



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

June 13, 2014

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

Re: Pennsylvania Public Utility Commission v. Burgly Gas and Oil,
Inc., et. al.
Docket No. C-2014-2411284

Dear Secretary Chiavetta:

On behalf of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission, enclosed for filing please find the Reply to Respondent's Preliminary Objections to I&E's Amended Complaint in the above referenced case. Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,

Scott B. Granger
Prosecutor
PA Attorney ID No. 63641

Enclosures

cc: As per Certificate of Service
Wayne Scott, I&E
Heidi Wushinske, I&E

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JUN 18 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Pennsylvania Public Utility Commission, :
Bureau of Investigation and Enforcement, :
Complainant :

v. : Docket No. C-2014-2411284

Burgly Gas & Oil Company: and/or in the :
alternative, Burgly Gas & Oil, Inc.; and/or :
in the alternative Burgly Drilling, Inc. :
Respondents :

**REPLY TO RESPONDENT'S PRELIMINARY OBJECTIONS
TO I&E'S AMENDED COMPLAINT**

NOW COMES the Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement ("I&E"), by its prosecuting attorneys, pursuant to Section 701 of the Public Utility Code, 66 Pa. C.S. § 701, and files this Reply to Respondent Burgly Gas & Oil Company, Inc.'s Preliminary Objections to I&E's Amended Complaint ("Amended Complaint") against Burgly Gas & Oil Company("Burgly,"); and/or in the alternative, Burgly Gas & Oil Company, Incorporated ("Burgly Gas Inc."); and/or in the alternative Burgly Drilling, Inc. ("Burgly Drilling Inc.") alleging violations of the Pennsylvania Public Utility Code, Commission regulations found in the Pennsylvania Code, and the United States Code of Federal Regulations ("CFR") as adopted in the Pennsylvania Public Utility Code and by Commission regulations. In support of its Reply to these Preliminary Objections, I&E respectfully represents the following:

1. Admitted in part, denied in part. It is admitted that the Bureau of Investigation and Enforcement (“I&E”) filed a formal Complaint on March 17, 2014 alleging numerous gas pipeline safety violations. As a written document I&E’s Complaint speaks for itself and is incorporated herein as if fully set forth. It is denied that the original Complaint was filed against Burgly Oil and Gas Company, Inc., but rather, the original Complaint was filed against Burgley Gas & Oil. Furthermore, it is admitted that the Respondent filed preliminary objections and on May 5, 2014 I&E filed an Amended Complaint.

2. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E’s Amended Complaint, they are denied. I&E’s Amended Complaint, as a written document, speaks for itself and is incorporated herein as if fully set forth. Furthermore, the civil penalty set forth in I&E’s Complaint covers only the most recent three years based on the applicable statute of limitations. Three years equals 1095 days of continuing offenses, of which, each is a separate and distinct offense.

3. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E’s Amended Complaint, they are denied. By way of further response, I&E’s Amended Complaint, as a written document, speaks for itself and is incorporated herein as if fully set forth.

4. Admitted upon information and belief.

5. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E’s Amended Complaint, they are denied. By way of further response,

I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein as if fully set forth.

6. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein as if fully set forth. Furthermore after a reasonable investigation, I&E is without sufficient knowledge or information to form a belief as to the truth of these averments and they are therefore denied. Strict proof thereof is demanded.

7. It is admitted upon information and belief that Burgly has owned and operated the Well and pipeline since at least May 28, 1998. As to the remaining averments in this paragraph, after a reasonable investigation, I&E is without sufficient knowledge or information to form a belief as to the truth of these averments and they are therefore denied. Strict proof thereof is demanded.

8. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein as if fully set forth. Furthermore after a reasonable investigation, I&E is without sufficient knowledge or information to form a belief as to the truth of these averments and they are therefore denied. Strict proof thereof is demanded.

Preliminary Objection I – Lack of Commission Jurisdiction

9. Incorporation paragraph, no response required.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted in part, denied in part. The averments set forth in this paragraph are admitted as they apply to 66 Pa. C.S. §3301(c). However, they are denied as they apply to 66 Pa. C.S. §3301(a). By way of further response, 66 Pa. C.S. §3301(a) General rule – applies to “... any public utility, or any other person or corporation subject to this part ...” Furthermore, as the averments set forth in this paragraph are conclusions of law, no response is required, and they are therefore deemed denied. Finally, to the extent the averments set forth in this paragraph attempt to define and apply sections of the Public Utility Cod, the public utility regulations set forth in the Pennsylvania Code and related case law, they are denied. The Public Utility Code, the public utility regulations, and the related case law speak for themselves.

14. Denied. As the averments set forth in this paragraph are conclusions of law, no response is required, and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase, define and apply sections of the Public Utility Code, the public utility regulations set forth in the Pennsylvania Code and related case law, they are denied. The Public Utility Code, the public utility regulations and the related case law speak for themselves.

15. Denied. As the averments contained in this paragraph are conclusions of law, no response is required, and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase, define and apply sections of the Public Utility Code, the public utility regulations set forth in the

Pennsylvania Code and related case law, they are denied. The Public Utility Code, the public utility regulations and the related case law speak for themselves.

