

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Giant Eagle, Inc.; Guttman Energy, Inc.;	:	
Lucknow-Highspire Terminals, LLC;	:	
Monroe Energy, LLC; Philadelphia Energy	:	
Solutions Refining and Marketing, LLC;	:	C-2018-3003365
and Sheetz, Inc.	:	
	:	
	:	
v.	:	
	:	
Laurel Pipe Line Company, L.P.	:	

**RECOMMENDED DECISION**

Before  
Eranda Vero  
Administrative Law Judge

**INTRODUCTION**

This Recommended Decision approves, without modification, (1) the Joint Petition for Approval of Settlement, including, without limitation, the Settlement Agreement attached thereto as Appendix E, (2) the associated pro forma PaPUC Tariff supplement attached thereto as Appendix A, (3) the associated Capacity Use Agreement attached thereto as Appendix B, and (4) the Stipulation in Settlement entered into by Laurel Pipe Line Company, L.P. and the Bureau of Investigation and Enforcement attached thereto as Appendix D.

The settling parties seek expedited review and approval of the Settlement Agreement by the Commission by no later than the August 29, 2019, Public Meeting and agree to waive their right to file exceptions so long as the Recommended Decision recommends approval of the Settlement in its entirety without modification.

## HISTORY OF THE PROCEEDINGS

On July 12, 2018, Giant Eagle, Inc., Guttman Energy, Inc., Lucknow-Highspire Terminals LLC, Monroe Energy, LLC, Philadelphia Energy Solutions Refining & Marketing LLC, and Sheetz, Inc. (collectively, Complainants) filed a Complaint (Complaint) against Laurel Pipe Line Company, L.P. (Respondent or Laurel) with the Pennsylvania Public Utility Commission (Commission) alleging that: (i) Laurel's proposed temporary outage on its pipeline segment between Eldorado and Pittsburgh, Pennsylvania amounted to a failure to provide safe, adequate, and reasonably continuous service in violation of Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501; and (ii) Laurel's proposed initiation of bidirectional pipeline transportation service along its pipeline segment between Eldorado and Pittsburgh, Pennsylvania amounts to an abandonment of intrastate pipeline service in violation of Section 1102 of the Public Utility Code, 66 Pa.C.S. § 1102, because the Respondent did not seek Commission approval for such action.

Simultaneously with the formal Complaint, on July 12, 2018, Complainants filed a Petition for Interim Emergency Relief at Docket No. P-2018-3003368.

On July 17, 2018, Laurel filed an Answer to the Emergency Petition.

On July 18, 2018, Timothy K. McHugh, Esq., filed a notice of Appearance of behalf of the Commission's Bureau of Investigation and Enforcement (I&E).

On July 23, 2018, an Emergency Hearing was held to address the Complainants' Petition for Interim Emergency Relief. At the hearing, the parties submitted a written Joint Stipulation and Settlement (Settlement #1). Because Settlement # 1 gave the Complainants the relief they requested in their Petition for Interim Emergency Relief, the Complainants agreed to withdraw their Petition in accordance with 52 Pa.Code § 5.94. Settlement # 1 ¶¶ 5, 7.

On July 25, 2018, I issued an Initial Decision granting the Complainants' request for leave to withdraw their Petition for Interim Emergency Relief.

On August 1, 2018, Laurel filed an Answer and New Matter to the Complaint as well as Preliminary Objections thereto. Pursuant to the Commission's regulation at 52 Pa.Code § 5.91, in lieu of responding to Laurel's Preliminary Objections, the Complainants filed an Amended Complaint on August 8, 2018. The Amended Complaint acknowledged that Settlement #1 successfully addressed the issues raised in the Complainants' Complaint relating to the proposed temporary outage of Laurel's pipeline. The Complainants' Amended Complaint also responded to Laurel's Preliminary Objections and alleged violations of the Public Utility Code at Sections 1302 and 1303. 66 Pa.C.S. §§ 1302, 1303.

On August 28, 2018, Laurel filed an Answer and New Matter, as well as Preliminary Objections, to the Complainants' Amended Complaint.

On September 7, 2018, Complainants filed a timely Response to Laurel's Preliminary Objections.

Also on September 7, 2018, I&E filed a timely Response to Laurel's Preliminary Objections in which I&E specified that it only objected to and denied Laurel's claim that the Commission does not have jurisdiction over Laurel's initiation of interstate service when abandonment of intrastate service is not involved.

On September 20, 2018, the Complainants filed a second Petition for Interim Emergency Relief against Laurel at Docket No. P-2018-3004857.

On September 25, 2018, an Emergency Hearing was held to address the Complainants' second Petition for Interim Emergency Relief. At the hearing, the parties reached a settlement in principle and the Complainants agreed to withdraw their Petition in accordance with 52 Pa.Code § 5.94. On October 3, 2018, the parties submitted a written Joint Stipulation and Settlement (Settlement #2).

On October 11, 2018, I issued an Initial Decision granting the Complainants' request for leave to withdraw their Petition for Interim Emergency Relief at Docket No. P-2018-3004857.

By Order dated October 9, 2018, I overruled Laurel's Preliminary Objections to the Amended Complaint and directed that the Amended Complaint be set for a hearing.

On October 16, 2018, I presided over a telephonic prehearing conference during which the Complainants and Laurel proposed to engage in discovery and settlement discussions rather than establish a formal litigation schedule. I granted the request subject to regular updates on the status of settlement discussions.

Following the October 16, 2018 prehearing conference, the Complainants and Laurel engaged in extensive discovery and settlement discussions, while providing multiple status updates confirming ongoing negotiations.

On April 29, 2019, I&E and Laurel reached a settlement-in-principle resolving the concerns of the I&E Safety Division with regard to Respondent's proposed bi-directional flow.

On July 23, 2019, Complainants and Laurel filed a Joint Status Update with the Commission advising that the parties had reached a settlement-in-principle and would file a Joint Petition for Settlement with the Commission by July 31, 2019.

Telephonic prehearing conferences were held on July 25 and 26, 2019.

On July 31, 2019, Complainants and Laurel filed a Joint Petition for Approval of Settlement (Joint Petition). Signatories to the Joint Petition and the Settlement Agreement (Settlement) include the Complainants, Laurel and I&E (collectively, settling parties). Appended to the Joint Petition are the following documents:

- Appendix A – Pipeline Capacity Agreement
- Appendix B – Pro Forma PaPUC Tariff
- Appendix C – Pro Forma 2019 Expansion Capacity – FERC Rules and Regulations
- Appendix D – Stipulation in Settlement Between I&E and Laurel
- Appendix E – Settlement Agreement Between Complainants and Laurel
- Appendix F – Joint Statement in Support of Complainants
- Appendix G – Statement in Support of Laurel
- Appendix H – Statement in Support of I&E (of the Stipulation in Settlement)

The settling parties submit that the terms and conditions contained in the Settlement represent a full settlement of all issues<sup>1</sup> among the settling parties in this proceeding and in related matters among the settling parties and Buckeye Pipe Line Company, L.P. (Buckeye) (i.e., Laurel’s parent and affiliate)<sup>2</sup> before FERC. The settling parties seek expedited review and approval of the Settlement Agreement by the Commission by no later than the August 29, 2019, Public Meeting and agree to waive their right to file exceptions so long as the Recommended Decision recommends approval of the Settlement in its entirety without modification. (Joint Petition, at 2, 10, 22-23).

Each of the settling parties provided a Statement in Support appended to the Joint Petition. I&E does not oppose the terms and conditions of the Settlement Agreement entered into by Complainants and Laurel.

The Stipulation in Settlement (Stipulation) between I&E and Laurel is also appended to the Joint Petition. The Stipulation addresses the safety issues that were raised by I&E in this proceeding and negotiated by I&E and Laurel during settlement discussions. I&E submitted a Statement in Support only in conjunction with the Stipulation between I&E and

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<sup>1</sup> The Settlement globally resolves matters associated with: (1) the Complaint at the above-captioned docket (C-2018-3003365); (2) the pending Petition for Declaratory Order proceeding before the FERC at FERC Docket No. OR18-22-000; (3) the proceeding involving FERC tariff filings by Laurel and Buckeye at FERC Docket Nos. IS19-277-000, IS19-277-001, IS19-278-000 and IS9-278-001; and (4) the consolidated appeal and cross appeal pending before the Commonwealth Court of Pennsylvania at Docket Nos. 1113 C.D. 2018 and 1168 C.D. 2018, which are related with the prior Application proceeding before the Commissions at Docket No. A-2016-2575829. (Laurel’s Statement in Support, at 7.)

<sup>2</sup> While Buckeye is not a party to the above-captioned proceeding, Buckeye is a party to the pending proceedings before the FERC that are also resolved by the Settlement. As such, Buckeye is included as a signatory to the Settlement and will be a signatory to the documents filed as a part of the Settlement before the FERC.

Laurel. None of the Complainants, either collectively or separately, objected to the Stipulation in Settlement.

On August 2, 2019, Complainants and Respondent filed an Errata to the Joint Petition for Approval of Settlement.

TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT BETWEEN  
COMPLAINANTS AND LAUREL

The principal terms and conditions of the proposed Settlement Agreement between Complainant and Laurel, contained in Paragraphs 1-29, Appendix E of the Joint Petition, are as follows:

**A. Preservation of Existing East-to-West Capacity**

1. These Settlement terms will be filed with the Pennsylvania Public Utility Commission (“PaPUC”) and the Federal Energy Regulatory Commission (“FERC”) to create specific and legally-enforceable commitments in each jurisdiction assuring that the available, physical capacity of east-to-west transportation on Line 718 (“L718”)<sup>3</sup> will be no less than 1,200,000 barrels per cycle (which is 120,000 barrels per day times the ten days in a cycle) under bi-directional service, through the termination of the Full Reversal Moratorium (defined below), outside of force majeure circumstances impacting Laurel’s ability to provide such capacity on the Laurel Pipeline, subject to the provisions of Paragraphs 11 and 12 (“East to West Capacity Guarantee”). The Settlement resolves the pending Amended Complaint at the PaPUC against Laurel, the pending Petition for Declaratory Order (“PDO”) proceeding at the FERC and the issues raised in the FERC Tariff proceedings pending at FERC Docket Nos. IS19-277-000 and IS19-278-000. Buckeye, Laurel and the Complainants (collectively, “FERC Parties”) have agreed to also file the Settlement on or before July 31, 2019 at the FERC. Both the PaPUC and the FERC Settlements are accompanied by pro forma tariffs (one by Laurel for the PaPUC and several by Buckeye in its individual capacity

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<sup>3</sup> “L718” or “Line 718” is the Laurel pipeline segment that runs from Duncansville to Coraopolis, Pennsylvania.

for the FERC) that implement and are consistent with the Settlement terms. The PaPUC tariff necessary to implement this Settlement is attached hereto as **Appendix A**. Also attached hereto as **Appendix B** is a Capacity Use Agreement between Laurel and Buckeye pursuant to PaPUC affiliated interest requirements confirming the availability of capacity on the Laurel Pipeline to provide service under the Transportation Service Agreements (“TSAs”) for firm committed service that Buckeye has executed with customers for west-to-east interstate service utilizing the Coraopolis to Duncansville segment of the Laurel Pipeline, *i.e.* L718. Further, attached as **Appendix C** are the Buckeye FERC pro forma tariffs to be filed to implement the bi-directional service, which include Rules and Regulations for west-to-east service on L718, and rates for west-to-east service on L718, and modifications to the Rules and Regulations for east-to-west service on Buckeye’s Eastern Products System.

2. The Parties will request expedited review and approval of the Settlement, the pro forma PaPUC Tariff attached hereto as **Appendix A** and the Capacity Use Agreement attached hereto as **Appendix B** by the PaPUC. The Settlement and associated **Appendices A, B, and C** assure Laurel Pipeline shippers the availability of 1,200,000 barrels per each ten (10) day cycle of east to west capacity on the Laurel Pipeline, through the termination of the Full Reversal Moratorium (defined below). Laurel and Buckeye represent and confirm that, absent a bona fide force majeure condition, no provision of the TSAs with Shippers for the 2019 Expansion Capacity<sup>4</sup> including, without limitation, Section 6.03(d) of or the definition of “Committed Customer Capacity” under the TSAs or any existing tariffs, including those filed to implement the TSAs, will alter, diminish, limit or otherwise adversely impact the 1,200,000 barrels per cycle of east to west capacity that will be available for Shippers along L718 for all destination points between Eldorado and Coraopolis under bi-directional operations, through the termination of the Full Reversal Moratorium (defined below). The PaPUC Tariff filed by Laurel and the FERC Tariff filed by Buckeye, to be effective upon the commencement of bi-directional service, include provisions

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<sup>4</sup> The term “2019 Expansion Capacity” will be defined in the FERC Tariffs included with the Settlement submitted to the FERC for approval. The pro forma FERC Tariffs that will be filed are attached hereto as **Appendix C**.

specifying that the available, physical east-to-west capacity of L718 for purposes of bi-directional service is 1,200,000 barrels per cycle, absent force majeure, through the termination of the Full Reversal Moratorium (defined below). Buckeye and Laurel agree that they will not file or seek to file tariff provisions, or apply any tariff provisions, in a manner that conflicts with the requirements and obligations of this Settlement.

**B. Scheduling/Operational/Logistical (“SOL”) Commitments**

3. Laurel and Buckeye agree to designate and provide in a timely manner to the Complainants, the name, title and complete contact information of a manager as the “escalation” contact when scheduling issues with respect to L718 arise that the schedulers are unable or unwilling to address. That manager shall have decision-making authority over such issues.

4. Laurel and Buckeye will implement a continuous review process with respect to L718 that includes the scheduling of conference calls in which the Complainants (*i.e.* schedulers, shippers, and suppliers) and other Shippers may participate. Such calls shall occur three to five (3-5) business days prior to the start of each cycle. Such calls shall be scheduled for each cycle for the first six months of bi-directional operation. After the end of the six-month period, such calls shall occur monthly, 3-5 business days prior to the nomination deadline each month, for a period of six months. The purpose of the calls will be for Laurel and Buckeye to describe the intended operation (including a high-level review of scheduled receipts and deliveries, etc.) for the upcoming cycle or month, as appropriate; to receive input from Complainants and other Shippers; and to implement modifications to processes where appropriate. The issues discussed shall include, but not be limited to, items set forth in Paragraphs 4(a).i.-iii. below.

(a) In each call or meeting specified in this Paragraph 4, Laurel and Buckeye will discuss with any participating Complainants, or other Shippers, the following information:

i. The status of current cycle and projected status of each upcoming cycle for which a schedule has been issued (“status” meaning

(A) allocated, (B) full and thus not accepting additional batches, (C) not full with limited additional space available, or (D) not full with significant additional space available);

- ii. Any unusual or non-routine conditions of which Buckeye is aware, and any current or anticipated (planned or potential) pipeline downtime, impacting current cycle or upcoming scheduled cycles; and
- iii. Expected timing of gasoline and distillate fuel in each scheduled cycle (gasoline normally starts on the 2nd, 12th, and 22nd day of the month; distillate fuel normally starts on the 7th, 17th and 27th day of the month).

- (b) To the extent that the calls and meetings specified in this Paragraph 4 involve information regarding the intended operation of L718, Laurel and Buckeye will provide the Complainants and/or other Shippers participating in the calls with a level of detail that does not convey shipper information or non-public information that would grant market participants an advantage, consistent with applicable federal and state laws (e.g., operational information regarding the physical direction of L718 that would provide a market advantage to non-segment L718 shippers).
- (c) Notice of the calls and meetings, including postponed or rescheduled calls or meetings, specified in this Paragraph 4 shall be provided in advance to Complainants and other Shippers via Buckeye's T-4 system and to Complainants by email.

5. All interested Complainants and/or other Shippers will meet with Laurel and Buckeye no later than 30 days after the first six months of commercial operation of bi-directional service, and again no later than 30 days after the first 12 months of commercial operation of bi-directional service, in a collaborative process to discuss and implement changes necessary to address issues that have arisen in the first two six-month periods. Complainants retain the right to file complaints, at the PaPUC or the FERC or both, if

issues are not satisfactorily or timely addressed during these two review processes. Such complaints may challenge specific practices or policies as to bi-directional service that violate the Settlement or that any Complainant reasonably believes violates federal and/or state law. At least five (5) business days prior to filing any complaint regarding bi-directional service, except in an emergency, the Complainant shall notify Laurel and Buckeye of its intention to file the complaint. Within 48 hours of receiving such notice, Laurel and Buckeye shall in writing notify the Complainant whether Laurel and Buckeye choose to address the complaint informally, and, if so, how. If Laurel and Buckeye chooses to pursue remediation in response to the notice of filing of a complaint, then Laurel, Buckeye and the potential complainant shall engage in good faith negotiations for a period not to exceed fifteen (15) days, unless that period is extended by mutual agreement of Laurel, Buckeye and the potential complainant. If the negotiation period is not extended, the potential complainant may file an action in any appropriate forum to seek redress for the issue. In addition, and without prejudice to any other remedies set forth in this Agreement, any Party to the Settlement may request that the PaPUC make an ALJ available to assist with resolving any Party's non-compliance with the terms of this Settlement.

6. In addition to the pro forma PaPUC Tariff supplement, attached hereto as **Appendix A**, that Laurel is filing to implement the Settlement, the Complainants, Laurel and Buckeye will work in good faith to develop a shipper notification process to provide shippers with written notification and explanation of material delays, meaning delays of 1 day or more, in the timing of deliveries that differ from the times specified in pumping schedules.

7. Laurel and Buckeye represent that bi-directional service will not materially increase losses, transmix, or interface percentages from the levels that existed during the 12 months prior to the initiation of bi-directional service, so long as bi-directional service is provided. Notwithstanding any other provision of this Settlement, the Complainants retain all rights to file a complaint with the PaPUC or the FERC if the losses, transmix, or interface percentages materially increase above levels that existed during the 12 months prior to the initiation of bi-directional service, for

shipments on L718 after the initiation of bi-directional service.

8. Prior to the initiation of bi-directional service, Buckeye will add at least one full-time employee to assist with bi-directional scheduling. Buckeye will retain full staffing to assist with bi-directional scheduling, so long as bi-directional service is provided.

9. Buckeye shall modify Item 90-A in FERC Tariff No. 456.0.0 to provide that Regular Shippers will have access to up to at least 5% of the 2019 Expansion Capacity, and that New Shippers will have access to up to at least 5% of the 2019 Expansion Capacity, after 2019 Expansion Capacity has been allocated to Committed Shippers. This modification preserves the definitions of “Regular Shipper” and “New Shipper” in Sections 90-A(A)(vii) and (x) of FERC Tariff No. 456.0.0. Such tariff changes will be included with the FERC Settlement filing, in substantially the form off the pro forma tariff attached to this document as **Appendix C**.

