



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

April 26, 2022

***Via Electronic Filing***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement v.  
Lower Heidelberg Township  
Docket No. C-2022-3031284  
**Joint Petition for Settlement**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Joint Petition for Settlement in the above-referenced proceeding as well as the following Appendices: (1) Appendix A – Joint Proposed Ordering Paragraphs; (2) Appendix B – the Bureau of Investigation and Enforcement’s Statement in Support; and (3) Appendix C – the Statement in Support of Lower Heidelberg Township.

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,

Emily A. Farren  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 322910  
(717) 783-6150  
[efarren@pa.gov](mailto:efarren@pa.gov)

EAF/ac  
Enclosures

cc: Kathryn G. Sophy, OSA (*via email only – Word Version*)  
Kimberly A. Hafner, Deputy Director – Legal, OSA (*via email only – Word Version*)  
As per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3031284
	:	
Lower Heidelberg Township,	:	
Respondent	:	

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**JOINT PETITION FOR APPROVAL OF SETTLEMENT**

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**TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

Pursuant to 52 Pa. Code §§ 5.41 and 5.232, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) and Lower Heidelberg Township (“Lower Heidelberg” or “Respondent”), hereby submit this Joint Petition for Approval of Settlement (“Settlement” or “Settlement Agreement”) to resolve all issues related to the above-docketed I&E Formal Complaint (“Complaint”) proceeding. The Complaint alleges violations of the Underground Utility Line Protection Law, Act of October 30, 2017, P.L. 806, No. 50 (hereinafter referred to as the “PA One Call Law”) 73 P.S. §§ 176, *et seq.*, which were raised in connection with a routine excavation ticket placed through the PA One Call System (POCS). As part of this Settlement Agreement, I&E and Lower Heidelberg (hereinafter referred to collectively as the “Parties” or “Joint Petitioners”) respectfully request that the Commission enter a Final Opinion and Order approving the Settlement, without modification. A Joint Proposed Ordering Paragraphs is attached hereto as **Appendix A**. Statements in Support of the Settlement expressing the individual views of I&E and Lower Heidelberg are attached hereto as **Appendix B** and **Appendix C**, 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 attorney, 400 North Street, Harrisburg, PA 17120 and Lower Heidelberg Township with a main mailing address of 720 Brownsville Road, Sinking Spring, PA 19608.

2. The Pennsylvania Public Utility Commission is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within this Commonwealth, as well as other entities subject to its jurisdiction, pursuant to 66 Pa.C.S. §§ 101, *et seq.* Pursuant to Section 182.10 of the PA One Call Law, 73 P.S. § 182.10, the Commission is also authorized to regulate facility owners and other stakeholders for the purposes of enforcing the PA One Call Law.

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 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); *See also* 73 P.S. § 182.8(c)(2)-(d).

4. Section 182.10 of the PA One Call Law, 73 P.S. § 182.10, authorizes and obligates the Commission to execute and enforce the provisions of the PA One Call Law.

5. Sections 182.8(d) and 182.10 of the PA One Call Law, 73 P.S. §§ 182.8(d) and 182.10, authorize the Commission to, *inter alia*, hear and determine complaints against stakeholders for violations of the PA One Call Law.

6. Section 182.10(a) of the PA One Call Law, 73 P.S. § 182.10(a), authorizes the Commission to impose administrative penalties on stakeholders who violate the PA One Call

Law. Section 182.10(b)(1)(i)-(ii) allows for the imposition of an administrative penalty not to exceed \$2,500 for each violation or if the violation results in injury, death, or property damage of \$25,000 or more, an administrative penalty not to exceed \$50,000.

7. Respondent is a “facility owner” as that term is defined at 73 P.S. § 176 as it is a “. . . municipality . . . which owns or operates a line.”

8. An underground sewer line and facility is a “line” or “facility” as defined in 73 P.S. § 176.

9. Respondent, as a facility owner, is subject to the power and authority of this Commission pursuant to Section 182.10 of the PA One Call Law, 73 P.S. § 182.10, which requires facility owners to comply with the PA One Call Law.

10. Pursuant to the provisions of the applicable Commonwealth statutes, the Commission has jurisdiction over the subject matter and the actions of Lower Heidelberg as set forth, *infra*.

