

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement	:	
	:	
	:	
v.	:	C-2016-2437295
	:	
Peoples Natural Gas Co., LLC	:	

RECOMMENDED DECISION
APPROVING JOINT PETITION FOR SETTLEMENT

Before
Steven K. Haas
Administrative Law Judge

INTRODUCTION

This decision recommends approval, without modification, of a Joint Petition for Settlement that fully resolves a formal complaint filed by the Pennsylvania Public Utility Commission’s (Commission) Bureau of Investigation and Enforcement (I&E) against a natural gas distribution company involving allegations of various natural gas safety violations.

HISTORY OF THE PROCEEDING

On April 8, 2016, I&E filed a formal complaint with the Commission against Peoples Natural Gas Company, LLC (Peoples). The complaint involves allegations about deficiencies with the company’s leak classification, monitoring, repair, surveying and reporting operations and procedures. More specifically, I&E alleges that on numerous occasions in 2014 and 2015, Peoples violated various provisions of the federal gas pipeline safety regulations, set forth in 49 U.S.C.A. §§ 60101, *et seq.*, and implemented in 49 CFR parts 191-193 and 199, 49 CFR §§ 191-193, 199, by failing to correctly classify and document gas leaks and by failing to

make necessary and appropriate repairs in a timely manner. I&E described a number of specific instances at various locations in and around the Pittsburgh, Pennsylvania area where these violations allegedly occurred. I&E also alleges that various actions described in its complaint constitute violations of Peoples' own standard operating procedures (SOP), emergency plans and emergency plan guidelines. I&E requests, by way of relief, that the Commission impose a civil penalty on Peoples in the amount of \$450,000.00, and that Peoples be ordered to provide training to its personnel and revise certain management practices to avoid future violations.

Peoples filed an answer on May 25, 2016. In its answer, Peoples acknowledged the seriousness of the various allegations raised in I&E's complaint. Peoples denied, however, that its actions constituted violations of the federal gas pipeline safety regulations or its own operating procedures and guidelines.

By notice dated April 26, 2017, the Commission scheduled a prehearing conference in this proceeding for Wednesday, May 24, 2017, at 10:00 a.m. in Hearing Room 3 of the Commonwealth Keystone Building in Harrisburg and assigned the matter to me.

The prehearing conference was conducted as scheduled. Present were counsel for I&E and Peoples. On May 25, 2017, I issued an Order Establishing Litigation Schedule in which I set forth the litigation and briefing schedule discussed and agreed upon during the prehearing conference.

Subsequently, I was informed by the parties that they had reached a settlement in principle on all issues in the complaint. The parties requested that the litigation schedule be suspended to give them additional time to finalize and file with the Commission a Joint Petition for Settlement. Accordingly, on July 17, 2017, I issued an Order Suspending Litigation Schedule.

On August 25, 2017, I&E filed a Joint Petition for Settlement and attachments. The attachments to the joint petition include statements in support of the settlement by I&E and Peoples. The Joint Petition for Settlement alleges that its terms are consistent with Commission

policies promoting negotiated settlements. The parties request in the joint petition that the Commission approve the settlement without modification. The record in this proceeding was closed on August 25, 2017, upon my receipt of the Joint Petition for Settlement.

DISCUSSION

The Commission has the power, and the duty, to enforce the requirements of the Public Utility Code. 66 Pa. C.S. §501(a). Pursuant to Act 129 of 2008, the Commission was reorganized and the Commission created I&E in the Implementation of Act 129 of 2008; Organization of Bureaus and Offices, Docket No. M-2008-2071852 (Final Procedural Order entered August 11, 2011) (I&E Implementation Order). In the I&E Implementation Order, the Commission moved responsibility for all prosecutory functions to I&E. The Commission stated that I&E would serve as the prosecutory bureau in matters brought before the Commission's Administrative Law Judges (ALJs). The I&E Implementation Order stated that the prohibition against comingling of functions set forth in 66 Pa.C.S. § 308.2(b) applied to all I&E employees who are engaged in prosecutory functions. In the I&E Implementation Order the Commission delegated its authority to enforce gas safety laws and regulations to I&E.