### **C. Implementation of Bi-Directional Operations and Moratoria**

10. Buckeye may commence as of October 1, 2019, the provision of west to east interstate transportation service between Coraopolis and Eldorado, Pennsylvania on the Laurel Pipeline and Laurel shall continue east to west intrastate transportation service between Coraopolis and Eldorado, Pennsylvania on the Laurel Pipeline (jointly referred to as “bi-directional service”), even if the FERC and/or PaPUC have not yet approved the Settlement. However, if, at any time, either the FERC or the PaPUC rejects the Settlement, Buckeye shall not begin or shall promptly cease the provision of all bi-directional service and file such documents at the PaPUC and the FERC necessary or required to evidence the cessation of such service.

11. For a moratorium period beginning on October 1, 2019 and ending December 31, 2024, neither Buckeye or any of its affiliates will provide: (a) any extension of bi-directional service to any points east of Eldorado on the Laurel Pipeline and (b) any increase in the capacity for west-to-east service on the Laurel Pipeline between Coraopolis and Eldorado (together, the “Bi-Directional

Moratorium”). To the extent that Buckeye or Laurel provide the extension of bi-directional service to any points east of Eldorado along the Laurel Pipeline or increase the capacity for west-to-east service on the Laurel Pipeline between Coraopolis and Eldorado during the period after the Bi-Directional Moratorium has ended but prior to the expiration of the Full Reversal Moratorium (defined below) (the “Interim Period”), then Buckeye and Laurel will file such tariff supplements to be effective on at least thirty (30) days’ notice. For example, the tariff supplements for such service effective January 1, 2025, would be filed on or before December 1, 2024. As a part of any such filings during the Interim Period, Buckeye and Laurel may propose a revised volume for the East to West Capacity Guarantee provided for Paragraphs 1 and 2 of this Settlement Agreement (i.e. a volume lower than 120,000 barrels per day), provided that (i) any proposed revision must be proportionate to the reduced east-to-west throughput during the Bi-Directional Moratorium, if any; (ii) any reduced east-to-west throughput did not result from, and is not a consequence of, any pipeline operational actions taken by Buckeye or its affiliates with respect to east-to-west throughput on Laurel; and (iii) any reduced east-to-west throughput is not the result of a temporary market condition; subject to the Complainants’ right to challenge such revision. In addition, a moratorium period beginning on October 1, 2019 and ending on December 31, 2026, will apply to implementation of a full reversal and any filing or open season by Buckeye or any of its affiliates related to offering or implementing a full reversal of product flows on the Laurel Pipeline for any points east of Pittsburgh (“Full Reversal Moratorium”). At the end of the Full Reversal Moratorium, the East to West Capacity Guarantee set forth in Paragraph 1 and 2 of this Settlement Agreement will no longer apply, as specified in the PaPUC and FERC tariffs addressing the East to West Capacity Guarantee. Complainants further agree that it would not be a violation of this Settlement for Buckeye to offer extended bi-directional service after the end of the Bi-Directional Moratorium only as to products then currently in use at all destinations on the Laurel system.

12. For the period between July 1, 2022 and December 31, 2024, if, (i) the PESRM, or its successor company / entity, is no longer a refining entity with refining operations at Point Breeze or Girard Point in

Philadelphia, Pennsylvania processing crude oil using atmospheric and vacuum distillation processes averaging 100,000 barrels per day, for a 6-month period ending on or after July 1, 2022, (provided, however, for the purposes of determining whether the 100,000 barrels per day average has been achieved for a 6-month period, the calculation will be adjusted to account for any scheduled turnarounds of the PESRM refinery for a period not to exceed sixty (60) days and bona fide force majeure conditions not related to the operational actions of the PESRM refinery that result in a limitation or cessation of production for a period not to exceed ninety (90) days), and (ii) the total east to west throughput on the Laurel Pipeline experiences a sustained and substantial decline not a consequence of pipeline operational actions taken by Buckeye or its affiliates as to East to West throughput on the Laurel Pipeline, then the Bi-Directional Moratorium will no longer apply and Buckeye shall file a tariff in accordance with the terms and procedures section in Paragraph 12(a) below to effect such termination of the Bi-Directional Moratorium. Consistent with (i) in the preceding sentence, PESRM or its successor will certify in writing to Buckeye and the Complainants each calendar quarter whether PESRM is a refining entity with refining operations at Point Breeze or Girard Point in Philadelphia, Pennsylvania processing crude oil using atmospheric and vacuum distillation processes averaging 100,000 barrels per day. For purposes of this section, “sustained and substantial” shall mean the average total annual volumes shipped on the Laurel Pipeline to the destination points west of Eldorado over a rolling period consisting of the most recent twenty-four consecutive months, are equal to or less than an average throughput level of 40,000 bpd. For the avoidance of doubt, commencing January 1, 2025, the Bi-Directional Moratorium will no longer apply, regardless of whether (i) and (ii) set forth above, have been satisfied. Laurel shall file the aggregate throughput data with the PaPUC and serve the data upon the Complainants on a no less than quarterly basis. To the extent that Buckeye and Laurel seek to terminate the Bi-Directional Moratorium based upon a decline in throughput, it shall not claim that any of the aggregate data regarding throughput is subject to any privilege or other claim of confidentiality that would prevent Complainants from reviewing such data or presenting it in any relevant proceeding.

- (a) At least sixty (60) days in advance of filing any tariff change, application or petition, or taking otherwise prohibited action, Buckeye and/or Laurel must provide Complainants with written notice of its intent to invoke this Paragraph 40(a), which notice will describe Buckeye's and/or Laurel's basis for invoking the clause and include such facts as are necessary to substantiate its claim. Complainants retain the right to challenge Buckeye's and/or Laurel's invocation of this Paragraph 12(a), as well as any subsequent action by Buckeye and/or Laurel, including by filing a Complaint with the PaPUC and/or the FERC, and/or formally opposing any action taken or proposed by Buckeye and/or Laurel. If it is determined that this Paragraph 12(a) was properly invoked, Complainants nevertheless retain the right at all times to challenge the proposed action(s) by Buckeye and/or Laurel based on applicable law.
  
- (b) In the event that the Bi-Directional Moratorium is terminated early under this Paragraph 40(a), Buckeye and/or Laurel may propose, in a new PaPUC tariff and revised Capacity Use Agreement, a revised volume for the East to West Capacity Guarantee provided for in Paragraphs 12(a) of this Settlement (i.e. a volume lower than 120,000 barrels per day), subject to the Complainants' right to challenge such revision and provided that (i) any proposed revision must be proportionate to reduced east-to-west throughput during the Bi-Directional Moratorium, if any; (ii) any reduced east-to-west throughput did not result from, and is not the consequence of, any pipeline operational action(s) taken by Buckeye or its affiliates with respect to east-to-west throughput on Laurel; and (iii) any reduced east-to-west throughput is not the result of a temporary market condition.
  
- (c) The restrictions and requirements established by subsections (a) through (b) of this Paragraph 12, above, will not apply to any proposal for extended or enlarged bi-directional service after the end of the Bi-Directional Moratorium on December 31, 2024.

- (d) The proper invocation of this Paragraph 12(a) by Buckeye does not permit Buckeye to take any action, or apply to take any action, that is otherwise prohibited under the Full Reversal Moratorium.
- (e) The Parties agree that upon the termination of either moratorium period, whether by expiration or, with respect to the Bi-Directional Moratorium, the proper invocation of this Paragraph 12(a) by Buckeye, the Complainants do not consent to Buckeye taking any action that was subject to either moratorium and retain all rights to challenge any such action based upon applicable law. Nothing herein shall be construed to suggest or imply that Complainants consent to any action proposed to be taken by Buckeye. The Parties agree that upon the termination of either moratorium period, the Complainants do not consent to Buckeye taking any action that was subject to either moratorium and retain all rights to challenge any such action based upon applicable law.

13. Except to enforce the terms of this Settlement, during the moratoria Laurel, Buckeye, and the Complainants will not attempt to alter, modify, revise or otherwise contest the terms and conditions of the Settlement, or the terms and conditions of any filings before the PaPUC or the FERC that are identified herein as necessary to implement the Settlement, in any proceeding before the PaPUC, the FERC or other judicial body.

14. Laurel, Buckeye, and the Complainants agree that upon the termination of either moratorium period, the Complainants do not consent to Laurel or Buckeye taking any action that was subject to either moratorium and retain all rights to challenge any such action based upon applicable law.

15. The Parties agree that the term of the Settlement Agreement will expire upon the termination of both moratoria except the provisions of Paragraphs 1-8 and Paragraphs 27 and 28.

#### **D. Other Terms and Conditions**

16. The Complainants, Laurel and Buckeye have agreed to privately and confidentially resolve among themselves via a binding agreement the issue of costs for the extended litigation before the PaPUC and the FERC relating to the Laurel Pipeline and the costs of implementing the Settlement, as set forth in **Appendix D** to this Settlement Agreement.

17. The Settlement Agreement will not be binding upon PESRM until an order of the bankruptcy court is entered in the Bankruptcy Proceeding authorizing PESRM's entry into and participation in this Settlement Agreement. PESRM will promptly attempt to secure authorization of PESRM's entry into and participation in this Settlement Agreement in bankruptcy at Case No. 19-11626 that is pending in the U.S. Bankruptcy Court for the District of Delaware ("Bankruptcy Proceeding"). PESRM will promptly advise the Settlement Parties, the PaPUC and the FERC in writing regarding the outcome of the August 21, 2019, hearing in the Bankruptcy Proceeding.

