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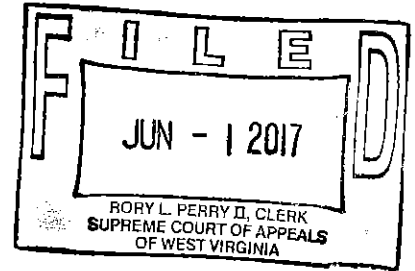
BEFORE THE WEST VIRGINIA SUPREME COURT OF APPEALS

**ANTERO RESOURCES CORPORATION,
Petitioner,**

v.

**Circuit Court Of Ritchie County
Civil Action No. 17-AA-1
JUDGE SWEENEY**

**THE HONORABLE DALE W. STEAGER,
West Virginia State Tax Commissioner,
THE HONORABLE ARLENE MOSSOR,
Assessor of Ritchie County, and
THE COUNTY COMMISSION OF RITCHIE COUNTY,
Respondents.**



**OBJECTION OF
WEST VIRGINIA STATE TAX DEPARTMENT
AND THE HONORABLE ARLENE MOSSOR
TO ANTERO RESOURCES'
MOTION TO REFER TAX APPEAL TO BUSINESS COURT DIVISION**

Respectfully Submitted By:

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COME NOW Dale W. Steager, State Tax Commissioner, and the Honorable Arlene Mossor, Assessor of Ritchie County, by counsel, in order to Object to the *Motion to Refer to the Business Court Division* filed by Antero Resources Corporation in the above-referenced appeal. The State Tax Commissioner and Assessor Mossor (collectively hereinafter, sometimes Tax Department or Tax Commissioner) state as follows.

PROCEDURAL BACKGROUND

Antero Resources protested the valuation of its mineral interests in numerous producing gas wells located in Ritchie County, West Virginia, as calculated by the Property Tax Division of the State Tax Department for the 2016 TY and the 2017 TY. Antero Resources has similarly challenged the valuations in Doddridge County, Tyler County and Harrison County, for both tax

years. Civil Action No. 17-AA-1 in the Circuit Court of Ritchie County, which is the subject of the current motion before the Supreme Court, only challenges the valuation for the 2016 TY. In a separate motion, Antero Resources also seeks to refer the Ritchie County appeal for the 2017 TY to the Business Court Division. In addition, Antero Resources has filed separate motions to refer the *ad valorem* property tax appeals in the other three counties to the Business Court Division.

The State Tax Department and Assessor Mossor valued Antero's gas wells located in Ritchie County for the 2016 TY for a total of value of \$194 million under the legislative rule. See *Antero's Complaint* at Paragraphs 14 & 19. The Property Tax Division conducts a survey of operating expenses as reported by the producers of oil and gas wells every five years as required by the legislative rule. The Property Tax Division calculates the "average annual industry operating expenses per well". According to the legislative rule, the "average annual industry operating expenses per well" must be deducted from the working interest gross receipts of the individual gas well in order to value the well under the Yield Capitalization Model. See W. Va. Code St. R. § 110-1J-4.3. The legislative rules do not authorize the Property Tax Division to utilize any substitute value based on an individual taxpayer's request in calculating the value of operating gas wells in this State for *ad valorem* property tax purposes.

Antero Resources argued that it should be allowed to use a substitute value for the expense deduction in calculating the value of its interest in the gas wells; Antero wants to deduct its allocated operating expenses to calculate the value of Antero's gas wells in Ritchie County and throughout the State. Antero has objected to the use of the "average annual industry operating expenses per well" which is the value used by the Property Tax Division to value every operating gas well in this State.

Based on Antero's alternative expense deduction, Antero argued that the true and actual value of its property should be \$84 million for the 2016 TY in Ritchie County. In addition, Antero Resources hired Hein and Associates to appraise the value of Antero's Ritchie County wells for the 2016 TY. Hein and Associates argued that the true and actual value of Antero's property should be \$59 million for the 2016 TY. *See Antero's Complaint* at Paragraphs 14 & 19. However, according to the prayer for relief in the Circuit Court *Complaint*, Antero argues that the property should be valued at a "reasonable resolution" value of \$126,739,524 for the 2016 TY in Ritchie County. *See Antero's Complaint* at Paragraph 20 & Prayer for Relief.

