

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held August 4, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
John F. Coleman, Jr., Vice Chairman
Ralph V. Yanora

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement

M-2022-3028365

v.

Peoples Natural Gas Company LLC

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is a proposed Joint Petition for Approval of Settlement (Settlement), filed on March 9, 2022, by the Commission's Bureau of Investigation and Enforcement (I&E) and Peoples Natural Gas Company LLC (Peoples or the Company), with respect to an informal investigation conducted by I&E's Gas Safety Division (Safety Division) concerning possible violations of the Public Utility Code (Code), Commission Regulations and federal pipeline safety regulations in connection with a temporary meter station that failed on March 9, 2019, resulting in a natural gas leak and subsequent service outage.

Both I&E and Peoples filed a Statement in Support of the Settlement (Statement in Support). Further, both I&E and Peoples submit that the proposed Settlement is in the public interest and is consistent with the Commission’s Policy Statement at 52 Pa. Code § 69.1201, *Factors and standards for evaluating litigated and settled proceedings involving violations of the Public Utility Code and Commission regulations— statement of policy* (Policy Statement). See Settlement at ¶¶ 12-13, 41, *infra*.

For the reasons set forth herein, we shall approve the proposed Settlement, consistent with this Opinion and Order.

History of the Proceeding

This matter concerns allegations regarding Peoples, a natural gas distribution company that provides service to the public for compensation.¹ The allegations against Peoples are in connection with a temporary meter station (TMS) located at the 100 block of Western Avenue, Moon Township, Pennsylvania (Western Ave TMS). Settlement at ¶¶ 9, 14. The Western Ave TMS, which was installed by Peoples on July 24, 2018, failed on March 9, 2019, after an above-ground Dresser coupling (the connection point between the steel and plastic) pulled apart at the outlet side of the temporary meter set, which lead to a natural gas leak and subsequent service outage. Settlement at ¶ 12, 14, 19.

I&E and Peoples entered into negotiations and agreed to resolve the matter in accordance with the Commission’s policy to promote settlements at 52 Pa. Code § 5.231. Settlement at ¶ 13.

¹ Peoples is a “public utility,” as defined at 66 Pa. C.S. § 102, and is the largest natural gas distribution company in Pennsylvania, serving approximately 740,000 customers in western Pennsylvania, West Virginia, and Kentucky. Settlement at ¶ 9.

As previously noted, on March 9, 2022, I&E and Peoples filed the instant Settlement. Also, as noted earlier, the Parties to the Settlement in this instance have each filed a Statement in Support. See Appendix B and C to Settlement, which are Statements of Support filed by I&E and Peoples, respectively.

By Order entered May 12, 2022 (*May 2022 Order*), we directed that notice of the Order and the proposed Settlement be published in the *Pennsylvania Bulletin*, to provide an opportunity for interested parties to file comments with the Commission regarding the proposed Settlement within twenty-five days after the date of publication.

On May 28, 2022, the *May 2022 Order*, along with the Settlement and Statements in Support, were published in the *Pennsylvania Bulletin*, 52 Pa. B. 3183 (May 28, 2022). In accordance with the *May 2022 Order*, comments on the proposed Joint Settlement were due on or before June 22, 2022 (*i.e.*, twenty-five days after the *May 2022 Order* was published). No comments were filed.

Background

As previously discussed, on March 9, 2019, the Western Ave TMS failed, resulting in a natural gas leak and subsequent service outage. Settlement at ¶ 14. The timeline of pertinent events that took place on March 9, 2019, are provided as follows:

March 9, 2019	Event
7:27 a.m.	A customer residing on Western Avenue in Moon Township called Peoples to report the smell of a natural gas odor.
7:28 a.m.	The Moon Township Police Department (MTPD) contacted Peoples to advise that another customer residing on Western Avenue reported to the police a loud popping noise at the end of the street near the TMS.

March 9, 2019	Event
7:48 a.m.	An officer from the MTPD contacted Peoples to advise that he was at the site of the TMS and observed a broken line connection that appeared to be a six-inch valve with gas blowing into the air.
7:51 a.m.	Peoples dispatched a technician to the site.
Between 8:07 a.m. and 9:20 a.m.	Various personnel from Peoples arrived at the site.
9:20 a.m.	A supervisor from Peoples advised Peoples' employees to shut down the system.
9:30 a.m.	Peoples shut down the side gate of the TMS.
10:51 a.m.	The Safety Division learned of the gas outage through the media.
11:05 a.m.	Peoples notified the Safety Division of the outage.
11:38 a.m.	Peoples filed National Response Center (NRC) report no. 123962, to report an outage impacting 980 customers.
12:15 p.m.	The Safety Division received Pennsylvania Emergency Management Association report no. 88495, which reported the outage and referenced the NRC Report.
12:35 p.m.	A Safety Division inspector arrived at the site and commenced I&E's investigation.
5:00 p.m.	Peoples completed repairs and began purging the TMS.

