Marcellus Shale Coalition Testimony
Joint Hearing before the
Pennsylvania Senate Environmental Resources and Energy Committee
and the Senate Finance Committee
June 1, 2015

Good morning Chairman Yaw, Chairman Eichleberger, and members of the Senate Environmental Resources and Energy and Finance Committees. Thank you for the opportunity to testify today on Governor Wolf's energy tax proposal. My name is Dave Spigelmyer, and I am president of the Marcellus Shale Coalition (MSC). The MSC is a state-wide trade association representing 250 energy producers, midstream companies and supply chain members committed to the safe, responsible development of shale gas in the Commonwealth.

The success of this industry in Pennsylvania is well-documented. Tens-of-billions of dollars in investments have helped fuel an energy revolution that has the nation less dependent on foreign energy and has saved Americans billions of dollars in energy costs. In Pennsylvania alone, the shale gas industry has created and supported nearly a quarter of a million jobs and helped the Commonwealth weather one of the nation's most difficult economic recessions in a generation. Furthermore, Pennsylvania natural gas production now meets more than 20 percent of our nation's natural gas demand. At the same time, according to the U.S. Energy Information Administration and Pennsylvania's Department of Environmental Protection, expanded natural gas access and use has helped reduce our nation's carbon dioxide emissions to a 20-year low.

The fact of the matter is we have a good story to tell because of shale gas development. IHS Global Insight (a leading international energy economic research firm) determined that U.S. household incomes have increased by an average of $1,200 due to the energy savings generated from shale gas development. Purchased natural gas costs from instate utilities have dropped by more than 50 percent since 2008. Recently, Pennsylvania-based UGI announced it was cutting rates another 7.5 percent to a 15-year low due to Pennsylvania's abundant shale gas supply. Why would we unnecessarily impede this positive economic and environmental progress that's working so well for all Pennsylvanians; especially middle-class families, small business and manufacturers?

We often hear the narrowly-focused talking point that Pennsylvanians support a severance tax and that the natural gas industry needs to pay its fair share. The fact is, however, the natural gas industry already has a tax and our investments and related-job growth activities are cascading in a positive way across our entire economy. Not only is Pennsylvania the only state in the nation that levies an impact tax, which has generated more than $850 million since April 2012, but we are the only industry in the Commonwealth that is required to pay a special impact tax above and beyond every other high-end tax that Pennsylvania levies. We pay the corporate net income tax – the second highest in the nation – or the personal income tax. We pay the sales and use tax; the capital stock and franchise tax; and the liquid fuels tax. All told, the natural gas industry, its affiliates, and supply chain have collectively helped generate $2.1 billion in revenue for Pennsylvania, which is above and beyond the industry-specific impact tax.

In reality, when you ask Pennsylvanians the honest question as to whether they support an even higher energy tax on natural gas if it will lead to fewer jobs, they overwhelmingly oppose the energy tax. Pennsylvanians understand, and have made it clear, that they oppose new and higher energy tax increases that will further jeopardize jobs and raise energy prices.

And make no mistake, even the governor admits that his energy tax will lead to higher energy prices for working families and consumers on fixed-incomes, as well as small businesses. He and his administration have stated repeatedly that their energy tax will be paid by individuals. Therefore, every user of natural gas in this Commonwealth -- whether for residential home heating, cooking or commercial use and manufacturing -- will pay more for the use of their natural gas. Indeed, even the Independent Fiscal Office has indicated that Governor Wolf's energy tax increase "would be passed on to consumers in the form of higher electricity and heating bills." And given the fact that Pennsylvanians consume more than 1.1 trillion cubic feet of natural gas annually, make no mistake about it, we all will pay this tax.

Advocates for Governor Wolf's highest-in-the-nation energy tax increase often say this proposal is "reasonable" and modeled closely after neighboring West Virginia. Indeed, the governor's budget proposal says "*West Virginia offers proof that a state can build a thriving unconventional natural gas industry while simultaneously using a portion of the proceeds to help make a better future for its citizens.*"

West Virginia's suffocating energy tax has actually discouraged job creation and capital investment. West Virginia currently has 18 rigs operating, down 28 percent from last year and nearly 30 rigs less than are active in Pennsylvania today. West Virginia has landed roughly 15 percent of the number of jobs as compared to those supported or affiliated with oil and natural gas development in Pennsylvania. Over the past two years, Pennsylvania's impact tax has brought in $184.5 million more than West Virginia's severance tax on natural gas.

The only manner in which Governor Wolf's tax increase is modeled after West Virginia is in its ability to discourage capital investment and job creation.