## **II. BACKGROUND**

11. On Wednesday, March 4, 2020, at approximately 08:54 AM, Grande Construction Company (“Grande Construction”) placed an Excavation Routine Ticket (“Routine Ticket”) with the Pennsylvania One Call System (“POCS”) at Serial No. 20200640767 to conduct an excavation with powered equipment.

12. The Routine Ticket identified the work site as “40 Merganser Drive” at the nearest intersection with “Stella Drive” in Reading, Pennsylvania 19608.

13. Respondent is the facility owner of sewer lines and facilities that run underground in the vicinity of the above-referenced worksite.

14. Seconds later, the notification was delivered to Lower Heidelberg through the POCS notifying Respondent of the excavation.

15. Lower Heidelberg's response to Grande Construction's routine ticket through the POCS was due by the end of the day on Friday, March 6, 2020.

16. Lower Heidelberg did not respond to Grande Construction's routine ticket through the POCS until Tuesday, March 10, 2020, at approximately 06:28 AM.

17. The above-summarized facts formed the basis for I&E's Complaint that was filed with the Commission on March 7, 2022, at Docket No. 2022-3031284.

18. In the Complaints, I&E requested that the Commission impose an administrative penalty upon Respondent in the amount of Five Hundred Dollars (\$500.00).

19. On March 9, 2022, the Parties reached a Settlement in Principle.

### **III. ALLEGED VIOLATION AND DEFENSES**

20. Had this matter been fully litigated, I&E would have proffered evidence and legal arguments to support its allegations that Lower Heidelberg committed the following violation:

21. Lower Heidelberg failed to respond to the Routine Ticket at Serial No. 20200640767 by the end of the second business day following receipt of the notification by the POCS.

If proven, this is a violation of 73 P.S. § 177(5)(v).

22. Had this matter been fully litigated, Lower Heidelberg would have denied the alleged violation of the PA One Call Law, raising the following defenses in support of its position that Respondent committed no such violation, and defending itself against the same in this proceeding and any subsequent appeals:

- A. Lower Heidelberg has no utility line in the area;
- B. Lower Heidelberg did respond within 3 business days and the digging did not occur until about a month later;
- C. This is the first time something like this has occurred.

#### IV. SETTLEMENT TERMS

23. Pursuant to the Commission’s policy of encouraging settlements that are reasonable and in the public interest,<sup>1</sup> I&E and Lower Heidelberg 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 proceedings docketed at C-2022-3031284.

24. The Settlement is a compromise of the allegations in the Complaints, which I&E intended to prove, and Lower Heidelberg intended to disprove.

25. I&E and Lower Heidelberg, 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. Lower Heidelberg will pay an administrative penalty in the amount of Two Hundred Fifty Dollars (\$250.00) pursuant to 73 P.S. § 182.10(b). Said payment shall be made within thirty (30) days of the entry 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 number of this proceeding, C-2022-3031284, shall be indicated with the certified check or money order and the payment shall be sent to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

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<sup>1</sup> See 52 Pa. Code § 5.231(a)

The administrative penalty shall not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 12(f).

B. Lower Heidelberg has taken corrective action in that Respondent participated in the March 17, 2022, PUC Online Compliance Training – Facility Owner and Locator.

26. Upon Commission approval of the Settlement in its entirety without modification and payment of the administrative penalty, I&E shall be deemed to have released Lower Heidelberg from all past claims that were made or could have been made for monetary and/or other relief based on allegations associated with the POCS Routine Ticket at Serial No. 20200640767.

27. I&E and Lower Heidelberg jointly acknowledge that approval of this Settlement Agreement is in the public interest and fully consistent with the factors that the Commission must consider in determining the administrative penalty to be assessed for violations of the PA One Call Law, 73 P.S. § 182.10(b)(2).

**V. CONDITIONS OF SETTLEMENT**

28. 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.

29. 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 the other party within twenty (20) days after entry of an Order modifying the Settlement.

