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November 6, 2015

#### NEWS CLIPS

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#### EVENTS

Solar Development on Landfills and Brownfields  
January 20-21, 2016  
Philadelphia PA  
More Information Available [HERE](#).

### **Supreme Satisfaction for PA Democrats**

State Democrats are gleeful after winning all five statewide judicial races this week. The State Supreme Court, which has been controlled by Republican judges by a 4-3 majority for most of the last decade, will now be controlled by Democrats who have a 5-2 majority now, and apparent control of the court for at least ten years. ([MORE](#))

#### Regional News

#### Federal News

### **President Rejects Keystone XL Permit**

President Obama today rejected a permit for the Keystone XL oil pipeline, saying he agreed with Secretary of State John Kerry, in that it "would not serve the national interests of the United States."

The president argued that approving the project would undercut his efforts to make the United States the leader in fighting climate change. "Frankly, approving this project would undercut that global leadership," he said.

The President said the pipeline "would not make a meaningful contribution to our economy," and he called for Congress to pass a bipartisan infrastructure plan to create 30 times more jobs than the pipeline would.

The seven year review has been a political hot potato, and it has been suggested that electoral politics accounts for much of the delay in a final decision. Defeat of the pipeline had become a signal issue for many environmental groups, but at least for the near future, ERG expects to see the rejection used by politicians on both sides of the issue to exemplify what they see as either right or problematic with the nation's energy and economic policies.

### **More State News Budget "Update"**

Senate Republicans last week attempted another override of Governor Wolf's veto of the Emergency Funding Budget, but fell three votes short on a 30-19 vote.

The needs of schools which are borrowing funds, and social organizations, let

Leadership Conference  
for Women In Energy  
December 7-8, 2015  
Newport Beach, CA  
More Information  
Available [HERE](#).

Clean Energy  
Megatrends and  
Innovations  
April 5-6, 2016  
New York, NY  
More Information  
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alone state vendors and those leasing facilities to state government are increasing daily. "This is completely unnecessary - the money is there and the state hasn't stopped collecting taxes," said Senate Majority Leader Jake Corman (R-Centre). "Gov. Wolf is holding schools, food banks, rape crisis centers and other social service agencies hostage to his plan for huge tax increases that simply have no support. We are all frustrated. The reality is that budget issues are going to take additional time to resolve. This is about getting money to the schools and those in our communities who need it."

On a Pittsburgh radio program Thursday, [Gov. Wolf said](#), "It's not time for partisanship. We really need to recognize the things we have in common-- which is a good Pennsylvania-- and come to some agreement on what we need to do to move Pennsylvania forward."

Wolf said he was waiting for the General Assembly to come forward with another budget plan. He may get his wish, as Corman said Wednesday that he and other Republicans are working [on a two-year budget plan](#). Republicans said they are putting together another FY 2015-16 budget they could vote on when both the Senate and House return to session during the week of November 16. ([MORE](#))

### **PA Supreme Court to Hear Act 13 Arguments**

The Pennsylvania Supreme Court has agreed to hear arguments related to its December, 2013 decision regarding the state's Act 13. In an order just published, the court determined that it would take up several unresolved issues, but it would not revisit its interpretation of article 1, section 27 of the state constitution, also known as the Environmental Rights Amendment. In the Court's 2013 decision, it ruled that it would be unconstitutional for the state to preempt local zoning decisions.

Environmentalists and municipalities had also challenged other aspects of Act 13, including what became known as the "doctor gag rule," eminent domain for gas storage facilities, and the exclusion from notification of hazardous spills for owners and residents relying on private water sources. ([MORE](#))

### **Pennsylvania Joins West Virginia and Ohio to Maximize Responsible Shale Gas Growth**

On Oct. 13, Governor Wolf announced that Pennsylvania has entered into a three-year cooperation agreement with West Virginia and Ohio to collaborate on areas critical to maximizing economic growth in the shale gas region. The agreement was unveiled at the Tri-State Shale Summit in Morgantown, West Virginia. "We must work together to ensure our region has the skilled workforce necessary to fill jobs and attract new employers," Governor Wolf said. "The demand for workers by the energy industry and off-shoot industries, especially manufacturing, is high and still growing. Here in Pennsylvania, I have proposed to expand investments in education across the board and especially increase funding for trusted and proven job training and workforce development initiatives."

