

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2017-2586317
Office of Small Business Advocate	:	C-2017-2593494
Office of Consumer Advocate	:	C-2017-2595922
	:	
v.	:	
	:	
Peoples TWP LLC	:	

**RECOMMENDED DECISION**

Before  
Jeffrey A. Watson  
Administrative Law Judge

**TABLE OF CONTENTS**

I. HISTORY OF THE PROCEEDINGS ..... 1

II. FINDINGS OF FACT.....4

III. DESCRIPTION AND TERMS OF THE SETTLEMENT .....9

IV. DISCUSSION .....14

    A. Applicable Legal Principles .....14

    B. Statements of the Settling Parties in Support of the Settlement .....16

    C. Retainage and Lost and Unaccounted For Gas .....16

        1. Peoples TWP’s Position.....16

            a. Retainage.....16

            b. Unaccounted For Gas.....17

        2. OCA’s Position .....18

        3. I&E’s Position.....19

        4. OSBA’s Position.....20

        5. PIOGA’s Position .....21

    D. Analysis.....21

        1. Retainage.....21

        2. Unaccounted For Gas.....23

    E. Balancing Charges .....23

        1. Peoples TWP’s Position.....23

2.	OCA’s Position .....	24
3.	I&E’s Position.....	25
4.	OSBA’s Position.....	25
5.	PIOGA’s Position .....	25
F.	Analysis.....	25
G.	Actual Gas Cost Reporting .....	25
1.	Peoples’ Position.....	25
2.	OCA’s Position .....	26
3.	I&E’s Position.....	26
4.	OSBA’s Position.....	26
5.	PIOGA’s Position .....	27
H.	Analysis.....	27
I.	Miscellaneous .....	27
1.	Peoples’ Position.....	27
2.	OCA’s Position .....	28
3.	I&E’s Position.....	28
4.	OSBA’s Position.....	28
5.	PIOGA’s Position .....	28
6.	Analysis.....	28
J.	Summary .....	28
K.	The Public Interest .....	30

V.	CONCLUSION.....	31
VI.	CONCLUSIONS OF LAW .....	32
VII.	ORDER.....	34

## INTRODUCTION

This Decision recommends that the Joint Petition for Settlement of the Section 1307(f) Rate Investigation be approved without modification.

### I. HISTORY OF THE PROCEEDINGS

Peoples TWP LLC (Peoples TWP or Company) is a limited liability company formed under the laws of the Commonwealth of Pennsylvania for the purpose of providing natural gas transmission, distribution, and supplier of last resort services subject to the Commission's regulatory jurisdiction. Peoples TWP is an affiliate of Peoples Natural Gas Company LLC (Peoples). (Joint Petition, p. 2.)

The Company is a public utility and a natural gas distribution company. (Joint Petition, p. 2.)

On January 30, 2017, the Company made its purchased gas costs (PGC) 60-day pre-filings with the Pennsylvania Public Utility Commission (Commission), pursuant to Section 1307(f) of the Public Utility Code, 66 Pa.C.S. § 1307(f), and the Commission's regulations at 52 Pa.Code § 53.65. (Joint Petition, p. 2.)

On March 1, 2017, Peoples TWP made its PGC 30-day pre-filings with the Commission in compliance with Section 1307(f) of the Public Utility Code, 66 Pa.C.S. § 1307(f), and the Commission's regulations at 52 Pa.Code §§ 53.64-53.65. (Joint Petition, p. 2.)

The Commission instituted an investigation to determine the lawfulness, justness and reasonableness of the rates proposed in the Section 1307(f) filing and to satisfy the requirements of Sections 1307, 1317 and 1318 of the Public Utility Code (at 66 Pa.C.S.A. § 1307(f); § 1317 and § 1318), in connection with the Company's 2016 Purchased Gas Cost filing for the period ending September 30, 2017.

On March 13, 2017, the Office of Small Business Advocate (OSBA) filed a complaint at Docket No. C-2017-2593494.

On March 15, 2017, the Commission's Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance.

On March 28, 2017, the Office of Consumer Advocate (OCA) filed a complaint at Docket No. C-2017-2595922.

On March 31, 2017, Peoples TWP filed with the Commission its definitive PGC filings, including supporting information required by the Commission's regulations, the Company's direct testimony, exhibits, and Pro Forma Tariff Supplements reflecting actual and projected changes in natural gas costs and other tariff changes.

On April 5, 2017, a notice was issued scheduling a prehearing conference before the undersigned presiding officer at 10:00 a.m. on April 7, 2017, at Piatt Place, 2nd Floor Hearing Room, Suite 220, in Pittsburgh, Pennsylvania<sup>1</sup> and at the Commonwealth Keystone Building, Hearing Room 4, in Harrisburg, Pennsylvania.

On April 4, 2017, a Prehearing Conference Order was entered, directing the parties to file prehearing memoranda on or before 12:00 p.m. on April 6, 2017.

On April 6, 2017, the Pennsylvania Independent Oil and Gas Association (PIOGA), filed a Petition to Intervene.

On April 6, 2017, the parties filed their prehearing memoranda in compliance with the Prehearing Conference Order.

A prehearing conference was held on April 7, 2017. A litigation schedule and discovery rule modifications were established and subsequently memorialized in a Prehearing

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<sup>1</sup> The undersigned ALJ presided by telephone from the Pittsburgh hearing room.

Order, dated April 13, 2017. The Prehearing Order also consolidated the complaints of OCA and OSBA with Peoples TWP's PGC filing at Docket No. R-2017-2586317 and granted PIOGA's Petition to Intervene. In addition, the Peoples PGC proceeding filed at Docket No. R-2017-2586310 and the Peoples-Equitable Division PGC proceeding filed at Docket No. R-2017-2586317 were consolidated for purposes of the hearing with this proceeding.

On April 20, 2017, a notice was issued and provided to the parties of record, scheduling the evidentiary hearing in this proceeding for June 5 and June 6, 2017.

On May 5, 2017, OCA and I&E served written direct testimony.

On May 19, 2017, Peoples TWP served written supplemental direct testimony.

On May 25, 2017, Peoples TWP served written rebuttal testimony.

On June 2, 2017, counsel for Peoples TWP advised the undersigned presiding officer (ALJ) that Peoples TWP, OCA, OSBA, I&E and PIOGA (Joint Petitioners or Settling Parties) had reached a settlement in principle that resolved all issues in this proceeding, prior to the date for submission of written surrebuttal testimony. Accordingly, counsel for the Company requested that the litigation schedule be suspended. In addition, on June 2, 2017, a motion for protective order was filed by Peoples TWP.

On June 7, 2017, an interim order was entered suspending the litigation schedule, cancelling the evidentiary hearing scheduled for June 6, 2017, and directed the Joint Petitioners to file their signed settlement agreement and statements in support of settlements no later than June 27, 2017.

A hearing was held on June 5, 2017, at which time the Joint Petitioners' pre-filed testimony and exhibits were admitted into the record and the undersigned presiding officer granted an oral motion from the Companies to grant their motion for protective order. Counsel for the Company, OCA, OSBA, I&E and PIOGA attended the hearing.

An interim order was entered on June 7, 2017 formally granting the motion for protective order.

On June 27, 2017, Peoples TWP, I&E, OCA, OSBA and PIOGA, parties to the above-captioned consolidated proceeding, filed a Joint Petition for Settlement of the Section 1307(f) Rate Investigation (Joint Petition, Settlement Petition or Settlement). The Joint Petition included the tariff supplements and statements in support of settlement filed by the Company, I&E, OSBA, OCA and PIOGA, attached to the Settlement as Appendices A through F.