Settlement at ¶ 15. By 6:00 p.m. on March 10, 2019, Peoples completed the restoration of service to all customers impacted by the outage. *Id.*

Peoples installed the Western Ave TMS downstream from a regulator station operated by Equitrans Midstream Corporation (Equitrans). The Western Ave TMS measured gas purchased from Equitrans and supplied to Peoples' line M-4611, which was operating at approximately 30 pounds per square inch gauge (PSIG) at the time of the incident. Settlement at ¶ 16. Peoples constructed the station using two four-inch plastic main lines (inlet and outlet lines) running beneath Western Avenue, which connected to 90-degree elbows underground. The plastic main lines came above ground to two additional 90-degree elbows before transitioning to the steel piping of the TMS. The station was also constructed with a steel frame on the ground with pipe supports and

attached fencing. The station piping consisted of six-inch steel with valves. Supports were attached to the steel frame, as well as two big solar panels and other telemetering devices. Settlement at ¶¶ 17-18. The meter was a “six-inch Flowsic 500 meter.” Settlement at ¶ 18.

As noted, *supra*, the above-ground Dresser coupling, which was the connection point between the steel and plastic, pulled apart at the outlet side of the Western Ave TMS. Settlement at ¶ 19. With regard to the repairs, Peoples:

(1) “excavated the risers and used 2a modified stone in place of the native soil around the risers of the temporary meter station;”² (2) soap-tested the coupling and purged the remaining product downstream; and (3) installed ratchet straps, with minimal pressure as an ancillary measure, around the station and plastic risers. After conversations with the Safety Division regarding further repairs to the Western Ave TMS, Peoples added: (1) signage to the station; (2) barricades to aid in damage protection; and (3) steel risers in place of the above-ground plastic. On March 13, 2019, the repairs were completed and, upon completion, Peoples removed the ratchet straps. Settlement at ¶¶ 20-21.

According to Peoples, the cause of the incident was “settlement of wet soil close to the edge of the station. The soil caused movement on the station, which led the steel piping to pull out of the coupling.” Settlement at ¶ 22.

During its investigation, the Safety Division determined that Peoples constructed the Western Ave TMS “without following any comprehensive specifications and standards.” Settlement at ¶ 23. Further, the Safety Division observed that the construction of TMSs is not addressed in the Company’s procedures. *Id.* Moreover, the Safety Division identified several ways that the Western Ave TMS was flawed. Each station flaw, as summarized in the Settlement, is reprinted verbatim below:

² Settlement at ¶ 20.

- a) Peoples used Polyethylene pipe for the risers, which is not as rigid or strong compared to steel, and tends to bend, flex, and displace when external force is applied.
- b) Peoples placed the temporary meter station on grass and soil instead of a flat, solid base.
- c) Peoples used a coupling that was not a category 1 fitting and thus was not resistant to pull-out. The coupling was designed to be installed underground, however, Peoples' above-ground installation of the coupling rendered the coupling to be unable to hold the piping together.
- d) The temporary meter station lacked supports anchored to the ground. Rather, the station was secured to the tightened compression coupling and its weight on the native ground. Peoples used tie-down straps in an effort to create more longitudinal support for the coupling. Two solar panels were installed on the one side of the station and caused unequal weight distribution.

Settlement at ¶¶ 24. Additionally, the Safety Division found that, due to moisture in the ground and the absence of a solid base under the skid, the station moved longitudinally relative to the inlet and outlet piping because it was not securely anchored. As a result of the station moving by undesirable longitudinal forces, the coupling separated. The Safety Division further observed that, although not a cause of the failure, the Western Ave TMS, which the Company placed along a roadway, was not protected from vehicular traffic (*i.e.*, no bollards or cement barricades surrounded the station). Settlement at ¶¶ 25-26.