18. The Parties will seek expedited review and approval of the Settlement Agreement by the PaPUC and the FERC and request approval of the Settlement Agreement without modification. The Parties also respectfully request that the PaPUC approve the Settlement, pro forma Laurel PaPUC Tariff attached hereto as **Appendix A** and Capacity Use Agreement attached hereto as **Appendix B** no later than the August 29, 2019, Public Meeting. The Settlement Agreement filing at the FERC will also state that the Parties waive the period for reply comments on the Settlement Agreement at the FERC, except in response to any adverse comments filed by any third party.

19. Promptly following the date upon which the approvals of the Settlement Agreement by the PaPUC and the FERC become final and are no longer subject to rehearing, reconsideration or judicial review, the Complainants will: (1) withdraw their PaPUC Amended Complaint; and (2) withdraw their protests of the PDO at the FERC.

20. Promptly following the date upon which the approvals of the Settlement Agreement by the PaPUC and

the FERC become final and are no longer subject to rehearing, reconsideration or judicial review, Buckeye and Laurel will withdraw the currently pending PDO.

21. Promptly following the date upon which the approvals of the Settlement Agreement by the PaPUC and the FERC become final and are no longer subject to rehearing, reconsideration or judicial review, Laurel will withdraw its pending appeal to the Commonwealth Court of Pennsylvania and the Complainants will withdraw their pending cross-appeal to the Commonwealth Court of Pennsylvania, which is currently scheduled for oral argument the week of September 9, 2019. In the event the Commonwealth Court does not permit withdrawal and/or issues a decision on Laurel's appeal, the Parties agree that the Settlement Agreement, if approved by the FERC and the PaPUC, shall govern operation of the Laurel Pipeline prospectively. For purposes of clarity and avoidance of doubt, this means, without limitation, that if the Commonwealth Court remands, modifies, vacates, reverses, or otherwise alters the PaPUC's July 12, 2018, Order, Buckeye and Laurel agree to be bound by the moratoria set forth in Paragraphs 11 and 12 and will not pursue the relief sought in the PaPUC Application at Docket No. A-2016-2575829. Laurel and Buckeye further agree that they will not use any decision from the Commonwealth Court favorable to them to argue in any forum that the Settlement Agreement should not be approved by any agency (if it has not been approved prior to the issuance of a decision on Laurel's appeal) or that the Settlement Agreement is not enforceable.

22. The filing of the Settlement Agreement with the FERC will include pro forma FERC Tariffs containing the necessary provisions to implement the terms of the Settlement, which are attached hereto as **Appendix C**. The FERC Tariffs will have a proposed effective date of October 1, 2019. The filing of the Settlement Agreement with the PaPUC will include a pro forma PaPUC Tariff supplement containing the necessary provisions to implement the terms of the Settlement Agreement and is attached hereto as **Appendix A**.

23. If the PaPUC or the FERC or both (i) reject the Settlement Agreement or (ii) conditionally approve as to a material term provided for by the Settlement Agreement,

then the Parties will meet and engage in good faith negotiations to reform the Settlement Agreement to address any deficiencies identified as forming the basis for such rejection or conditional approval as to a material term, if such revisions can be made without infringing upon the substantive rights and obligations of the Parties existing under the Settlement Agreement. Whether a term provided for by the Settlement Agreement is “material” shall be determined by the Parties. Such good faith negotiations shall not exceed 30 days, unless that time period is extended by mutual agreement of all Parties. Buckeye shall not accept any new nominations for west-to-east interstate service on L718 following the date on which the Settlement Agreement was rejected or conditionally approved as to a material term, unless and until any modifications to the Settlement Agreement are approved by the PaPUC and the FERC. If no agreement to modify the Settlement Agreement can be reached after exhausting the good faith efforts called for by the preceding sentence, or if the PaPUC or the FERC reject any such modifications to the Settlement Agreement, then: (a) all provisions of the Settlement Agreement will be null and void, except for any agreements entered into in accordance with Paragraphs 16, 27 and 28; (b) Buckeye shall immediately cease providing bi-directional service (after completing deliveries of any nominations received prior to the issuance of the PaPUC or the FERC order rejecting or conditionally approving as to a material term of the Settlement Agreement); and (c) the Parties may resume their litigation positions in all proceedings. To the extent that the procedures set forth in this Paragraph 23 are inconsistent with any procedures set forth in Paragraph 12 regarding the actions the parties must take in the event the PaPUC or the FERC or both (i) reject the Settlement Agreement or (ii) conditionally approve as to a material term provided for by the Settlement Agreement, the procedures set forth in this Paragraph 23 shall govern.

24. In the future, Buckeye and Laurel will serve the Complainants with copies of all FERC and PaPUC filings or submissions impacting rates or services on the Laurel Pipeline including, but not limited to, segments L718, L720, or L722.

25. This Settlement Agreement is presented as a package, with inextricably interrelated terms.

26. The Complainants agree that in the event the Settlement Agreement is rejected by the PaPUC or FERC, that they will not seek refunds, damages or reparations for the bi-directional service provided between the date of the commencement of bi-directional service and the date on which the PaPUC or FERC rejects the Settlement Agreement.

27. Notwithstanding Paragraphs 23 and 25, the Complainants agree they will not protest, oppose or otherwise contest the pending PaPUC application seeking approval of the filed acquisition of Buckeye Partners, L.P. (the ultimate parent of Buckeye and Laurel) by Hercules Intermediate Holdings LLC at PaPUC Docket No. A-2019-3011685 (the “Buckeye Acquisition”). However, the Complainants reserve their rights to file a non-adverse intervention in the Buckeye Acquisition to monitor the proceeding or protect their rights under the Settlement Agreement. If no pleading is filed in the Buckeye Acquisition proceeding that is adverse to the Complainants’ interests, the Complainants will either not seek to intervene in the proceeding or will withdraw any previously filed intervention. With respect to any intervention that is filed pursuant to this provision, the Complainants agree that such intervention that is filed will clearly state that they do not object to the expedited approval of the announced acquisition.

28. In the Buckeye Acquisition, neither Laurel nor Buckeye will propose alterations to its service or rates or otherwise propose or agree to any changes to its service or rates that would alter the terms and conditions of the Settlement Agreement.

29. Buckeye, Laurel and the Complainants agree that the Settlement Agreement will be binding upon them regardless of any change in ownership of any of the parties.

TERMS AND CONDITIONS OF THE STIPULATION IN SETTLEMENT  
BETWEEN I&E AND LAUREL

The principal terms and conditions of the proposed Stipulation between I&E and the Respondent, contained in Paragraph 7-15, Appendix D of the Joint Petition, are as follows:

7. In order to fully resolve the issues raised by I&E in this proceeding, the Stipulating Parties stipulate and agree to the following terms and conditions:

a. Laurel agrees to take all safety actions identified in the Company’s Integrity Impact Review Report (“IRR”) to comply with the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration’s (“PHMSA”) Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service, US DOT PHMSA, September 2014, Docket PHMSA-2014-0040.

b. Within thirty (30) days of the completion of the hydrostatic test necessary to initiate the contemplated bi-directional service on Line 718, Laurel will provide an updated version of Figure 1, below, to I&E’s Safety Division. Figure 1 provides actual and estimated dates of completion for actions by Laurel, based on the fact that the contemplated hydrostatic test was successfully completed on June 21, 2019. The updated schedule will reflect the estimated completion dates for the identified safety actions that have not been completed based on the anticipated in-service date of the contemplated bi-directional service on Line 718.

**FIGURE 1: LAUREL LINE - INTEGRITY IMPACT REVIEW ACTIONS SUMMARY AND SCHEDULE**

<b>Actions To Be Completed Prior to Initiation of Bi-directional Service</b>	<b>Estimated Date</b>
Initiate Hydrostatic Pressure Test	5/8/2019
Complete Hydrostatic Pressure Test	Completed 6/21/2019
Updated Surge Analysis	Completed 11/15/2017
Updated Emergency Flow Restricting Device (EFRD) analysis	Completed 11/20/2017
Update to Computational Pipeline Monitoring System (LeakWarn)	Completed
Review and Update Procedure Manuals (Operations, Maintenance & Emergency Response)	Completed
Update to Work Management System for new Equipment	8/1/19
Revise Startup and Shutdown Procedures and Train Controllers	Completed
Review and Update Supervisory Control and Data Acquisition (SCADA) System	Completed

Update Oil Spill Response Plan	Completed 2/5/19
Preventative & Mitigative Actions Review	Completed 8/29/18
<b>Post-Initiation of Bi-Directional Service Actions</b>	<b>Initiation Expected 10/1/19</b>
As Built Drawings and Compile Project Records	120 days after initiation
Inspect Mainline Isolations Valves	On date of initiation, 7 days after initiation and 30 days after initiation
Perform Visual Surveys of Aboveground Equipment	30 days after initiation
Determine and Evaluate actual Pressure Cycling of Pipeline	30 days after initiation 180 days after initiation

c. Laurel agrees that the I&E Safety Division inspectors may inspect the Laurel pipeline, including review of the Company’s compliance with the actions identified in the IRR and PHMSA Pipeline Safety Regulations applicable to hazardous liquids pipelines, set forth in 49 C.F.R. Parts 195 and 199, as well as I&E’s on-going review of the L718 pipeline and related hydrostatic pressure testing. The Stipulating Parties agree that Laurel and I&E reserve all arguments regarding any issues that may arise from the inspection process.

d. Laurel and I&E acknowledge that the aforementioned provisions fully satisfy the concerns raised by I&E in this proceeding, and that I&E will not oppose Laurel’s initiation of the contemplated bi-directional service.