As set forth above, I&E initiated this complaint against Peoples for alleged violations of the Public Utility Code, Commission regulations and federal regulations regarding the adequacy and safety of certain Peoples' natural gas distribution operation practices and procedures. Peoples denies that it violated the Public Utility Code, Commission regulations and federal regulations. After extensive negotiations and prior to any evidentiary hearings, I&E and Peoples reached a full settlement of the allegations set forth in I&E's complaint.

Commission policy promotes settlements. 52 Pa.Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve precious administrative hearing resources. The Commission has indicated that settlement results are often preferable to the results achieved after a fully litigated proceeding. 52 Pa.Code § 69.401.

In order to approve a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. Pa. Pub. Util. Comm'n v. York Water Co., Docket No. R-00049165, (Order entered October 4, 2004); Pa. Pub. Util. Comm'n v. C S Water and Sewer Assoc., 74 Pa. PUC 767 (1991). For the following reasons, I find that the Joint Petition for Settlement, which is unopposed by any party, is in the public interest.

As noted above, I&E's complaint involves allegations about deficiencies with the company's leak classification, monitoring, repair and reporting operations and procedures. I&E alleges that on numerous occasions in 2014 and 2015, Peoples violated various provisions of the federal gas pipeline safety regulations, set forth in 49 U.S.C.A. §§ 60101, *et seq.*, and implemented in 49 CFR parts 191-193 and 199, 49 CFR §§ 191-193, 199, by failing to correctly classify and document gas leaks and by failing to make necessary and appropriate repairs in a timely manner.

By way of examples, I&E asserted allegations against Peoples with respect to its actions at the following locations in and around the Pittsburgh area:

A. 102 E Grant Street, Latrobe, PA (Complaint ¶¶ 17-35)

Peoples failed to follow its SOP, emergency plans and emergency plan guidelines in that its personnel documented gas readings inside this building from February 8, 2014 until the readings were cleared on Wednesday, March 5, 2014. Peoples did not have "continuous action until conditions were no longer hazardous or until permanent repairs were made" as required by its SOP. Additionally, residents were not evacuated from the location until February 25, 2014, and the building remained in service the entire period of time. Further, Peoples' crew changed the leak report classification from Class 1 to Class 2 without first checking to see if the Class 1 condition had changed.

B. 646-647 Main Street, Johnstown, PA (Complaint ¶¶ 36-47)

Peoples failed to follow its SOP in that its personnel did not open a Class 1 leak report at this address despite gas readings inside the residence, and Peoples did not have continuous action until the conditions were no longer hazardous.

C. 3427 Thornwood Drive, Bethel Park, PA (Complaint ¶¶ 48-52)

Peoples' SOP requires that Class 2 leaks be repaired within 450 days of discovery and re-inspected within 180 days. Leaks at this location were classified as Class 2 leaks in February of 2015, but when re-evaluated by pipeline safety personnel in April of 2015, gas was found at or very near the building, requiring an immediate response. Since surface conditions, such as frozen ground, affect the migration of gas in the ground, a shorter timeframe for re-evaluation of a leak should be required in Peoples' SOP when surface conditions dictate.

D. 2104 Ardmore Blvd., Forest Hills, PA (Complaint ¶¶ 58-61)

A Class 1 leak was detected at this location in April of 2015. Peoples vented a nearby sewer manhole. On April 15, 2015, gas readings of 63% LEL were detected in the ground one foot from the Northeast corner of the building, which constitutes a hazardous condition under Peoples' SOP. Such Class 1 leaks require continuous action until conditions are no longer hazardous or until permanent repairs are made. No repairs were made at this time, however.

E. 214 N. Craig Street, Pittsburgh, PA (Complaint ¶¶ 62-65)

Peoples' personnel failed to properly repair or replace an unsafe pipeline following a documented Class 1 leak at this address. The day after an attempted repair, Commission pipeline safety personnel found a 70% gas condition in the ground 10 feet from the building.

F. National Response Center, 1110010 – 5th Avenue and Amberson, Pittsburgh, PA (Complaint ¶¶ 66-72)

A leak was discovered at this location on February 18, 2014, and classified as a Class 2 leak. The leak detected at this location should have been identified as a Class 1 leak, thereby requiring continuous action until the leak was repaired. The leak was subsequently re-classified as a Class 1 leak, but the leak wasn't ultimately repaired until March 11, 2015.