If this matter had been fully litigated, I&E was prepared to present evidence and legal arguments to demonstrate that Peoples and/or its agents committed the following alleged violations, reprinted verbatim below:

- a) Peoples failed to construct the temporary meter station in accordance with comprehensive written specifications or standards consistent with Part 192 of the Federal pipeline safety regulations in that no written specifications or standards were utilized to build the station. I&E alleges that this is a violation of 49 CFR § 192.303 (relating to compliance with specifications or standards when constructing a main) and 52 Pa. Code § 59.33(b) (adopting the Federal pipeline safety regulations as the minimum safety standards for natural gas public utilities) (one count).

- b) The temporary meter station failed to maintain structural integrity, as constructed, in that the station moved due to undesirable longitudinal forces, causing the coupling to separate. I&E alleges that this is a violation of 49 CFR §§ 192.53 (relating to general requirements for pipe and components), 192.143 (relating to general requirements for the design of pipeline components), 192.161 (relating to supports and anchors), 192.203(b)(7) (requiring that the arrangement of pipe, components and supports provide safety under anticipated operating stresses), and 192.273 (relating to general requirements for the joining of materials other than by welding), and 52 Pa. Code § 59.33(b) (adopting the Federal pipeline safety regulations as the minimum safety standards for natural gas public utilities) (one count).

- c) The above-ground plastic piping, which was exposed to weather and temperature changes, was not designed with enough flexibility to prevent thermal expansion or contraction from causing excessive stresses on the coupling in that the coupling separated. I&E alleges that this is a violation of 49 CFR § 192.159 (providing that pipeline must be designed with flexibility to withstand excessive stresses) and 52 Pa. Code § 59.33(b) (adopting the Federal pipeline safety regulations as the minimum safety standards for natural gas public utilities) (one count).

- d) Peoples failed to take all practicable steps to protect the temporary meter station from unstable soil or other hazards that may cause the pipeline to move or sustain abnormal loads in that the Company installed the station on native grass and soil, which subjected the station to detrimental environmental conditions, and did not install the station on a solid base of stone or other material that would offer firm support. I&E alleges that this is a violation of 49 CFR § 192.317(a) (related to protection from hazards) and 52 Pa. Code § 59.33(b) (adopting the Federal pipeline safety regulations as the minimum safety standards for natural gas public utilities) (one count).
- e) Peoples failed to protect the temporary meter station from accidental vehicular damage in that it was installed alongside a road without bollards or cement barricades surrounding it. I&E alleges that this is a violation of 49 CFR § 192.317(b) (related to protection from hazards) and 52 Pa. Code § 59.33(b) (adopting the Federal pipeline safety regulations as the minimum safety standards for natural gas public utilities) (one count).
- f) Peoples failed to install the temporary meter station in a manner that minimized shear or tensile stresses in that the station was not supported on a stable base and only the plastic inlet and outlet legs, which came out of the ground, supported the station. I&E alleges that this is a violation of 49 CFR § 192.321(c) (related to the installation of plastic pipe) and 52 Pa. Code § 59.33(b) (adopting the Federal pipeline safety regulations as the minimum safety standards for natural gas public utilities) (one count).
- g) Peoples failed to place line markers around the perimeter of the station and to indicate the underground location of the inlet and outlet pipeline in that no signage was present to warn the public of the hazards of the area. I&E alleges that this is a violation of 49 CFR § 192.707 (related to line markers for mains and transmission lines) and 52 Pa. Code § 59.33(b) (adopting Federal pipeline safety regulations as the

minimum safety standards for natural gas public utilities) (one count).

- h) Peoples failed to maintain adequate, safe and reasonable service and facilities in that the construction of the temporary meter station was inadequate, which led to a portion of the piping pulling out of the coupling, causing a natural gas outage that impacted approximately 980 customers. I&E alleges that this is a violation of 66 Pa. C.S. § 1501 (related to character of service and facilities) (one count).

Settlement at ¶ 27.

Terms of the Settlement

The Parties state that the purpose of the Settlement is to resolve I&E's informal investigation and settle this matter completely without litigation. Further, although Peoples may dispute or disagree with the allegations described in the Settlement, the Company fully acknowledges the seriousness of the allegations and recognizes the need to prevent similar allegations in the future. Moreover, the Parties note that they recognize that this is a disputed matter and that resolving the disputed issues prior to the initiation of any formal enforcement proceeding can be beneficial given the inherent unpredictability of the outcome of a contested proceeding. Furthermore, the Parties acknowledge that approval of this Settlement is in the public interest and consistent with the Commission's Policy Statement for evaluating litigated and settled proceedings involving violations of the Code and Commission Regulations, pursuant to 52 Pa. Code § 69.1201. Settlement at ¶¶ 28, 33.