OBJECTION 1
THE CASE IS NOT A "COMPLEX TAX APPEAL"

The Trial Court Rules authorize the Supreme Court to refer a case to the Business Court Division in "complex tax appeals...." *See* Trial Court Rules at Rule 29.04(a)(3). The *ad valorem* property tax appeal filed by Antero Resources is not a complex tax appeal.

The appeal to the Circuit Court of Ritchie County presents routine legal questions. While operating a Marcellus gas well may be a complex matter, the legal issues are really quite simple. Did the Tax Department properly apply the applicable legislative rule? Can an individual taxpayer demand that its allocated expenses be used to value the mineral interest in the gas well when the legislative rule mandates that the "average annual industry operating expenses per well" must be used to calculate value? Can an individual taxpayer demand that its property be valued differently from all other producing gas wells in this State for *ad valorem* property tax purposes? Can an individual taxpayer proffer two different "true and actual values" for the same property and still demand a "reasonable resolution" value for its property? Do the legislative rules authorize the use of a "reasonable resolution" for *ad valorem* property tax purposes?

OBJECTION 2
JUDICIAL ECONOMY WILL BE ACHIEVED WITHOUT
A REFERRAL TO THE BUSINESS COURTS DIVISION

While the Tax Department has filed motions to dismiss for failure to timely perfect the appeal in four of the seven Antero Resources tax appeals, three of the tax appeals will need to be decided by the circuit courts. The Tax Department has not filed a motion to dismiss in the two Doddridge County cases and in Civil Action No. 17-AA-1 in Ritchie County, the current case before the Court, since those three records have been certified by the county clerks. All three of the remaining circuit court cases have been assigned to the Honorable Judge Sweeney of the third judicial circuit.

Therefore, Antero's claims that a referral to the Business Court Division would achieve judicial economy are overstated. The benefits of judicial economy could be achieved much easier by simply consolidating the three remaining cases with Judge Sweeney in either Doddridge County or Ritchie County.

The cases before the four circuit courts present simple questions regarding the application of a legislative rule by a State agency. Whether a State agency has properly applied a legislative rule, is the type of question that circuit courts routinely decide. Since the instant *Motion to Refer to Business Court Division* does not present a complex tax matter and judicial economy can be

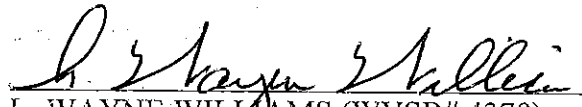
achieved through the circuit courts, Antero Resources' motion to refer the case to the Business Court Division should be denied.

Respectfully submitted,

DALE W. STEAGER,
STATE TAX COMMISSIONER
OF WEST VIRGINIA, THE HONORABLE
ARLENE MOSSOR, ASSESSOR OF
RITCHIE COUNTY

By counsel,

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CERTIFICATE OF SERVICE

I, L. Wayne Williams, Assistant Attorney General, do hereby certify that the foregoing *Objection Of West Virginia State Tax Department And The Honorable Arlene Mossor To Antero Resources' Motion To Refer Tax Appeal To Business Court Division* was served upon the following by depositing a copy of the same in the United States Mail, via first-class postage prepaid, this 1st day of June, 2017, addressed as follows:

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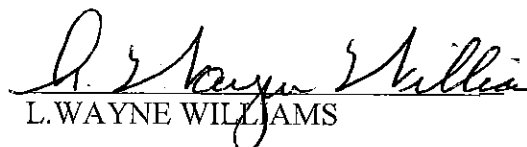
Honorable Timothy L. Sweeney, Judge
Pleasants County Courthouse
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St. Marys, WV 26170

Rose Ellen Cox, Circuit Clerk
Ritchie County Circuit Clerk's Office
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