TERMS OF THE SETTLEMENT

Having summarized the issues raised in the complaint, I will now address the terms of the proposed settlement. I&E and Peoples engaged in extensive negotiations regarding the issues raised in the complaint. As a result of these negotiations, the parties reached a full settlement of all issues raised in the complaint. I&E and Peoples are in agreement that the settlement is in the best interests of I&E, Peoples, Peoples' customers and the general public.

The Joint Petition for Settlement sets forth the terms of the settlement as follows:

18. I&E and Peoples, intending to be legally bound and for consideration given, desire to fully and finally conclude this Complaint and agree to stipulate as to the following terms solely for the purposes of this Settlement Agreement:

A. Respondent does not admit the factual allegations or the legal conclusions set forth in Complainant's pleadings;

B. I&E recognizes the actions taken by Peoples prior to the filing of the Formal Complaint, including:

- Revising Paragraph C of Job Procedure 507 to add evacuation criteria when gas is detected inside a building. See Exhibit "B."
- Adding a process to reference multiple leak reports for the same leak to one leak report.

- Significant commitments to replace aging infrastructure. This includes a 192% increase in infrastructure improvement investment (per LTIP) for the removal of higher risk pipelines.
- Implementing enhanced and standardized corrosion and leak detection procedures.
- Engaging CMU to review Peoples' risk models and pipe replacement prioritization.
- Engaging CMU to perform before and after methane emission surveys on sections of pipe to be replaced.
- Working with CMU to add a methane emission factor into Peoples' risk model.
- Working with the Environmental Defense Fund ("EDF") to survey large areas of Pittsburgh to gather data on methane emissions and the effectiveness of Peoples' leak detection initiatives.
- Establishing leak backlog reduction goals that yielded the lowest ever combined backlog level as recorded at year-end 2015.
- Being a Founding Partner in the EPA Methane Challenge. As such, Peoples has committed to "Best Management Practices" for methane mitigation through: 1) increased rate of replacement for services and mains; and 2) damage prevention measures to mitigate methane release with third party line hits.

C. I&E recognizes the actions taken by Peoples after the filing of the Formal Complaint, including:

- Developing new expanded guidelines that require venting of a Class 1 leak as a last resort. See Exhibit "C."
- Developing guidelines that identify when and how short leaking sections of main are to be considered for replacement versus repair and that promote removal or replacement over repair. See Exhibit "D."
- Adding Paragraph 111.B to SOP 160.02 to increase Peoples' management involvement on Class 1 leaks. See Exhibit "A."
- Revising "Immediate On-Site Action" section of the Peoples Emergency Response Plan to add evacuation criteria when gas is detected inside a building. See Exhibit "B."

- Adding 15 incremental full-time employee hires, in order to complete the agreed-to actions detailed in this Settlement.

D. I&E recognizes the actions that Peoples will undertake going forward, including:

- Monitoring/inspecting vented Class 1 leaks daily during frost/frozen conditions. See Exhibit “C.”
- Modifying SOPs to include action criteria for leaks consistent with the Gas Piping Technology Committee ("GPTC") guide. See Exhibit “A.”
- Implementing new expanded guidelines that require venting of a Class 1 leak as a last resort. See Exhibit “C.”
- Implementing written guidelines that identify when and how short leaking sections of main are to be considered for replacement versus repair and that promote removal or replacement over repair. See Exhibit “D.”
- Completing training associated with these changes.
- Working to modify Peoples' annual capital budget categories to allow for more unplanned pipe replacement projects thereby promoting pipe replacement versus repair.
- Peoples will maintain its volunteer status as the only natural gas utility participating in the EPA’s Methane Challenge. Peoples also will continue its leadership role within the EDF/Google Earth partnership to explore the potential of new technologies, to measure key environmental data (and make that data more widely available to the public), and to create detailed maps that show the location of natural gas leaks from utility facilities located under city streets. Finally, Peoples will continue to promote and cultivate its strong relationship with Carnegie Mellon University’s Energy Institute in an effort to prioritize pipeline replacement utilizing new risk factor evaluation processes that are jointly developed.

E. In consideration of the actions taken by Peoples both prior to and subsequent to the filing of the Formal Complaint, I&E agrees that the actions taken by Peoples are significant and demonstrate a commitment to a culture of safety on Peoples’ part.

F. I&E agrees that Peoples has been very cooperative and has worked diligently to address the issues in this docketed complaint matter and the related Courtney Hill matter at BP8#2514832.