30. 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, Lower Heidelberg has made no concession or admission of fact or law and may dispute all issues of fact and law for all purposes in any other proceedings, including but not limited to any civil proceedings, that may arise as a result of the circumstances described in this Joint Settlement Petition. Nor may this settlement be used by any other person or entity as a concession or admission of fact or law. Furthermore, it is further understood that this Formal Complaint and Joint Settlement Petition shall not be considered by the Commission in any future proceedings, including but not limited to subsequent Formal Complaints, citations, or other alleged violations of the PA One Call Law, for the purposes of assessing the administrative penalties set forth in 73 P.S. § 182.10.

31. This Settlement Agreement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a matter 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 any other proceedings, except to the extent necessary to effectuate or enforce the terms and conditions of this Settlement Agreement. This Settlement does not preclude the Parties from taking other positions in any other proceeding but is conclusive in this proceeding and may not be reasserted in any other proceeding or forum except for the limited purpose of enforcing the Settlement by a Party.



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.

**WHEREFORE**, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement and Lower Heidelberg respectfully request that the Commission approve the terms of the Joint Petition for Approval of Settlement without modification and in their entirety as being in the public interest.

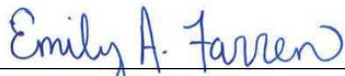
**Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement**

Respectfully Submitted,

**Lower Heidelberg Township**

By:

By:



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Emily A. Farren, Prosecutor  
PA Attorney ID No. 322910  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120  
[efarren@pa.gov](mailto:efarren@pa.gov)

---

Andrew J. Bellwoar, Esq.  
PA Attorney ID No. 54096  
Bellwoar Kelly LLP  
126 W. Miner Street  
West Chester, PA 19382  
[abellwoar@bellwoarkelly.com](mailto:abellwoar@bellwoarkelly.com)  
*Counsel for Lower Heidelberg Township*

Date: April 26, 2022

Date:

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.

**WHEREFORE**, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement and Lower Heidelberg respectfully request that the Commission approve the terms of the Joint Petition for Approval of Settlement without modification and in their entirety as being in the public interest.

**Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement**

By:

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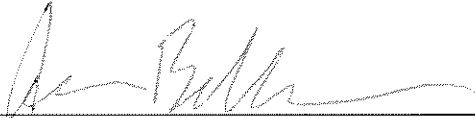
Emily A. Farren, Prosecutor  
PA Attorney ID No. 322910  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120  
[efarren@pa.gov](mailto:efarren@pa.gov)

Date: April \_\_, 2022

Respectfully Submitted,

**Lower Heidelberg Township**

By:



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Andrew J. Bellwoar, Esq.  
PA Attorney ID No. 54096  
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126 W. Miner Street  
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[abellwoar@bellwoarkelly.com](mailto:abellwoar@bellwoarkelly.com)  
*Counsel for Lower Heidelberg Township*

Date: April 22, 2022

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3031284
	:	
Lower Heidelberg Township,	:	
Respondent	:	

**JOINT PROPOSED ORDERING PARAGRAPHS**

1. That the Joint Settlement Petition filed on April 26, 2022 between the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement and Lower Heidelberg is approved in its entirety without modification.

2. That, in accordance with Section 182.10(b) of the Underground Utility Line Protection Law, 73 P.S. § 182.10(b), within thirty (30) days of the date this Order becomes final, Lower Heidelberg shall pay an administrative penalty of Two Hundred Fifty Dollars (\$250.00). Said payment shall be made by certified check or money order payable to “Commonwealth of Pennsylvania” and shall be sent to:

Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

3. That the administrative penalty shall not be tax deductible.

4. A copy of this Opinion and Order shall be served upon the Financial and Assessment Chief, Bureau of Administration.

5. That the above-captioned matter shall be marked closed upon receipt of the administrative penalty.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3031284
	:	
Lower Heidelberg Township,	:	
Respondent	:	

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

**TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

Pursuant to 52 Pa. Code §§ 5.231 and 5.232 and 73 P.S. § 182.10(b)(2), 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 matter docketed above, submits this Statement in Support of the Settlement Agreement between I&E and Lower Heidelberg Township (“Lower Heidelberg” or “Respondent”).<sup>1</sup> 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**

I&E conducted an investigation of the responses to an Excavation Routine Ticket (“Routine Ticket”) placed with the Pennsylvania One Call System (“POCS”) on March 4,

<sup>1</sup> I&E and Lower Heidelberg are collectively referred to herein as the “Parties.”

