



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

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

PA PUC
SECRETARY'S BUREAU
FRONT DESK

Re: **Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Brookhaven MHP Management LLC, Meadowview Management LLC, Mill Creek MHP Management LLC, Northwood Manor Management LLC and ATG Properties LLC d/b/a Greenleaf Gas Company**
Docket Nos. C-2017-2613983, C-2017-2613984, C-2017-2613985, C-2017-2613986 and C-2017-2613987; **Joint Petition for Approval of Settlement**

Dear Secretary Chiavetta:

Enclosed for filing is the Joint Petition for Approval of Settlement and Appendix A, the Bureau of Investigation and Enforcement's Statement in Support, and Appendix B, the Statement in Support of Brookhaven MHP Management LLC, Meadowview Management LLC, Mill Creek MHP Management LLC, Northwood Manor Management LLC and ATG Properties LLC d/b/a Greenleaf Gas Company, in the above-captioned proceeding.

Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

Enclosure

cc: Cheryl Walker Davis, OSA
As per Certificate of Service

RECEIVED
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,
Bureau Of Investigation and Enforcement,
Complainant

v.

Brookhaven MHP Management LLC,
Meadowview Management LLC,
Mill Creek MHP Management LLC,
Northwood Manor Management LLC,
and
ATG Properties LLC d/b/a Greenleaf
Gas Company,

Respondents

PA PUC
SECRETARY'S BUREAU
FRONT DESK

Docket Nos. C-2017-2613983;
C-2017-2613984;
C-2017-2613985;
C-2017-2613986; and
C-2017-2613987

JOINT PETITION FOR APPROVAL OF SETTLEMENT

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code §§ 5.41 and 5.232, the Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E") and Brookhaven MHP Management LLC ("Brookhaven"), Meadowview Management LLC ("Meadowview"), Mill Creek MHP Management LLC ("Mill Creek"), Northwood Manor Management LLC ("Northwood Manor") and ATG Properties LLC d/b/a Greenleaf Gas Company ("ATG Properties") (collectively, "Respondents") hereby submit this Joint Petition for Approval of Settlement ("Settlement" or "Settlement Agreement") to resolve all issues related to the above-docketed I&E Complaint proceeding alleging violations of the Gas and Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101 *et seq.* ("Act 127"). As part of this Settlement Agreement, I&E and Respondents (hereinafter referred to collectively as the "Parties") respectfully request that the Commission approve the Settlement without modification.

Statements in Support of the Settlement expressing the individual views of I&E and Respondents are attached hereto as Appendix A and Appendix B, respectively.

I. INTRODUCTION

1. The Parties to this Settlement Agreement are the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, by its prosecuting attorneys, P.O. Box 3265, Harrisburg, PA 17105-3265, and Brookhaven MHP Management LLC, Meadowview Management LLC, Mill Creek MHP Management LLC, Northwood Manor Management LLC and ATG Properties LLC d/b/a Greenleaf Gas Company with a principal business address of 2846 Main Street, P.O. Box 12A, Morgantown, PA 19543.

2. The Pennsylvania Public Utility Commission is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate pipeline operators pursuant to Section 501(a) of Act 127, 58 P.S. § 801.501(a).

3. I&E is the entity established to prosecute complaints against public utilities and other entities subject to the Commission's jurisdiction pursuant to 66 Pa.C.S. § 308.2(a)(11); *See also Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011) (delegating authority to initiate proceedings that are prosecutory in nature to I&E).

4. Section 501(a) of Act 127, 58 P.S. § 801.501(a), authorizes and obligates the Commission to supervise and regulate pipeline operators within this Commonwealth consistent with Federal Pipeline Safety Laws. Respondents are "pipeline operators" in that they own or operate "equipment or facilities in [the Commonwealth of Pennsylvania] for the transportation of gas or hazardous liquids by pipeline or pipeline facility regulated under Federal pipeline safety laws." 58 P.S. § 801.102.

5. Section 502(a) of Act 127, 58 P.S. § 801.502(a), authorizes the Commission to impose civil penalties on pipeline operators for violations of Act 127. A pipeline operator may be subject to the civil penalties provided under Federal Pipeline Safety Laws or Section 3301(c) of the Code, 66 Pa.C.S. § 3301(c), whichever is greater.

6. On March 29, 2017, Brookhaven, Meadowview, Mill Creek and Northwood Manor registered for the first time with the Commission as pipeline operators at Docket Nos. A-2017-2597503, A-2017-2597508, A-2017-2597480 and A-2017-2597492.

7. Pursuant to the provisions of the applicable Commonwealth statutes and regulations, the Commission has jurisdiction over the subject matter and the actions of Respondents in their capacities as pipeline operators serving customers in Pennsylvania.

II. BACKGROUND

8. ATG Properties owns four mobile home parks in York County known as Brookhaven, Meadowview, Mill Creek and Northwood Manor.

9. Greenleaf Gas Company (“Greenleaf”) bills individually metered residents of three of the four aforementioned mobile home parks, Brookhaven, Meadowview and Mill Creek, for natural gas service supplied by Columbia Gas Company through a single master meter.

10. A master meter system is defined as “[a] pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park . . . where the operator purchases metered gas from an outside source for resale through a gas distribution system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as rents.” 49 CFR § 191.3. Master meter systems are regulated under Federal pipeline safety laws. *Id.*

11. The specifics of the master meter systems operated by Respondents are as follows:

- (1) Brookhaven
332 Gosling Drive
York, PA 17406
156 homes served utilizing 1.2 miles of pipe
- (2) Meadowview
102 Maple Drive
Dover, PA 17315
127 homes served utilizing 1.2 miles of pipe
- (3) Mill Creek
10 Shawna Drive
York, PA 17402
168 homes served utilizing 1.3 miles of pipe

12. Northwood Manor, the fourth mobile home park owned by ATG Properties, operates a propane gas distribution system serving ten (10) or more customers at:

101 Northwood Manor
York, PA 17408
27 homes served utilizing 0.7 miles of pipe

Northwood Manor's propane gas distribution system is subject to Federal pipeline safety laws.

See 49 CFR § 192.3 and 49 CFR § 192.1(b)(5)(i).