The conditions of the Settlement are reprinted verbatim below:

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

- a) Peoples will pay a civil penalty in the amount of One Hundred Ninety-Five Thousand Dollars (\$195,000), pursuant to 66 Pa. C.S. § 3301(c), to fully and finally resolve all possible claims of alleged violations of the Public Utility Code, Commission regulations, and Code of Federal Regulations in connection with the March 9, 2019 failure of its temporary meter station. Said payment shall be made within thirty (30) days of the date of the Commission's Final Order approving the Settlement Agreement and shall be made by certified check or money order payable to the "Commonwealth of Pennsylvania" and sent to:

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

The civil penalty shall not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f). Peoples will not seek recovery of any portion of the civil penalty amount in any future ratemaking proceeding.

- b) Peoples agrees that no monies spent on the construction or repair of temporary meter set are subject to recovery in a future base rate or ratemaking case.

- c) Within thirty (30) days of the entry date of the Commission's Final Order approving the Settlement Agreement in this matter, Peoples shall provide the I&E Safety Division with a list of the locations of all current temporary meter and regulator stations in Peoples' system, if any, including the date that each went into service and the date Peoples intends to install permanent facilities or a permanent solution.

- d) Within thirty (30) days of the entry date of the Commission's Final Order approving the Settlement Agreement in this matter, Peoples shall change its design process with regard to temporary meter and regulator stations to ensure that they meet all of the requirements of 49 CFR Part 192, including:
 - (1) Providing support to the station;
 - (2) Constructing a suitable base and support that will prevent movement and settling;
 - (3) Installing the proper barricades to protect the station from external damage;
 - (4) Installing the proper line markers and warning signs;
 - (5) Eliminating the use of Dresser couplings, steel-to-plastic, being installed above-ground, including in temporary situations; and
 - (6) Creating design standards for temporary meter and regulation stations.

- e) Within thirty (30) days of the entry date of the Commission's Final Order approving the Settlement Agreement in this matter, Peoples shall implement a process to consult with the I&E Safety Division in the event if Peoples is

uncertain whether a situation would be considered to be a reportable incident.

30. This Settlement is without admission that the foregoing rights and obligations have any nexus to the allegations arising from I&E's investigation.

31. Upon Commission approval of the Settlement in its entirety without modification and in consideration of the Company's payment of the total civil penalty in the amount of One Hundred Ninety-Five Thousand Dollars (\$195,000) and compliance with the other terms of this Settlement specified herein, I&E agrees that its informal investigation relating to the March 9, 2019 temporary meter set failure as described in this Settlement Agreement shall be terminated and marked closed.

32. Upon Commission approval of the Settlement in its entirety without modification, I&E shall be deemed to have released Peoples from all past claims that were made or could have been made monetary and/or other relief based on allegations associated with the March 9, 2019 temporary meter station failure.

See Settlement at ¶¶ 29-32.

The Parties jointly agree that the Settlement shall be construed and interpreted under Pennsylvania law. Further, the Parties also jointly agree that changes to obligations set forth in the Settlement may be made if they are in writing and are expressly accepted by the Parties. Moreover, if the Commission modifies the Settlement, the Parties agree that any party may withdraw from the Settlement, may proceed with litigation and, in such event, the Settlement will be void and of no effect. The Parties indicate that the election of any Party withdrawing from the Settlement must be made in writing, filed with the Commission's Secretary, and served upon the Parties within twenty (20) days after entry of an Order modifying the Settlement. Settlement at ¶¶ 35-36.

The Parties also agree that the underlying allegations were not the subject of any hearing and I&E's informal investigation did not result in an order, findings of fact, or conclusions of law. Further, the Parties understand that, by entering into this Settlement, the Company has made no concession or admission of fact or law and may dispute all issues of fact and law for all purposes in all proceedings that may arise as a result of the circumstances described in the Settlement. Moreover, the Parties acknowledge that the Settlement reflects a compromise of competing positions and does not necessarily reflect any Party's position with respect to any issues raised in the instant matter. Furthermore, the Parties jointly agree that, if either Party should file a pleading or comments in response to a Commission order, the other Party shall have the right to file a reply. Settlement at ¶¶ 37-39.