2020, that identified the work site near the intersection of Merganser Drive and Stella Drive in Reading, Pennsylvania. I&E determined Respondent, Lower Heidelberg Township (“Respondent” or “Lower Heidelberg”) is a facility owner of sewer lines and facilities that run underground in the vicinity of the work site. Notification of the Routine Ticket was delivered to Respondent on the same day, Wednesday, March 4, 2020; therefore, Respondent’s response to the Routine Ticket was due by the end of the day, Friday, March 6, 2020. Respondent did not respond through the POCS until Tuesday, March 10, 2020.

The crux of I&E’s Complaint alleged that Respondent, as a facility owner, owed a duty to respond to the Routine Ticket by the end of the second business day following receipt of the notification by the POCS and its failure to do so was a violation of Section 177(5)(v) of the Underground Utility Line Protection Law, Act of October 30, 2017, P.L. 806, No. 50 (hereinafter referred to as the “PA One Call Law”), 73 P.S. § 177(5)(v). I&E’s Complaint sought relief in the form of an administrative penalty in the amount of \$500.<sup>2</sup>

On March 9, 2022, the Parties reached a Settlement in Principle. On April 26, 2022, the Parties filed a Joint Petition for Approval of Settlement resolving all issues between I&E and Lower Heidelberg in the instant matter. This Statement in Support is submitted in conjunction with the Settlement Agreement.

In making the determination that the instant Settlement was appropriate, I&E weighed the seriousness of the alleged violation averred in I&E’s Complaint against the various mitigating circumstances that are present here. Importantly, Lower Heidelberg’s Roads Foreman, Matthew Clay, participated in the March 17, 2022, PUC Online Compliance

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<sup>2</sup> Section 182.10(b)(1)(i)-(ii) of the PA One Call Law, 73 P.S. § 182.10(b)(1)(i)-(ii), authorizes the Commission to impose an administrative penalty of up to \$2,500 for each violation of the PA One Call Law.

Training – Facility Owner and Locator. I&E and Lower Heidelberg remained in active communications and explored the possibility of resolving this complaint proceeding, which ultimately culminated in the Settlement Agreement reached here.

**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 resolved all issues related to I&E’s Formal Complaint proceeding.

I&E intended to prove the factual allegations set forth in its Formal Complaint at hearing at which Lower Heidelberg would have disputed. This Settlement Agreement results from the compromise of the Parties. I&E recognizes that, given the inherent unpredictability of the outcome of a contested proceeding, the benefits to amicably resolving the disputed issues through settlement outweigh the risks and expenditures of litigation. I&E submits that the Settlement constitutes a reasonable compromise of the issues presented and is in the public interest as it provides for additional training as well as an administrative penalty. As such, I&E respectfully requests that the Commission approve the Settlement without modification.

**III. Terms of Settlement**

Under the terms of the Settlement Agreement, I&E and Lower Heidelberg have agreed to the following:

- A. Lower Heidelberg will pay an administrative penalty in the amount of Two Hundred Fifty Dollars (\$250.00) pursuant to 73 P.S. § 182.10(b). Said payment shall be made within thirty (30) das of the entry 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 number of this proceeding, C-2022-3031284, shall be indicated with the certified check or money order and the payment shall be sent to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

The administrative penalty shall not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 12(f).

- B. Lower Heidelberg took corrective action in that Respondent participated in the March 17, 2022, PUC Online Compliance Training – Facility Owner and Locator.

Upon Commission approval of the Settlement in its entirety without modification and payment of the administrative penalty, I&E shall be deemed to have released Lower Heidelberg from all past claims that were made or could have been made for monetary and/or other relief based on allegations associated with the POCS Routine Ticket at Serial No. 20200640767.

**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 proceedings. “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 Jul 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-0031768 (Order entered January 7, 2004).

I&E submits that approval of the Settlement Agreement in the above-captioned matter is consistent with Section 182.10(b)(2) of the PA One Call Law, 73 P.S. § 182.10(b)(2). Section 182.10(b)(2) sets forth six (6) factors that the Commission must consider in determining the amount of the administrative penalty to be assessed for violation(s) of the PA One Call Law. 73 P.S. § 182.10(b)(2).

