

Can New York Keep The Lights On While Ignoring Gas From The Marcellus Shale?

Forbes.com

June 25, 2019

Daniel B. Markind

This article originally ran on Forbes.com on July 25, 2019. All rights reserved.

Daniel B. Markind is a Forbes.com energy column contributor. The views expressed in this article are not to be associated with the views of Flaster Greenberg PC.

Two neighboring northeast states, each with immense amounts of Marcellus Shale natural gas deposits, will provide the test case on how we use energy in the next decade.

Pennsylvania, home to the lion's share of the Marcellus heritage, welcomed the natural gas industry. In less than a decade, Pennsylvania has risen from a non-entity in energy production to the nation's second largest producer of natural gas. Just by itself, Pennsylvania alone is a world power in energy generation.

To its north, New York has chosen the opposite path. While not as blessed as Pennsylvania in its shale bounty, New York still possesses large amounts of shale gas that could be tapped, were the state willing to do so. Most decidedly, it is not.

Starting with Governor David Paterson in 2010 and continuing with Governor Andrew Cuomo in 2014, there has been a gubernatorial moratorium in New York against hydraulic fracturing, the technique used to extract shale gas. Recently, Governor Cuomo upped the ante, utilizing a relatively little known provision in the Clean Water Act to prevent construction of interstate natural gas and oil pipelines in New York. As many of those lines would traverse the state and feed into New England, Cuomo in effect is setting energy policy for all of New York and New England – whether other states like it or not.

Pennsylvania residents do not worry about energy shortages. They worry, instead, about what the industry might do to their state. Burdened with the environmental destruction wrought throughout the Commonwealth by the timber, tanning and coal industries in the early 1900's, Pennsylvanians are wary of a repeat. Even so, the state now relies on environmental safeguards that were non-existent 100 years ago and has refrained from the radical abstinence of its northern neighbor.

New Yorkers do not worry about what the gas industry is doing on the ground. They are beginning to worry, however, about how they will keep the lights on. Government policies have bankrupted state operations for companies that had originally bet on New York shale like Norse Energy, prevented family farmers in the southern tier from earning sorely needed cash from their land, and caused downstate New York's two largest utilities, Consolidated Edison and National Grid, to declare moratoria on future gas hookups for new customers. Amazon's decision earlier this year to pull out of its commitment to Long Island City is looking

Continued

prescient. The state may not have had the power supply to serve it.

Within the last few weeks, New York upped the ante by passing the Climate Energy and Protection Act, which seeks to achieve zero carbon emissions by 2050. This will require New York State to build renewable energy projects at a level not seen before to achieve a target of 70% renewables by 2030 and to eliminate all power sector emissions by 2040.

While “fracking” and the natural gas industry have been a much bigger public and political issue in Pennsylvania than New York over the last decade, that is likely to reverse. Without its own natural gas energy production, with the new State law and with an antiquated and inadequate delivery system, New York localities already are feeling the pain of looming energy shortages. Already large development plans like a new hockey arena for the New York Islanders are being called into question due to the potential lack of gas service. New York City and other downstate business organizations are sounding the alarm, but so far to no avail. In 2018 New England actually had to turn to Russia for help supplying natural gas during the winter. Another bad winter in 2020 may require a repeat.

Neither state, of course, has the full answer. Despite repeated assurance from the gas industry, we really do not know the long term impact of fracking. Contrary to the claims of the radical environmentalists, the link is spotty at best between fracking and groundwater pollution. However, contrary to the claims of the industry, there is no way to say the procedure is “safe”. Any industrial activity poses risk. What is true is that, mostly due to fracking, America has decreased its CO2 emissions to levels not seen in 30 years. Whether that is offset but other potential externalities remains a hotly debated topic.

The next few years will tell us who made the right choice. New York is banking on hydropower, increased solar and wind generation, and gas imports for its energy. Should another rough winter hit and New York be forced again to rely on natural gas from Russia, which drills in the Arctic, it will be hard to see how New York’s fracking and pipeline policies improve our world environment. Instead, they will do little but provide additional markets for the Kremlin.

The odds are long for New York, and the potential for both environmental **and** economic damage is large should it need power quickly without any real infrastructure to deliver it domestically. But should New York succeed and manage to construct a power grid using hydropower from Canada plus domestic solar and wind as the major sources of energy while not disrupting the environment with the new grid, then we will have a blueprint for large parts of our country moving forward. The whole country should be watching.

Daniel Markind is a shareholder at Flaster Greenberg PC who practices in Energy, Real Estate, Corporate, and Aviation Law. He can be reached at daniel.markind@flastergreenberg.com.

Any opinions expressed in this article are those of the author, and do not necessarily reflect those of Flaster Greenberg PC.

ATTORNEYS MENTIONED

Daniel Markind