16. Denied. As the averments set forth in this paragraph are conclusions of law, no response is required, and they are therefore deemed denied. Furthermore after a reasonable investigation, I&E is without sufficient knowledge or information to form a belief as to the truth of these averments and they are therefore denied. Strict proof thereof is demanded.

17. Denied. As the averments set forth in this paragraph are conclusions of law, no response is required, and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase, define and apply sections of the Public Utility Code, the public utility regulations set forth in the Pennsylvania Code and related case law, they are denied. The Public Utility Code, the public utility regulations and the related case law speak for themselves.

18. Denied. As the averments set forth in this paragraph are conclusions of law, no response is required, and they are therefore deemed denied.

19. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

20. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response,

I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

21. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

22. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

23. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

24. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

25. It is admitted upon information and belief that Burgly has owned and operated the Well and the Pipeline since at least May 28, 1998. As to the remaining averments set forth in this paragraph, after a reasonable investigation, I&E is without sufficient knowledge or information to form a belief as to the truth of these averments

and they are therefore denied. Strict proof thereof is demanded. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

26. Denied. After a reasonable investigation, I&E is without sufficient knowledge or information to form a belief as to the truth of these averments and they are therefore denied. Strict proof thereof is demanded. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

27. Denied. After a reasonable investigation, I&E is without sufficient knowledge or information to form a belief as to the truth of these averments and they are therefore denied. Strict proof thereof is demanded. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

28. Admitted. It is admitted that the Pipeline that is the subject of I&E's Amended Complaint is approximately 6,643 feet in length.

29. Denied. After a reasonable investigation, I&E is without sufficient knowledge or information to form a belief as to the truth of these averments and they are

therefore denied. Strict proof thereof is demanded. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

30. Denied. After a reasonable investigation, I&E is without sufficient knowledge or information to form a belief as to the truth of these averments and they are therefore denied. Strict proof thereof is demanded. By way of further response, to the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

31. Denied. After a reasonable investigation, I&E is without sufficient knowledge or information to form a belief as to the truth of these averments and they are therefore denied. Strict proof thereof is demanded. Additionally, to the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

32. Denied. After a reasonable investigation, I&E is without sufficient

knowledge or information to form a belief as to the truth of these averments and they are therefore denied. Strict proof thereof is demanded. Additionally, to the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

WHEREFORE, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that the Office of Administrative Law Judge deny Respondent Burgly Gas & Oil Company, Inc.'s Preliminary Objections to I&E's Amended Complaint. Furthermore, the Bureau of Investigation and Enforcement respectfully requests that, after consideration of the pleadings and the record, the Office of Administrative Law Judge and the Commission find Burgly Gas & Oil Company; Burgly Gas & Oil Company, Inc., and/or Burgly Drilling Inc. in violation of each and every count as set forth in I&E's Amended Complaint, and grant the relief requested therein.

Preliminary Objection II – Insufficient Specificity of Pleadings

- 33. Incorporation paragraph, no response required.
- 34. Admitted.
- 35. Admitted.
- 36. Admitted.

37. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

38. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied.

39. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied.

40. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

41. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

42. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase

I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

WHEREFORE the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that the Office of Administrative Law Judge deny Respondent Burgly Gas & Oil Company, Inc.'s Preliminary Objections to I&E's Amended Complaint. Furthermore, the Bureau of Investigation and Enforcement respectfully requests that, after consideration of the pleadings and the record, the Office of Administrative Law Judge and the Commission find Burgly Gas & Oil Company; Burgly Gas & Oil Company, Inc., and/or Burgly Drilling Inc. in violation of each and every count as set forth in I&E's Amended Complaint, and grant the relief requested therein.

Preliminary Objections III – Insufficient Specificity of Pleading

43. Incorporation paragraph, no response required.

44. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

45. Denied. To the extent the averments set forth in this paragraph are

conclusions of law, no response is required and they are therefore deemed denied.

Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein as if fully set forth.

46. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

47. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth. Furthermore, the civil penalty set forth in I&E's Complaint covers only the most recent three years based on the applicable statute of limitations. Three years equals 1095 days of continuing offenses, of which, each is a separate and distinct offense.

48. Denied. To the extent the averments set forth in this paragraph are

conclusions of law, no response is required and they are therefore deemed denied.

Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

49. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth. Furthermore, the civil penalty set forth in I&E's Complaint covers only the most recent three years based on the applicable statute of limitations. Three years equals 1095 days of continuing offenses, of which, each is a separate and distinct offense.

WHEREFORE, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that the Office of Administrative Law Judge deny Respondent Burgly Gas & Oil Company, Inc.'s Preliminary Objections to I&E's Amended Complaint. Furthermore, the Bureau of Investigation and Enforcement respectfully requests that, after consideration of the pleadings and the record, the Office of Administrative Law Judge and the Commission find Burgly Gas & Oil Company; Burgly Gas & Oil Company, Inc., and/or Burgly Drilling Inc. in violation of each and

every count as set forth in I&E's Amended Complaint, and grant the relief requested therein.