The Joint Petitioners have agreed to a Settlement of all issues that have been raised in the Peoples TWP 2017 PGC proceeding. The Joint Petitioners have requested that the Commission approve the Settlement without modification.

On June 28, 2017, an interim order was issued which admitted the Joint Petition into the record along with the attached Appendices marked as A through F, and closed the record in this proceeding.

This Recommended Decision recommends the Settlement Agreement be adopted, without modification.

## II. FINDINGS OF FACT

The Settling Parties have agreed to several proposed findings of fact with citations to the record of admitted evidence. The Findings of Fact are the Findings that the parties proposed in the Joint Petition which they requested that the Commission adopt, and are adopted with modification.

1. Peoples TWP pursues its goal of least cost reliable service through a combination of local and interstate assets and supplies. The local assets consist of gas purchase agreements for local Pennsylvania gas produced directly into the Company's pipeline system (Local Pennsylvania Gas) and company-owned on-system storage fields. The Local

Pennsylvania Gas represents a significant portion of the annual supply needs of the system, while the on-system storage has limited supply capacity and is, therefore, utilized more for meeting the system's short-term peak requirements. (Peoples TWP Statement No. 2, p. 4; Settlement Petition ¶ 35.)

2. Peoples TWP's interstate assets consist of a portfolio of transportation and storage services that Peoples TWP has contracted for with various Federal Energy Regulatory Commission (FERC)-regulated pipelines, including Dominion Transmission, Inc. (DTI), Texas Eastern Transmission LP (TETCO), Columbia Gas Transmission, LLC (TCO), and Equitrans L.P. (Equitrans). The Company also has interconnects with Tennessee Gas Pipeline Company, LLC (TGP), but does not currently contract for either transportation or storage services on TGP. Those assets give Peoples TWP access to a variety of locations at which it can receive gas supplies that are produced upstream of the Peoples TWP system. The interstate storage assets allow Peoples TWP to use its upstream assets more efficiently, mitigate the effects of price swings in the natural gas market, and enhance the deliverability of Peoples TWP's interstate natural gas supplies during periods of peak demand. Peoples TWP's interstate supplies during periods of peak demand are gas that it purchases from suppliers upstream of the Peoples TWP system for delivery into various receipt points of the interstate pipelines. (Peoples TWP Statement No. 2, p. 4; Settlement Petition ¶ 36.)

3. Over the 1307(f)-2017 reconciliation period, Peoples TWP's natural gas capacity portfolio included: (1) interstate pipeline transportation and storage services from Equitrans; (2) interstate pipeline transportation and storage services from DTI; (3) interstate pipeline transportation service from TETCO; and (4) interstate pipeline transportation and storage services from TCO. (Peoples TWP Statement No. 2, p. 16; Settlement Petition ¶ 37.)

4. On December 10, 2013, as set forth in the application proceeding at Docket Nos. A-2013-2353647, A-2013-2353649, and A-2013-2353651 and approved by order entered November 14, 2013 (Equitable Acquisition), the Company entered into a firm storage agreement under Equitrans Rate Schedule 60SS and a no-notice firm transportation (NOFT) agreement under Equitrans Rate Schedule NOFT. These agreements provide Peoples TWP with

firm storage and related transportation capacity to replace expired and existing pipeline capacity under contract with TCO and DTI. The Equitrans contracts provided peak demand daily deliverability of 27,500 Dth and storage capacity of 1,500,000 Dth for the storage withdrawal period of November 1, 2014, through March 31, 2015. The deliverability under these contracts increased to 33,917 Dth and storage capacity increased to 1,850,000 Dth for the withdrawal period of November 1, 2015, through March 31, 2016. (Peoples TWP Statement No. 2, pp. 17-18; Settlement Petition ¶ 38.)

5. Peoples TWP is not proposing for the projected period to assign to Peoples via capacity release 10,000 Dth/day of Equitrans services for a one-year period as it did last year. (Peoples TWP Statement No. 2, p. 19; Settlement Petition ¶ 39.)

6. For the 1307(f)-2017 reconciliation period, Peoples TWP had 10,000 Dth/day of FT firm transportation service, 35,000 Dth/day of FT-GSS firm transportation service, and 45,000 Dth/day of GSS firm storage service under contract from DTI. (Peoples TWP Statement No. 2, p. 19; Settlement Petition ¶ 40.)

7. As a substitute for last year's capacity release of 10,000 Dth/day of Equitrans services for a one-year period, Peoples TWP has executed a capacity release agreement with an unaffiliated third party to assign 10,000 Dths/day of DTI services for a one-year period beginning April 1, 2017. These services would be a portion of the storage and related firm transportation services that Peoples TWP currently has under contract with DTI, and the assignment would consist of 600,000 Dths of storage capacity under Rate 60SS, which has a corresponding 10,000 Dths/day of storage deliverability, and 10,000 Dths/day of storage-related firm transportation under Rate FT-GSS. Peoples TWP released this capacity to a third party at the best rate offered for the capacity after it was posted for bidding pursuant to FERC capacity release regulations. Proceeds from this release to an unaffiliated third party would be included in Peoples TWP's capacity release sharing mechanism. (Peoples TWP Statement No. 2, pp. 17, 20-21; Settlement Petition ¶ 41.)

8. Peoples TWP anticipates that it will allow the DTI service agreements for 10,000 Dth/day of DTI GSS storage and accompanying 10,000 Dth/day of FT-GSS firm transportation to expire on March 31, 2018. These quantities will simultaneously be replaced by 10,000 Dth/d of EQT 60SS and NOFT capacity as proposed and approved in the Equitable Acquisition case. (Peoples TWP Statement No. 2, p. 17; Settlement Petition ¶ 42.)

9. TETCO provides Peoples TWP with firm transportation service of 10,000 Dth/day under Rate Schedule FT-1. Peoples TWP purchases gas on TETCO's market zone M-2 and moves it over TETCO's facilities to an interconnection at Delmont, Westmoreland County. This negotiated rate agreement, which commenced on November 1, 2015, and expires on October 31, 2030, allows the Company to purchase gas in a very liquid and competitively low-priced commodity market and deliver it to the southern part of the Peoples TWP system to support service to the Allegheny Valley. (Peoples TWP Statement No. 2, p. 22; Settlement Petition ¶ 43.)

10. For the 1307(f)-2017 reconciliation period, TCO provided Peoples TWP with firm transportation service under Rate FTS of up to 3,257 Dth/day. TCO also provided firm storage service under Rate GSS and related firm transportation service under Rate SST of up to 10,807 Dth/day with a total storage capacity of 609,827 Dth. (Peoples TWP Statement No. 2, p. 23; Settlement Petition ¶ 44.)

11. Peoples TWP currently owns and operates four storage fields, which have 567,000 Mcf of combined storage capacity and 19,800 Mcf of maximum daily withdrawal capacity. (Peoples TWP Statement No. 2, p. 25; Settlement Petition ¶ 45.)

12. Peoples and Peoples TWP have a gas exchange agreement that provides for an exchange of equivalent volumes between Peoples and Peoples TWP where the receipt of gas from the other party would provide for more efficient operation of the recipient's system and will improve service reliability for both companies. Under the exchange arrangement, Peoples TWP receives gas from Peoples at interconnections located in Mars, PA and Arnold, PA. In

exchange, Peoples receives equivalent volumes of gas from Peoples TWP at various interconnections. (Peoples TWP Statement No. 2, pp. 27-28; Settlement Petition ¶ 46.)

