

## Natural gas -- fracturing debate dominates Exxon-XTO hearing

Katie Howell, Environment & Energy Daily, 1-21-10

A controversial drilling technology took center stage yesterday at a House Energy and Commerce subcommittee hearing on the proposed merger between Exxon Mobil Corp. and a large independent natural gas producer.

Hydraulic fracturing -- a decades-old drilling technique that blasts chemicals, water and sand or plastic beads into compact rock formations to release hydrocarbons trapped inside -- has become a touchy subject recently as environmentalists and some Democrats have sought to regulate the practice under U.S. EPA while Republicans and industry have blasted the efforts.

"I think it would be detrimental to this country if they outlaw this practice," said Rep. John Sullivan (R-Okla.) during yesterday's Energy and Environment Subcommittee hearing that was convened to discuss the economic impact on oil and gas markets of the proposed \$41 billion merger between Exxon and XTO Energy.

But the debate over hydraulic fracturing, also called "fracking," did not split along party lines. And lawmakers calling for federal regulation of the drilling technique gave limited criticism of the practice.

"With all the hysteria in the industry, you would think I had proposed to ban hydraulic fracturing," said Rep. Diana DeGette (D-Colo.), sponsor of H.R. 2766, which would require drilling companies to disclose the chemicals used in their fracturing fluids under the Safe Drinking Water Act.

"I support fracking," DeGette added. "If someone introduced a bill to ban fracking, I would vote against it. I think fracking -- just like every other mining technique -- needs to be done in a way that's safe, particularly for drinking water."

The controversy over hydraulic fracturing has been brewing for years as the oil and gas industry has ramped up production of natural gas from prolific shale plays across the country with the advancement of horizontal drilling and hydraulic fracturing technologies. The rock formations -- the Barnett in Texas, Haynesville in Louisiana and Marcellus in Appalachia, among others -- require hydraulic fracturing to release trapped natural gas.

"Without fracturing, you would get zero production," said Exxon Mobil's CEO Rex Tillerson at the hearing. "It would be noncommercial to develop those."

But environmentalists and local residents are concerned about the drilling technique's effects on surface and underground water bodies.

Still, the industry has appeared undeterred, snatching up drilling leases in Pennsylvania, New York, Arkansas, Texas, Oklahoma and other states with the understanding that any production from the prolific shale bodies will require the use of hydraulic fracturing.

And many analysts have touted Exxon's proposed merger with XTO as a firm endorsement of the technology.

"The scale of Exxon's investment is an indication that it believes the progress made so far is well-founded, and I think that's an important sign to the entire sector," said David Bloom, a regulatory attorney covering energy issues at Mayer Brown, during an interview last month. "It clearly makes available massive new amounts of

money for the development of these plays, and we're quite likely to see other parties come into the industry and make financial contributions" (*Greenwire*, Dec. 15, 2009).

But even the oil and gas giant has approached the proposed federal regulation of hydraulic fracturing with trepidation. The company included a contingency clause in its contract language filed with the Securities and Exchange Commission that would null the merger with XTO if Congress passes any laws that would make the hydraulic fracturing drilling technique "illegal or commercially impracticable."

"The provision in the merger agreement is the standard type of provision introduced when two companies merge. It's about risk, to protect Exxon Mobil shareholders," Tillerson said. "But the recognition is that we see a lot of regulation that comes out of Congress and the U.S. government that does little benefit."

### **'The devil's in the details'**

DeGette used the hearing as an opportunity to convince her colleagues and industry leaders that her bill, if passed, would not ban hydraulic fracturing or make it "commercially impracticable."

"I have absolutely no intention of outlawing fracking," she said. "It's important to get a lot of these reserves out of the ground."

But the Exxon and XTO executives remained unconvinced.

"The devil's always in the details," Tillerson told DeGette, after admitting his company would be willing to disclose the chemicals included in its fracturing fluids. "I just don't know how the EPA is going to enact it."

The natural gas industry has opposed DeGette's bill. The newly formed group, Energy In Depth, which represents natural gas producing companies and organizations, has said the language in DeGette's bill could shut down the fracturing process for several years while EPA develops regulations to execute its mandates.

Bob Simpson, chairman and founder of XTO, agreed. "It depends on how it would be implemented. What's the transition, the mechanics?" he said. "We've comfortably lived in 18 different states for a while now subject to state regulation without incident. The risk is we'd go backwards ... toward a psychology of shortage ... that limits markets, dampens demand and increases dependence on other sources."

Still, Simpson said he had little worry that such legislation would be enacted before the merger deal closes in the second quarter of this year.

Some Republicans blasted the Democratic legislation as an attempt to stifle natural gas production, but Rep. Ed Markey (D-Mass.), chairman of the subcommittee, defended his party.

"I've continuously heard that there might be some secret conspiracy on this side to ban hydraulic fracturing, and that would be mistaken," said Markey, who has not publicly supported DeGette's bill. "There's no secret plot to do that. There is a goal to make sure it is used safely with sound environmental regulations.

"It's no secret that I disagree with Exxon Mobil on many aspects of energy policy," Markey added. "But when

America's biggest company makes a big move in the energy sector, policymakers need to listen and understand what it means."