Consider this: A 2014 *Ernst and Young* analysis found that West Virginia had the highest current severance tax structure of 8 leading oil and natural gas producing states. As uncompetitive as West Virginia's tax is, Governor Wolf's proposed tax increase takes it to a new level. Under his approach, Pennsylvania would levy a 5 percent tax on an artificial price floor of $2.97 per thousand cubic feet (mcf). Quite simply, this proposal suggests that even though you are compensated $50,000 per year, your tax liability will be based on a $100,000 per year salary. Keep in mind that for May 2015, average natural gas sales prices at Pennsylvania's primary interconnection points averaged $1.10 per mcf. Furthermore, under Governor's Wolf's proposed energy tax increase, Pennsylvania also would levy an additional 4.7 cents per mcf, mirroring West Virginia's 4.7 cents per mcf Worker's Compensation rider which is set to expire in 2018. Based on today's current market conditions, Governor Wolf's proposed energy tax increase equates to an effective tax rate of nearly 21 percent. What's more, West Virginia ranked 48 overall in CNBC's "*America's Top States for Business 2014.*" While Pennsylvania was not far behind at 44, why would Pennsylvania enter a race to the bottom and pursue energy taxes that will make Pennsylvania even less competitive for investment and job growth?

As some of you may recall, former Governor Rendell's Chief of Staff, Greg Fajt, issued a report in November 2004 from the Governor's Pennsylvania Business Tax Reform Commission. In that report, the Commission -- which included Governor Wolf-- made major tax recommendations that were guided by a series of primary Business Tax Reform Criteria. The criteria identified were:

1. Equity: The tax system should fairly distribute tax liabilities across all sectors of the economy.
2. Economy of Administration: Taxes should be inexpensive to Administer
3. Neutrality: The tax system should not unduly influence economic behavior decisions primarily due to tax reasons and taxes should not unintentionally alter consumer, worker or producer costs.
4. Competitiveness: Deviations from the neutrality of the tax base should be consistently directed towards improving the competitive position of Pennsylvania's businesses, and targeted to specific well defined goals which shall include the expansion of high quality employment within the Commonwealth
5. Stable and Sufficient Revenues: It should provide revenues to fund government services in both good and bad economic times.
6. Simplicity: The tax should be easily understood by tax payers and tax administrators.

In reading these criteria -- basically laying the foundation for how tax policy should be developed in the Commonwealth -- nearly every premise is either ignored or disregarded.

First, there is no tax equity here whatsoever, given the fact that this tax attempts to target a single industry.

The tax should not unduly influence economic decision-making. Although I do not go far enough to say a tax will eliminate all industry investment, make no mistake, we will witness measurable decline in capital outlay in Pennsylvania under the proposed severance tax scenarios. This tax matter could not come at a more difficult time for an industry already under significant economic pressure. Unconventional natural gas operators active in Pennsylvania have already reduced planned 2015 investments by more than $9 billion. Many companies have experienced layoffs and the locally-based supply chain is feeling this economic pinch. As well, these impacts are being felt in small towns across the Commonwealth, as well as across the nation. In fact, on Friday, the U.S. Commerce Department reported 0.7 percent decline in economic output during the first quarter. As the New York Times reported. *"A sharp pullback in energy exploration…is also putting pressure on business investment."*

Under the fourth criteria, any tax should maintain the competitive standing in the Commonwealth. Given the huge reductions or basis differentials to move gas into Pennsylvania's interstate pipeline system, coupled with one of the highest business tax programs in the United States, utilization of the onerous West Virginia tax model will place Pennsylvania at a huge disadvantage in attracting capital. Simply stated, Pennsylvania will be uncompetitive with other shale plays in the United States and abroad.

Stable and Sufficient Revenues: I think everyone in this room knows that Pennsylvania's shale gas does not attract NYMEX or Henry Hub commodity pricing. As such, the claim that a higher energy tax will provide $1 billion for the purposes of public education is both misleading and intellectually dishonest.

And finally, the tax should be easily understood by taxpayers. Using the West Virginia model that adds a $.047 per mcf rider to the tax, which was adopted in West Virginia in 2004 as a means of paying down their state's rising worker's compensation debt -- is confusing and intentionally downplays the true tax impact. The proposal fails to show the real liability for the industry. In fact, it appears purposeful in the delivery to suggest that the tax rate being proposed is only 5 percent, when everyone knows that a $.047 rider, coupled with an artificial floor, would add nearly 16 percent of additional tax liability.

In closing, the dialogue on this important issue has become centered around a fundamentally false-choice; you're either for a higher energy tax or you're against children's education and future. In any normal situation, such a comparison would be laughable, if it weren't so scary.

By exploiting children to suggest that the natural gas industry is to blame for the failings of our state's longstanding structural fiscal challenges is absurd.

The real opportunity presented by this industry comes in the area of affordable and abundant energy for this Commonwealth. If we direct our initiatives towards utilizing this abundant and affordable energy resource to reestablish and grow new manufacturing and business opportunities for this Commonwealth, thousands of jobs will be generated and new tax revenues will flow into Harrisburg and back into communities throughout this Commonwealth. The time for empty promises and over-the-top campaign rhetoric is long over. We need commonsense solutions that focus on our future.

Thank you again for the opportunity to be here today. I look forward to answering your questions.