G. Peoples will pay a total amount of fifty thousand (\$50,000) to resolve all alleged violations of applicable regulations, to be paid as a civil settlement amount to the Commonwealth of Pennsylvania, pursuant to 66 Pa.C.S. § 3301 and no other amount shall be paid by Peoples or sought by I&E related to the above-docketed matter or the Courtney Hill incident at BP8#2514832.

H. Peoples does not admit to any wrongdoing or violation of law.

I. In consideration of Peoples' payment of a civil settlement amount, I&E agrees that the "investigation at Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Peoples Natural Gas, Docket No. C-2016-2437295 (the "Matter") relating to Peoples' conduct as described in this Settlement Agreement and in the Complaint and informal BP8#2514832 Courtney Hill matter, referenced herein, shall be terminated and marked closed upon approval by the Commission of the Settlement Agreement in its entirety. Upon payment of the civil settlement and written notice, filed with the Commission's Secretary's Bureau, that Peoples has completed the actions contained in Paragraph 18(D) above, I&E agrees that the Complaint shall be terminated and marked closed. Nothing contained in the Settlement Agreement shall affect the Commission's authority to receive and resolve any future formal or informal complaints filed by any affected party regarding Peoples' business that are unrelated to the actions addressed in the Settlement Agreement.

J. I&E and Peoples jointly acknowledge that approval of the Settlement Agreement is in the public interest and fully consistent with the Commission's Policy Statement for Litigated and Settled Proceedings Involving Violations of the Code and Commission Regulations, 52 Pa. Code § 69.1201. The parties submit that the Settlement Agreement is in the public interest, because it effectively addresses I&E's allegations that are the subject of the I&E Complaint proceeding, and BP8#2514832 Courtney Hill and avoids the time and expense of litigation, which entails hearings, travel for Peoples' witnesses, and the preparation and filing of briefs, exceptions, reply exceptions, as well as possible appeals.

PUBLIC INTEREST

Having set forth the terms of the joint petition for settlement, I will now address why approving and adopting the joint petition for settlement is in the public interest. I&E points out in its statement in support that Peoples has already undertaken numerous corrective actions to address the issues raised in I&E's complaint. These actions are listed in ¶18(B) of the

settlement. In addition, as also memorialized in the settlement, Peoples agreed, among other things, to the following specific corrective actions to address I&E's concerns:

1. Monitor and inspect vented Class 1 leaks daily during frost or frozen ground conditions;
2. Modify its SOPs to include action criteria for leaks that are consistent with the Gas Piping Technology Committee guide;
3. Implement new expanded guidelines that require venting of a Class 1 leak as a last resort;
4. Implement written guidelines that identify when and how short, leaking sections of main are to be considered for replacement versus repair and that promote removal or replacement over repair.
5. Complete training associated with these changes;
6. Work to modify Peoples' annual capital budget categories to allow for more unplanned pipe replacement projects thereby promoting pipe replacement versus repair;
7. Maintain Peoples' volunteer status as the only natural gas utility participating in the EPS's Methane Challenge. Peoples also will continue its leadership role within the Environmental Defense Fund/Google Earth partnership to explore the potential of new technologies, to measure key environmental data, and to create detailed maps that show the location of natural gas leaks from utility facilities located under city streets. Finally, Peoples will continue to promote and cultivate its strong relationship with Carnegie Mellon University's energy Institute in an effort to prioritize pipeline replacement utilizing new risk factor evaluation processes that are jointly developed.

(I&E Stmt. in Support, pp. 5-6).

Peoples notes in its statement in support that "the safe and reliable delivery of natural gas service to its customers and the communities served by Peoples is of paramount importance." (Peoples Stmt. in Support, p. 2). To that end, Peoples notes that it has agreed to the various settlement terms to "ramp up" its managerial involvement in addressing Class 1 leak situations. (Peoples' Stmt. in Support, p. 3). Peoples states that, ". . . the concerns of I&E were taken to heart by Peoples and addressed assertively in the settlement agreement." (Peoples Stmt. in Support, p. 3).