As part of the new cooperation agreement, the three neighboring states within the Appalachian Basin will discuss ways to cooperate in marketing efforts to attract new businesses, strengthen workforce development programs, spur investments in expanding infrastructure and delivery of natural gas and liquids, and encourage its academic institutions to expand and collaborate on research.

A copy of the agreement can be viewed [here](#).

### **House ERE Committee to Hold Meeting on Drilling Regs**

The PA House Environmental Resources and Energy Committee will hold an information meeting on PADEP's Chapter 78 and 78A drilling regulations on November 26 at 9 a.m. in the Majority Caucus Room of the Main Capitol. The meeting will cover the proposed regulations and actions recently taken by Advisory Boards and Committees. (See stories below.)

### **Conventional Drilling Advisory Committee: Restart Drilling Regulations**

The voting members of DEP's Conventional Oil and Gas Advisory Committee last week passed a resolution that stated Act 126 of 2014 required DEP to restart the process for the state's conventional oil and gas industry, stating that the changes in the proposed regulations have not been justified by data or need, and that DEP should NOT move the regulations to the EQB.

Act 126 states that the EQB shall promulgate proposed regulations for conventional oil and gas wells separately from proposed regulations relating to unconventional gas wells.

### **Oil and Gas Technical Advisory Board Supports Drilling Regs**

Pennsylvania's newly proposed oil and gas drilling rules have been written and re-written for the past four years. They're now one step closer to being finalized with the approval of the Board and submission to the Environmental Quality Board. The rules, if approved by the EQB, would then go to the Independent Regulatory Review Commission.

The regulation-drafting process was started in the wake of the shale gas boom, when the state's updated oil and gas law, known as Act 13, was enacted in 2012. Since then, the department has received about 30,000 public comments and held 12 public hearings on the rulemaking process.

The proposed regulations offer more stringent permitting reviews for wells near certain public places, like parks and playgrounds. The department also updated rules on how companies must replace damaged water supplies, handle waste, and identify old wells before drilling new ones.

The proposals will now go before the agency's Environmental Quality Board. Assuming they're approved, the rules then move to the Independent Regulatory Review Commission. The regulations must be finalized by March 2016.

### **Pipeline Infrastructure Task Force Meets**

More than two dozen commenters participated in the fourth meeting of Gov. Tom Wolf's [Pipeline Infrastructure Task Force](#) Wednesday held at DEP's Southcentral Regional Office in Harrisburg. The meeting, chaired by DEP Secretary John Quigley, was the most well attended meeting of the task force to date.

In addition to hearing comments from the public, members heard presentations from the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, Fish and Boat Commission, and the Game Commission. Video of the meeting is available on the [Task Force meeting](#) webpage.

Recommendations by members of the 11 workgroups were due November 2. A draft report will be available for public comment today, with the group's final report due to Gov. Wolf by February 2016.

The next meeting of the Task Force is November 18. For more information, visit DEP's [Pipeline Infrastructure Task Force](#) webpage.

## **Regional News**

### **1400 Seek Intervenor Status on FERC Pipeline Case**

In a sign of the widespread opposition the PennEast Pipeline project faces, more than 1,440 property owners, government agencies, and interest groups are seeking to intervene in the proposed pipeline case before the Federal Energy Regulatory Commission.

The 118-mile natural-gas pipeline beginning in Luzerne County in Pennsylvania, crossing the Delaware River into Hunterdon County and ending in Mercer County is perhaps the most contentious of at least a dozen similar projects proposed in New Jersey.

Intervener status would allow parties to present evidence as to why the \$1.1 billion project should be approved or rejected and to appeal in federal court if they oppose the FERC decision. It is up to the agency to grant intervenor status to those requesting it.

Besides the opposition, about a dozen or so utilities and other companies have sought to intervene in the case. A number of utilities believe that the project is viable and will reduce the cost (of gas) to consumers," Kornick said. With cheap natural gas readily available from new deposits being exploited in Pennsylvania, utility customers have seen their heating bills drop steadily in recent years.