13. Respondents operated the aforementioned pipeline facilities at the time that Act 127 became effective on February 20, 2012 and operate the facilities at the present time. Respondents, however, intend to remove the propane gas distribution system at Northwood Manor by the end of August 2017.

14. On July 11, 2017, I&E filed a Formal Complaint ("Complaint") with the Commission against Respondents. The Complaint alleges that Respondents failed to submit an initial registration form in 2012 to register with the Commission as pipeline operators and failed to file Pennsylvania Pipeline Operator Annual Registration Forms to report total intrastate

regulated transmission, distribution and gathering pipeline miles that were in operation during the 2013,¹ 2014 and 2015 calendar years.

15. The Complaint also alleges that Respondents failed to pay assessments to the Commission for the 2015-16 and 2016-17 fiscal years because they had not reported their total regulated distribution pipeline miles that were in operation during the 2014 and 2015 calendar years. Had Respondents registered as pipeline operators and submitted the requisite reports, the Complaint alleges that the Commission would have assessed a cumulative total of \$3,080.40 for the 2015-16 fiscal year for the pipeline operations of Brookhaven, Meadowview, Mill Creek and Northwood, representing a cost of \$700.09 per mile of pipeline that was in operation during the 2014 calendar year. Similarly, if Respondents had registered as pipeline operators and submitted the requisite reports, the Complaint alleges that the Commission would have assessed a cumulative total of \$1,980.00 for the 2016-17 fiscal year for the pipeline operations of Brookhaven, Meadowview, Mill Creek and Northwood, representing a cost of \$450.00 per mile of pipeline that was in operation during the 2015 calendar year.

16. The Complaint requests that the Commission: (a) impose a civil penalty of \$40,000 against Respondents; and (b) direct Respondents to pay an assessment of \$5,060.40 related to the 2015-16 and 2016-17 fiscal years for pipeline miles that were in operation for the 2014 and 2015 calendar years, respectively.

17. By letter dated August 1, 2017, Respondents requested an unopposed extension of time to file a responsive pleading to I&E's Complaint on the grounds that the Parties reached a settlement-in-principle.

¹ In the Complaint, I&E noted that it was not prosecuting Respondents' alleged failure to submit Pennsylvania Pipeline Operator Annual Registration Forms related to pipeline miles that were in operation during the 2012 and 2013 calendar years. See 66 Pa.C.S. § 3314 (relating to limitation of actions and cumulation of remedies).

18. Respondents' requested extension of time was granted by Secretarial Letter dated August 2, 2017.

III. ALLEGED VIOLATIONS

19. Had this matter been fully litigated, I&E would have proffered evidence and legal arguments to demonstrate that Respondents committed the following violations:

- A. I&E alleges that Respondents failed to submit reports with the Commission as Act 127 pipeline operators on an annual basis in that they failed to report total regulated intrastate pipeline miles on or before March 31, 2015 and March 31, 2016 for the preceding respective calendar years.

If proven, I&E alleges that such conduct would have violated 58 P.S. § 801.503(d). (2 counts)

- B. I&E alleges that Respondents failed to pay an appropriate assessment to the Commission for the 2015-16 and 2016-17 fiscal years in that they did not register their total intrastate regulated distribution pipelines that were in operation during the 2014 and 2015 calendar years.

If proven, I&E alleges that such conduct would have violated 58 P.S. § 801.503(b). (2 counts)

IV. SETTLEMENT TERMS

20. Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest,² the Parties held a series of discussions that culminated in this Settlement. The purpose of this Joint Petition for Approval of Settlement is to resolve this matter without further litigation. There has been no evidentiary hearing before any tribunal and no sworn testimony taken in I&E's Complaint proceeding.

21. It is understood that this Settlement is the compromise of the allegations in the Complaint, which I&E intended to prove and that Respondents intended to dispute. However, Respondents fully acknowledge the seriousness of I&E's allegations, namely that failing to

² See 52 Pa. Code § 5.231(a).

identify jurisdictional pipeline facilities with the Commission deprives the I&E Pipeline Safety Division of knowing the existence and location of such facilities and, consequently, the ability to inspect the facilities to determine compliance with Federal pipeline safety laws.

22. The Parties recognize that their positions and claims are disputed and, given that the outcome of a contested proceeding is uncertain, the parties further recognize the benefits of amicably resolving the disputed issues through settlement.

23. I&E and Respondents, intending to be legally bound and for consideration given, desire to fully and finally conclude this litigation and agree that a Commission Order approving the Settlement without modification shall create the following rights and obligations:

- A. Respondents will pay a civil penalty in the amount of Twenty-Five Thousand Dollars (\$25,000) pursuant to 58 P.S. § 801.502. Said payment shall be made within sixty (60) days of the date of the Commission's Final Order approving the Settlement Agreement and shall be made by certified check or money order payable to the "Commonwealth of Pennsylvania." The docket numbers of this proceeding, C-2017-2613983, C-2017-2613984, C-2017-2613985, C-2017-2613986 and C-2017-2613987, shall be indicated with the certified check or money order and the payment shall be sent to:

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

The civil penalty shall not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f).

- B. Pursuant to 58 P.S. § 801.503, Respondents will pay a total assessment to the Commission in the amount of Five Thousand, Sixty Dollars and Forty Cents (\$5,060.40), which represents what the Commission would have assessed for the pipeline operations of Brookhaven, Meadowview, Mill Creek and Northwood for the 2015-16 and 2016-17 fiscal years had Respondents properly reported their jurisdictional pipeline miles. Said payment shall be made within sixty (60) days of the date of the Commission's Final Order approving the Settlement Agreement and shall be made by certified check or money order payable to the "Commonwealth of Pennsylvania." The docket numbers of this proceeding, C-2017-2613983, C-2017-2613984, C-2017-2613985, C-

2017-2613986 and C-2017-2613987, shall be indicated with the certified check or money order and the payment shall be sent to:

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

24. Upon payment by Respondents of the civil penalty and assessment, I&E's Formal Complaint shall be deemed satisfied and the matter shall be marked closed.