Preliminary Objections IV – Legal Insufficiency of Pleading

50. Incorporation paragraph, no response required.

51. Admitted.

52. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth. And finally, Paragraph 5 identifies Burgly Gas & Oil, Incorporated as one of the Respondents; Paragraph 7 identifies all of the Respondents as "public utilities."

53. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

54. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied.

55. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied.

56. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied.

57. Denied. To the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

58. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

WHEREFORE, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that the Office of Administrative Law Judge deny Respondent Burgly Gas & Oil Company, Inc.'s Preliminary Objections to I&E's Amended Complaint. Furthermore, the Bureau of Investigation and Enforcement respectfully requests that, after consideration of the pleadings and the record, the Office of Administrative Law Judge and the Commission find Burgly Gas & Oil Company; Burgly Gas & Oil Company, Inc., and/or Burgly Drilling Inc. in violation of each and

every count as set forth in I&E's Amended Complaint, and grant the relief requested therein.

Preliminary Objection V – Legal Sufficiency of Pleading

59. Incorporation paragraph, no response required.

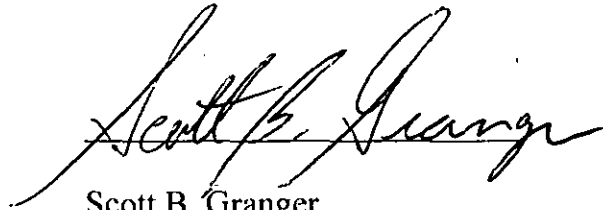
60. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

61. Denied. After a reasonable investigation, I&E is without sufficient knowledge or information to form a belief as to the truth of these averments and they are therefore denied. Strict proof thereof is demanded. Furthermore, to the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied.

62. Denied. To the extent the averments set forth in this paragraph are conclusions of law, no response is required and they are therefore deemed denied. Furthermore, to the extent the averments set forth in this paragraph attempt to paraphrase I&E's Amended Complaint, they are denied. By way of further response, I&E's Amended Complaint, as a written document, speaks for itself and is incorporated herein by reference as if fully set forth.

WHEREFORE, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that the Office of Administrative Law Judge deny Respondent Burgly Gas & Oil Company, Inc.'s Preliminary Objections to I&E's Amended Complaint. Furthermore, the Bureau of Investigation and Enforcement respectfully requests that, after consideration of the pleadings and the record, the Office of Administrative Law Judge and the Commission find Burgly Gas & Oil Company; Burgly Gas & Oil Company, Inc., and/or Burgly Drilling Inc. in violation of each and every count as set forth in I&E's Amended Complaint, and grant the relief requested therein.

Respectfully submitted,



Scott B. Granger
Prosecutor
PA Attorney ID No. 63641

Heidi Wushinske
Prosecutor
PA Attorney ID No. 93792

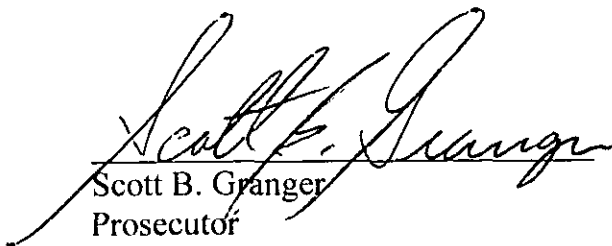
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VERIFICATION

I, Scott B. Granger, Prosecutor, Bureau of Investigation and Enforcement, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Date: June 13, 2014



Scott B. Granger
Prosecutor
Bureau of Investigation and Enforcement
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17102-3265

(717) 425-7593

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CERTIFICATE OF SERVICE

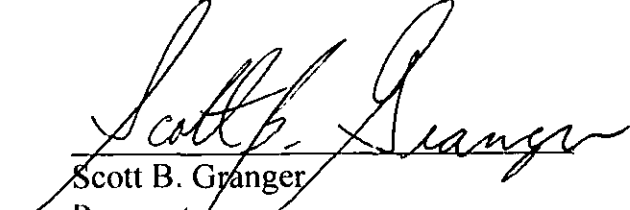
I hereby certify that I have this day served a true and correct copy of the foregoing Reply to Respondent's Preliminary Objections to I&E's Amended Complaint upon the parties listed below in accordance with the requirements of 52 Pa Code §1.54 (relating to service by a party).

Notification by First Class Mail:

Al Lander, Esquire
Zachary Shekell, Esquire
Law Offices of Greco & Lander, P.C.
1390 East Main Street, Suite 2
Clarion, PA 16214
Attorneys for Burgly Gas & Oil Company, Inc.

Burgly Gas & Oil
Attn: Harold E. Brown
710 First Street
Apollo, PA 15613

Burgly Drilling, Inc.
Attn: Harold Brown
4087 Greenwood Road
New Kensington, PA 15068


Scott B. Granger
Prosecutor
PA Attorney ID No. 63641

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
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Dated: June 13, 2014

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