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New Fracking Deal Unlocks Some Leases

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By JOSEPH DE AVILA

Thousands of upstate landowners can renegotiate leases that permit natural-gas drilling on their property under an agreement announced Thursday between New York Attorney General Eric Schneiderman and Chesapeake Energy Corp.

The agreement covers more than 4,400 landowners on about 360,000 acres of property in an area of the state along the Pennsylvania border—known as the Southern Tier—where gas companies have swarmed for the past decade to tap the resource-rich Marcellus Shale deep below the surface.

The attorney general's office began investigating claims in 2009 that Chesapeake was unfairly locking landowners into expired leases. The company had contended that the state Department of Environmental Conservation's halt of high-volume hydraulic fracturing, or fracking, in 2008 triggered "force majeure"—a legal concept that, if applied, would automatically extend the leases because the state's action was akin to an act of God or natural disaster.

Claiming their leases had expired and were undervalued, several hundred landowners have sued Chesapeake in federal court to get new agreements.

Under pressure from Mr. Schneiderman, Chesapeake agreed to release property owners from the requirements of about 50 leases.

The vast majority of the other owners would now be free to negotiate with other gas companies for better terms, but they currently remain under lease with Chesapeake. If a gas company offers a new lease to a landowner, Chesapeake must either match that offer or release the owner from the lease.

Ken Sauve, 50 years old, who owns a 151-acre plot in Lisle, N.Y., with a Chesapeake lease, said the deal was a "step in the right direction for a lot of people." But he said it may be challenging to find an energy company willing to negotiate more favorable terms, leaving Chesapeake in a powerful position.

"What natural-gas company in their right mind will spend significant time and resources negotiating a lease with us knowing full well that all Chesapeake has to do is match it?" he said. "Since there is not much leasing occurring in the area at this time anyway, this seems to be a win for Chesapeake more so than a win for landowners."

Under the agreement, Chesapeake agreed to cease using force majeure to extend leases expiring after Dec. 31, 2013.

Mr. Schneiderman said the agreement would "provide a safety net for thousands of

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landowners. For landowners across the state, this deal literally will provide a new lease on life."

Chesapeake confirmed the agreement in a statement and said the company admitted no wrongdoing. "We look forward to the day when safe and responsible drilling will be allowed in New York and all residents can benefit from this valuable natural resource," a Chesapeake spokesman said.

The agreement comes as Gov. Andrew Cuomo is considering allowing fracking to take place in a handful of upstate communities that express support for it. Officials in the Cuomo administration said no final decision would be made until the environmental review begun in 2008 has been completed.