25. Upon Commission approval of the Settlement in its entirety without modification, I&E shall be deemed to have forever released Respondents from all past claims that were made or could have been made for monetary and/or other relief based on allegations that Respondents failed to properly register, submit reports and pay assessments with respect to the obligations set forth in Act 127. Nothing contained in this Settlement Agreement shall affect the Commission's authority to receive and resolve any future formal or informal complaints filed by any affected party related to the allegations set forth in I&E's Formal Complaint.

26. I&E and Respondents jointly acknowledge that approval of this Settlement Agreement is in the public interest and fully consistent with the Commission's Policy Statement for Litigated and Settled Proceedings Involving Violations of the Code and Commission Regulations, 52 Pa. Code § 69.1201. The Parties submit that the Settlement Agreement is in the public interest because it effectively addresses I&E's allegations that are the subject of the I&E Complaint proceeding, and avoids the time and expense of litigation, which entails hearings, travel for Respondents' witnesses, and the preparation and filing of briefs, exceptions, reply exceptions, as well as possible appeals. Attached as Appendices A and B are Statements in Support submitted by I&E and Respondents, respectively, setting forth the bases upon which they believe the Settlement Agreement is in the public interest.

V. CONDITIONS OF SETTLEMENT

27. This document represents the Settlement Agreement in its entirety. No changes to obligations set forth herein may be made unless they are in writing and are expressly accepted by the Parties. This Settlement Agreement shall be construed and interpreted under Pennsylvania law.

28. The Settlement is conditioned upon the Commission's approval of the terms and conditions contained in this Joint Petition for Approval of Settlement without modification. If the Commission modifies this Settlement Agreement, any party may elect to withdraw from the Settlement and may proceed with litigation and, in such event, this Settlement Agreement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all parties within twenty (20) days after entry of an Order modifying the Settlement.

29. The Parties agree that the underlying allegations were not the subject of any hearing and that there has been no order, findings of fact or conclusions of law rendered in this Complaint proceeding. It is further understood that, by entering into this Settlement Agreement, Respondents have made no concession or admission of fact or law and may dispute all issues of fact and law for all purposes in all proceedings that may arise as a result of the circumstances described in the Settlement.

30. The Parties acknowledge that this Settlement Agreement reflects a compromise of competing positions and does not necessarily reflect any party's position with respect to any issues raised in this proceeding.

31. This Settlement Agreement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. This Settlement is presented without prejudice to any position that any of the parties may have

advanced and without prejudice to the position any of the parties may advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement Agreement. This Settlement does not preclude the parties from taking other positions in any other proceeding.

32. The terms and conditions of this Settlement Agreement constitute a carefully crafted package representing reasonably negotiated compromises on the issues addressed herein. Thus, the Settlement Agreement is consistent with the Commission's rules and practices encouraging negotiated settlements set forth in 52 Pa. Code §§ 5.231 and 69.1201.

WHEREFORE, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement and Brookhaven MHP Management LLC, Meadowview Management LLC, Mill Creek MHP Management LLC, Northwood Manor Management LLC and ATG Properties LLC d/b/a Greenleaf Gas Company respectfully request that the Commission approve the terms of the Joint Petition for Approval of Settlement in their entirety as being in the public interest.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this the 6th day of September 2017.

FOR THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, BUREAU OF INVESTIGATION AND ENFORCEMENT:

Steph M.C.
Signature

Prosecutor
Title

9/6/2017
Date

FOR BROOKHAVEN MHP MANAGEMENT LLC, MEADOWVIEW MANAGEMENT LLC, MILL CREEK MHP MANAGEMENT LLC, NORTHWOOD MANOR MANAGEMENT LLC AND ATG PROPERTIES LLC D/B/A GREENLEAF GAS COMPANY:

[Signature]
Signature

Chief Operating Officer
Title

9/15/17
Date

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2017-2613983;
	:	C-2017-2613984;
Brookhaven MHP Management LLC,	:	C-2017-2613985;
Meadowview Management LLC,	:	C-2017-2613986; and
Mill Creek MHP Management LLC,	:	C-2017-2613987
Northwood Manor Management LLC,	:	
and	:	
ATG Properties LLC d/b/a Greenleaf	:	
Gas Company,	:	
Respondents	:	

**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF
JOINT PETITION FOR APPROVAL OF SETTLEMENT**

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code §§ 5.231, 5.232 and 69.1201, the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), a signatory party to the Joint Petition for Approval of Settlement (“Settlement” or “Settlement Agreement”) filed in the matters docketed above, submits this Statement in Support of the Settlement Agreement between I&E and Brookhaven MHP Management LLC (“Brookhaven”), Meadowview Management LLC (“Meadowview”), Mill Creek MHP Management LLC (“Mill Creek”), Northwood Manor Management LLC (“Northwood Manor”), and ATG Properties LLC d/b/a Greenleaf Gas Company (“ATG Properties”) (collectively, “Respondents”). I&E avers that the terms and conditions of the Settlement are just and reasonable and in the public interest for the reasons set forth herein.

I. BACKGROUND

This matter involves ATG Properties, which owns four mobile home parks in York County known as Brookhaven, Meadowview, Mill Creek and Northwood Manor. Respondents are “pipeline operators” as that term is defined in Act 127 because they “own[] or operate[] equipment or facilities in [the Commonwealth of Pennsylvania] for the transportation of gas or hazardous liquids by pipeline or pipeline facility regulated under Federal pipeline safety laws.” 58 P.S. § 801.102.

Specifically, Greenleaf Gas Company (“Greenleaf”) bills individually metered residents of three of the four aforementioned mobile home parks, Brookhaven, Meadowview and Mill Creek, for natural gas service supplied by Columbia Gas Company through a single master meter. Master meter systems are regulated under Federal pipeline safety laws. 49 CFR § 191.3. Northwood Manor, the fourth mobile home park owned by ATG Properties, operates a propane gas distribution system serving ten (10) or more customers. As such, Northwood Manor’s propane gas distribution system is subject to Federal pipeline safety laws. *See* 49 CFR § 192.3 and 49 CFR § 192.1(b)(5)(i).