13. Peoples TWP has traditionally used gas produced locally in Pennsylvania as the source of supply for base system supply requirements. This is due in large part to the operating characteristics of the Peoples TWP system, where gas produced from shallow conventional gas wells, located primarily on the eastern side of the pipeline system, is transported across the Peoples TWP system at a relatively constant flow into the distribution facilities serving ratepayers. The delivery of shallow gas is then supplemented during periods of peak demand by interstate pipeline gas that is delivered into the Company's Large Volume Pipelines and delivered to the same distribution facilities. (Peoples TWP Statement No. 2, p. 30; Settlement Petition ¶ 47.)

14. Peoples TWP has an incentive pricing program that is intended to increase receipts of locally-produced gas into operationally favorable locations on lines that have limited redundancy options. Last year, Peoples TWP, through analysis, modeling, and remediation, identified Punxsutawney as the area on its system where supplemental, locally-produced gas could most benefit operational reliability. Peoples TWP has not yet entered into any incentive-priced supply contracts but continues to work with producers in the Punxsutawney area to promote the delivery of local, conventionally-produced supplies into the Peoples TWP system. (Peoples TWP Statement No. 2, pp. 33-34; Settlement Petition ¶ 48.)

15. Along with its local gas supplies, spot market purchases are the supplies that Peoples TWP uses to meet the demands of those customers who continue to buy their supplies from Peoples TWP. These are also the supplies that Peoples TWP uses its various interstate pipeline assets to transport and store. (Peoples TWP Statement No. 2, p. 34; Settlement Petition ¶ 49.)

16. Unaccounted for gas (UFG) is the difference between the total gas available from all sources and the total gas accounted for as sales, net interchange and company use. This difference includes leakage or other actual losses, discrepancies due to meter

inaccuracies, variations of temperatures or pressures or both, and other variants, particularly billing lag. (Peoples TWP Statement No. 2, p. 39; Settlement Petition ¶ 50.)

17. The Company-wide percentage UFG was 3.91% for the 12-months ended August 31, 2016. (Peoples TWP Statement No. 2, p. 39; Settlement Petition ¶ 51.)

18. Despite the attention to UFG matters, the Company has observed for the 2016 UFG reporting period an increase in the Peoples TWP UFG value. The Company is again increasing its attention to UFG and has assembled a cross-functional team to assess, analyze and take deliberate action to mitigate UFG. The UFG team will be led by a new senior, full-time manager with a primary job description of managing UFG activity. (Peoples TWP Statement No. 2, p. 40; Settlement Petition ¶ 52.)

19. Peoples TWP monitors and participates in various proceedings before the FERC. Peoples TWP undertakes legal action as necessary to protect the interests of its ratepayers. (Peoples TWP Exhibit No. 14; Peoples TWP Statement No. 3, pp. 3-4; Settlement Petition ¶ 53.)

### III. DESCRIPTION AND TERMS OF THE SETTLEMENT

In accordance with Rule 5.231 of the Commission's Rules of Practice and Procedure, 52 Pa.Code § 5.231, the parties explored the possibility of settlement. As a result of settlement discussions, the parties achieved a settlement in principle under which all issues were resolved. The Joint Petition, which is fully executed by Peoples TWP, I&E, OCA, OSBA and PIOGA, consists of 20 pages and Appendix A through and including F. The appendices set forth the tariff supplement describing the agreed upon rates in Appendix A, and Appendix B through F, set forth the statements in support of settlement by Peoples TWP, OCA, OSBA, I&E and PIOGA.

The parties also expressed their agreement with respect to the following issues: (1) Retainage and Lost and Unaccounted for Gas; (2) Balancing Charges; (3) Actual Gas Cost

Reporting; and (4) Miscellaneous Issues. The Settling Parties have specifically agreed to the following settlement terms, as provided below, without modification. In addition, the Settling Parties have stipulated that Peoples TWP has met its Section 1307(f) and Section 1318 statutory obligations. (Settlement, pp. 12-15.) Accordingly, the Commission should approve Peoples TWP's filings as to these uncontested issues.

### SETTLEMENT TERMS

#### RETAINAGE AND LOST AND UNACCOUNTED FOR GAS

1. The Settling Parties have agreed that effective October 1, 2017, the tariffed retainage rate for all rate classes shall be 5.4%. (Settlement Petition ¶ 25.)
2. The Settling Parties further agreed that the newly negotiated waivers of retainage contained in Peoples TWP Highly Confidential Exhibit No. 3, should be approved. (Settlement Petition ¶ 26.)
3. The Settling Parties have also agreed that Peoples TWP's unaccounted for gas percentage for the 12-month period ending August 31, 2016, is in compliance with the Commission's regulations at 52 Pa. Code § 59.111(c)(1) and that the Company commits to continue its efforts to reduce UFG. The Company shall provide to the Joint Petitioners by April 2, 2018, a report from its UFG team providing an analysis and recommendations to mitigate UFG. (Settlement Petition ¶ 27.)

#### BALANCING CHARGES

1. The Settling Parties have agreed that the non-Priority 1 (NP-1) tariffed transportation balancing charges shall be as follows:

SGS-T - \$0.2777/Mcf

MGS-T - \$0.1984/Mcf

LGS-T - \$0.1525/Mcf

(Settlement Petition ¶ 28.)

## ACTUAL GAS COST REPORTING

2. The Settling Parties have agreed that in an effort to eliminate the request for waivers as part of Peoples TWP's quarterly and annual gas cost filings, only actual gas costs will be reported in the final month of any filing. If an actual gas cost is not known and the estimated gas cost is less than one percent (1%) of the monthly gas costs, the Company will not record an estimated cost but rather will record the cost as zero. The Company will provide actual gas costs in the next quarterly or annual gas cost filing after the actual gas costs become available. (Settlement Petition ¶ 29.)

## MISCELLANEOUS

3. The Settling Parties have agreed that, except as revised by this settlement, the proposed rates and other requested approvals contained in the Company's PGC filing should be approved. (Settlement Petition ¶ 30.)
4. The Settling Parties have also agreed that, in accordance with the provisions of 52 Pa.Code § 53.64(i)(5), the Company's compliance filing in this proceeding will reflect updated actual and projected over/undercollections through September 30, 2017. (Settlement Petition ¶ 31.)
5. The Settling Parties have further agreed that the Commission should approve the renewals and changes in gas supply, pipeline, and storage capacity contracts that are explained in Peoples TWP's Statement No. 2 and related exhibits included in the 1307(f)-2017 definitive filing. (Settlement Petition ¶ 32.)

## RATE IMPACT OF SETTLEMENT

Under the June 7, 2017 interim order, the parties were directed to set forth the following in their Joint Settlement Petition:

1. Current rates for each customer class;
2. Requested and negotiated changes in gas costs for each customer class, identified in terms of dollar amounts and

percentages of increase or decrease from the current rates;  
and

3. Impact upon each customer class (*i.e.*, under the proposed rate each customer would have paid X, and under the agreed-upon amount, each customer will pay Y).

June 7, 2017 Interim Order, p. 6.

The Settling Parties have represented that the requested information is set forth in the table below, with regard to residential service (RS), small general service (SGS), mid-general service (MGS) and large general service (LGS):

<b>Peoples TWP</b>						
<u>Rate Schedule</u>	<u>Existing Tariff Rates 1/</u>	<u>As-Filed Gas Cost Change</u>	<u>Percent Change</u>	<u>Settlement Gas Cost Change</u>	<u>Annual Bill As-Filed</u>	<u>Annual Bill Settlement</u>
RS	\$11.3847	(\$0.0982)	-0.9%	\$0.0184	\$1,149.72	\$1,151.31
SGS	\$9.1494	(\$0.1649)	-1.8%	\$0.0182	\$2,296.85	\$2,300.68
MGS	\$8.8747	(\$0.0838)	-0.9%	\$0.0181	\$24,429.73	\$24,475.76
LGS<100,000 Mcf/yr	\$7.9605	(\$0.1683)	-2.1%	\$0.0181	\$407,610.00	\$408,515.00
1/ PTWP net billing rate effective January 1, 2017.						