Most of the intervenors, however, are opposed to the project, a situation that Kornick blamed on an organized campaign by adversaries to have them join the case. Nevertheless, it is not an inordinate amount of intervenors in such cases, she said.

### **NY Raises Interest Rates on Solar Program**

Gov. Andrew M. Cuomo's NY Sun initiative is raising the interest rates on the popular state-subsidized loan program that helps defray the cost of home solar installations and energy-efficiency work. Last week, the New York State Energy Research & Development Authority (NYSERDA) said it's raising the rates by as much 6 percentage points as a way to continue the loan program in a "sustainable manner."

The program provides loans of up to \$25,000 at annual interest rates as low as 3.49 percent to pay the cost of solar installations, as well as for other energy-efficiency improvements and related work. Customers repay the loans on their monthly energy bills, which cannot increase more than they had been before the installation.

In February, rates for those who are not considered low- to moderate-income earners will jump to 4.99 percent for those earning more than 80 percent of the median income for their area and 5.99 percent for those earning more than 120 percent of that level. NYSERDA defines low-to-moderate income as those earning 80 percent or less of the area's median household income, or \$84,133 for

a family of four on Long Island.

In April, the rates will jump again for those earning more than 120 percent of the median income, to 7.99 percent for efficiency work and 9.99 percent for solar installations.

Kevin MacLeod, a member of the Long Island Solar Energy Industries Association and a solar installer at KPS Solar in Bay Shore, predicted the cuts will have the biggest impact on companies that sell solar systems to residents rather than lease them. "It is obvious that the state wants completely out of the solar program," he said. "No rebates and no loans."

### **NJ Senate Passes Energy Consumer Protection Bill**

The New Jersey State Senate recently passed legislation ([A3851](#)) that imposes contract standards between customers and third-party electric power and gas suppliers. The measure already has been approved by the House and goes next to Governor Chris Christie (R) for his signature.

Under the terms of the new legislation, in order to do business in the state, an electric power or gas supplier must provide customers with a contract in written form - including a one-page information sheet summarizing the material terms and conditions of the services to be delivered; the duration of the agreement; the price per kilowatt or per therm, whether the contract is for a fixed or a variable rate; and how the contract can be terminated. Contracts must be made available in both English and Spanish.

In addition, the retail energy provider must offer customers "a brief explanation of the difference between a fixed rate and a variable rate that is easily understandable by the general public, including an explanation on how weather fluctuations may affect the price of variable rate contracts."

To address privacy concerns, the measure specifies that "an electric power supplier or gas supplier shall not provide the customer's telephone number, email address, or postal address to other electric power suppliers or gas suppliers, if the customer's telephone number appears on the 'no telemarketing call list' established and maintained by the [New Jersey] Division of Consumer Affairs ... or the 'national do-not-call registry,' maintained by the Federal Trade Commission."

Among other consumer protections noted in the bill, the legislators have addressed penalties to providers that violate any of the mandates. In addition to any other penalties, fines, or remedies authorized by law, the legislation notes, "an electric power or gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer that collects charges for ... service supplied to a residential customer who was subjected to false or misleading advertising claims ... shall be liable to the residential customer in an amount equal to all charges paid by the residential customer after such violation occurs."

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## **iiFederal News**

### **USDA Grants PA \$7 Million for E15, E85 Pumps**

Agriculture Secretary Tom Vilsack last week announced that the U.S. Department of Agriculture (USDA) Biofuel Infrastructure Partnership (BIP) is granting \$7 million to the Pennsylvania Department of Agriculture for funding to construct 79 stations with 308 pumps.

This is the result of an announcement in May of [\\$100 million in grants available through the BIP](#) intended to nearly double the number of fueling pumps nationwide that supply E15 and E85 to American motorists. This includes States and private partners must match the federal funding by a 1:1 ratio.

USDA received applications requesting over \$130 million, outpacing the \$100 million that is available. With the matching commitments by state and private entities, the BIP is investing a total of \$210 million to strengthen the rural economy.