Pursuant to Act 127, Respondents are required to report to the Commission, on or before March 31 of each year, their total intrastate regulated transmission, distribution and gathering pipeline miles in operation for the transportation of gas and hazardous liquids during the prior calendar year. 58 P.S. § 801.503(d). I&E submits that the Pipeline Safety Division relies on pipeline operators to completely and accurately report jurisdictional pipeline miles so that the Pipeline Safety Division may inspect those facilities for safety. As Act 127 pipeline operators, Respondents are also required to pay an annual assessment to the Commission based on

intrastate regulated transmission, distribution and onshore gathering pipeline miles. 58 P.S. § 801.503(b).

On July 11, 2017, I&E filed a Formal Complaint (“Complaint”) with the Commission against Respondents. The Complaint alleges that Respondents failed to submit an initial registration form in 2012 to register with the Commission as pipeline operators and failed to file Pennsylvania Pipeline Operator Annual Registration Forms to report total intrastate regulated transmission, distribution and gathering pipeline miles that were in operation during the 2013,¹ 2014 and 2015 calendar years.

The Complaint also alleges that Respondents failed to pay assessments to the Commission for the 2015-16 and 2016-17 fiscal years because they had not reported their total regulated distribution pipeline miles that were in operation during the 2014 and 2015 calendar years. Had Respondents registered as pipeline operators as required and submitted the requisite reports, the Complaint alleges that the Commission would have assessed a cumulative total of \$3,080.40 for the 2015-16 fiscal year for the pipeline operations of Brookhaven, Meadowview, Mill Creek and Northwood, representing a cost of \$700.09 per mile of pipeline that was in operation during the 2014 calendar year. Similarly, if Respondents had registered as pipeline operators and submitted the requisite reports, the Complaint alleges that the Commission would have assessed a cumulative total of \$1,980.00 for the 2016-17 fiscal year for the pipeline operations of Brookhaven, Meadowview, Mill Creek and Northwood, representing a cost of \$450.00 per mile of pipeline that was in operation during the 2015 calendar year.

¹ In the Complaint, I&E noted that it was not prosecuting Respondents’ alleged failure to submit Pennsylvania Pipeline Operator Annual Registration Forms related to pipeline miles that were in operation during the 2012 and 2013 calendar years. See 66 Pa.C.S. § 3314 (relating to limitation of actions and cumulation of remedies).

The Complaint requests that the Commission: (a) impose a civil penalty of \$40,000 against Respondents; and (b) direct Respondents to pay an assessment of \$5,060.40 related to the 2015-16 and 2016-17 fiscal years for pipeline miles that were in operation for the 2014 and 2015 calendar years, respectively.

On September 6, 2017, I&E and Respondents (collectively, the “Parties”) filed a Joint Petition for Approval of Settlement resolving all issues between I&E and Respondents in the instant matter. This Statement in Support is submitted in conjunction with the Settlement Agreement.

II. THE PUBLIC INTEREST

Pursuant to the Commission’s policy of encouraging settlements that are reasonable and in the public interest, the Parties held a series of settlement discussions. These discussions culminated in this Settlement Agreement, which, once approved, will resolve all issues related to the instant I&E Complaint proceeding.

I&E intended to prove the factual allegations set forth in its Complaint at hearing, to which Respondents likely would have disputed.² This Settlement Agreement results from the compromises of the Parties. Although I&E and Respondents may disagree with respect to I&E’s factual allegations, Respondents recognize the need to prevent similar allegations from reoccurring.

Further, I&E recognizes that, given the inherent unpredictability of the outcome of a contested proceeding, the benefits of amicably resolving the disputed issues through settlement outweigh the risks and expenditures of litigation. I&E submits that the Settlement constitutes a

² The Parties to this proceeding reached a settlement-in-principle before Respondents filed any pleading in response to I&E’s Complaint.

reasonable compromise of the issues presented and is in the public interest. As such, I&E respectfully requests that the Commission approve the Settlement without modification.

III. TERMS OF SETTLEMENT

Under the terms of the Settlement, I&E and Respondents have agreed as follows:

- A. Respondents will pay a civil penalty in the amount of Twenty-Five Thousand Dollars (\$25,000) pursuant to 58 P.S. § 801.502. Said payment shall be made within sixty (60) days of the date of the Commission's Final Order approving the Settlement Agreement and shall be made by certified check or money order payable to the "Commonwealth of Pennsylvania." The docket numbers of this proceeding, C-2017-2613983, C-2017-2613984, C-2017-2613985, C-2017-2613986 and C-2017-2613987, shall be indicated with the certified check or money order and the payment shall be sent to:

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The civil penalty shall not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f).

- B. Pursuant to 58 P.S. § 801.503, Respondents will pay a total assessment to the Commission in the amount of Five Thousand, Sixty Dollars and Forty Cents (\$5,060.40), which represents what the Commission would have assessed for the pipeline operations of Brookhaven, Meadowview, Mill Creek and Northwood for the 2015-16 and 2016-17 fiscal years had Respondents properly reported their jurisdictional pipeline miles. Said payment shall be made within sixty (60) days of the date of the Commission's Final Order approving the Settlement Agreement and shall be made by certified check or money order payable to the "Commonwealth of Pennsylvania." The docket numbers of this proceeding, C-2017-2613983, C-2017-2613984, C-2017-2613985, C-2017-2613986 and C-2017-2613987, shall be indicated with the certified check or money order and the payment shall be sent to:

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Pennsylvania Public Utility Commission
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Harrisburg, PA 17105-3265

In consideration of Respondents' payment of a monetary civil penalty and assessment, and upon Commission approval of the Settlement in its entirety without modification, I&E shall be deemed to have forever released Respondents from all past claims that were made or could have been made for monetary and/or other relief based on allegations that Respondents failed to properly register, submit reports and pay assessments with respect to the obligations set forth in Act 127. Upon payment by Respondents of the civil penalty and assessment, I&E agrees that its Complaint shall be satisfied and the matter marked closed.

IV. **LEGAL STANDARD FOR SETTLEMENT AGREEMENTS**

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. Settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. "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.* (Order entered July 14, 2011) at p. 11. Instead, the benchmark for determining the acceptability of a settlement is whether the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. M-00031768 (Order entered January 7, 2004).

