

# Court decision settles long-standing Ohio energy royalty dispute

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Oct 26 (Reuters) - A U.S. District Court in Akron has ruled that Ohio law allows energy companies to deduct fees from payments to royalty holders whose contracts set a value at the well site, settling a widely-followed case involving Chesapeake Energy.

The decision defined for the first time what Ohio law means when it says value of energy in such contracts is established “at the well.” Plaintiffs in the lawsuit had sought class action status and other royalty cases have alleged improper deductions based on the ‘at the well’ language.

Ohio has become the sixth largest natural gas producer in the United States because of the discovery in recent decades of shale gas in what has become known as the Utica shale field.

In 2009, Regis Lutz and other royalty holders sued Chesapeake, Columbia Energy Group and NiSource Inc alleging breach of contract and fraud over deductions for services that took place after the fuel left the wells on their properties. Columbia Energy Group and NiSource were subsequently dismissed from the lawsuit.

Their contracts specified royalties would be paid based on a percentage of the value at the well, and plaintiffs argued that the energy companies improperly took deductions for costs such as processing and marketing that were incurred far from the well.

Robert Sanders, an attorney for the plaintiffs, said the case would continue for a group of royalty owners whose contracts did not use the same “at the well” language.

Courts in other energy-producing states, including Texas and Pennsylvania, have said the language allows energy companies to assign costs to royalty holders.

U.S. District Judge Sara Lioi wrote on Wednesday that “the Ohio Supreme court would adopt the ‘at the well’ rule, simply applying the clear and unambiguous language in the leases,” ruling in favor of Chesapeake.

The decision could still be appealed to a higher court.

“We are pleased with the court’s decision and appreciate the clarity it provides Chesapeake and other operators as development continues to progress in the Utica,” Chesapeake spokesman Gordon Pennoyer said in an email.

The case is Lutz v Chesapeake Appalachia, U.S. District Court, Northeast District of Ohio, Eastern Division, No. 4:09-cv2256. (Reporting by Gary McWilliams)