(Settlement Petition ¶¶ 33-34.)

#### CONDITIONS OF SETTLEMENT

1. The Settling Parties have agreed that the Settlement is conditioned upon the Commission’s approval of the terms and conditions contained in the Settlement without modification. The Settlement shall become effective on the date on which the Commission enters a final order that adopts the terms and conditions of the Settlement. If the Commission enters a final order that approves the Settlement, but with one or more modifications, the Settlement shall nonetheless become effective unless one or more of the Joint Petitioners elects to withdraw from the Settlement. Such election to withdraw must be made in writing, filed with the Secretary of the Commission, and served upon all parties within five business days after the entry of an Order modifying the Settlement. In such event, the Settlement shall be void and of no effect. (Settlement Petition ¶ 75.)

2. The Joint Petitioners have agreed that the Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated this proceeding resulting in the establishment of rates that are just and reasonable. (Settlement Petition ¶ 76.)

3. The Settlement proposed by the Joint Petitioners is to settle all of their issues in the instant proceeding. If the Commission does not approve the Settlement and the proceeding continues, the Joint Petitioners reserve their respective rights to present additional testimony and to conduct full cross-examination, briefing, and argument. The Settlement is made without any admission against, or prejudice to, any position that any party may adopt in the event of any subsequent litigation of these proceedings, or in any other proceeding. (Settlement Petition ¶ 77.)

4. The Joint Petitioners acknowledge that the 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 Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement the Settlement. (Settlement Petition ¶ 78.)

5. The Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner which is fair and reasonable. The Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners 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 Settlement. The Settlement does not preclude the Joint Petitioners from taking other positions in proceedings of other public utilities under Section 1307(f) of the Public Utility Code, 66 Pa.C.S. § 1307(f), or any other proceeding. (Settlement Petition ¶ 79.)

6. The Settling Parties have agreed that if the ALJ would recommend that the Commission adopt the Settlement without modification, the Joint Petitioners waive their right to file Exceptions. Exceptions and replies thereto may be filed in the event the ALJ would recommend approval of the Settlement with reservations or modifications. (Settlement Petition ¶ 80.)

#### IV. DISCUSSION

##### A. Applicable Legal Principles

The Commission encourages parties in contested on-the-record proceedings to settle cases. *See* 52 Pa.Code § 5.231. Settlements eliminate the time, effort and expense of litigating a matter to its ultimate conclusion, which may entail review of the Commission's decision by the appellate courts of Pennsylvania. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily imposes.

By definition, a "settlement" reflects a compromise of the parties' positions and arguably fosters and promotes the public interest. When parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest. *Pa. Pub. Util. Comm'n v. The York Water Company*, PUC Docket No. R-00049165, *Pa. Pub. Util. Comm'n v. CS Water and Sewer Associates*, 74 Pa. PUC 767, 771 (1991).

In order to accept 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. CS Water and Sewer Assoc.*, 74 Pa. PUC 767 (199).

Because Peoples TWP's annual operating revenues derived from providing gas service to customers in Pennsylvania exceed \$40 million, the Company's recovery of purchased gas costs is governed by Section 1307(f) of the Code.

Sections 1318(a)(1), (2), (3) and (4), and Sections 1318(b)(1), (2) and (3) of the Code require that the Commission make the following specific findings with respect to the Company's gas procurement policy. These required findings include: a finding that the Company has fully and vigorously represented the interests of its ratepayers before FERC and

other non-commission proceedings (§ 1318(a)(1)); a finding of prudence in negotiating or renegotiating of gas supply contracts (§ 1318(a)(2)); a finding of prudence concerning efforts to obtain lower cost gas supplies, including the use of gas transportation (§ 1318(a)(3)); a finding that gas supplies have not been withheld from the market imprudently (§ 1308(a)(4)); a finding that full and vigorous attempts have been made to obtain less costly gas supplies from nonaffiliated interests (§ 1318(b)(1)); a finding that each contract for the purchase of gas from an affiliated interest is consistent with a least cost fuel procurement policy (§ 1318(b)(2)); and a finding that affiliated interests have not imprudently withheld gas from the market (§ 1318(b)(3)).

In this proceeding, the Settling Parties have stipulated that Peoples TWP has complied with the requirements of Section 1318 with regard to its gas purchases and gas purchasing practices for the 12-month period ending January 31, 2017 and that the rates agreed upon are just and reasonable. (Settlement, pp. 12-15.)

The Settling Parties have stipulated that, as to all actual purchased gas costs in the historical period, during the 12-month period ended January 31, 2017:

a. Peoples TWP met the requirements of Section 1318(a) of the Code by pursuing a least-cost fuel procurement policy, consistent with its obligation to provide safe, adequate, and reliable service to its customers; and

b. All gas exchanges by Peoples TWP with entities that are considered an affiliated interest have met the requirements of Section 1318(b) of the Code relating to purchases from and services provided by entities that are considered affiliates. (Settlement, pp. 12-13.)

As the Company presented evidence to support its Section 1307(f) and Section 1318 statutory obligations, and the Settling Parties stipulated to these issues, the Commission should approve the Settlement as to these uncontested issues, and as to the Settlement in total, without modification.

B. Statements of the Settling Parties in Support of the Settlement

For the Commission's consideration the parties submitted separate Statements in Support of the Settlement Petition. In their Statements, Peoples TWP, I&E, OCA, OSBA and PIOGA conclude, after extensive discovery and discussion, that the Settlement is in the interests of the Company and its customers, and is otherwise in the public interest.

Noting there is no opposition to the Settlement, the positions of the Settling Parties are summarized below.

C. Retainage and Lost and Unaccounted For Gas

1. Peoples TWP's Position

a. Retainage

The Company explains that retainage represents the extra gas needed to account for unaccounted for gas and company use (CU) gas for customers to receive the amount of gas needed. (I&E Statement No. 1, p. 9.) Transportation customers are charged for retainage because they are required to supply extra gas to meet this requirement. (I&E Statement No. 1, p. 9.) PGC customers are not charged for retainage directly because they pay for UFG and CU in their PGC rate, but any retainage that is not recovered from transportation customers is assessed to PGC customers. (I&E Statement No. 1, p. 9; Peoples Statement in Support, p. 3.)

Peoples TWP recommended increasing the tariffed retainage rate to 5.7% for all transportation customers, due to the overall percentage of system loss and CU as compared to last year's calculation. (Peoples TWP Statement No. 1, p. 12.) Further, the Company explained it discounts a customer's retainage rate when certain competitive circumstances exist and when the discount passes the established net benefit test. (Peoples TWP Statement No. 1, p. 12; Highly Confidential Peoples TWP Exhibit No. 3.) The Company explains that the cost of discounted retainage is retained within the transportation classes and is reflected in the tariffed

retainage rate. (Peoples TWP Statement No. 1, pp. 12-13; Peoples TWP Exhibit No. 2, p. 2; Highly Confidential Peoples TWP Exhibit No. 3; Peoples Statement in Support, pp. 3-4.)

b. Unaccounted For Gas

According to Peoples TWP, I&E recognized that the Company's distribution system UFG of 3.95% for the year ended August 31, 2016, is within the third year UFG target of 4.0% established by the Commission. (I&E Statement No. 1, p. 4); *see* 52 Pa.Code § 59.111(c)(1). However, the Company points out that I&E noted an increase in UFG on a total system basis over the past few years and urged the Company to take further steps to mitigate its UFG. (I&E Statement No. 1, pp. 5-8.) I&E also recommended that Peoples TWP accelerate its pipeline replacement program and provide I&E and the Commission's Bureau of Technical Utility Services (TUS) with a quarterly update on UFG, which would include actual capital expenditures on pipeline replacement and retirements. (I&E Statement No. 1, pp. 7-8; Peoples Statement in Support, p. 5.) If Peoples TWP fails to show improvement in its UFG, I&E stated that it would recommend an adjustment in next year's PGC proceeding to disallow full recovery. (I&E Statement No. 1, p. 8.; Peoples Statement in Support, p. 5.)