I&E submits that approval of the Settlement Agreement in the above-captioned matter is consistent with the Commission's Policy Statement regarding *Factors and Standards for Evaluating Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations* ("Policy Statement"), 52 Pa. Code § 69.1201; *See also Joseph A. Rosi v. Bell-Atlantic-Pennsylvania, Inc.*, Docket No. C-00992409 (Order entered March 16, 2000). The Commission's Policy Statement sets forth ten factors that the Commission may consider in

evaluating whether a civil penalty for violating a Commission order, regulation, or statute is appropriate, as well as whether a proposed settlement for a violation is reasonable and in the public interest. 52 Pa. Code § 69.1201.

The Commission will not apply the factors as strictly in settled cases as in litigated cases. 52 Pa. Code § 69.1201(b). While many of the same factors may still be considered, in settled cases, the parties “will be afforded flexibility in reaching amicable resolutions to complaints and other matters as long as the settlement is in the public interest.” *Id.*

The first factor considers whether the conduct at issue was of a serious nature, such as willful fraud or misrepresentation, or if the conduct was less egregious, such as an administrative or technical error. Conduct of a more serious nature may warrant a higher penalty. 52 Pa. Code § 69.1201(c)(1). The violations averred in I&E’s Complaint are of a serious nature in that Respondents did not file Pennsylvania Pipeline Operator Annual Registration Forms, pursuant to Act 127. The Pipeline Safety Division depends on the accurate completion of Act 127 forms so that the Pipeline Safety Division may locate and inspect all jurisdictional facilities to ensure compliance with Federal pipeline safety regulations. Significant public safety concerns are present when an operator’s pipeline is not timely reported to the Commission. Thus, I&E submits that Respondents’ alleged conduct is of a serious nature and was considered in arriving at the civil penalty in the Settlement Agreement.

The second factor considered is whether the resulting consequences of Respondents’ alleged conduct were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty. 52 Pa. Code § 69.1201(c)(2). No serious consequences, such as personal injury or property damage, are alleged to have occurred.

The third factor to be considered under the Policy Statement is whether the alleged conduct was intentional or negligent. 52 Pa. Code § 69.1201(c)(3). “This factor may only be considered in evaluating litigated cases.” *Id.* Whether Respondents’ alleged conduct was intentional or negligent does not apply since this matter is being resolved by Settlement of the Parties.

The fourth factor to be considered is whether Respondents have made efforts to change their practices and procedures to prevent similar conduct in the future. 52 Pa. Code § 69.1201(c)(4). On March 29, 2017, Respondents filed the most recent Pennsylvania Pipeline Operator Annual Registration Forms for calendar year ending December 31, 2016. Brookhaven’s, Meadowview’s, Mill Creek’s and Northwood Manor’s annual forms can be found at Docket Nos. A-2017-2597503, A-2017-2597508, A-2017-2597480 and A-2017-2597492, respectively.

The fifth factor to be considered relates to the number of customers affected by Respondents’ actions and the duration of the violations. 52 Pa. Code § 69.1201(c)(5). Each residence served by Respondents’ pipeline facilities could potentially have been subjected to safety issues given that Respondents’ systems were not reported to the Commission and, consequently, the Pipeline Safety Division had no knowledge of the systems and could not have inspected them to ensure compliance with Federal pipeline safety regulations. A total of 478 residences were impacted, which can be broken down as follows: Brookhaven – 156 homes; Meadowview – 127 homes; Mill Creek – 168 homes; and Northwood Manor – 27 homes. Respondents failed to submit Pennsylvania Pipeline Operator Annual Registration Forms for a total of four consecutive years, for calendar years ending December 31, 2012, 2013, 2014 and 2015. However, I&E did not prosecute Respondents’ alleged failure to submit such reports for

pipeline miles that were in operation during the 2012 and 2013 calendar years.³

The sixth factor to be considered relates to Respondents' compliance history. 52 Pa. Code § 69.1201(c)(6). An isolated incident from an otherwise compliant company may result in a lower penalty, whereas frequent, recurrent violations by a company may result in a higher penalty. *Id.* The instant matter is the first alleged infraction on Brookhaven's, Meadowview's, Mill Creek's, Northwood Manor's and ATG Properties' compliance history.

The seventh factor to be considered relates to whether Respondents cooperated with the Commission's investigation. 52 Pa. Code § 69.1201(c)(7). "Facts establishing bad faith, active concealment of violations, or attempts to interfere with Commission investigations may result in a higher penalty." *Id.* Respondents have been forthcoming with information and have cooperated with the Pipeline Safety Division.

The eighth factor to be considered is the appropriate settlement amount necessary to deter future violations. 52 Pa. Code § 69.1201(c)(8). The size of the company may be considered to determine an appropriate penalty amount. *Id.* I&E submits that a civil penalty of \$25,000, which may not be claimed as a tax deduction by operation of law, is substantial and sufficient to deter Respondents from committing future violations. This is especially true when comparing the \$25,000 civil penalty amount to the amounts that Respondents were assessed for their pipeline operations during the 2015-2016 fiscal year (\$3,080.40) and the 2016-2017 fiscal year (\$1,980.00).

The ninth factor to be considered relates to past Commission decisions in similar matters. 52 Pa. Code § 69.1201(c)(9). I&E submits that the instant Settlement, which resolves allegations

³ See 66 Pa.C.S. § 3314 (relating to limitation of actions and cumulation of remedies).

of failing to file Act 127 annual reports and pay Act 127 assessments, provides comparable relief to a largely similar matter that was previously decided by the Commission. In *Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. XTO Energy, Inc. and Mountain Gathering, LLC*, Docket No. C-2014-2444722 (Order entered September 3, 2015) ("*XTO Energy*"), the Commission approved a settlement agreement wherein the respondents agreed to pay a civil penalty of \$30,000 to resolve allegations that the respondents failed to timely identify and classify pipelines for reporting and assessment purposes pursuant to Act 127. Thus, while Act 127 reports had been filed, I&E had argued that the reports were not based on accurate data derived from classification studies and rather, that the reported jurisdictional pipeline miles were "estimated" on two Act 127 annual reports. Nonetheless, I&E had argued in *XTO Energy* just as I&E argues in the instant matter that the purpose of the reporting requirements under Act 127 is, in part, to permit the Pipeline Safety Division to evaluate jurisdictional pipelines for safety. In *XTO Energy*, the Commission agreed and stated that "accurate, diligent and prompt compliance with the reporting and compliance requirements under Act 127 is critical for helping to ensure public safety." *Id.* at 9-10.