The various provisions of the settlement will improve Peoples' ability to provide safe and reliable service. The provisions agreed to by the parties address I&E's concerns about the company's leak classification, monitoring, repair and reporting operations and procedures, and will assure that its customers benefit from safer and more reliable service. I&E states that it ". . . fully supports the terms and conditions of the Settlement Agreement. The terms of the Settlement Agreement reflect a carefully balanced compromise of the interests of the Parties in this proceeding." (I&E Stmt. in Support, p. 11). The general public will benefit from safer service. These benefits serve the public interest.

Finally, approving and adopting the settlement is also in the public interest because accepting the settlement will avoid the substantial time and expense involved in litigating the proceeding. Accepting the settlement will negate the need to examine or cross-examine witnesses, prepare main briefs, reply briefs, exceptions and reply exceptions and possibly file appeals. Avoiding these expenses serves the interests of I&E, Peoples and Peoples' customers and therefore is in the public interest.

CIVIL PENALTY

Having explained why approving and adopting the settlement is in the public interest, I will now address whether the civil penalty that Peoples has agreed to pay is appropriate, reasonable and in the public interest. I conclude that the civil penalty is appropriate, reasonable and in the public interest.

The settlement requires that Peoples pay a civil penalty of \$50,000.00, which it has agreed not to recover through rates regulated by the Commission. The Commission, at 52 Pa. Code §69.1201, has adopted a policy statement setting forth the standards it will consider in evaluating litigated and settled proceedings before the Commission. The policy statement is set forth below:

69.1201. Factors and standards for evaluating litigated and settled proceedings involving violations of the Public Utility Code and Commission regulations—statement of policy.

(a) The Commission will consider specific factors and standards in evaluating litigated and settled cases involving violations of 66 Pa. C.S. (relating to Public Utility Code) and this title. These factors and standards will be utilized by the Commission in determining if a fine for violating a Commission order, regulation or statute is appropriate, as well as if a proposed settlement for a violation is reasonable and approval of the settlement agreement is in the public interest.

(b) Many of the same factors and standards may be considered in the evaluation of both litigated and settled cases. When applied in settled cases, these factors and standards will not be applied in as strict a fashion as in a litigated proceeding. The parties in settled cases will be afforded flexibility in reaching amicable resolutions to complaints and other matters so long as the settlement is in the public interest. The parties to a settlement should include in the settlement agreement a statement in support of settlement explaining how and why the settlement is in the public interest. The statement may be filed jointly by the parties or separately by each individual party.

(c) The factors and standards that will be considered by the Commission include the following:

(1) Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.

(2) Whether the resulting consequences of the conduct at issue were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.

(3) Whether the conduct at issue was deemed intentional or negligent. This factor may only be considered in evaluating litigated cases. When conduct has been deemed intentional, the conduct may result in a higher penalty.

(4) Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered.

- (5) The number of customers affected and the duration of the violation.
- (6) The compliance history of the regulated entity which committed the violation. An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty.
- (7) Whether the regulated entity cooperated with the Commission's investigation. Facts establishing bad faith, active concealment of violations, or attempts to interfere with Commission investigations may result in a higher penalty.
- (8) The amount of the civil penalty or fine necessary to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount.
- (9) Past Commission decisions in similar situations.
- (10) Other relevant factors.

The Commission uses the factors set forth in the policy statement to evaluate whether a settlement is reasonable and whether approval of the settlement is in the public interest. 52 Pa. Code §69.1201(a). In evaluating settlements, the Commission will not apply the factors in as strict a fashion as in a litigated proceeding. 52 Pa. Code §69.1201(b). In settled cases, the Commission will afford flexibility to parties so that the parties may reach an amicable resolution to a complaint or other matter. The settlement will be approved so long as it is in the public interest. 52 Pa. Code §69.1201(b).

I&E and Peoples have addressed the factors set forth in 52 Pa. Code §69.1201 in their respective statements in support of the settlement. I will address each of the factors in turn.

The first factor considers whether the conduct at issue was of a serious nature, such as willful fraud or misrepresentation, or if the conduct was less egregious, such as an administrative or technical error. Conduct of a more serious nature may warrant a higher penalty. 52 Pa. Code § 69.1201(c)(1). I&E submits that the violations averred in the complaint are serious in nature in that Peoples had a systemic issue with its operations regarding leak classification, leak monitoring, leak repair, leak surveys, and leak reporting. I&E also alleged that Peoples repeatedly failed to follow its own procedural manual for operations, maintenance,

and emergencies by allowing hazardous conditions to continue well beyond the acceptable timeframe for repair. Peoples, on the other hand, argues that the incidents described in the complaint never presented a serious threat to the public, with the potential for significant property damage or personal injury.