Peoples TWP stated that it shares I&E's concern with system-wide UFG over the 2013-2016 period. (Peoples TWP Statement No. 4-R, p. 5.) Peoples TWP explained that the Company has assembled a cross-functional team to assess, analyze, and take action to mitigate UFG and that the Company is working on a UFG mitigation plan. (Peoples TWP Statement No. 2, p. 40; Peoples TWP Statement No. 4-R, p. 5.) However, the Company asserts it is not realistic to expect immediate and significant reductions in UFG as a result of UFG mitigation efforts. (Peoples TWP Statement No. 4-R, p. 5; Peoples Statement in Support, p. 6.)

In addition, Peoples TWP responded to I&E's recommendations that the Company accelerate its pipeline replacement program and provide quarterly updates on UFG. Peoples TWP explained that accelerating the pipeline replacement program would not necessarily produce immediate UFG reductions because determining which pipelines should be

scheduled for replacement is contingent on a risk analysis under the Company's Long-Term Infrastructure Improvement Plan (LTIIIP). (Peoples TWP Statement No. 4-R, p. 7.) Although leakage is a relevant factor in that risk analysis, it is not the only factor. (Peoples Statement No. 4-R, p. 7.) For example, according to the Company, a leaking pipeline in a non-populated rural area may not receive a higher risk ranking than a non-leaking pipeline in a highly populated, urban area. (Peoples Statement No. 4-R, p. 7; Peoples Statement in Support, p. 6.)

Peoples TWP also argued that I&E's quarterly UFG report would likely be ineffective. (Peoples TWP Statement No. 4-R, p. 7.) The Company asserted that it would have difficulty accurately measuring UFG on a quarterly basis, and Peoples TWP already provides numerous reports on its pipeline replacements. (Peoples Statement No. 4-R, pp. 7-9; Peoples Statement in Support, p. 7.)

According to the Company, the Joint Petitioners acknowledge in the Settlement that Peoples TWP's UFG percentage for the 12-month period ending August 31, 2016, is in compliance with the Commission's regulations. (Settlement ¶ 27.) Furthermore, Peoples TWP has committed to continue its efforts to reduce UFG. (Settlement ¶ 27.) The Company also will provide the Joint Petitioners by April 2, 2018, with a report from its UFG team providing an analysis and recommendations to mitigate UFG. (Settlement ¶ 27; Peoples Statement in Support, p. 7.)

The Company asserts that the settlement provisions recognize that Peoples TWP's UFG efforts continue to meet and exceed the UFG goals set by the Commission, while committing to continue and expand the Company's UFG mitigation efforts. These provisions respond to I&E's concerns about UFG and, therefore, should be approved without modification. (Peoples Statement in Support, p. 7.)

## 2. OCA's Position

OCA explains that the agreed upon tariffed retainage rate for all rate classes of 5.4% includes an allocation of a portion of the cost of on-system storage losses and the cost of

gas used as fuel at compressor stations to transportation customers. OCA notes that in Rebuttal Testimony, the Company proposed a method for allocating these costs to the retainage rate that is similar to how Peoples TWP allocates interstate storage costs to the balancing charges. Peoples TWP St. No. 1-R at 3-4. Using this method, the Company calculated that an appropriate allocation of on-system storage losses and compressor fuel to the retainage rate (*i.e.*, transportation customers) would equal 16 percent. *Id.* at 4. OCA found this to be an acceptable method of apportioning the costs of on-system storage losses and compressor fuel to transportation customers, which, have previously been recovered only from sales customers. (OCA Statement in Support, p. 2.)

The Settlement also provides that Peoples TWP's newly negotiated waivers of retainage that were contained in the Company's Highly Confidential Exh. No. 3 should be approved. Settlement ¶ 26. OCA explained that it took no position with respect to the newly negotiated waivers of retainage that were contained in the Company's Highly Confidential Exh. No. 3, but has no objection to their approval. (OCA Statement in Support, p. 2.)

OCA noted that it has no objection to the Company's commitment to continuing its efforts to reduce UFG and will provide parties with a report from its UFG team, by April 2, 2018, that offers analysis of UFG issues and makes recommendations on mitigating UFG. Settlement ¶ 27. (OCA Statement in Support, pp. 2-3.)

### 3. I&E's Position

I&E explains that the Settlement acknowledges that the Company's lost and unaccounted for gas for the 12-month period ending August 31, 2016 of 3.95% is in compliance with 52 Pa.Code § 59.111(c)(1). I&E notes that this number is increasing and must be addressed. I&E Statement No. 1, pp. 4-5; I&E Statement in Support, pp. 3-4.)

I&E further explains that the Company has agreed to provide to the signatory parties of the agreement an analysis and recommendation to mitigate UFG by April 2, 2018. (I&E Statement in Support, p. 4.)

I&E witness Apetoh explained that if the current upward trend in UFG continues, I&E intends to make an adjustment to disallow recovery of certain costs in the Company's next 1307(f) filing. I&E explains that the Settlement will allow the Company time to address this issue, while still ensuring that ratepayers are not footing the bill for continuously increasing UFG. (I&E Statement No. 1, pp. 7-8; I&E Statement in Support, p. 4.) I&E notes that it supports the initiatives to reduce UFG by the Company that will be undertaken through the Settlement and believes that they are in the public interest, however, unless the trend of increasing UFG is halted, a financial adjustment will be made in the next PGC filing. (I&E Statement in Support, p. 4.)

#### 4. OSBA's Position

OSBA supports the settlement terms outlined in the Joint Petition as reasonable and in the best interest of the Company's small commercial and industrial (C&I) customers. OSBA points out that the agreed upon tariffed retainage rate for all rate classes shall be 5.4%, as compared to the Company's proposed retainage rate of 5.7% is attributable to two factors, that the Company revised its proposed retainage rate downward to 5.3% in order to reflect the loss of a large industrial customer served on Rate Schedule LGS-T at discounted rates and it subsequently adjusted its revised retainage rate of 5.3% to 5.4% to reflect the inclusion of a portion of the Company's on-system storage losses and compressor fuel use in its retainage calculation. (Peoples TWP Statement No. 1-S, Peoples TWP Statement No. 1-R, p. 4; OSBA Statement in Support, pp. 3-4.) According to OSBA, both adjustments are appropriate, and the resulting retainage rate of 5.4% is reasonable and in the interest of the Company's Small C&I customers. (OSBA Statement in Support, pp. 3-4.)

OSBA noted that the Company has committed to continue efforts to reduce UFG and agreed to provide to the Joint Petitioners by April 2, 2018, a report from its UFG team providing an analysis and recommendations to mitigate UFG. Since reductions in UFG levels will reduce the cost of gas supply for both sales and transportation customers, OSBA concluded that any increased efforts to reduce UFG are reasonable and in the interest of the Company's Small C&I customers. (OSBA Statement in Support, p. 4.)