One other Commission decision involves an Act 127 enforcement proceeding. In *Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. Continental Communities, LLC and Hickory Hills MHC, LLC*, Docket No. C-2015-2468131 (Initial Decision issued June 7, 2016) (Final Order entered August 11, 2016) ("*Hickory Hills*"), the Commission approved a settlement agreement wherein the respondents agreed to pay a civil penalty of \$1,000,000 to resolve allegations that the respondents, *inter alia*, failed to register with the Commission the underground propane pipeline distribution system at the Hickory Hills' manufactured housing community and failed to pay Act 127 assessment fees. However, *Hickory Hills* is

distinguishable from the instant matter in that an explosion occurred in the community resulting in one fatality, injury to another person and substantial property damage, in addition to violations pertaining to Act 127 reporting and assessment requirements.

The tenth factor considers “other relevant factors.” 52 Pa. Code § 69.1201(c)(10). I&E submits that an additional relevant factor – whether the case was settled or litigated – is of pivotal importance to this Settlement Agreement. A settlement avoids the necessity for the governmental agency to prove elements of each allegation. In return, the opposing party in a settlement agrees to a lesser fine or penalty, or other remedial action. Both parties negotiate from their initial litigation positions. The fines and penalties, and other remedial actions resulting from a fully litigated proceeding are difficult to predict and can differ from those that result from a settlement. Reasonable settlement terms can represent economic and programmatic compromise but allow the parties to move forward and to focus on implementing the agreed upon remedial actions.

In conclusion, I&E fully supports the terms and conditions of the Settlement Agreement. The terms of the Settlement Agreement reflect a carefully balanced compromise of the interests of the Parties in this proceeding. The Parties believe that approval of this Settlement Agreement is in the public interest. Acceptance of this Settlement Agreement avoids the necessity of further administrative and potential appellate proceedings at what would have been a substantial cost to the Parties.

WHEREFORE, I&E supports the Settlement Agreement as being in the public interest and respectfully requests that the Commission approve the Joint Petition for Approval of Settlement, including all the terms and conditions set forth therein, without modification.

Respectfully submitted,



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Dated: September 6, 2017

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement,	:	
	:	Docket Nos.
Complainant,	:	C-2017-2613983
	:	C-2017-2613984
v.	:	C-2017-2613985
	:	C-2017-2613986
Brookhaven MHP Management, LLC, Meadowview Management, LLC, Mill Creek MHP Management, LLC, Northwood Manor Management, LLC, and ATG Properties, LLC d/b/a Greenleaf Gas Company,	:	C-2017-2613987
	:	
Respondents.	:	

**RESPONDENTS' STATEMENT IN SUPPORT OF
JOINT PETITION OF FULL SETTLEMENT OF PROCEEDINGS**

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

I. INTRODUCTION.

Respondents Brookhaven MHP Management, LLC (“Brookhaven”), Meadowview Management, LLC (“Meadowview”), Mill Creek MHP Management, LLC (“Mill Creek”), Northwood Manor Management, LLC (“Northwood”), and ATG Properties, LLC d/b/a Greenleaf Gas Company (“ATG”) (collectively, the “Respondents”) hereby file this statement in support of the Joint Petition for Approval of Settlement (“Petition” or “Settlement”) entered into by Respondents and the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) in the above-captioned proceeding. The Settlement, if approved, fully resolves all issues related to the I&I Complaint proceeding involving

allegations that Respondents failed to register as pipeline operators and pay annual assessments based upon their pipeline mileage pursuant to the Gas and Hazardous Liquids Pipelines Act, 58 P.S. Section 801.101 *et seq.* (“Act 127”).

Respondents respectfully submit that the Settlement is in the public interest and requests that the Commission approve the Settlement, including the terms and conditions thereof, without modification.

II. BACKGROUND.

ATG owns the Brookhaven manufactured home community (the “Brookhaven MHC”), the Meadowview manufactured home community (the “Meadowview MHC”), the Mill Creek manufactured home community (the “Mill Creek MHC”), and Northwood Manor manufactured home community (the “Northwood Manor MHC”). All four communities are located in York County, Pennsylvania. The four communities, in turn, are leased to and operated by their namesake companies (i.e., Brookhaven leases and operates the Brookhaven MHC, Meadowview leases and operates the Meadowview MHC, Mill Creek leases and operates the Mill Creek MHC, and Northwood leases and operates the Northwood Manor MHC).

Greenleaf Gas Co. is a fictitious name owned and operated by ATG. Under the Greenleaf Gas Co. name, ATG bills the individually-metered residents of the Brookhaven MHC, Meadowview MHC, and Mill Creek MHC for natural gas service supplied by Columbia Gas Company through master meters located in each of those communities.

Northwood previously operated a propane gas distribution system in the Northwood Manor MHC serving ten (10) or more customers. On August 25, 2017, Northwood decommissioned that system. The individual residents of the Northwood Manor MHC are now responsible for procuring their own propane.

Brookhaven, Meadowview, Mill Creek, and Northwood registered with the Commission as pipeline operators on March 29, 2017. I&E filed the Complaint shortly thereafter alleging that Respondents should have filed an Initial Registration Form with the Commission under Act 127 by March 16, 2012, and annual registration forms by March 31st of each year thereafter. Since Respondents did not file annual registration forms for the 2014 calendar year by March 31, 2015, and for the 2015 calendar year by March 31, 2016, I&E sought a civil penalty. I&E further sought the annual assessments that Respondents should have paid by for the 2015-16 fiscal year, and the 2016-17 fiscal year.