Clearly, significant public safety concerns are present when Class 1 leaks are not properly monitored or promptly repaired. I find that the Company's alleged conduct was of a serious nature, which Peoples recognized and took significant steps to address by revising its procedures. This factor justifies a higher penalty amount.

The second factor is whether the resulting consequences of the Company's alleged conduct were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty. 52 Pa. Code § 69.1201(c)(2). In this case, there were no injuries or property damage. However, the leaks at issue in I&E's Complaint resulted in multiple evacuations. The seriousness of this incident and Peoples's corrective actions have been taken into consideration in approving the agreed upon civil penalty.

The third factor to be considered is whether the alleged conduct was intentional or negligent. 52 Pa. Code § 69.1201(c)(3). "This factor may only be considered in evaluating litigated cases." *Id.* Whether the Company's alleged conduct was intentional or negligent does not apply since this matter is being resolved by settlement of the Parties.

The fourth factor to be considered is whether the Company has made efforts to change its practices and procedures to prevent similar conduct in the future. 52 Pa. Code § 69.1201(c)(4). As reflected in the settlement, Peoples has taken significant steps to modify its procedures regarding leak classification, monitoring, and repair. These steps include adding evacuation criteria when gas is detected in a building, increasing management involvement in Class 1 leaks, and implementing enhanced and standardized corrosion and leak detection procedures. In addition, Peoples has agreed to undertake additional corrective actions that will address the issues identified in the complaint. These corrective actions, described in detail in Paragraph 18 of the Settlement Agreement, include, among others: monitoring/inspecting vented

Class 1 leaks daily during frost/frozen conditions; modifying Peoples' SOP to include action criteria for leaks consistent with the GPTC guide, and implementing written guidelines that identify when and how short leaking sections of main are to be considered for replacement versus repair. These actions should greatly help prevent similar incidents in the future and justify a reduced penalty amount.

The fifth factor to be considered relates to the number of customers affected by the Company's actions and the duration of the violations. 52 Pa. Code § 69.1201(c)(5). I&E's complaint encompasses multiple incidents that demonstrated systemic issues, rather than a single incident. These incidents resulted in several evacuations, one of which resulted in a customer being evacuated from his residence for ten days. This factor was considered in approving the proposed civil penalty amount.

The sixth factor to be considered involves the compliance history of the Company. 52 Pa. Code § 69.1201(c)(6). "An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty." *Id.* As a general proposition, neither the Public Utility Code nor the Commission's regulations require public utilities to require constantly flawless service. The Public Utility Code requires public utilities to provide reasonable and adequate, not perfect, service. 66 Pa.C.S. § 1501. I&E noted that its research revealed no other Peoples' gas safety incidents that resulted in a formal complaint within the past ten years. This factor supports a reduced civil penalty.

The seventh factor to be considered relates to whether the Company cooperated with the Commission's investigation. 52 Pa. Code § 69.1201(c)(7). Peoples has clearly cooperated with I&E and its Pipeline Safety Division throughout the investigatory, complaint, and settlement processes. Before I&E filed its complaint, Peoples undertook numerous actions to change the way it identified, monitored, and repaired leaks, among other actions. Subsequent to I&E's complaint, Peoples implemented additional measures to add evacuation procedures when gas is detected inside a building and improve the way it handles Class 1 leaks. In addition, Peoples has agreed to undertake the additional actions set forth in Paragraph 18 of the settlement. Finally, I&E acknowledged that Peoples was responsive to I&E's requests for information and

met with I&E numerous times to explore settlement of this matter. This factor supports the agreed upon civil penalty.

The eighth factor to be considered is the appropriate settlement amount necessary to deter future violations. 52 Pa. Code § 69.1201(c)(8). I find that a civil penalty amount of \$50,000.00, which may not be claimed or included for recovery in future ratemaking proceedings, together with the costs of the terms of the settlement set forth above, is sufficient to deter future violations.

