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Facing Mounting Interest, Pipeline Operator Agrees to Pay Contractor

06/17/2014

By Richard Korman and Johanna Knapschaefer

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Text size: **A** **A**



Shale gas pipe and valves in Pennsylvania, similar to those shown in the photo above, were at the heart of a costly contract dispute.

Faced with mounting interest after losing a \$24-million jury verdict in Delaware County, Pa., a pipeline company late last week reached a settlement with contractor Utility Line Services, says the attorney for the contractor.

The jury in April had ordered the defendant, PVR Marcellus Gas Gathering Inc., which was recently acquired by Dallas-based Regency Energy Partners, to pay Utility Line Services about \$16.5 million for the amount it was owed. Another \$7.8 million was for damages the jury awarded for wrongful termination of the last part of the contract PVR had with Utility Line Services.

The settlement demonstrates how state laws shape legal strategy in disputes.

Tens of thousands of dollars more were accumulating each month on the jury award under provisions of the Pennsylvania Contractor and Subcontractor Payment Act, a measure passed in 1994.

Under the payment act, contractors and subcontractors are owed an additional 1% per month of any payments wrongfully withheld or delayed. If the contractor or subcontractor must litigate to collect the funds, another 1% per month is due on the amount owed. In such cases the interest accrues at the rate of 24% a year.

In Utility Line Services' claim against PVR Marcellus Gas Gathering, interest under the state payment act and "penalty interest" because of the litigation had added roughly another \$9.4 million to the potential total award.

"It adds up," says Richard W. Foltz, Jr., an attorney with Philadelphia-based Pepper Hamilton, which represented Conshohocken, Pa.-based Utility Line Services. "There's no investment anywhere with that rate of return."

Nearly \$40 Million Sought

Combined with trial-related costs and fees, Utility Line Services had asked Judge Charles B. Burr, II to award it \$39,551,623.91, which would have included all contract balances owed, interest under state law, the wrongful termination damages and attorneys fees.

Foltz declined to disclose the final terms of the settlement, citing the confidentiality agreement.

An attorney for PVR Marcellus Gas Gathering, Ed Seglias, could not be reached for comment. His client had filed a \$21-million counterclaim against Utility Line Services.

The conflict arose over a 2010 contract under which Utility Line Services agreed to build a 30-in.-dia natural gas pipeline in Lycoming County, Pa., along with gas gathering lines and compressor stations. The contract called for payments to be made within 30 days of invoicing. The work was to be done in three phases.

COSTLY CONFLICT

Utility Line Services vs. PVR Marcellus Gas Gathering

AMOUNTS SOUGHT PRIOR TO SETTLEMENT (\$ MIL.)

Unpaid contract balance	16.7
Interest on unpaid contract balance	8.3
Wrongful termination damages	7.8
Interest on wrongful termination damages	1.1
Attorneys fees	4.8

SOURCE: COURT FILINGS BY UTILITY LINE SERVICES

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Just before New Year's Day 2012, PVR terminated the third phase of the contract.

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During the trial, which lasted from March 25 to April 17, attorneys for PVR Marcellus Gas Gathering blamed Utility Line Services for delays and accused the company of "improper billing practices," according to a Regency Energy Partners financial filing.

PVR Marcellus also claimed the contractor was responsible for obtaining certain permits, but Utility Line Services said PVR Marcellus Gas Gathering was responsible for obtaining the permits and the delays.

Keywords: [Disputes](#); [Contracts](#); [Payments](#)

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