5. PIOGA's Position

PIOGA explained that it intervened in this proceeding because of concerns related to the measures used by the Company to address and mitigate unaccounted for gas on its pipeline systems, and the Company's retainage levels to recover its UFG expense. PIOGA notes that the Settlement provides that the tariffed retainage rate for all rate classes will be 5.4% effective October 1, 2017, and that the Company will continue its efforts to reduce UFG on its pipelines and will also provide a report by next year's Section 1307(f) filing date with an analysis and recommendations to mitigate UFG. (Settlement, ¶ 25, 27.) In PIOGA's view, these provisions represent an appropriate resolution of these issues. (PIOGA Statement in Support, pp. 1-2.)

D. Analysis

1. Retainage

I&E agreed with Peoples TWP's proposed retainage rate (I&E Statement No. 1, p. 11) and OCA recommended that the retainage rate be increased to 6.8% based upon a claim that the charge should recover a portion of the costs associated with the Company's storage losses and compressor fuel. (OCA Statement No. 1, pp. 4, 6; OCA Schedule JDM-1; Peoples Statement in Support, p. 4.)

Subsequent to the submission of other parties' direct testimony, Peoples TWP submitted supplemental direct testimony of Mr. Anthony Caldro. (*See* Peoples TWP Statement No. 1-S.) Mr. Caldro's supplemental direct testimony explained that effective July 2017, a large volume Rate LGS-T transportation customer, with a discounted retainage rate, would be ceasing operations. (Peoples TWP Statement No. 1-S, p. 1.) The Company explained that, with the loss of this customer, the cost of the discounted retainage charge no longer needed to be factored into the tariffed retainage rate. (Peoples TWP Statement No. 1-S, p. 2.) As a result, the Company explained that it revised its original proposed tariffed retainage rate from 5.7% to 5.3%. (Peoples TWP Statement No. 1-S, pp. 2-3; Peoples TWP Exhibit No. 2-S; Peoples Statement in Support, p. 4.)

In rebuttal, Peoples TWP generally disagreed with OCA's retainage recommendation, arguing that OCA's proposal would recover on-system storage losses and compressor fuel from sales and transportation customers without regard to customers' load factors. (Peoples TWP Statement No. 1-R, p. 3.) The Company explained that Peoples TWP's transportation customers are primarily large commercial and industrial users with higher load factors than sales customers. (Peoples TWP Statement No. 1-R, p. 3.) However, according to the Company, on-system storage is used primarily to supply lower load factor sales customers. (Peoples TWP Statement No. 1-R, p. 3) The Company explained that gas injected into storage in the summer months with the intention of being used in the winter months is for sales customer use. (Peoples TWP Statement No. 1-R, p. 3.) Accordingly, the Company asserted that it would be more appropriate to allocate on-system storage losses and compressor fuel based on a method reflecting the limited use of on-system storage for balancing transportation customers' receipts and deliveries. (Peoples TWP Statement No. 1-R, p. 3.) Using this method, and continuing to reflect the lost LGS-T customer, the Company calculated and the parties agreed to a proposed retainage rate of 5.4%. (Peoples TWP Statement No. 1-R, p. 4; Peoples TWP Exhibit No. 2-R; Peoples Statement in Support, p. 4.)

The Joint Petitioners have agreed that effective October 1, 2017, the tariffed retainage rate for all rate classes will be 5.4%. (Settlement ¶ 25.) Regarding discounted retainage rates, the Settlement provides that the newly negotiated waivers of retainage in Highly Confidential Peoples Exhibit No. 3 should be approved. (Settlement ¶ 26; Peoples Statement in Support, p. 5.)

The Settlement appears to be a fair compromise as it adopts Peoples TWP's revised retainage rate proposal and responds to OCA's concern about the retainage rate not reflecting on-system storage losses and compressor fuel. (Peoples TWP Statement No. 1-R, p. 4; Peoples Statement in Support, p. 5.)

2. Unaccounted For Gas

The Joint Petitioners acknowledged in the Settlement that the Company's UFG percentage for the 12-month period ending August 31, 2016, is in compliance with the Commission's regulations and that it was committed to continuing its efforts to reduce UFG. (Settlement ¶ 27.) The Company further agreed to provide the Joint Petitioners by April 2, 2018, with a report from its UFG team providing an analysis and recommendations to mitigate UFG. (Settlement ¶ 27; Peoples Statement in Support, p. 7.)

The Settlement provisions recognize that the Company's UFG efforts continue to meet and exceed the UFG goals set by the Commission, while committing to continue and expand the Company's UFG mitigation efforts. These provisions respond to I&E's concerns regarding UFG and facilitate continued efforts by the Company to reduce UFG and consider further recommendations to mitigate UFG.

E. Balancing Charges

1. Peoples TWP's Position

Peoples TWP explained that it made two changes to its calculation of balancing charges for SGS-T, MGS-T, and LGS-T customers. (Peoples TWP Statement No. 1, pp. 20-21.) First, as of April 1, 2017, Peoples TWP moved to a "target based" daily balancing program similar to its sister company, Peoples Natural Gas Company LLC, and, as such, banking and advancing services for transportation customers in the SGS, MGS and LGS classes are no longer necessary. (Peoples TWP Statement No. 1, p. 21.) Second, as part of the settlement in the 1307(f)-2015 proceeding, there was the provision that the "E" factor would no longer be allocated to the balancing charge. (Peoples TWP Statement No. 1, p. 21.) These changes were reflected in Peoples TWP Exhibit No. 10 as part of the Company's definitive 1307(f) filing. Subsequently, Peoples TWP presented Peoples TWP Exhibit No. 10-S, which recalculated the balancing charge for LGS-T customers to reflect the loss of a large LGS-T customer who paid a

discounted balancing charge. (Peoples TWP Statement No. 1-S, pp. 1-3; Peoples TWP Statement in Support, p. 7.)

According to the Company, the loss of the LGS-T customer had two effects. First, it reduced the discount shortfall amount to be recovered from other LGS-T customers, resulting in a reduction to the tariffed LGS-T balancing charge from \$0.2070/Mcf to \$0.1525/Mcf. (Compare Peoples TWP Exhibit No. 10, with Peoples TWP Exhibit No. 10-S.) Second, the loss of the large LGS-T customer reduced balancing revenues to be credited to the PGC from \$987,287 to \$864,573. (Compare Peoples TWP Exhibit No. 10, with Peoples TWP Exhibit No. 10-S.) The Company explains that the loss of that customer had no effect on other classes' as-filed balancing charges. (Peoples TWP Statement No. 1-S, p. 3; Peoples TWP Statement in Support, p. 8.)

The Company explains that the Settlement memorializes the balancing charges as presented in Peoples TWP Exhibit No. 10-S. Under the Settlement, Peoples TWP's non-Priority 1 (NP-1) tariffed transportation balancing charges shall be the following: \$0.2777/Mcf for Rate SGS-T customers, \$0.1984/Mcf for Rate MGS-T customers, and \$0.1525/Mcf for Rate LGS-T customers. (Settlement ¶ 28, Peoples TWP Statement in Support, p. 8.) The Company avers that the balancing charges are reasonable because they reflect the changes to the Company's balancing program and are consistent with the settlement in Peoples TWP's 2015 PGC proceeding. Moreover, the balancing charge for LGS-T customers was recalculated to reflect the loss of a large customer who paid a discounted balancing charge. (Peoples TWP Statement in Support, p. 8.)

## 2. OCA's Position

OCA took no position on the amount of the balancing charges, but expressed no objection to the approval of the Settlement terms. (OCA Statement in Support, p. 3.)

3. I&E's Position

I&E supports the balancing charges as enumerated in the Joint Petition as in the public interest and a fair compromise of the parties. (I&E Statement in Support, p. 4.)

4. OSBA's Position

OSBA expressed no position regarding this issue.

5. PIOGA's Position

PIOGA expressed no position regarding this issue.