The Parties also acknowledge that, in order to resolve this matter in a fair and reasonable manner, the Settlement is being presented in the context of this informal investigation and without prejudice to any position that any of the Parties may have advanced or may advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of the Settlement. The Parties also jointly agree that they are not precluded by the Settlement from taking other positions in any other proceeding. Settlement at ¶ 40.

Finally, the Parties note that, after conducting informal discovery and engaging in discussions, they arrived at the terms and conditions of this Settlement, which constitute "a carefully crafted package representing reasonably negotiated compromises on the issues" addressed in the Settlement. Settlement at ¶ 41. The Parties, therefore, provide that the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements set forth in 52 Pa. Code §§ 5.231 and 69.1201. *Id.*

Discussion

Initially, we note that any issue or argument that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the Parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *also see, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

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. PUC, et al. v. City of Lancaster - Bureau of Water*, Docket Nos. R-2010-2179103, *et al.* (Order entered July 14, 2011). Rather, the benchmark for determining the acceptability of the proposed Settlement is whether the proposed terms and conditions are in the public interest. *Id.* (citing *Warner v. GTE North, Inc.*, Docket No. C-00902815 (Order entered April 1, 1996); *Pa. PUC v. C.S. Water and Sewer Associates*, 74 Pa. P.U.C. 767 (1991)).

Pursuant to the Commission’s Regulations at 52 Pa. Code § 5.231, it is the Commission’s policy to promote settlements. The Commission must, however, review proposed settlements to determine whether the terms are in the public interest. *Pa. PUC v. Philadelphia Gas Works*, Docket No. M-00031768 (Order entered January 7, 2004). Based on our review of the Settlement terms and conditions, we find that the Settlement is in the public interest.

Consistent with the Commission’s policy to promote settlements, we have promulgated a Policy Statement at 52 Pa. Code § 69.1201, which sets forth ten factors that we may consider in evaluating whether a civil penalty for violating a Commission Order, Regulation, or statute is appropriate, as well as if a proposed settlement for a

violation is reasonable and approval of a proposed settlement agreement is in the public interest. The Commission will not apply the factors as strictly in settled cases as in litigated cases. 52 Pa. Code § 69.1201(b). While many of the same factors may still be considered, in settled cases, the parties “will be afforded flexibility in reaching amicable resolutions to complaints and other matters as long as the settlement is in the public interest.” *Id.* The Policy Statement sets forth the guidelines we use when determining whether, and to what extent, a civil penalty is warranted. In this case, application of these guidelines supports approval of the Settlement.

The first factor we may consider is whether the conduct at issue is of a serious nature. 52 Pa. Code § 69.1201(c)(1). “When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.” *Id.*

The alleged violations against Peoples are in connection with a TMS that failed on March 9, 2019, approximately seven months after it was installed by Peoples. Specifically, the TMS’ above-ground Dresser coupling between the steel and plastic pulled apart at the outlet side, resulting in a natural gas leak and subsequent service outage. Settlement at ¶¶ 12, 14, 19. I&E noted that Peoples’ failure to construct the TMS in accordance with 49 CFR Part 192 is conduct of a serious nature because the station was unable to withstand anticipated external forces (*i.e.*, a coupling pulled apart from a recently constructed TMS), thereby creating a large volume natural gas leak. I&E Statement in Support at 9. I&E asserted that the serious nature of such conduct was considered in determining the civil penalty and remedial relief provided in the Settlement. *Id.*

On the other hand, Peoples averred the incident at the Western Ave TMS did not result in a catastrophic event, injuries or property damage. Peoples asserted that

the Company acted prudently and promptly in response to the incident. Specifically, Peoples noted that the Company: (1) with its contractors, excavated and replaced the native soil around the risers of the TMS with 2a modified stone; (2) installed new couplings for connecting the steel and plastic piping; (3) installed ratchet straps around the TMS and plastic risers; (4) replaced the above-ground plastic pipe with steel risers; (5) added barricades around the TMS; and (6) restored gas service, which had been shut off out of an abundance of caution, to all customers by March 10, 2019. Peoples Statement in Support at 5.

We agree with I&E that the conduct involved – Peoples’ failure to construct the TMS to withstand anticipated external forces, such as a coupling pulling apart – was the result of conduct of a serious nature and, accordingly, we find the proposed penalty to be fair and reasonable given the circumstances.