The 21 states participating in the BIP include Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Michigan, Minnesota, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Pennsylvania, South Dakota, Texas, Virginia, West Virginia, and Wisconsin. The final awards being announced today are estimated to expand infrastructure by nearly 5,000 pumps at over 1,400 fueling stations.

USDA's Office of the Chief Economist also recently released a comprehensive report on ethanol. The report, titled U.S. Ethanol: An Examination of Policy, Production, Use, Distribution, and Market Interactions, brings clarity to the complex interaction of ethanol production with agricultural markets and government policies. The corn ethanol industry is the largest biofuel producer in the country, with production increasing from about 1.6 billion gallons in 2000 to just over 14 billion gallons in 2014, stimulating economic activity in rural communities. Visit [www.usda.gov/oce/reports/energy/EthanolExamination102015.pdf](http://www.usda.gov/oce/reports/energy/EthanolExamination102015.pdf) to read the complete report.

### **Federal Budget**

Congress agreed early Friday morning to pass a two-year budget deal that raises funding levels and suspends the debt limit until 2017. The last-minute accord marked one of the last achievements of outgoing Speaker John Boehner (R-Ohio), and draws the curtain on the fiscal fights that were central to President Obama's feud with congressional Republicans.

The deal between the White House and Congressional leadership on both sides of the aisle that would lift the debt ceiling, fund the government, and dial back some of the defense and non-defense cuts made as part of sequestration revealed that Congress once again is looking to tap what has suddenly become everyone's favorite crude oil piggy bank. The deal was partially paid for by the sale of oil from the Strategic Petroleum Reserve ... in what would be the latest bill this year to sell oil from the reserve to raise revenue. Previous efforts included a Senate highway bill that called for unloading 101 million barrels to raise \$9 billion for roadwork, as well as a House measure to sell 64 million barrels over eight years to help pay for an overhaul of the federal drug-approval process."

In the deal, 58 million barrels of oil would be sold from the SPR between 2018 and 2025 to help pay for spending, according to a copy of the [text](#) and [summary](#). Previous efforts to tap the SPR assumed the oil would be sold for around \$90 per barrel, about twice the current price. If similarly generous estimates were used for the budget deal, the SPR sales would raise about \$5.2 billion. The deal also includes language that would modernize the SPR and authorize sales of up to \$2 billion in SPR crude to pay for the upgrades.

### **Energy and Power Subcommittee Disapproves EPA Rules**

The Energy and Power Subcommittee, chaired by Rep. Ed Whitfield (R-KY), this week passed two resolutions, [H.J. Res 71](#) and [H.J. Res 72](#), disapproving of two final rules issued by the Environmental Protection Agency (EPA) for new and existing power plants. The resolutions would provide for Congressional disapproval of each rule, and that the rules shall have no force or effect.

The Committee leadership said, "EPA is seeking to fundamentally change the way electricity is generated, distributed, and consumed in the United States. The economic costs far out-weigh the environmental benefits." Chairman Whitfield introduced the [two resolutions](#) under the Congressional Review Act in an effort to protect grid reliability and ratepayers around the country from higher electricity prices. Additionally, these resolutions protect states and their citizens from having to implement a "highly complex, intrusive, and unworkable regulatory [cap and trade](#) scheme."

Chairman Whitfield said, "These rules will produce not only higher electric rates, but also pose threats to electricity reliability and result in a substantial loss of jobs. In my view, the discrepancy between what EPA is trying to do and what the Clean Air Act actually allows is so wide that these resolutions are appropriate. More than half the states in the country have already filed legal challenges to the rule for existing plants and this extraordinary level of opposition is telling given that EPA claims they collaborated with the states. These resolutions of disapproval offer an opportunity to restore the rule of law and protect ratepayers across the country."

Committee Chairman Fred Upton (R-MI) concluded, "Affordable and reliable electricity in our country is under assault. The resolutions considered today represent an important part of this committee's longstanding and ongoing efforts to protect jobs and affordable energy from this administration's expansive regulatory agenda. Congress wisely rejected cap and trade in 2010 and those rules are just as ill-advised today as they were five years ago. The resolutions are ultimately about protecting hard-working people from higher electricity prices, threats to grid reliability, and EPA's economy wide energy tax."

*For a fact sheet on the resolutions, click [here](#).*