F. Analysis

No party opposed Peoples TWP's balancing charges in this proceeding which are reliable and reflect the charges to the Company's balancing program as explained by Peoples TWP.

G. Actual Gas Cost Reporting

1. Peoples TWP's Position

Section 53.64(i)(5)(i) of the Commission's regulations requires the quarterly PGC filings to be based upon a recalculation and reconciliation of gas costs for a quarterly period commencing four months prior to the filing date. 52 Pa.Code § 53.64(i)(5)(i). The Company explained that Peoples TWP had requested limited waivers, to the extent necessary, in letters accompanying its previous quarterly filings, of Section 53.64(i)(5)(i) to provide a reconciliation only for the two earliest months of the quarterly period because the processing and booking of some of the actual gas cost data for the third month was not available in time to be included in the quarterly filing. *See, e.g.,* Peoples TWP LLC – Supplement No. 37 to Tariff Gas – PA PUC

No. 8, Quarterly Recalculation and Reconciliation of Purchased Gas Cost Rates, Docket No. R-2016-2528557 (December 30, 2016). (Peoples TWP Statement in Support, pp. 8-9.)

Under the Settlement, Peoples TWP agreed to only report actual gas costs in the final month of any quarterly or annual gas cost filings. However, the Company will record the cost as zero if an actual gas cost is not known and the estimated gas cost is less than 1% of the monthly gas costs. If that is the case, the Company will provide actual gas costs in the next quarterly or annual gas cost filing after the actual gas costs become available. (Settlement ¶ 29; Peoples TWP Statement in Support, pp. 8-9.)

2. OCA's Position

OCA explains that in an effort to eliminate the request for waivers in connection with the Company's quarterly and annual gas cost filings, only actual gas costs will be reported in the final month of any filing. If an actual gas cost is not known and the estimated cost is below 1% of the monthly gas costs, the Company will not record an estimated cost but will record the cost as zero. The Company will then provide the actual gas cost in the next quarterly or annual gas cost filing. OCA agrees that this will improve the accuracy of the Company's reports and eliminate the need for repeated waivers. (OCA Statement in Support, p. 4.)

3. I&E's Position

I&E explains indicated that it strongly supports this provision of the Settlement since it will help to eliminate a repeated waiver to filing requirements and bring the Company towards compliance with 52 Pa.Code § 53.64(i)(5)(i). (I&E Statement in Support, p. 5.)

4. OSBA's Position

OSBA expressed no position regarding this issue.

5. PIOGA's Position

PIOGA expressed no position regarding this issue.

H. Analysis

This settlement provision represents a fair compromise of the parties. The proposed resolution to this issue should improve the accuracy of the Company's reports and eliminate the need for repeated waivers to filing requirements and bring the Company towards compliance with 52 Pa.Code § 53.64(i)(5)(i).

I. Miscellaneous

1. Peoples' Position

Under the Settlement, the parties have agreed that the proposed rates and other requested approvals contained in Peoples TWP's PGC filing should be approved except to the extent that they are modified by the Settlement. (Settlement ¶ 30.) Further, the proposed rates will be updated in the Company's compliance filing to reflect actual and projected over/undercollections through September 30, 2017. (Settlement ¶ 31; Peoples TWP Statement in Support, pp. 9-10.)

Peoples TWP avers that the PGC and balancing rates that Peoples TWP proposes to place into effect on October 1, 2017, are supported by record evidence. According to Peoples TWP, due to the loss of one large LGS-T customer after the Company's filing, Peoples TWP's settled balancing charges are projected to recover \$122,714 less than as originally filed (*i.e.*, \$987,287 - \$864,573). Balancing charges are a credit to capacity (demand) charges. (Peoples TWP Exhibit No. 9, p. 2, line 4.) Therefore, capacity charges for sales customers increase by \$0.0181/Mcf (*i.e.*,  $\$122,714 \div 6,773,431 \text{ Mcf}$ ).<sup>2</sup> (Peoples TWP Statement in Support, p. 10.)

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<sup>2</sup> Including the effects of the Merchant Function Charge, the Residential rate increases by \$0.0184/Mcf, and the SGS rate increases by \$0.0182/Mcf under the Settlement, as compared to the originally proposed rates.

2. OCA's Position

OCA explains that it is in agreement with the rates proposed and other requested approvals contained in the Company's filing and that the Company's compliance filing in this proceeding will reflect updated actual and projected over and undercollections through September 30, 2017. OCA also agrees with the proposal that the Commission should approve the renewals and changes in gas supply, pipeline, and storage capacity contracts that are explained in Peoples TWP's Statement No. 2 and related exhibits. (OCA Statement in Support, p. 4.)

3. I&E's Position

I&E provided no miscellaneous information regarding the Settlement.

4. OSBA's Position

OSBA provided no miscellaneous information regarding the Settlement.

5. PIOGA's Position

PIOGA provided no miscellaneous information regarding the Settlement.

6. Analysis

The terms of the Settlement, as further explained in the "Miscellaneous" section of the Settlement, represent a fair compromise to resolve the contested issues in this proceeding.

J. Summary

The Settling Parties explain they have agreed to a settlement of all issues in the above-captioned proceeding and the Settlement was achieved only after an extensive

investigation of Peoples TWP's filing, including extensive informal and formal discovery and the service of written direct testimony (including accompanying exhibits) by the Settling Parties. In addition to informal discovery, Peoples TWP responded to numerous formal discovery requests (many of which had multiple subparts). The active parties served testimony and accompanying exhibits supporting their respective positions, which testimony and exhibits were subsequently admitted into the record at the evidentiary hearing.

The Settling Parties assert the Settlement is just and reasonable and Peoples TWP's 2017 1307(f) filings, as modified by the Settlement, should be approved.

The Settlement was achieved only after a comprehensive investigation of Peoples TWP's natural gas procurement policies and operations. In addition to a comprehensive filing and informal discovery, the Settling Parties responded to numerous formal discovery requests (many of which had multiple subparts). In support of their positions, Peoples TWP, I&E, OCA, OSBA and PIOGA exchanged information or served testimony and accompanying exhibits, which were subsequently admitted into the record at the evidentiary hearing held on June 5, 2017. The Joint Petitioners participated in numerous settlement discussions and formal negotiations, which ultimately led to the Settlement.

In addition, the Joint Petitioners, as well as their experts and counsel, have considerable experience in PGC proceedings. Their knowledge, experience, and ability to evaluate the strengths and weaknesses of their litigation positions provided a strong base upon which to build a consensus on the settled issues.

For these reasons and the reasons set forth below, the Settling Parties have established the requirements set forth above and that the Settlement is just and reasonable. Accordingly, Peoples TWP's 2017 1307(f) filings, as modified by the Settlement, should be approved.

K. The Public Interest

The Settlement was achieved by the Joint Petitioners after an extensive investigation of Peoples TWP's filings, including extensive informal and formal discovery and the service of written testimony and exhibits by the Settling Parties. Acceptance of the Settlement avoids the necessity and costs of further administrative and potential appellate proceedings.

The Settlement provides for the recovery of natural gas costs that are just and reasonable given the positions advanced in the testimony and exhibits of the various parties.

Attached as Appendices B through F are Statements in Support submitted by Peoples TWP, I&E, OCA, OSBA, and PIOGA setting forth the basis upon which they believe the Settlement is in the public interest.

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 administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa.Code § 69.401. The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a "burden of proof" standard, as is utilized for contested matters. *Pa. Pub. Util. Comm'n, et al. v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103, *et al.*, Opinion and Order (entered July 14, 2011) (Lancaster). Instead, the benchmark for determining the acceptability of a settlement or partial settlement is whether the proposed terms and conditions are in the public interest. *Id.*; *citing, Warner v. GTE North, Inc.*, Docket No. C-00902815, Opinion and Order (entered April 1, 1996) (Warner); *Pa. Pub. Util. Comm'n v. CS Water and Sewer Associates*, 74 Pa. PUC 767 (1991).