The second factor is whether the resulting consequences of the conduct are of a serious nature. 52 Pa. Code § 69.1201(c)(2). “When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.” *Id.* Here, I&E submitted that, although no personal injury or property damage resulted from the alleged violations, serious consequences occurred because the repairs to the Western Ave TMS and the ensuing natural gas leak required natural gas in the surrounding area to be shut off, meaning that “approximately 985 customers did not receive natural gas service, including heat, for up to thirty-five hours on March 9, and 10, 2019.” I&E Statement in Support at 9-10. Peoples agreed with I&E that no injuries or property damage occurred. However, Peoples noted that the Company stopped the flow of natural gas at the meter set to the downstream customers because it was the safest and most-prudent course of action, ensuring that any likelihood of a catastrophic event was prevented. Peoples Statement in Support at 5-6.

Although nobody was injured and property was not damaged, we agree with I&E that serious consequences resulted from the alleged conduct. Indeed, the necessary repairs to the Western Ave TMS and the ensuing natural gas leak required the shut off of natural gas, which impacted nearly one thousand customers who did not receive natural gas service for several hours over two days. Accordingly, this factor warrants a higher penalty.

The third factor is “[w]hether the conduct at issue was deemed intentional or negligent. This factor may only be considered in evaluating litigated cases. When conduct has been deemed intentional, the conduct may result in a higher penalty.” 52 Pa. Code § 69.1201(c)(3). The third factor pertains to litigated cases only. *Id.* Because this proceeding was settled prior to the filing of a complaint by I&E, this factor is not applicable to this Settlement.

The fourth factor is whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered. 52 Pa. Code § 69.1201(c)(4). In this case, I&E noted that prior to the filing of the instant Settlement, Peoples removed from service any remaining TMS in its distribution system. I&E Statement in Support at 10. Further, I&E and Peoples both noted that, to address the specific concerns raised by the Safety Division as a result of its investigation, Peoples has committed to revising its design process with respect to any future construction and installation of temporary meter and regulator stations. I&E Statement in Support at 10; Peoples Statement in Support at 6. Accordingly, we conclude that Peoples’ corrective measures support a lower civil penalty.

The fifth factor is the number of customers affected and the duration of the violations. 52 Pa. Code § 69.1201(c)(5). I&E noted that the natural gas leak caused by

the failure of the Western Ave TMS resulted in the loss of natural gas service for approximately 985 customers for up to thirty-five hours. I&E Statement in Support at 10. Given these considerations, we find that this factor is supportive of a higher civil penalty.

We may also consider the compliance history of the regulated entity. 52 Pa. Code § 69.1201(c)(6). “An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty.” *Id.*

Here, I&E noted that in arriving at the agreed-upon civil penalty in the instant matter, Peoples’ compliance history as it relates to allegations of gas safety violations over the past ten years was considered. As such, I&E summarized five Commission proceedings over the past decade where the Commission imposed civil penalties upon the Company: (1) *Alan Bricker v. Peoples Natural Gas Company LLC*, Docket No. F-2017-2614037 (Order entered March 27, 2018), in which the Commission imposed a civil penalty of \$500 for Peoples’ failure to recognize a malfunctioning meter for approximately ten months, a violation of 66 Pa. C.S. § 1501; (2) *Pa. PUC, Bureau of Investigation and Enforcement v. Peoples Natural Gas Company LLC*, Docket No. C-2016-2437295 (Order entered January 18, 2018), in which the Commission approved a settlement agreement where Peoples agreed to pay a civil penalty of \$50,000 in connection with allegations regarding the Company’s deficiencies with: (a) leak classification; (b) monitoring; (c) repair; (d) surveying; and (e) reporting operations and procedures, including a failure to correctly classify and document gas leaks and a failure on two occasions to make necessary, appropriate, and timely repairs; (3) *Stuart Beckerman v. Peoples Natural Gas Company LLC*, Docket No. F-2013-2380130 (Order entered July 2, 2014), in which the Commission imposed a civil penalty of \$250 for failing to correctly charge a customer for natural gas consumed during March 2013; (4) *Joseph Palla v. Peoples Natural Gas Company LLC*, Docket No. F-2012-2293016 (Order entered December 5, 2012), in which the Commission imposed a civil penalty of

\$2,600 for failing to notify a customer about the presence of a foreign load and, therefore, failing to furnish reasonable public utility service, a violation of 66 Pa. C.S. § 1501; and (5) *Pa. PUC, Law Bureau Prosecutory Staff v. The Peoples Natural Gas Company LLC f/k/a The Peoples Natural Gas Company, d/b/a Dominion Peoples*, Docket No. M-2011-2157955 (Order entered August 2, 2012), in which the Commission approved a settlement agreement where Peoples agreed to pay a civil penalty of \$5,000 in connection with an alleged failure to properly abandon a service line in violation of 52 Pa. Code §§ 59.33(a) and 59.36(5), and 66 Pa. C.S. § 1501.³ I&E Statement in Support at 10-12.