8. The following terms of this Stipulation reflect a carefully balanced compromise of the interests of the Stipulating Parties in this proceeding. The Stipulating Parties believe that approval of the Stipulation is in the public interest. The Stipulation will be supported by the Stipulating Parties and shall be construed as their respective and collective litigation positions on the issues raised by I&E in this proceeding as of the date of its submission to the presiding Administrative Law Judge (“ALJ”) and throughout the remainder of this proceeding unless and until the Commission decides not to approve the terms and conditions of the Stipulation without modification, at which time the Stipulating Parties may elect to withdraw from the Stipulation as discussed in Paragraph No. 11, *infra*.

## CONDITIONS OF STIPULATION

9. The terms and conditions of this Stipulation reflect and constitute the joint litigation position of the Stipulating Parties in this proceeding. The Stipulation resolves all issues raised by I&E, and precludes the Stipulating Parties from asserting positions in any way contrary to this Stipulation with respect to the issues raised by I&E during this proceeding. In addition, the Stipulating Parties agree that Laurel and I&E may appropriately respond to any opposition to the granting of the Stipulation raised by the remaining non-signatory parties or to any other issue not addressed in the Stipulation that is raised by non-signatory parties.

10. If the ALJ, in the Initial Decision, recommends that the Commission adopt the Stipulation as herein proposed without modification, the Stipulating Parties agree to waive the filing of Exceptions on the issues raised by I&E. However, the Stipulating Parties do not waive their rights to file Exceptions with respect to any modifications to the terms and conditions of this Stipulation. The Stipulating Parties also reserve the right to file Replies to any Exceptions that may be filed.

11. The Stipulating Parties agree that the Stipulation is conditioned upon the Commission's approval of the terms and conditions of the Stipulation without modification. If the Commission modifies this Stipulation, either I&E or Laurel may elect to withdraw from the Stipulation and may proceed with litigation and, in such event, this Stipulation 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 the other stipulating party within twenty (20) days after entry of an Order modifying the Stipulation.

12. The Stipulating Parties acknowledge that the Stipulation reflects a compromise of competing positions to resolve outstanding issues in a fair, just and reasonable manner, and does not necessarily reflect any party's position with respect to any issues raised in this proceeding.

13. The Stipulating Parties agree that this Stipulation resolves all of the issues and concerns raised by I&E related to the provision of bi-directional service over L718. The Stipulating Parties respectfully request that both the ALJ and the Commission approve the Stipulation in its entirety.

14. The Stipulating Parties agree that the Stipulation shall not constitute or be cited as precedent, and shall be without prejudice to any of Stipulating Parties' positions, in any other proceeding, except to the extent required to implement the explicit terms of this Stipulation.

15. The Stipulating Parties may execute this Stipulation in separate counterparts, each of which, when so executed and delivered, shall constitute an original, but all of which together shall constitute one and the same instrument.

## DISCUSSION

### A. Applicable Legal Standard

The Commission encourages parties in contested on-the-record proceedings to settle cases. See, 52 Pa.Code § 5.231(a). Settlements eliminate or significantly reduce the time, effort, and expense of litigating a proceeding to its final conclusion, which might include review of the Commission's decision by the Pennsylvania appellate courts. Such savings directly benefit the individual parties to a proceeding; however, these savings also benefit the Commission and all ratepayers of the utility, who otherwise may have to bear the financial burden such litigation necessarily entails.

The Commission's policy to encourage settlements mirrors the Pennsylvania courts' policy.

A settlement eliminates an uncertain outcome for both parties in the event of fully litigating this case to conclusion. Not only does the settlement spare the parties the expense and risks of continuing litigation, it accords with the strong judicial policy in Pennsylvania favoring voluntary settlements. See *e.g.*, *Muhammad v. Strassburger*, 526 Pa. 541, 548, 587 A.2d 1346, 1349 (1991), *cert. denied*, 502 U.S. 867 (1991) ("A long-standing principle of our courts has been to encourage settlements. "). But cf. *McMahon v. Shea*, 547 Pa. 124, 688 A.2d 1179 (1997) (limiting *Muhammad* to its facts). See also, *Rothman v. Fillett*, 503 Pa. 259, 266, 469 A.2d 543, 546 (1983) ("There is a strong judicial policy in favor of parties voluntarily settling lawsuits.").

... In addition, settlements help reduce over-crowded courts, thereby shortening a litigant's wait for a trial date. They also reduce the burdens and expenses in maintaining court systems. *Muhammad, supra*, 526 Pa. at 548-49, 587 A.2d at 1350. See also, *Rothman v. Fillett, supra*, 503 Pa. at 267, 469 A.2d at 546. Not surprisingly, the Pennsylvania Supreme Court observed, the astute lawyer Abraham Lincoln advised: "Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser -- in fees, expenses and waste of time." *Commonwealth v. Philip Morris, Inc.*, 40 Pa. D. & C. 4th 225 (1999).

Once the settling parties have submitted their joint settlement petition for approval, the principal issue for Commission consideration is whether the agreement serves the public interest. *Pa. Pub. Util. Comm'n v. Philadelphia Electric Company*, 60 Pa. PUC 1, 21 (1985); *Pa. Pub. Util. Comm'n v. C S Water and Sewer Associates*, 74 Pa. PUC 767, 771 (1991).

B. Analysis – Joint Petition for Approval of Settlement between Complainants and Laurel

The settling parties submit that the Settlement is in the public interest because it: 1) guarantees the Complainants substantial east to west capacity on the Laurel pipeline for a significant period of time; 2) limits, subject to contingencies, Laurel and Buckeye's right to propose further extensions of bi-directional service or a full reversal of service for moratoria periods; 3) establishes a process for disseminating information, convening calls/meetings to resolve complaints regarding bi-directional service; and 4) permits the initiation of bi-directional service on October 1, 2019, pursuant to the Transportation Service Agreements (TSAs) between Buckeye and certain committed shippers, providing access to new Pennsylvania market for petroleum products originating in the Midwest. The Settlement reflects a carefully balanced compromise of the interests of the settling parties and Buckeye.

According to the settling parties, the Settlement achieves a reasonable and beneficial result while curtailing the costs of litigation in avoiding evidentiary hearings, briefing, further time by the Commission and the parties. The settling parties arrived at the Settlement terms after extensive review of discovery and in-depth discussions. They state that the Settlement terms and conditions constitute a carefully crafted package representing reasonable

negotiated compromises on the issues addressed herein. The settling parties advocate that the proposed Settlement is just, reasonable, in the public interest and should be approved without modification.

The Complainants and Laurel offer further arguments of why the Settlement is in the public interest in statements of support attached to the Joint Petition. These reasons are provided in the analysis below.

1) Preservation of Existing East-to-West Capacity

In their Statement in Support, the Complainants state that the Settlement ensures that Western Pennsylvania consumers and businesses will continue to have year-round access to low-cost fuel from East Coast sources in volumes consistent with historical flows when prevailing market conditions favor the pricing of products from those sources. (Complainants' Statement in Support, at 5.) They note that the Settlement also ensures that Eastern refiners and shippers will continue to have the ability to meet demand in the Western Pennsylvania market when markets so dictate. *Id.* To these ends, the Settlement creates specific and legally-enforceable commitments at FERC and the PUC assuring that the available, physical intrastate capacity of east-to-west transportation on L718 will be no less than 1,200,000 barrels per cycle (which is 120,000 barrels per day times ten days) under bi-directional service, outside of force majeure circumstances impacting Laurel's ability to provide such capacity on the Laurel Pipeline. (Settlement ¶ 1.)<sup>5</sup> According to the Complainants, this provision is in the public interest because it ensures that adequate access to the Pittsburgh market is available to shippers from the east despite temporary periods when east to west intrastate movements cannot occur due to L718 being used to carry petroleum products from west to east to facilitate interstate movements. (Complainants' Statement in Support, at 5.)

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<sup>5</sup> The references to the paragraphs of the Settlement are references to the paragraphs as they are numbered in the Settlement Agreement (Appendix E) and not as they are numbered in the Joint Petition.

In addition, the Complainants point out that the Settlement requires Laurel and Buckeye to submit a capacity agreement that covers the interstate west to east shipments on L718 and such a capacity agreement is part of this Settlement filing. (Settlement ¶¶ 1-2.) They argue that the Settlement is in the public interest because it provides for Commission review and approval of the capacity agreement between Laurel and Buckeye that makes west to east capacity on the Laurel Pipeline available for the new interstate shipments. (Complainants' Statement in Support, at 6.) Although the Settlement does not obligate Laurel and Buckeye to continue to file capacity agreements should they seek to extend bi-directional service in the future, the Complainants have reserved their rights to oppose future proposals that forego capacity agreements. *Id.*

In its Statement in Support, Laurel agrees that the provisions of the Settlement and the associated documents are in the public interest because they reasonably resolve Complainants' concerns regarding the preservation of existing east-to-west capacity. (Laurel's Statement in Support, at 10.) Paragraphs 1 and 2, in particular, ensure that L718 on the Laurel pipeline system will have the physical capacity to accommodate Complainants' shipments from the east into the Pittsburgh market. Laurel argues that the 120,000 barrels per day guarantee is reasonable because it is sufficient to accommodate the historical maximum average of volumes over Line 718. In addition, the East to West Capacity Guarantee is reasonable because the volume guarantee will not interfere with Buckeye's ability to provide interstate west-to-east transportation under the 2019 Expansion Capacity contemplated by the TSAs. *Id.*

I agree with the settling parties that the Settlement provisions regarding the preservation of the existing east-to-west capacity are in the public interest and should be approved. Paragraphs 1 and 2 of the Settlement represent a reasonable compromise of competing positions and guarantee, via Laurel's tariff and the associated Capacity Use Agreement, that bi-directional service will not impair existing east-to-west intrastate service.