III. THE PUBLIC INTEREST.

Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest, the Parties held a series of settlement discussions. These discussions culminated in the Settlement, which, once approved, will resolve all the issues related to I&E's Complaint proceeding against Respondents and avoid the time and expense of litigation.

The Settlement is in the public interest and should be approved without modification because, as demonstrated below, it is fully-consistent with the Commission's policy on settlements. Moreover, it calls attention to the necessity of registering master meter systems in manufactured housing communities under Act 127.

IV. TERMS OF SETTLEMENT.

Under the terms of the Settlement, I&E and the Respondents have agreed as follows:

1. **Civil Penalty.** Respondents have agreed to pay a civil penalty in the amount of Twenty-Five Thousand Dollars (\$25,000), pursuant to 66 Pa.C.S. Section 3301(c). The payment will be made within sixty (60) days of the date of the Commission's Final Order approving the Settlement Agreement and will be made by certified check or money order payable to the

Commonwealth of Pennsylvania. The docket numbers of the above-captioned proceedings will be indicated with the certified check or money order and the payment will be sent to the Commission's Secretary.

2. Assessments. Respondents have agreed to pay a total assessment pursuant to 58 P.S. Section 801.503 in the amount of \$5,060.40. This amount represents the assessments that Respondents would have paid for the pipeline operations of the Brookhaven MHC, Meadowview MHC, Mill Creek MHC, and Northwood Manor MHC for the 2015-16 and 2016-17 fiscal years. The payment will be made within sixty (60) days of the date of the Commission's Final Order approving the Settlement Agreement and will be made by certified check or money order payable to the Commonwealth of Pennsylvania. The docket numbers of the above-captioned proceedings will be indicated with the certified check or money order and the payment will be sent to the Commission's Secretary.

3. Although Respondents, as manufactured home community owners and operators, did not initially understand their obligations under Act 127 to register with the Commission and file annual registration forms, Respondents have registered with the Commission and have filed their annual registration forms for the 2017-18 fiscal year.

4. The Settlement resolves all issues regarding the Respondents' gas pipeline reporting obligations to the Commission under Act 127 for the 2014 and 2015 calendar years including, without limitation, the claims made and reasonably-related to those contained in the I&E Complaint filed at Commission Docket Nos. C-2017-2613983, C-2017-2613984, C-2017-2613985, C-2017-2613986, and C-2017-2613987.

5. The Settlement, including, without limitation, the civil penalty, fully resolves I&E's allegations that Respondents did not register with the Commission under Act 127.

6. Upon Commission approval of the Settlement in its entirety without modification, I&E will not file any further complaints or initiate other action against Respondents at the Commission or elsewhere with respect to Respondents' gas pipeline reporting obligations to the Commission under Act 127 for calendar years 2014 and 2015. Nor will I&E initiate any action that would cause the Commission or a third party to file any further complaints or take other action against Respondents at the Commission or elsewhere with respect to Respondents' gas pipeline reporting obligations to the Commission under Act 127 for calendar years 2014 and 2015. The foregoing provision shall not prevent I&E from cooperating, as required, with the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration with respect to any and all matters addressed in I&E's Complaint filed at Commission Docket Nos. C-2017-2613983, C-2017-2613984, C-2017-2613985, C-2017-2613986, and C-2017-2613987.

7. The Settlement is made without admission against or prejudice to any factual or legal position which either Respondents or I&E have asserted previously regarding the Complaint or otherwise, including any wrongdoing or violation of law with respect to the reporting of gas pipeline miles to the Commission under Act 127 for calendar years 2014 and 2015.

8. Respondents have improved and commit to continue to improve the timeliness and completeness of their communications with the Commission's Gas Safety Division staff regarding staff's field investigations, audits, and reviews of the Pennsylvania Pipeline Operator Annual Registration Forms under Act 127.

V. ANALYSIS OF THE ROSI STANDARDS.

Commission policy promotes settlements. *See*, 52 Pa.Code Section 5.231(a).

Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. Settlement results are often preferable to those achieved after a fully-litigated proceeding. To accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *PUC v. Continental Communities, LLC, and Hickory Hills MHC, LLC*, 2016 Pa. PUC LEXIS 248, *12.

Respondents submit that approval of the Petition in the above-captioned matter is consistent with the Commission's Policy Statement for Litigated and Settled Proceedings Involving Violations of the Code and Commission Regulations ("Policy Statement"), 52 Pa.Code Section 69.1201. *See also, Joseph A. Rosi v. Bell Atlantic Pennsylvania, Inc.*, 2000 Pa. PUC LEXIS 5. The Policy Statement identifies the following ten factors that the Commission may consider in evaluating whether a civil penalty for violating a Commission order, regulation, or statute is appropriate, as well as whether a proposed settlement for a violation is reasonable and in the public interest:

1. Whether the conduct at issue was of a serious nature. If the conduct involves willful fraud or misrepresentation, it may warrant a higher penalty. If it is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.
2. Whether the resulting consequences of the conduct were of a serious nature. If the consequences are serious, such as personal injury or property damage, it may warrant a higher penalty.
3. Whether the conduct is deemed intentional or negligent. This factor is only considered in litigated cases. If the conduct is deemed intentional, it may warrant a higher penalty.

4. Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future.
5. The number of customers affected and the duration of the violation.
6. The compliance history of the regulated entity. An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurring violations may result in a higher penalty.
7. Whether the regulated entity cooperated with the Commission's investigation. Facts establishing bad faith, active concealment of violations, or attempts to interfere with Commission investigations may result in a higher penalty.
8. The amount of the civil penalty or fine necessary to deter future violations. The size of the utility may be considered to determine an appropriate penalty amount.
9. Past Commission decisions in similar situations.
10. Other relevant factors.

52 Pa.Code Section 69.1201(c). When applied in settled cases, the Commission will not look at these factors in as strict a fashion as it would in a litigated proceeding. 52 Pa.Code Section 69.1201(b). This affords the parties some flexibility in reaching an amicable resolution if the settlement is in the public interest. *Id.*

The first *Rosi* factor supports Commission approval of the Settlement. Respondents acknowledge that the alleged violations are of a serious nature. *See, Continental Communities*, 2016 Pa. PUC LEXIS 248 at *29-30. Although they do not constitute willful fraud or misrepresentation, they also are not an administrative filing or technical error. 2016 Pa. PUC LEXIS 248 at *30. Because these allegations are of a serious nature, Respondents have agreed

to pay a civil penalty that is approximately five times the amount of the past due annual assessments.