Peoples noted that the Company has a “positive, proactive relationship with I&E” and the Settlement further exhibits the Company’s good faith efforts to enhance the safety and reliability of its natural gas system, consistent with the Code and the Commission’s Regulations. Peoples Statement in Support at 6. Accordingly, we find that the civil penalty does not warrant further consideration regarding this factor.

Another factor we may consider is whether the regulated entity cooperated with the Commission’s investigation. 52 Pa. Code § 69.1201(c)(7). According to I&E, Peoples fully cooperated during the investigation and settlement process, adding that such cooperation demonstrates a consistent commitment with public safety goals and objectives. I&E Statement in Support at 12. Therefore, we find this factor leans toward a lower penalty.

In addition, we may consider the amount of the civil penalty or fine necessary to deter future violations, as well as past Commission decisions in similar situations. 52 Pa. Code §§ 69.1201(c)(8) and (c)(9). I&E submitted that the civil penalty

³ I&E noted that “[t]he Commission limited the review of the compliance history of a “long-time certificated natural gas public utility to the past ten-years when the matter concerned alleged gas safety violations.” I&E Statement in Support at 11 (citing *Pa. PUC, Bureau of Investigation and Enforcement v. UGI Utilities, Inc. - Gas Division*, Docket No. C-2018-3005151 (Order entered October 29, 2020) at 27).

amount of \$195,000, which is not tax deductible or recoverable in any future ratemaking proceeding, and the Company's agreement to abstain from seeking recovery of monies spent on the construction or repair of the Western Ave TMS in a future ratemaking proceeding, is a substantial pecuniary concession that is sufficient to deter Peoples from committing future violations. I&E Statement in Support at 12. Peoples also acknowledged that the civil penalty amount: (1) "constitutes an adequate deterrent;"⁴ (2) recognizes the seriousness of the matter; and (3) acknowledges the "prompt efforts" of the Company to: (a) address the Western Ave TMS incident; (b) change its design process going forward; and (c) cooperate with regard to the Settlement. Peoples Statement in Support at 7.

Regarding past Commission decisions, I&E submitted that there are no past Commission decisions that are identical to the instant matter. However, I&E referenced one other instance where allegations that pipeline facilities were not constructed in accordance with specifications or standards consistent with Part 192 of the Federal pipeline safety regulations. I&E provided that, in *Pa. PUC v. Equitable Gas Company, LLC, A Subsidiary of EQT Corporation f/k/a Equitable Resources, Inc.*, Docket No. M-2009-1505395 (Order entered May 10, 2010), Equitable Gas Company, LLC (Equitable) used a coupling assembly to tie-in a new section of natural gas pipe and after the coupling assembly was installed, Equitable discovered that natural gas was leaking at the connection with the existing pipe. I&E noted that, upon Equitable attempting to stop the leak, the coupler detached from the pipe, resulting in a release of natural gas which ignited and the ensuing fire damaged a building. Further, I&E noted that, it was determined that: (1) the coupling assembly failed because of the "thrust force" caused by the flow of natural gas;⁵ and (2) Equitable did not prevent undue strain on the coupling assembly. Moreover, I&E noted that, regarding the coupling assembly

⁴ Peoples Statement in Support at 7.

⁵ I&E Statement in Support at 13.

failure and two other incidents involving allegations of damage prevention violations, the Commission: (1) imposed a \$65,000 civil penalty on Equitable; and (2) directed Equitable to contribute an additional \$65,000 to its hardship fund. I&E Statement in Support at 13.