The ninth factor to be considered relates to past Commission decisions in similar matters. 52 Pa. Code § 69.1201(c)(9). I&E submits that this matter is unique in that I&E's complaint did not stem from a single incident, but rather from a series of incidents that revealed systemic issues with People's operations regarding leak classification, monitoring, repair, surveys, and reporting. However, as also noted by I&E, past Commission decisions responsive to gas safety related matters have reached conclusions not contradictory to the instant matter. For example, in *Pa. Pub. Util. Comm'n, I&E v. PECO*, Docket No. C-2015-2514773 (Opinion and Order entered April 20, 2017), the Commission ordered PECO Energy Company to pay a \$15,000 civil penalty for its conduct, which involved a line hit and resulting fire caused by failing to mark its line and alleged failed communication with a third-party excavator. The higher civil penalty proposed in this settlement reflects the numerous evacuations and multiple incidents encompassed in I&E's Complaint. The civil penalty agreed upon in this settlement is consistent with past Commission actions and presents a fair and reasonable outcome.

The tenth factor considers "other relevant factors." 52 Pa. Code § 69.1201(c)(10). Here, the parties reached a full settlement of all issues raised by I&E in its complaint. A settlement avoids the time and expense necessary for the governmental agency to prove elements of each allegation. Reasonable settlement terms can represent economic and programmatic compromise but allow the parties to move forward and to focus on implementing the agreed upon corrective actions. This factor supports the agreed upon civil penalty.

Based on a review of the factors set forth above, I conclude that a civil penalty in the amount of \$50,000.00 is appropriate in this matter.

CONDITIONS OF THE SETTLEMENT

Having reviewed the terms of the settlement, the public interest in approving and adopting the Joint Petition for Settlement and the reasonableness of the civil penalty, I will summarize the general conditions of the settlement set forth in the agreement. The settlement is conditioned upon the Commission's approval of the terms and conditions contained in the Joint Petition for Settlement without modification. If the Commission modifies the Joint Petition for Settlement, any party may elect to withdraw from the settlement and may proceed with litigation and, in such event, the Joint Petition for Settlement shall be void and of no effect.

I&E and Peoples acknowledge that the Joint Petition for Settlement reflects a compromise of competing positions and does not necessarily reflect any party's position with respect to any issues raised in this proceeding. The Joint Petition for Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement its provisions.

The joint petition for settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. The Joint Petition for Settlement is presented without prejudice to any position that any of the parties may have advanced and without prejudice to the position any of the parties may advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of the Joint Petition for settlement. The Joint Petition for Settlement does not preclude the parties from taking other positions in any other proceeding.

The parties arrived at the settlement after engaging in numerous discussions. The terms and conditions of the Joint Petition for Settlement constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed therein. The settlement is consistent with the Commission's rules and practices encouraging negotiated settlements set forth in 52 Pa.Code §§ 5.231, 69.391, 69.1201.

CONCLUSION

For the reasons set forth above, I find that the proposed settlement is in the public interest and consistent with the Public Utility Code and Commission regulations. Accordingly, I recommend that the Commission approve the Joint Petition for Settlement.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding. 66 Pa.C.S. § 701.

2. The Commission has the power and the duty to enforce the requirements of the Public Utility Code. 66 Pa.C.S. § 501(a).

3. The Commission delegated its authority with regard to enforcement of gas safety laws and regulations to I&E. Implementation of Act 129 of 2008; Organization of Bureaus and Offices, Docket No. M-2008-2071852 (Final Procedural Order entered August 11, 2011).

4. Commission policy promotes settlements. 52 Pa.Code § 5.231.

5. The Joint Petition for Settlement submitted by I&E and Peoples at Docket No. C-2016-2437295 is reasonable and in the public interest and should be approved by the Commission.

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Settlement filed on August 25, 2017, between the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement and Peoples Natural Gas Company, LLC at Docket No. C-2016-2437295 is hereby approved and adopted in its entirety without modification.

2. That Peoples Natural Gas Company, LLC shall pay a civil penalty of \$50,000.00 as provided for in the Public Utility Code, 66 Pa. Code §3301, by certified check or money order, made payable to "Commonwealth of Pennsylvania" within thirty (30) days after the service of the Pennsylvania Public Utility Commission's order to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pa. 17105-3265

3. That the Secretary shall mark the proceeding at Docket No. C-2016-2437295 closed.

Date: November 6, 2017

/s/
Steven K. Haas
Administrative Law Judge