The second *Rosi* factor supports Commission approval of the Settlement. There were no serious consequences, such as personal injuries or property damage, from Respondents' alleged violations. As a result, a higher penalty is not warranted.

The third *Rosi* factor is only considered in litigated cases and, therefore, is not applicable here.

The fourth *Rosi* factor supports Commission approval of the Settlement. Respondents have modified their internal practices and procedures to address the conduct at issue and to prevent similar conduct in the future. Respondents have registered with the Commission and filed their first annual registration forms. Moreover, Respondents filed their registration before I&E instituted the above-captioned action. Respondents also recognize that subsequent annual registration forms are due to be filed before March 31 of every year going forward. In addition, Respondent Northwood has decommissioned its propane distribution system and is no longer at risk of violating Act 127's annual registration requirements.

The fifth *Rosi* factor supports Commission approval of the Settlement. No customers were adversely affected, in the form of personal injuries or property damage, by the alleged violations. In addition, the total number of customers served by the Respondents is quite small. There are approximately 149 homes connected to the master meter system at the Brookhaven MHC, 129 homes connected to the master meter system at the Meadowview MHC, 168 homes connected to the master meter system at the Mill Creek MHC, and 29 homes connected to the propane distribution system at the Northwood Manor MHC. While Respondents failed to register for two calendar years – 2014 and 2015 – that period, Respondents submit, is accounted

for in the fact that the agreed-up civil penalty is approximately five times the amount of the past due annual assessments.

The sixth *Rosi* factor supports Commission approval of the Settlement. Respondents have a positive compliance history. Respondents have not committed any other alleged violations of Act 127 or the federal pipeline safety regulations. As a result, a lower civil penalty is warranted.

The seventh *Rosi* factor supports Commission approval of the Settlement. Respondents cooperated with I&E in registering their pipeline systems after being informed by I&E that they were required to register. As noted above, Respondents were not aware of their registration obligations under Act 127 until after being informed by I&E. Once Respondents were informed by I&E, Respondents registered with the Commission. In addition, Respondent Northwood has decommissioned the propane distribution system at the Northwood Manor MHC and no longer operates a pipeline at the Northwood Manor MHC.

The eighth *Rosi* factor supports Commission approval of the Settlement. Respondents have agreed to pay a significant civil penalty. Respondents are small manufactured home communities. The amount of the civil penalty is sufficient to incentivize them to continue to file annual registration statements with the Commission pursuant to Act 127. It is also sufficient to incentivize any other manufactured home community owners with master meter systems to register and/or continue to register those systems. The total annual assessment being paid by Respondents for the 2015-16 fiscal year is \$3,080.40 and \$1,980.00 for the 2016-17 fiscal year. The civil penalty Respondents have agreed to pay, recognizing now the seriousness of the need to register their systems, is approximately five times the amount of the assessments. This is a significant premium.

The ninth *Rosi* factor supports Commission approval of the Settlement. There have not been any Commission decisions examining a civil penalty solely for failure to register under Act 127 and pay annual assessments. The only decision that even discusses civil penalties for registration and annual assessment violations was the *Continental Communities* case, in which the Commission approved a civil penalty settlement of \$1 million. *See, PUC v. Continental Communities, LLC, and Hickory Hills MHC, LLC*, 2016 Pa. PUC LEXIS 248. *Continental Communities*, however, was primarily a gas explosion and fatality case and the penalty approved in that case reflects the consequences of Continental Communities' and Hickory Hills MHC's failures to maintain adequate operational manuals for its pipeline and failed to adhere to federal cathodic protection requirements. *See*, 2016 Pa. PUC LEXIS 248, *24. Respondents, based upon the Commission's discussion in *Continental Communities*, recognize the seriousness of their registration obligations and have, as a result, agreed to a significant civil penalty.

Finally, the tenth *Rosi* factor supports Commission approval of the Settlement. The Commission has previously explained that it encourages settlements because they conserve administrative resources and the resources of the parties required to litigate a matter. 2016 Pa. PUC LEXIS 248, *44. A settlement avoids the need for I&E to prove the elements of each allegation. In return, the regulated entity agrees to pay a fine or penalty and focuses on operational issues instead of litigation. The fines and penalties, and other remedial actions resulting from a fully-litigated proceeding are difficult to predict and can differ from those that result from a settlement. Reasonable settlement terms provide the parties with certainty and allow the parties to focus on remedial measures.

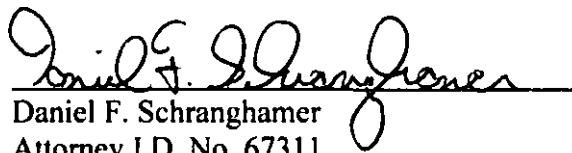
In conclusion, Respondents fully support the terms and conditions of the Settlement Agreement. The terms of the Settlement Agreement reflect a carefully-balanced compromise of

the Parties' interests. The Parties believe that approval of this Settlement Agreement is in the public interest. Acceptance of this Settlement Agreement avoids the necessity of further administrative and potential appellate proceedings at what would be a substantial cost to the Parties.

WHEREFORE, Respondents support the Settlement Agreement and respectfully request that the Commission approve the Settlement in its entirety, without modification.

Respectfully submitted,

GSP Management Co.



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Date: September 6, 2017

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

v. :

Brookhaven MHP Management LLC, :
Meadowview Management LLC, :
Mill Creek MHP Management LLC, :
Northwood Manor Management LLC, :
and :
ATG Properties LLC d/b/a Greenleaf :
Gas Company, :

Respondents :

Docket Nos. C-2017-2613983;
C-2017-2613984;
C-2017-2613985;
C-2017-2613986; And
C-2017-2613987

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by First Class Mail and Email:

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Dated: September 6, 2017

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