Here, I&E submitted that the instant Settlement should be viewed on its own merits and is fair and reasonable. However, I&E stated that in viewing the pertinent factors that are comparable to other pipeline matters involving violations of the Federal pipeline safety regulations, the instant Settlement is consistent with past Commission actions because, to address the alleged violations, a civil penalty will be paid and corrective actions will be performed. I&E Statement in Support at 13-14. Peoples also noted that, when all relevant factors are considered, the Settlement is consistent with past Commission actions. Peoples Statement in Support at 7. Considering the terms of the Settlement, we agree and find that the proposed civil penalty will help deter future violations and presents a fair and reasonable outcome.

The tenth factor to consider is other “relevant factors.” 52 Pa. Code § 69.1201(c)(10). I&E submitted that an additional relevant factor of pivotal importance to the instant Settlement is whether the case was settled or litigated. I&E noted that a settlement avoids the necessity for the governmental agency to prove elements of each allegation. I&E further noted that, upon both parties negotiating from their initial litigation positions, the opposing party agrees to a lesser fine, penalty, or other remedial action that would have been difficult to predict in a fully-litigated proceeding. As such, I&E offered that the terms of a reasonable settlement can represent a compromise while allowing the parties to move forward and focus on implementing the agreed-upon remedial actions. I&E Statement in Support at 14. Peoples submitted that the Settlement recognizes that the Company will improve its design and construction processes, thereby preventing a future leakage from any temporary meter set or regulator station and insuring safety for Peoples’ customers and the general public. Peoples Statement in

Support at 7. We believe that it is in the public interest to settle this matter, so as to avoid the expense of litigation.

Finally, as asserted by the Parties, we agree that it is in the public interest to settle this matter, so as to avoid the expense of litigation and to conserve administrative and judicial resources.

For the reasons set forth above, after reviewing the terms of the Settlement, we find that approval of the Settlement is in the public interest and is consistent with the terms of our Policy Statement and our past decisions.

Conclusion

It is the Commission's policy to promote settlements. 52 Pa. Code § 5.231. The Parties herein have provided the Commission with sufficient information upon which to thoroughly consider the terms of the proposed Settlement. Based on our review of the record in this case, the Commission's Regulations and policy statements, as well as the foregoing discussion, we find that the proposed Settlement between the Commission's Bureau of Investigation and Enforcement and Peoples is in the public interest and merits approval. Accordingly, we will approve the Settlement, consistent with this Opinion and Order; **THEREFORE**,

IT IS ORDERED:

1. That the Joint Approval of Settlement Petition filed on March 9, 2022, between the Commission's Bureau of Investigation and Enforcement and Peoples Natural Gas Company LLC, at Docket No. M-2022-3028365, is approved entirely without modification.

2. That, in accordance with Section 3301 of the Public Utility Code, 66 Pa. C.S. § 3301, within thirty (30) days of the date this Opinion and Order becomes final, Peoples Natural Gas Company LLC shall remit a civil penalty of One Hundred Ninety-Five Thousand Dollars (\$195,000), payable by certified check or money order to “Commonwealth of Pennsylvania” and sent to:

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

3. That within thirty (30) days of entry of this Opinion and Order, Peoples Natural Gas Company LLC shall provide the I&E Safety Division with a list of the locations of all current temporary meter and regulator stations in Peoples’ system, if any, including the date that each went into service and the date that Peoples intends to install permanent facilities or a permanent solution.

4. That within thirty (30) days of entry of this Opinion and Order, Peoples Natural Gas Company LLC shall change its design process with regard to temporary meter and regulator stations to ensure that all of the requirements of 49 CFR Part 192 are met, including: (a) providing support to the station; (b) constructing a suitable base and support that will prevent movement and settling; (c) installing the proper barricades to protect the station from external damage; (d) installing the proper line markers and warning signs; (e) eliminating the use of Dresser, or steel-to-plastic, couplings being installed above-ground, including in temporary meter stations; and (f) creating design standards for temporary meter and regulation stations.

5. That within thirty (30) days of entry of this Opinion and Order, Peoples Natural Gas Company LLC shall implement a process to consult with the I&E Safety Division in the event that Peoples is uncertain whether a situation would be considered a reportable incident.

6. That a copy of this Opinion and Order shall be served upon the Financial and Assessment Chief, Bureau of Administration.

7. That, after Peoples Natural Gas Company LLC remits the civil penalty as set forth in Ordering Paragraph No. 2, above, and upon the receipt of the civil penalty and Peoples Natural Gas Company LLC's compliance with Ordering Paragraphs 3 to 5 above, the Secretary's Bureau shall mark this proceeding closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: August 4, 2022

ORDER ENTERED: August 4, 2022