between the parties and clarified that it is a lien on production, not on property.
- Asked if we examine an operator's lien more closely, how does it operate, do you have a surveyor or contractor perform on land and they don't get paid we have a procedure they do to file, is that the way you operate it in Arkansas, is it similar to NC type liens? Mr. Rankin stated that it is not a lien on property, it is a lien on production.

Senator Rabin

- Asked where is the point to where we say we have done all we can, now let's go forward and do it? How do we provide certainty? Mr. Rankin stated that some of what North Carolina has done heretofore goes beyond oil and gas operator's experiences in the industry.



Senator Rucho

- Commented that we've charged the Mining and Energy Commission with evaluating the best practices from across the country. We welcome the information that you shared because we can learn what Arkansas has done and that makes for the "best in the nation"/"best business practices". Thank you for sharing your information with members and staff .

Representative Hager

- Asked how compulsory pooling is addressed in Arkansas and the issues you ran into in applying compulsory pooling? Mr. Rankin replied that compulsory pooling was already in place before the discovery of the Fayetteville shale play. There is a procedure under the Arkansas Oil and Gas Commission that provides for landowner notice – 60 days to lease to the landowner – following that, they may proceed with integration.
- Asked if there is have a percentage of voluntary landowners before you go to compulsory pooling in Arkansas? Mr. Rankin stated that there is a difference depending on whether it relates to an exploratory or an established drilling unit. For exploratory units, 51% before integration. For established units, there is no minimum.

Representative Catlin

- Commented that the shale formation in Arkansas is, for the most part, in the Ozark National Forest, so there are not a lot of landowners ? Mr. Rankin confirmed Representative Catlin's comment regarding the small number of landowners.

Senator McLaurin

- Asked when the regulations were enacted and how long has hydraulic fracturing been taking place in Arkansas? Mr. Rankin answered 2003-ish along with the modernization of the state's statutes.

Issues associated with ancient mineral rights

Representative Hager recognized Mr. Theodore A. Feitshans, J.D., Extension Associate Professor, Department of Agricultural and Resource Economics, North Carolina State University. Mr. Feitsans presented on ancient mineral rights and issues related to oil and gas exploration. Mr. Feitsans directed members to his handout in their packets. Copies of his handout and associated appendixes are attached to these minutes as Attachment #8. Representative Hager opened the floor and the following question was asked:



Senator Newton

- Asked about the constitutionality in making a change to the Marketable Title Act. Mr. Feitshans replied that the law of the land clause of the Constitution requires due process before taking property and requires notice. In followup, asked with adequate notice, conceptionally, is it fair; or possible that it can satisfy the due process requirements under the North Carolina Constitution? Mr. Feitshans responded that yes, due process could be satisfied.

Compressed natural gas (CNG) and liquefied natural gas (LNG) for transportation

Representative Hager recognized Mr. Bryn Marley, Northeast Regional Operations Manager, Blu, to present on compressed natural gas (CNG) and liquefied natural gas (LNG) for transportation. Mr. Marley directed members to his PowerPoint presentation in their packets, a copy of which is attached to the minutes as Attachment #9. Mr. Marley turned the presentation over to Mr. Zachary Wester, Policy and Regulatory Associate, to address the diesel gallon equivalent. Representative Hager opened the floor and the following questions were asked and comments were made:

Representative Catlin

- Commented that Cummins Westport is located in Whitaker, North Carolina. This company is already building natural gas engines; it is good for our economy, it is a good environmental solution, and it will save the people who drive those vehicles money. Representative Catlin asked about the fuel tax issue, what is the mileage equivalent in taxing compared to, for example, diesel? Mr. Marley replied that mileage equivalents and diesel gas equivalents would work out about the same and that mileage is achieved by energy content.
- Asked if natural gas from other places in the country would be brought in or purchased from PNG? Mr. Marley indicated that the gas would be brought in from out of state and from Piedmont Natural Gas.

Representative Stone

- Commented that North Carolina has a number of companies that have a number of motor fleets and inquired as to how they help existing fleets? Are there portable facilities? Mr. Marley replied that there are conversion kits available and that his company works with partners to bring down the cost of the kits (the biggest cost is the tank), speed up the return on investment in conversion, and include mobile fueling systems/flexible deployment with limited regulatory burdens. Commented that presently, as you look at the compression stations we have in Lee County, we still haven't come out with where the lines are or how we will get into the main gas lines. I think this will be a great opportunity for us to do some mobile transports to come off our larger cities while we figure out where the pipelines are going to go, hopefully we can get something pretty quickly. The sooner the better, it will be great for jobs.



Senator Rucho

- Commented that this is a culmination of a vision of making North Carolina energy independent. We need this to help spur on the oil and gas development that is going take place. This expansion shows how it can make North Carolina more affordable and how you can conduct business more affordably in a comprehensive nature. That is why this is being brought forward.

Mr. Byrn Marley

- Commented that it is a fact that in the world there are 15.2 million natural gas vehicles in use. Of that 15.2 million, the United States has have 120,000. The number one country in the world that has the most natural gas vehicles is Iran with 2.9 million vehicles followed by Pakistan with 2.8 million.

Representative Hager then recognized Mr. Brett Barry, Public Policy and Regulatory Affairs Advisor for Clean Energy Fuels, to present on compressed natural gas (CNG) and liquefied natural gas (LNG) for transporation. Mr. Barry directed members to his PowerPoint presentation included in their packets,a copy of which is attached to these minutes as Attachment #10 Representative Hager opened the floor and the following questions were asked:

Representative Catlin

- Commented that the the fuel taxation issue must be addressed and suggested a small committee be formed and that he would be glad to help.

Representative Stone

- Commented that he seesthis as a big advantage, especially for Commerce and asked Mr. Barry to elaborate on what South Carolina, Virginia, and Tennessee do and who has the competitive edge? Mr. Barry replied that South Carolina, Tennessee, and Kentucky are similarly situated to North Carolina. Alabama and Mississippi have impediments. Specifically, Mississippi has a fuel tax decal system, taxes are not paid at the pump, but causes an administrative nightmare.
- Would we have a taxable pump as you come through, pretty much the same we have now in our current stations? Mr. Barry responded that they would like to be treated like the rest of the industry.

Senator Brock

- Asked what s the cruising range of a tractor trailer is? Mr. Barry replied that it depends on the tank size, but can average 400 to 500 miles per fill up.
- Commented that this would bring more manufacturing jobs to North Carolina.



Current natural gas utilities and services in North Carolina

Representative Hager recognized Mr. Ken Valentine, Vice-President of Business Development and Technology Services for Piedmont Natural Gas (PNG), to present on PNG's services in North Carolina. Mr. Valentine directed members to his PowerPoint presentation in their packets, a copy of which is included with the minutes as Attachment #11. No questions were asked by members.

Representative Hager then recognized Mr. George Ratchford, Vice-President of Gas Operations for PSNC, to present on PSNC's services in North Carolina. Mr. Ratchford directed the members to his PowerPoint presentation in their packets, a copy of which is included with the minutes as Attachment #12. No questions were asked by members.

There being no further business, the meeting adjourned at 4:25 PM. The next meeting will be held on December 3, 2013 at 1:30 PM.

Representative Mike Hager
Presiding

Lindsey Dowling
Committee Clerk