The first factor considers the history of the party’s compliance with the act prior to the date of the violation. 73 P.S. § 182.10(b)(2)(i). I&E submits that this incident was the first infraction on Lower Heidelberg’s record with the Commission regarding violations of the PA One Call Law.

The second factor considers the amount of injury or property damage caused by the party’s noncompliance. 73 P.S. § 182.10(b)(2)(ii). I&E submits that there were no injuries or property damage as a result of Lower Heidelberg’s actions.

The third factor is the degree of threat to the public safety and inconvenience caused by the party’s noncompliance. 73 P.S. § 182.10(b)(2)(iii). I&E submits that there was no threat to the public safety and minimal inconvenience to the excavator due to Lower Heidelberg’s noncompliance.



The fourth factor to be considered is Lower Heidelberg's proposed modification to internal practices and procedures to ensure future compliance with statutes and regulations. 73 P.S. § 182.10(b)(2)(iv). In response to this incident, Lower Heidelberg's Roads Foreman completed additional compliance training.

The fifth factor to be considered relates to the degree of Lower Heidelberg's culpability. 73 P.S. § 182.10(b)(2)(v). I&E was advised by Lower Heidelberg, after filing the Complaint, that it did not yet have lines in the work site area. I&E submits that the unintentional nature of the conduct in question is a valid mitigating factor in this case.

The sixth factor is other factors as may be appropriate considering the facts and circumstances of the incident. 73 P.S. § 182.10(b)(2)(vi). I&E submits that an additional relevant factor is whether the conduct at issue was of a serious nature. I&E alleges that the conduct in this matter involves a technical violation. I&E submits that the nature of the alleged violations in I&E's Complaint were considered in arriving at the administrative penalty and additional training set forth in the terms of the Settlement.

I&E submits that whether the case was settled or litigated is another relevant factor 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 corrective 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 while allowing the parties to move forward and focus on implementing the agree upon additional training.

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 the 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 Settlement in its entirety without modification.

Respectfully submitted,



Emily A. Farren  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 322910

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :  
Bureau of Investigation and Enforcement, :  
Complainant :  
 : Docket No. C-2022-3031284  
v. :  
 :  
Lower Heidelberg Township, :  
Respondent :

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**LOWER HEIDELBERG TOWNSHIP'S STATEMENT IN SUPPORT OF THE  
JOINT PETITION FOR APPROVAL OF SETTLEMENT**

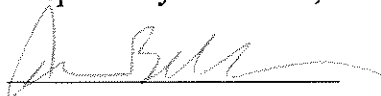
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**TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

Pursuant to 52 Pa. Code §§ 5.231 and 5.232 and 73 P.S. § 182.10(b)(2), Lower Heidelberg Township, a signatory party to the Joint Petition for Approval of Settlement (“Settlement” or “Settlement Agreement”) filed in the matter docketed above, submits this Statement in Support of the Settlement Agreement between I&E and Lower Heidelberg Township. Lower Heidelberg Township avers that the terms and conditions of the Settlement are just and reasonable and in the public interest. The Township adopts by reference the reasoning set forth in the Statement in Support submitted by I&E.

WHEREFORE, Lower Heidelberg Township supports the Settlement Agreement as being in the public interest and respectfully requests that the Commission approve the Settlement in its entirety without modification.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "A. Bellwoar", is written over a horizontal line.

Andrew Bellwoar, Esq.

Solicitor for Lower Heidelberg Township

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

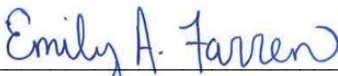
Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3031284
	:	
Lower Heidelberg Township,	:	
Respondent	:	

**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 Electronic Mail**

Andrew J. Bellwoar, Esq.  
Bellwoar Kelly LLP  
126 W. Miner Street  
West Chester, PA 19382  
[abellwoar@bellwoarkelly.com](mailto:abellwoar@bellwoarkelly.com)  
*Counsel for Lower Heidelberg Township*



\_\_\_\_\_  
Emily A. Farren  
Prosecutor  
PA Attorney ID No. 322910

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
717.783.6150  
[efarren@pa.gov](mailto:efarren@pa.gov)

Dated: April 26, 2022