## 2) Scheduling / Operational / Logistical (SOL) Commitments

The Settlement provides for Scheduling/Operational/Logistical (SOL) commitments to ensure that Laurel's provision of bi-directional service is transparent and adequate to meet customer needs. (Settlement ¶¶ 3-9.) In their Statement in Support, the Complainants aver that the Laurel and Buckeye's SOL commitments are important to the parties and in the public interest because they include, among others, the appointment of an escalation manager to address scheduling issues and implementation of a continuous review process to allow for informal customer input on Laurel's bi-directional operations. (Complainants' Statement in Support, at 6.) These SOL commitments will allow the parties to work cooperatively to address any issues that arise as a result of bi-directional service and are thus in the public interest. *Id.*

In its Statement in Support, Laurel argues that SOL commitments provisions of the Settlement are reasonable and in the public interest because they resolve, without the need of litigation, Complainants' concerns regarding the impact that bi-directional service on L718 would have on the existing intrastate tariffed pipeline transportation service provided by Laurel to Complainants. In particular, Paragraph 3 of the Settlement will enhance communication and coordination between Buckeye, Laurel, the Complainants and other shippers that utilize L718, beyond present levels. (Laurel's Statement in Support, at 12.) Laurel explains that, while Laurel and Buckeye communicate frequently with their shippers about nominations and scheduling issues, Paragraph 3 enhances that communication by making sure that an appropriate manager is available if issues arise that cannot be handled by schedulers alone. *Id.*, at 13.

Under Paragraph 4 of the Settlement, Laurel and Buckeye have agreed to implement a continuous review process that the Complainants and/or other shippers may participate in over the first six months of bi-directional operations. (Settlement ¶ 4.) This review process is designed: (1) to provide Complainants and/or other shippers information regarding intended operation (including a high-level review of scheduled receipts and deliveries, etc.) for the upcoming cycle or month, as appropriate; (2) to receive input from Complainants and/or other shippers; and (3) to implement modifications to processes where appropriate.

While Laurel believes that its existing processes are sufficient to implement bi-directional operations without resulting in a violation of the Code or the Commission's regulations, it agrees that the information that will be provided to the Complainants and/or other participating shippers through the review process set up in Paragraph 4 will demonstrate to the various stakeholders the Respondent's ability to provide bi-directional operations without unreasonable, adverse impacts to existing intrastate service. (Laurel's Statement in Support, at 13.) Moreover, the process will permit Complainants and/or other shippers the opportunity to actively provide the Respondent input regarding bi-directional operations, which could increase the effectiveness and efficiency of operations and communications with shippers. Laurel notes that subparts (b) and (c) of Paragraph 4 ensure that all interested shippers may participate and confirm that the information provided will not provide participating shippers with a commercial advantage. *Id.* According to Laurel, these subparts reasonably balance shippers' interests in open communication regarding bi-directional operations on L718 against state and federal statutes and regulations that may limit the disclosure of operational information. *Id.*, at 13-14.

Next, Laurel notes that Paragraph 5 establishes a two-step collaborative process whereby Laurel, Buckeye, the Complainants and/or other shippers will participate in collaboratives after the first six months and first twelve months of bi-directional operations. (Settlement ¶ 5.) The purpose of each collaborative will be to discuss and implement changes necessary to address issues regarding bi-directional operation of L718 that have arisen during each period and, to the extent those issues cannot be addressed during the collaborative, establish a dispute resolution process to attempt to resolve issues without the filing of a formal complaint. (*See* Settlement ¶ 5.) Laurel argues that this provision is in the public interest because it enhances communications between Buckeye, Laurel and their shippers and establishes a process to attempt to avoid additional litigation related to bi-directional operation of L718. (Laurel's Statement in Support, at 14.)

In turn, Paragraph 6 implements a process by which Buckeye, Laurel and the Complainants will work in good faith to develop a shipper notification process to provide shippers with written notification and explanation of material delays (*i.e.* delays exceeding one day) in the timing of deliveries that differ from estimated times in pumping schedules.

(Settlement ¶ 6.) According to Laurel, this provision is in the public interest as it provides shippers with additional information regarding the timing of deliveries that they do not have access to today. (Laurel’s Statement in Support, at 14-15.)

With regard to Paragraph 7 of the Settlement, Laurel explains that it addresses the Complainants’ concerns regarding the effect that bi-directional operations would have on the losses, transmix, or interface percentages over L718. *Id.*, at 15. According to Laurel, the provisions of Paragraph 36 are in the public interest because they provide the Complainants with a written assurance by Laurel and Buckeye that bi-directional operations will not increase losses, transmix, or interface percentages over L718.

Additionally, Paragraph 8 states that Buckeye will retain full staffing to assist with bi-directional scheduling and add at least one full-time employee to work on same. (Settlement ¶ 8.) In Laurel’s view, this provision is in the public interest because it confirms Buckeye’s intent to dedicate the resources to monitoring and assisting bi-directional scheduling necessary to implement bi-directional operations in an efficient and effective manner. (Laurel’s Statement in Support, at 15.)

Lastly, Laurel addresses Paragraph 9 of the Settlement which states that Buckeye will modify Item 90-A in FERC Tariff No. 456.0.0 to provide that Regular Shippers will have access to up to at least 5% of the 2019 Expansion Capacity, and that New Shippers will have access to up to at least 5% of the 2019 Expansion Capacity, after 2019 Expansion Capacity has been allocated to Committed Shippers. (Settlement ¶ 9.) While this provision is a specific commitment by Buckeye with respect to a proposed FERC tariff, Laurel submits that this provision is in the public interest as a part of the Settlement in its entirety and, therefore, requests that the Settlement be approved without modification. (Laurel’s Statement in Support, at 15.)

I agree with the settling parties that the Settlement provisions containing Laurel and Buckeye’s scheduling, operational, and logistical commitments to the Complainants are in the public interest and should be approved. The SOL commitments contained in the Settlement provide Complainants and other shippers with written assurances and guarantees regarding the

methods and processes that will be used to implement bi-directional service. In addition, these provisions provide for enhanced communications and informal dispute resolution processes, to ensure the implementation of bi-directional operations is consistent with Laurel's representations. Finally, these provisions will save the parties and the Commission time and resources by requiring disputes regarding bi-directional operations to go through an informal resolution process prior to the initiation of litigation.

### 3) Implementation of Bi-Directional Operations and Moratoria

Section C of the Settlement (Paragraphs 10-15) is designed to permit bi-directional operation of L718 to commence on October 1, 2019 and addresses the Complainants' concerns regarding (a) expansions of bi-directional services, and (b) the implementation of a full reversal on the Laurel pipeline system. In their Statement in Support, the Complainants aver that this section of the Settlement is in the public interest because it preserves the ability for the Complainants and other users of the Laurel Pipeline to have access to customers in Western Pennsylvania, thereby allowing both retailers and consumers to purchase petroleum products based on the most current favorable pricing. (Complainants' Statement in Support, at 6.) The Complainants explain that this ability to compare different regional pricing is preserved and facilitated through an approximately five-year moratorium on further extensions of bi-directional service or capacity increases for west-to-east service between Coraopolis and Duncansville on the Laurel Pipeline (Bi-Directional Moratorium), and an approximately seven-year moratorium on implementation of a full reversal of product flows for any points east of Pittsburgh on the Laurel Pipeline (Full Reversal Moratorium). *Id.* In addition, the bi-directional moratorium is subject to an exception that recognizes circumstances may change in the future, thus providing the Settlement with a flexibility that serves the settling parties and the public. (Settlement ¶ 12.) At the end of the respective moratoria period, the Complainants retain all rights to challenge actions taken by Buckeye based on applicable law.

In its Statement in Support, Laurel notes that Paragraph 10 of the Settlement allows for the bi-directional service to be implemented pursuant to tariffs substantially in the form as the pro forma tariffs attached to this document as Appendices A (PUC Tariff) and C

(FERC Tariffs) of the Settlement, on October 1, 2019, even if the FERC and/or the PUC have not approved the Settlement. (Laurel's Statement in Support, at 17.) This provision provides for the implementation of bi-directional service on a date certain, which according to Laurel will provide all stakeholders with substantial certainty regarding the timing of bi-directional operations. Laurel argues that the implementation of bi-directional operations is in the public interest because it will permit additional, lower-cost Midwestern petroleum products to reach Pittsburgh and Central Pennsylvania via the Laurel pipeline system, which in turn will benefit Pennsylvania consumers by potentially decreasing retail gasoline prices. *Id.* Moreover, Laurel avers that bi-directional operations will enhance competition in the Pennsylvania petroleum products markets because these lower-cost Midwestern supplies will reach Pittsburgh and Central Pennsylvania, while existing supplies from the east will continue to be able to access these same markets via the Laurel pipeline system. As such, Laurel submits that this provision is in the public interest because Pennsylvania consumers, and the competitive market as a whole, will see the benefits of additional lower-cost Midwestern petroleum products. (Laurel's Statement in Support, at 17-18.)

