Testimony of G. Kurt Dettinger
General Counsel to The Honorable Earl Ray Tomblin,
Governor, State of West Virginia
Before the United States Senate Energy and
Natural Resources Committee
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Good morning. My name is Kurt Dettinger and I am Governor Earl Ray Tomblin's General Counsel. I am honored to appear before this Committee and offer testimony on behalf of the Governor, who regretfully is unable to participate in today's hearing.

West Virginia has always emphasized its natural resource industries as important and valuable assets to its citizens. Our coal miners have a long history of supplying the energy that powers our great nation. Governor Tomblin is confident that West Virginia energy will play a prominent role in leading America out of its current economic doldrums.

Traditionally, the coal industry has been the backbone of West Virginia's energy portfolio and has been a key component in our economy. Recently, however, West Virginia's energy portfolio has expanded due to production of natural gas from the Marcellus Shale. With the advancement of drilling technologies, unconventional gas reserves, such as the Marcellus Shale, are being developed in West Virginia, throughout the Appalachian Basin and across the United States. As a result of the discovery of these reserves and advances in drilling technology, West Virginia natural gas has the potential to play a vital role in achieving energy independence in the United States.

Development of shale gas plays, like the Marcellus, presents tremendous economic opportunities for West Virginia and other states. We must seize upon these opportunities. We must do so in a manner that ensures that our children and grandchildren will be able to enjoy our majestic mountains, precious streams and rivers and bountiful wildlife for generations to come. In other words, we, as policy makers, must strike an appropriate balance between embracing and promoting growth in our burgeoning natural gas industry and protecting the environment and our most important asset – our citizens.

Over the past year, Governor Tomblin has done just that. By issuing Executive Order No. 1-11 and Executive Order No. 4-11, Governor Tomblin has taken bold steps to promote value-added economic opportunities derived from the liquids-rich Marcellus Shale gas and to require the West Virginia Department of Environmental Protection to promulgate emergency regulatory rules pertaining to Marcellus Shale production.

I will examine each order in turn. First, by issuing Executive Order No. 1-11, Governor Tomblin formed the West Virginia Marcellus to Manufacturing Task Force (the "Task Force"). The primary goal of the Task Force is to position West Virginia to attract ethane cracker investments within our borders. The Task Force is comprised of natural gas production and transportation executives, chemical manufacturing executives, organized labor interests, intermodal transportation experts, environmental advocates and economic development professionals. The Task Force has made significant progress and its work has provided Governor Tomblin and his administration with the information and tools necessary to competitively recruit and negotiate with international petrochemical companies interested in building ethane crackers in our region.

The economic development opportunities presented by ethane cracker development are astounding. For example, construction of a single cracker is projected to create approximately 10,000 construction jobs and between 500 and 1,000 permanent operational jobs, depending on the size of the cracker. Capital investment associated with construction of a cracker is likely to exceed $2 Billion, and could amount to as much as $5 Billion invested in West Virginia. Furthermore, construction and operation of a single cracker alone could result in economic activity amounting to tens of billions of dollars in West Virginia over a 25-year period. Specifically, it can reasonably be expected to drive a reemergence of the manufacturing sector of our economy.

According to the American Chemistry Council, if a cracker is constructed in West Virginia, an additional $3.2 Billion would likely be invested in downstream chemical facilities that utilize polyethylene to make products like plastics, dyes, paints and coatings. The revitalization of our chemical manufacturing industry is projected to translate into approximately $7 Billion of additional chemical industry output and 12,000 new jobs in the chemical industry and throughout the supply chain in West Virginia. Such developments would elevate West Virginia from the 23rd largest chemical-producing state to the 13th largest chemical-producing state in the nation.

These opportunities are indeed stunning – they represent transformational opportunities for West Virginia to rejuvenate and revitalize our chemical manufacturing industries. Governor Tomblin and his administration officials maintain regular contact with petrochemical investors and are doing everything possible to attract these investments to West Virginia.

Shortly after forming the Task Force, Governor Tomblin also recognized the need to adopt additional environmental regulatory rules governing Marcellus Shale production and to create regulatory certainty within the horizontal drilling segment of the West Virginia natural gas industry. Our citizens deserve to know that their government is responsibly regulating Marcellus Shale drilling activity. Companies investing hundreds of millions in capital in natural gas drilling programs in West Virginia also deserve to know the rules by which they must operate, and that these rules will be consistently applied after their investments are made. Accordingly, Governor Tomblin issued Executive Order No. 4-11 this past summer, ordering the West Virginia Department of Environmental Protection to promulgate additional rules governing development of the Marcellus Shale. These additional regulatory measures focus on responsibly and proactively addressing potential adverse environmental impacts to our natural water supplies and surface lands associated with horizontal drilling techniques.

Unlike the United States Environmental Protection Agency's regulatory approach to coal mining, Governor Tomblin's emergency rules were neither punitive nor based on fear or political ideology. Rather, Governor Tomblin's emergency Marcellus rules were tailored to address legitimate environmental concerns and were premised on objective, scientific goals. Now that these rules are in place, Governor Tomblin looks forward to working with the West Virginia Legislature over the coming weeks, months and years to pass comprehensive Marcellus Shale regulatory legislation that enjoys broad support from leadership in both houses of the Legislature, the West Virginia Department of Environmental Protection, the natural gas industry and other affected stakeholders, including the environmental community, surface owners, mineral owners, the farm bureau and local governments. No one party will unduly suffer at the expense of another and no one interest group, no matter how vocal, will dictate the policy of the State of West Virginia. Governor Tomblin is steadfast in his commitment to do what is best for the State of West Virginia.

To close, Governor Tomblin will continue down the path he started nearly a year ago – a path that will seek to maximize the economic opportunities presented by development of the Marcellus Shale, while at the same time taking the necessary steps to ensure that West Virginians and our environment are protected by reasonable regulations that require natural gas producers to responsibly develop our plentiful gas reserves. This multi-tiered approach will guide Governor Tomblin's policy-making efforts regarding development of the Marcellus Shale in West Virginia.

Thank you.