This Recommended Decision has examined whether the Settlement is in the public interest, satisfies applicable statutes and regulations for 1307(f) filings and is supported by substantial evidence and therefore should be adopted.

For the reasons similar to those stated by the parties in their respective Statements in Support of the Settlement, I agree that the Settlement is in the public interest and should be approved in its entirety without modification.

Finally, as with most settlements, this Settlement is also in the public interest because it will conserve the resources of the Commission and the parties. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. Although a substantial amount of pre-served testimony has already been submitted in this proceeding, such efforts were necessary to properly examine the Company's filing. Nonetheless, the resolution of the issues contained in the Settlement will avoid further litigation on those issues, thereby, serving judicial efficiency and allowing the parties and the Commission to conserve their resources, the costs of which will ultimately be borne by customers.

As such, each of the provisions of the Settlement is reasonable and supports adopting the Settlement in its entirety, without modification, as being in the public interest and consistent with applicable statutes governing 1307(f) filings. While none of these provisions individually is substantial, the standard to judge the Settlement is only that the Settlement be in the public interest. As a whole, the Settlement is in the public interest. The continuation and/or further refinement of certain issues is reasonable and in the public interest sufficient to support approving the Settlement without modification. In addition, the issues raised by the parties in this proceeding were extensively discussed in pre-served testimony that was admitted into the record of this proceeding. The Settlement is, therefore, also supported by substantial evidence.

## V. CONCLUSION

For the reasons set forth in the Joint Petition, as well as the additional factors enumerated in the Statements in Support of Settlement filed by the Settling Parties, the proposed Settlement is in the public interest and supported by substantial evidence. The Settlement addresses all of the statutory requirements and is therefore recommended for approval in its entirety, without modification.

## VI. CONCLUSIONS OF LAW

The Settling Parties have stipulated to the following Conclusions of Law, which are adopted below, without modification.

1. The Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa.C.S. §§ 1307(f), 1317-1318.
2. With respect to Peoples TWP's gas purchases and gas purchasing practices during the 12-month historical reconciliation period ended January 31, 2017, Peoples TWP has met the standards of Section 1318 of the Public Utility Code, 66 Pa.C.S. § 1318, as required by Section 1307(f)(5) of the Public Utility Code, 66 Pa.C.S. § 1307(f)(5), as to all actual purchased gas costs in the historical period. During the 12-month period that ended January 31, 2017:
  - a. Peoples TWP met the requirements of Section 1318(a) of the Public Utility Code by pursuing a least-cost fuel procurement policy, consistent with its obligation to provide safe, adequate, and reliable service to its customers; and
  - b. All gas exchanges by Peoples TWP with entities that are considered an affiliated interest have met the requirements of Section 1318(b) of the Public Utility Code relating to purchases from and services provided by entities that are considered affiliates.
3. Peoples TWP has fully and vigorously represented the interests of its ratepayers in proceedings before FERC and other relevant non-Commission proceedings during the relevant time period in compliance with 66 Pa.C.S. § 1318(a)(1).
4. Peoples TWP has taken all prudent steps necessary to negotiate favorable gas supply contracts and to relieve the Company from terms in existing contracts with its gas

suppliers which are or may be adverse to the interests of the Company's ratepayers in compliance with 66 Pa.C.S. § 1318(a)(2).

5. Peoples TWP has taken all prudent steps necessary to obtain lower cost gas supplies on both short-term and long-term bases both within and outside the Commonwealth, including the use of gas transportation arrangements with pipelines and other distribution companies in compliance with 66 Pa.C.S. § 1318(a)(3).

6. Peoples TWP has not withheld from the market or caused to be withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy in compliance with 66 Pa.C.S. § 1318(a)(4).

7. Peoples TWP has fully and vigorously attempted to obtain less costly gas supplies on both short-term and long-term bases from nonaffiliated interests in compliance with 66 Pa.C.S. § 1318(b)(1).

8. Neither Peoples TWP nor its affiliated interests have withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy in compliance with 66 Pa.C.S. § 1318(b)(3).

9. During the eight-month interim period beginning February 1, 2017, and the projected 12-month period beginning October 1, 2017, when rates contained in this Settlement will be in effect,<sup>3</sup> based upon information presently available and based upon evidence of record in this proceeding concerning Peoples TWP's projected purchases and purchasing policies, the rates to be adopted by the Commission result from Peoples TWP's compliance with the provisions of Section 1318 of the Public Utility Code, including subsections (a)(1)-(4) and (b)(1)-(3). 66 Pa.C.S. § 1318(a)(1)-(4), (b)(1)-(3). This finding is made solely for the purpose of setting prospective rates that shall continue to be subject to the standards of Section 1318 of the Public Utility Code, 66 Pa.C.S. § 1318, and to further review in an

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<sup>3</sup> The proposed tariff rates effective October 1, 2017, will be updated to reflect actual and projected over/undercollections through September 30, 2017, as stated in Paragraph 30 of this Settlement.

appropriate future proceeding. This provision is not intended to limit or prevent I&E, OCA, OSBA, or PIOGA from reviewing, after such projected gas purchases actually have been made and gas purchasing practices actually have been implemented, whether Peoples TWP's gas purchases and gas purchasing practices complied with Section 1318. If in an appropriate future proceeding Peoples TWP's gas purchases and gas purchasing practices from February 1, 2017, through September 30, 2018, were challenged, the Commission's findings based upon this provision shall not bar the examination of such purchases and practices, including, but not limited to, disallowance of or reductions to such costs during the eight-month interim period commencing February 1, 2017, and the 12-month application period commencing October 1, 2017, and ending September 30, 2018.

10. The Joint Petition for Settlement of the Section 1307(f) Rate Investigation is in the public interest.

11. The Commission should approve the Joint Petition for Settlement of the Section 1307(f) Rate Investigation that Peoples TWP LLC, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Independent Oil & Gas Association have submitted, as in the public interest.

## VII. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Settlement of the Section 1307(f) Rate Investigation among Peoples TWP LLC, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small

Business Advocate, and the Pennsylvania Independent Oil & Gas Association in the above-captioned case is hereby approved and adopted, without modification.

2. That Peoples TWP LLC shall file a tariff supplement to become effective on October 1, 2017, on not less than one-days' notice of the final Commission order approving the Joint Petition for Settlement of the Section 1307(f) Rate Investigation, containing changes in rates to provide for the recovery of its costs of purchased gas, consistent with the terms and conditions of the Joint Petition for Settlement of the Section 1307(f) Rate Investigation.

3. That Peoples TWP LLC, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Independent Oil & Gas Association shall comply with the terms and conditions of the Joint Petition for Settlement of the Section 1307(f) Rate Investigation submitted in this proceeding as though each term and condition stated therein had been subject of an individual ordering paragraph.

4. That upon Peoples TWP LLC's filing of a tariff supplement acceptable to the Commission as conforming with this order and the Joint Petition for Settlement of the Section 1307(f) Rate Investigation and the Commission's approval thereof, the purchased gas rates established therein shall become effective for service rendered on and after October 1, 2017.

5. That the complaint filed by the Office of Small Business Advocate in this proceeding at Docket No. C-2017-2593494 be satisfied and marked closed.

6. That the complaint filed by the Office of Consumer Advocate in this proceeding at Docket No. C-2017-2595922 be satisfied and marked closed.

7. That upon acceptance and approval by the Commission to the tariff supplement and supporting data filed by Peoples TWP LLC as being consistent with this