With regard to Paragraph 11 of the Settlement, Laurel avers that it addresses the Complainants' concerns regarding future expansions or extensions of bi-directional service and/or future implementation of a full reversal on the Laurel pipeline system. By providing the Complainants with regulatory certainty regarding the conduct of Laurel and Buckeye for a substantial period of time, Laurel submits that each of the moratoria reasonably resolve the Complainants' concerns regarding these issues. *Id.*, at 18. Importantly, these concerns are resolved in a manner that allows bi-directional operations on L718 to commence on October 1, 2019, and Laurel reiterates that the implementation of bi-directional operations is to the benefit of Laurel, Buckeye, and the petroleum products market as a whole. *Id.*

Relatedly, Paragraph 12 of the Settlement provides for the early termination of the Bi-Directional Moratorium, if two specific conditions are present. In support of these terms, Laurel explains that during the course of these proceedings, an explosion occurred at the PESRM refinery, which led to the closure of a portion of the refinery. *Id.*, at 19. In view of this occurrence, Laurel believes that a complete prohibition on its ability to expand or extend bi-

directional service on its pipeline system for the moratorium, would unreasonably restrict its ability to provide alternative petroleum products transportation services that may be necessary to address the loss of East Coast supplies resulting from the PESRM refinery closure. *Id.*

According to Laurel, Paragraph 12 recognizes that, if the PESRM refinery remains closed and supplies on the Laurel system experience a sustained and substantial decline, then Laurel will be provided the opportunity to propose to change its method of operations to address this supply issue and ensure that adequate supplies continue to reach Pennsylvania markets. This provision contemplates that Laurel will do so by expanding or extending bi-directional service such that additional Midwestern volumes will be able to fill the gap in Pennsylvania markets while East Coast supplies continue to reach them as well. (Laurel's Statement in Support, at 20.)

Under Paragraph 13, the settling parties agree that, except to enforce the terms of this Settlement, during the moratoria they will not attempt to alter, modify, revise or otherwise contest the terms and conditions of the Settlement, or the terms and conditions of any filings before the PUC or the FERC that are identified herein as necessary to implement the Settlement, in any proceeding before the PUC, the FERC or other judicial body. (Settlement ¶ 13.) Laurel notes that this provision represents an essential aspect of the Settlement Parties' commitment to terminating the extensive, ongoing litigation amongst them and ensures the parties will be bound to act in conformance with the Settlement and associated documents for the duration of the agreement. (Laurel's Statement in Support, at 20-21.)

Under Paragraph 14, the settling parties agree that after the end of both moratoria, the Complainants retain all rights to challenge any actions by Laurel or Buckeye that may have been previously prohibited. (Settlement ¶ 14.) According to Laurel, this provision clarifies the scope of the Settlement and the Complainants' rights after the moratoria end, and it is a reasonable compromise of competing litigation.

Finally, Paragraph 15 confirms that the terms of the Settlement, except the provisions of Paragraphs 1-8 and Paragraphs 27 and 28, will terminate upon the expiration of

both moratoria, i.e. December 31, 2026. (Settlement ¶ 15) Laurel points out that this provision is in the public interest because it ensures that the SOL commitments contained in Paragraphs 1-8 continue as long as bi-directional operations are provided, and ensures that the enhanced communication and coordination that Laurel believes will alleviate the Complainants' concerns regarding bi-directional operations remain in place. (Laurel's Statement in Support, at 21.) In addition, it ensures that the Complainants' commitments regarding the Buckeye Acquisition (see below) operate independently of approval and implementation of the moratoria, which will avoid the time and resources of complex litigation in that proceeding.

I agree with the settling parties that the Settlement provisions regarding the implementation of bi-directional operations and moratoria are in the public interest and should be approved. These provisions address Complainants' concerns regarding reversals on the Laurel pipeline system to points east of Eldorado, Pennsylvania. They guarantee the preservation of the Western Pennsylvania market's ability to receive petroleum products from either the east or the west, at the lowest cost possible based on prevailing conditions.

To that end, Paragraph 11 of the Settlement establishes two moratoria: (1) a "Bi-Directional Moratorium," lasting from October 1, 2019, until December 31, 2024; and (2) a "Full Reversal Moratorium," lasting from October 1, 2019, until December 31, 2026. (Settlement ¶ 40.) It further establishes an "Interim Period" between December 31, 2024 and December 31, 2026, during which Laurel and Buckeye may propose the extension of bi-directional service to any points east of Eldorado along the Laurel Pipeline or increase the capacity for west-to-east service on the Laurel Pipeline between Coraopolis and Eldorado, Pennsylvania. (See Settlement ¶ 11.)

In addition, Paragraph 12 of the Settlement provides the agreement between the parties with flexibility to respond to significant market changes, while setting in place the process for the early termination of the Bi-Directional Moratorium. This process may be invoked only if: (i) PESRM, or its successor, is no longer a refining entity with refining operations at Point Breeze or Girard Point in Philadelphia, Pennsylvania processing crude oil using atmospheric and vacuum distillation processes averaging 100,000 barrels per day, for a 6-month

period ending on or after July 1, 2022, and (ii) the total east to west throughput on the Laurel Pipeline experiences a sustained and substantial decline not a consequence of pipeline operational actions taken by Buckeye or its affiliates as to East to West throughput on the Laurel system. (Settlement ¶ 12.)

This process will save the parties, the Commission, the FERC and/or other judicial bodies substantial time and resources by defining the parties' rights and obligations in advance. Moreover, this provision reasonably balances Laurel and Buckeye's interest in being able to respond to significant market changes, with the Complainants' interest in ensuring that any early termination of the Bi-Directional Moratorium is properly implemented. Therefore, the Settlement terms and conditions regarding the implementation of bi-directional operations and moratoria are in the public interest and should be approved without modification.

#### 4) Other Terms and Conditions

In their Statement in Support, the Complainants aver that the tariff provisions included in Paragraphs 22-23 of the Settlement are in the public interest because, by requiring the Respondent to file tariffs with the Commission and FERC containing the necessary provisions to implement the terms of the Settlement, the Settlement ensures that the terms are clear to the public and enforceable by the appropriate regulatory bodies. (Complainants' Statement in Support, at 7; Settlement ¶ 22-23.) In addition, the Settlement obligates Buckeye and Laurel to serve the Complainants with copies of all FERC and PUC filings or submissions impacting rates or services on the Laurel Pipeline, further ensuring transparency and exchange of information between the settling parties.

In its Statement in Support, Laurel avers that Paragraph 16 of the Settlement is reasonable and in the public interest because the resolution of costs (related to litigation before the PUC and the FERC) between these parties in a private and confidential manner will terminate the numerous ongoing proceedings and avoid future litigation between the parties. (Laurel's Statement in Support, at 22.)

Paragraph 18 explains that the parties are seeking expedited approval of the Settlement by the Commission. According to Laurel, expedited approval of the Settlement, without modification, by no later than the August 29, 2019 Public Meeting is reasonable and necessary in order to: (1) provide certainty regarding bi-directional operations and the continued availability of supply to Pittsburgh and Central Pennsylvania from the east and increased availability of supply from to Pittsburgh and Central Pennsylvania from the west; and (2) promptly bring to a close several proceedings pending before the Commission, the FERC and the Commonwealth Court. (Laurel's Statement in Support, at 22-23.)

Paragraphs 19 through 21 contain the agreement of Laurel, Buckeye, and the Complainants to bring the aforementioned proceedings pending before the Commission, the FERC and the Commonwealth Court to a close upon approval of the Settlement by the Commission and FERC. (Settlement ¶¶ 19-21.) Furthermore, Paragraph 21 also ensures that litigation will not be re-instated in the event of an intervening decision by the Commonwealth Court, which will save the parties, the Commission, and Pennsylvania courts additional time, resources and expense by avoiding further litigation. (Laurel's Statement in Support, at 23.)

Paragraph 23 provides a process for the Settlement Parties to attempt to reform the Settlement prior to resuming their respective litigation positions in the event that the PUC and/or the FERC reject or conditionally approve the Settlement. (Settlement ¶ 23.) Given the extensive, ongoing litigation between the parties, which spans multiple forums, Laurel avers that this provision is reasonable and in the public interest because it ensures the Settlement Parties do not immediately resume litigation if the Settlement is rejected or modified by the Commission or the FERC. (Laurel's Statement in Support, at 23-24.)

With regard to Paragraph 24 of the Settlement, Laurel submits that it is reasonable and in the public interest because it ensures that Complainants receive additional notice regarding any Commission or FERC filings or submissions impacting rates or services on the Laurel Pipeline. *Id.*, at 24. According to Laurel, this provision evidences a commitment between the parties to increase communication between Laurel, Buckeye, and the Complainants which would be beneficial in avoiding future litigation.

Paragraph 25 of the Settlement states that the Settlement is presented as a package, with inextricably interrelated terms. (Settlement ¶ 25.) Laurel notes that this provision recognizes that the terms of the Settlement constitute a compromise of competing positions between the Settlement Parties and that, unless otherwise noted, the entirety of the Settlement must be approved by the PUC and the FERC in order for it to take effect. (Laurel's Statement in Support, at 24.)

Under Paragraph 26, the Complainants agree that, if the PUC or the FERC reject the Settlement, the Complainants will not seek refunds, reparations or damages for bi-directional service provided between October 1, 2019, and the date of rejection. (Settlement ¶ 26.) According to Laurel, this provision provides Laurel and Buckeye with the assurances and protections to implement bi-directional service in accordance with the terms of the Settlement while it is pending approval by the PUC and the FERC. (Laurel's Statement in Support, at 25.) Paragraph 26 also provides regulatory certainty to Buckeye, Laurel and the petroleum products transportation market that bi-directional service will be implemented on a date certain, *i.e.* October 1, 2019. Laurel argues that this provision is in the public interest as it will ensure that additional volumes of lower-cost Midwestern products are able to reach Pittsburgh and Central Pennsylvania and that Buckeye and Laurel may be compensated for providing this beneficial service without such compensation being at risk of loss or refund. *Id.*

The Settlement also contains specific provisions to ensure that the terms and conditions regarding bi-directional service established under the Settlement will be binding on the parties and not subject to change in other pending and/or future proceedings. Specifically, the Complainants agree under Paragraph 27 of the Settlement that they will not protest, oppose or otherwise contest the Buckeye Acquisition. (Settlement ¶ 27.) In turn, Buckeye and Laurel agree that they will not propose alterations to its service or rates or otherwise propose or agree to any changes to its service or rates that would alter the terms and conditions of the Settlement in Paragraph 28. (Settlement ¶ 28.) Furthermore, Paragraph 29 of the Settlement provides that the Settlement will be binding upon Buckeye, Laurel and the Complainants regardless of any change in ownership of any of the parties. (Settlement ¶ 29.)

Laurel maintains that these provisions of the Settlement (Paragraphs 27-29) are in the public interest because they ensure that the settling parties will not seek to alter any of the terms and conditions of the Settlement in the Buckeye Acquisition proceeding. (Laurel's Statement in Support, at 26.) In addition, these provisions of the Settlement are in the public interest because they avoid future, additional litigation between Buckeye, Laurel and the Complainants regarding the resolution of issues surrounding bi-directional operation of L718 or the terms and conditions of the Settlement as applied to new owners. *Id.*

I agree with the Settling Parties that these Settlement provisions are in the public interest and I recommend approval. These provisions recognize that Laurel, Buckeye and the Complainants have already engaged in extensive litigation across multiple proceedings in multiple forums and represent compromises between competing litigation positions. Given the compromises contained in the Settlement, the parties' decision to privately and confidentially resolve the issue of costs is in the public interest. These provisions further evidence the settling parties' commitment to bringing litigation surrounding the implementation of bi-directional operations on L718 to a close and their commitment to work in good faith to attempt to resolve any material issues with the Settlement. As such, the Settlement not only gives the settling parties the assurances and protections to implement bi-directional service in accordance with the terms of the Settlement but it will also save the parties and the Commission time, expense and resources in the Buckeye Acquisition and other proceedings, by specifically confirming that the terms and conditions will remain binding.

C. Analysis – Stipulation in Settlement Between I&E and Laurel

I&E intervened in this proceeding to ensure the safe and reliable operation of L718. In its Statement in Support of the Stipulation in Settlement, I&E avers that Laurel has performed safety actions to ensure that the integrity of L718 will remain intact upon the initiation of bi-directional service and has committed to perform on-going safety actions, as summarized in the chart above, designed to maintain the integrity of L718 after bi-directional flow has commenced. For example, Laurel has prepared, implemented and agreed to adhere to an IRR pursuant to PHMSA's guidance on implementing flow reversals; said guidance is advisory and

not codified in PHMSA's pipeline safety regulations. The engineers of I&E's Safety Division possess a copy of the IRR and, during multiple inspections of L718, ensured that Laurel's actions were consistent with the IRR.

Additionally, on June 21, 2019, Laurel successfully completed a hydrostatic pressure test on L718, including a new segment of pipeline that replaced a prior section that did not pass the first hydrostatic pressure test. This test involved filling up the pipeline with water and maintaining pressure for at least four (4) continuous hours at a pressure equal to 125 percent (125%), or more, of the maximum operating pressure and for at least an additional four (4) continuous hours at a pressure equal to 110 percent (110%), or more, of the maximum operating pressure, pursuant to 49 C.F.R. § 195.304. I&E explains that a hydrostatic pressure test examines a pipeline's strength and detects leaks. I&E notes that the June 21, 2019 test was completed without incident and provides reasonable assurance that the integrity of L718 will not be compromised with bi-directional service.

In its Statement in Support, I&E avers that all safety issues raised in this proceeding have been satisfactorily resolved through discovery and discussions with the Company and are properly incorporated and considered in the Stipulation. (I&E's Statement in Support, at 7.) I&E points out that some of Laurel's actions exceed regulatory requirements. *Id.*, at 10. Moreover, I&E represents that the Stipulation in Settlement covers Laurel's on-going compliance with the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration's (PHMSA) pipeline safety regulations and does not preclude the I&E Safety Division from continuing to inspect L718 and address any potential future issues with the pipeline segment as deemed appropriate by I&E. *Id.*, at 11. I&E supports the Stipulation in Settlement as being in the public interest because it conserves time and expenses for all involved while allowing Laurel to commence bi-directional service in a manner that has been extensively reviewed by the I&E Safety Division and determined to be prudent. *Id.*

In its Statement in Support, Laurel agrees with I&E that the provisions of Paragraph 7(a) of the Stipulation ensure that the commencement of bi-directional operations over L718 complies with guidance issued by PHMSA with respect to product flow reversals.

(Laurel's Statement in Support, at 27.) Laurel notes that this guidance requires a pipeline operator to take specific actions prior to initiating bi-directional service and after initiating bi-directional service, which are designed to confirm that the subject pipeline is able to safely accommodate bi-directional operations. *Id.*

Next, Laurel points out that the provisions of Paragraph 7(b) of the Stipulation in Settlement ensure that I&E's Safety Division is apprised of Laurel's compliance with the IRR. According to the Respondent, its compliance with Paragraph 7(b) will demonstrate it has taken actions consistent with the IRR and will evidence its continued commitment to the safe operation of L718 once bi-directional operations are commenced. (Laurel's Statement in Support, at 28-29.)

In Paragraph 7(c), Laurel agrees that I&E Safety Division inspectors may inspect the Laurel pipeline, including review of the Company's compliance with the actions identified in the IRR and PHMSA Pipeline Safety Regulations applicable to hazardous liquids pipelines, set forth in 49 C.F.R. Parts 195 and 199, as well as I&E's on-going review of the L718 pipeline and related hydrostatic pressure testing. Laurel submits that this provision resolves the dispute between I&E and Laurel as to whether the Commission had jurisdiction over Laurel's proposal to initiate interstate service so that bi-directional operation of L718 could commence. See Laurel's Preliminary Objections to the Amended Complaint, ¶¶ 14-22; see also I&E Answer to Preliminary Objections to the Amended Complaint, ¶¶ 14-22. Laurel avers that this provision demonstrates its commitment to continue an amicable relationship with I&E's Safety Division, which is based upon a shared understanding that the safe operation of Laurel's pipeline system is of paramount importance. (Laurel's Statement in Support, at 29.)

Finally, Paragraph 8 of the Stipulation in Settlement confirms that the terms and conditions contained in the Stipulation in Settlement constitute the respective and collective litigation positions of Laurel and I&E regarding the issues raised in this proceeding by I&E. Laurel supports the provisions of this paragraph as being in the public interest because they demonstrate both parties' commitments to the safe operation of L718. (Laurel's Statement in Support, at 29.)

I agree with I&E and Laurel that the provisions of the Stipulation in Settlement are in the public interest and I recommend approval. The Stipulation demonstrates that Laurel is committed to the safe and reliable operation of L718 and is undertaking appropriate actions to ensure its safe and reliable operation under the Commission's and PHMSA's regulations and guidelines. Moreover, the acceptance of this Stipulation will negate the need for I&E and Laurel to participate in evidentiary hearings, which would compel the extensive devotion of time and resources for the preparation, presentation and cross-examination of witnesses, the preparation of Main and Reply Briefs, the preparation of Exceptions and Reply Exceptions and the potential of filed appeals.

### CONCLUSION

Complainants and Respondent agree that the Settlement is in the public interest because it resolves all the issues that were raised by the Complainants during this proceeding and eliminates an uncertain outcome for both parties in the event of fully litigating this case to conclusion. Additionally, the Stipulation in Settlement between I&E and Laurel resolves the safety issues raised by I&E in this proceeding.

For the reasons explained above, I agree that approval of the Settlement is in the public interest. Therefore, I recommend approval, without modification, of (1) the Joint Petition for Approval of Settlement, including, without limitation, the Settlement Agreement attached thereto as **Appendix E**, (2) the associated pro forma PaPUC Tariff supplement attached thereto as **Appendix A**, (3) the associated Capacity Use Agreement attached thereto as **Appendix B**, and (4) the Stipulation in Settlement entered into by Laurel Pipe Line Company, L.P. and the Bureau of Investigation and Enforcement attached thereto as **Appendix D**.<sup>6</sup>

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<sup>6</sup> This recommendation does not address **Appendix C** (Pro Forma 2019 Expansion Capacity – FERC Rules and Regulations) to the Joint Petition as its review falls outside of purview of this Commission's jurisdiction.

## CONCLUSIONS OF LAW

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

2. To determine whether the parties' settlement should be approved, one must decide whether the settlement promotes the public interest. See *Pa. Pub. Util. Comm'n v. C.S. Water and Sewer Associates*, 74 Pa. PUC 767 (1991); *Pa. Pub. Util. Comm'n v. Philadelphia Electric Company*, 60 Pa. PUC 1 (1985).

3. The Joint Petition for Approval of Settlement, including, without limitation, the Settlement Agreement attached thereto as Appendix E, (2) the associated pro forma PAPUC Tariff supplement attached thereto as Appendix A, (3) the associated Capacity Use Agreement attached thereto as Appendix B, and (4) the Stipulation in Settlement entered into by Laurel Pipe Line Company, L.P. and the Bureau of Investigation and Enforcement attached thereto as Appendix D, is in the public interest.

## ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the terms and conditions contained in the Joint Petition for Approval of Settlement, including, without limitation, the Settlement Agreement attached thereto as Appendix E, (2) the associated pro forma PAPUC Tariff supplement attached thereto as Appendix A, (3) the associated Capacity Use Agreement attached thereto as Appendix B, and (4) the Stipulation in Settlement entered into by Laurel Pipe Line Company, L.P. and the Bureau of Investigation and Enforcement attached thereto as Appendix D, submitted by Giant Eagle, Inc.,

